

Introduction

The magisterial auspices, or the right and duty of Republican magistrates to seek Jupiter's assent before acting on behalf of the Roman people, occupied a central place in the legal and political order of the Republic. Symbolically, the taking of auspices was the first act of a magistrate on entering office. Thereafter, throughout his tenure, the office-holder was expected to consult Jupiter before convening the senate, holding assemblies of the people, or engaging in battle. Negligence in this sphere was thought to carry grave consequences. Measures adopted without due auspicial observance could be treated as invalid; a magistrate whose election was judged auspicially defective could be compelled to resign; and failures in auspicial duty in the field, especially if followed by defeat, could expose the commander to criminal prosecution.

Situated at the heart of what we call the *Römisches Staatsrecht*, the auspices often influenced the political process at Rome. If we lend credence to the most eminent modern students of the annalistic tradition (and there is good reason to do so), the patricians' claim to exclusive competence in public communication with the gods through *auspicia* furnished an ideological foundation for their monopoly on office-holding in early Rome. Moulding the history of the Republic right from its dawn, the auspices would also play a part in its downfall. The technique of obstructing popular assemblies by "watching the sky", first attempted in 59,¹ within a few years contributed to the paralysis of civic institutions, providing justification for the *coup d'état* which effectively dismantled Rome's democracy.

Given their importance in understanding Roman "constitution" and historical process, it comes as no surprise that the question of public auspices has occupied scholars since the earliest days of modern reflection on Rome's political system. Especially prominent in this field are the works of the *tres augures optumi* of modern historiography: Isaac Valeton, Pierangelo Catalano, and Jerzy Linderski.

Valeton treated the *res augurales* in a series of articles published in *Mnemosyne* at the close of the nineteenth century.² While not always successful in maintaining internal coherence, his studies remain rich in penetrating observations on the technical details

1 The dates given in this study are B.C. unless otherwise noted.

2 Valeton 1889 and later.

of auspicial procedure, and amply reward the effort of navigating their intricate Latin. Catalano's doctoral thesis, *Contributi allo studio del diritto augurale*, constitutes an invaluable contribution to the study of auspicial vocabulary.³ His subsequent inquiry regarding the augural concepts of space remains the most important treatment of the subject to this day.⁴ Linderski, in his masterful *Augural Law*, reconstructed the doctrinal foundations of the augural doctrine and the competences of the college of the augurs, that is, the body of priests that held supreme authority in matters relating to the auspices.⁵ A series of complementary case studies, later gathered and updated in two extensive collections, is a mine of factual discoveries and incisive historical interpretations.⁶

Of course, the list of noteworthy contributions to the subject does not end here. Especially noteworthy are a series of studies of augural matters by André Magdelain,⁷ Jochen Bleicken's discussion of the relationship between *auspicium* and *imperium*,⁸ Mario Torelli's investigations into the topographical context of auspication,⁹ as well as Jyri Vaahtera's insightful monograph on augural terminology in Greek sources.¹⁰ Over the past two decades the *ius augurale* has attracted renewed attention, and a number of long-established positions have now been questioned.¹¹

Despite this relative abundance, however, modern scholarship has not produced a systematic study of the magisterial auspices. What comes closest to such a study, promised but never delivered by Catalano, are the dated treatments in the great syntheses of Auguste Bouché-Leclercq, Theodor Mommsen, and Georg Wissowa.¹² The aim of the present study is to fill that gap in the literature.

Scope, Method, and Limitations

The study is organised into eight chapters. Chapter 1 introduces the essential terminology associated with the auspices. Chapters 2 and 3 examine, respectively, the augural notions of time and space; this section is complemented by a discussion of the archaeological evidence for augural observatories in Appendix 1. Chapter 4 outlines the pro-

3 Catalano 1960.

4 Catalano 1978.

5 Linderski 1986.

6 Linderski 1995; Linderski 2007.

7 Magdelain 1968; Magdelain 1990.

8 Bleicken 1957a; Bleicken 1975; Bleicken 1981.

9 Torelli 1966–67; Torelli 1969; Torelli 2006.

10 Vaahtera 2001.

11 E.g., Van Haepelen 2012; Fiori 2014a; Vervaet 2014; Berthelet 2015; Gargola 2017; Driediger-Murphy 2019a; Emmelius 2021; Konrad 2022; Quaglia 2023a etc.; Verrico 2024a.

12 Bouché-Leclercq 1882; Mommsen 1887–88; Wissowa 1912.

cedural steps taken by the celebrant *in auspicando*. Chapter 5 deals with the three principal categories of signs actively sought by magistrates (*auspicia impetrativa*). Chapter 6 turns to unsolicited signs and the principles governing their interpretation (*auspicia oblativa*). Chapter 7 examines the magisterial right of auspication as a competence of the magistrates of the people, with particular emphasis on its acquisition (the so-called “auspicial investiture”). Chapter 8 discusses the auspices of the magistrates of the plebs. The final section (“In lieu of a conclusion . . .”) offers a brief reflection on the development of auspicial norms and on their place in the rise and fall of the Republic.

The study focuses primarily on auspicial rules as they were applied in practice and articulated in theory during the late Republic (ca. 133–44/43). This is the period from which the bulk of our surviving evidence derives, directly or indirectly, and also the last in which auspicial principles exerted a substantial influence on political life at Rome. The aim is to understand the subject as the Romans themselves might have understood it: to recover, as far as the sources permit, the categories, procedures, and habits of reasoning by which Roman specialists made sense of auspicial phenomena – or, to borrow a neat poetical expression, to “inhabit the mind of an augur”.¹³

The method of getting there is avowedly positivist and may be briefly summarised as follows: (i) to collect all relevant source material;¹⁴ (ii) to determine, as precisely as possible, what that evidence entails; and (iii) to advance conjectures that accord with those entailments and remain mutually consistent. With few exceptions, the passages discussed in the main text are subjected to philological analysis and translated into English. They are then compared with one another and assessed in light of the basic principles of modern historiography. Finally, the resulting reconstructions are weighed against the main interpretations advanced in modern scholarship. The order is deliberate. In a field where the evidence is fragmentary, generically diverse, and often survives only at second hand, one is best served by beginning with the sources and letting the models follow, rather than the reverse.

This apparently simple method, however, calls for further comment. One point concerns the principal object of inquiry and the material conditions that shaped its practice. *Auspicio* was a procedure performed in space: it presupposed an observer situated in a particular place, looking in a particular direction, for signs that had, at least in principle, to be visible. In the sections concerned with practical details – setting, orientation, sequence of movements, and direction of observation – the textual evidence is therefore tested against the physical constraints of the rite: vantage points, lines of sight, and feasible sequences of action. Where useful, schematic plans and maps are included to clarify the rite’s spatial logic.

13 Johnson 2007: 20, on the magisterial study by Linderski 1986.

14 The dossier was built through systematic rereading of the principal Latin and Greek witnesses, supplemented by targeted searches in electronic corpora such as the *Library of Latin Texts*, the *PHI Latin Texts*, the *Thesaurus Linguae Latinae*, and the *Thesaurus Linguae Graecae*.

The second qualification concerns the evidence, and therefore the degree of precision that the inquiry can hope to achieve. Augural norms do not confront the historian as a stable code. Just as the *Römisches Staatsrecht* operated without a founding charter, so augural law did without its Torah. In the Republic's earlier periods, augural writing seems, as far as we can tell, to have been largely confined to the protocols of the augural college and to small booklets containing selected prayers.¹⁵ Formal decrees of the college – the closest augural analogue to the role played by *leges publicae* in public law – were rare, apparently issued chiefly, perhaps exclusively, when controversy required an authoritative settlement. Even after the rise of Roman antiquarianism, much that governed auspicial practice appears to have been settled and communicated orally at meetings of the college.¹⁶

At the same time, the conditions under which auspicial rules operated did not remain constant. An archaic core of the *ius augurale* was applied in a polity of vastly expanded scale and reach and, especially in the late Republican period with which this study is mainly concerned, amid growing internal tension. These circumstances created both scope and pressure for innovation. Such innovation, as far as our evidence shows, never took the form of a coherent “reform”. At Rome, religious law was not ordinarily “made” so much as “ascertained” or “discovered”; and new rules presented themselves as recoveries, determinations, or as the proper extension of established practice to an unprecedented case. Some hardened into what the Romans called *mos maiorum*; others failed to take root or proved ephemeral.¹⁷

One of the main challenges faced by the present inquiry, therefore, is to identify the points at which significant change occurred and, where possible, the pressures that occasioned it. Given the scantiness of the corpus, and the tendency of our sources to mask novelty as tradition, this study is necessarily an exercise in cautious reasoning *e silentio*: distinguishing, case by case, between silences that are historically significant and those that are merely accidental. In general, gaps in our knowledge concerning procedural minutiae are best attributed to the hazards of transmission and to the ordinary selectivity of our sources, which seldom pause over routine mechanics of the ritu-

15 For this radical, but overall compelling, view, see esp. Scheid 1990b; Scheid 1994; Scheid 2006. Cf. also MacRae 2016. More cautiously, Linderski 1985a; North 1998. Be that as it may, the spectre of vast sacerdotal libraries full of augural treatises and ritual manuals, popularised by Ambrosch 1843, has now been duly abandoned.

16 On these meetings, apparently obsolete by Cicero's time, see Cic. *Amic.* 7; *Div.* 1.90.

17 E. g., Lintott 1999: 1–8; North 1976: 1–12. On the place of *exempla* in Roman constitutional practice and the gradual consolidation of precedents into customary rules, see Cerami 2002: 128–31, 146–48; Lundgreen 2011: 273–77; Verrico 2024b.

al.¹⁸ However, when an expected phaenomenon is systematically absent from contexts in which one would anticipate it, the silence may be an index of historical change.¹⁹

Needless to say, the results of this inquiry are vulnerable to sceptical criticism. Of the already meagre corpus of augural writings, only a fraction has survived to our time. Accordingly, many of the augural rules or principles discussed in the following pages are attested in only one or two sources. Some are only inferred by analogy from other rules. Others were already the subject of heated debates in Antiquity, debates we may now glimpse only through the partisan accounts of those involved or the second-hand reports of authors writing centuries later.²⁰ What I shall (re)construct here may therefore be written off as what one eminent neo-Pyrrhonist has labelled “a perilous house of cards.”²¹ Whether a single sceptical breath will suffice to bring it down is for the judgement of the Reader.

18 E. g., Ch. 7.8.2.1 (presidency of the so-called *coitio patriciorum*).

19 E. g., Ch. 5.1.4 (obstructive use of *servare de caelo*); 7.3.2 (legal ramifications of the so-called “auspices of entry”).

20 See esp. Ch. 5.1.4; Ch. 7.4.

21 Beard 2007: 99.