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SACRED PROPERTY AND PUBLIC PROPERTY IN THE GREEK CITY

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pour Laure et Cyprien

Abstract: In the ancient Greek city, was sacred land distinct from public land? Were there points of intersection or areas of overlap between the two or was there no distinction at all? First, evidence from Athens is examined through a discussion of N. Papazarkadas' recent monograph, *Sacred and Public Land in Ancient Athens*. Three criteria for classifying landed property as sacred are proposed in that study: the prohibition or authorization to cultivate sacred land; the use of revenues for cultic purposes; and the inalienability of sacred land. But this trio of criteria does not in fact allow us to establish a clear division between sacred land and public land. The evidence from other cities shows the existence of land defined simultaneously as 'sacred and public' and the possibility of co-ownership and joint possession between god and city; a distinct place within the city's total property could also be reserved for sacred property (either land or funds).

Keywords: Sacred property, public property, Greek finances, ownership, Classical and Hellenistic Athens

A long-standing question in the institutional history of the Greek city still holds our interest today because of its relevance for the separation of Church and State: in antiquity, was sacred land distinct from public land? Were there points of intersection or areas of overlap between the two or was there no distinction at all?

It is probably from the work of Aristotle that this question has arisen in the first place, for in the *Politics* we find two different ways of classifying land. The second book deals with Hippodamos of Miletos' division of civic territory into three parts: sacred, public and private.[1] But in book 7, Aristotle himself proposes a division into two parts: one communal and the other private. Each of these is to be divided again into two, with part of the first to be dedicated to the service of the gods.[2] On this division, sacred land constituted a subsection of a city's communal land.

The question of the status of sacred land thus presented itself to historians of the Greek city in the form of a dilemma and has resulted in a clear division between those who consider sacred property part of public property (for example A. Böckh, P. Guiraud, M.I. Finley, A.R.W. Harrison, D. Behrend, R. Osborne, M. Walbank) and those who hold the opposite position (for example T. Linders, S. Isager). Instead of analysing the various positions in detail and discussing, at the outset, notions of public and sacred, as well as asking if a distinction between 'sacred' and 'profane' existed in antiquity, it might be better to examine directly the sources emerging from the cities themselves, whose slow but steady increase is part of what Marcus Tod, in the pages of this very journal, used to call the 'progress of Greek epigraphy'.

* dlrousset@wanadoo.fr. The present study, a first version of which was read by R. van Bremen, N. Papazarkadas, L. Migeotte and M. Brunet, has benefitted from their fruitful discussion and also from the critical comments of two anonymous *JHS* referees and those of its editor, R. Brock: I warmly thank them all. I owe profound gratitude to R. van Bremen, for taking on the translation of this article. The final section was delivered as a paper to the XIVth International Congress of Greek and Latin Epigraphy in Berlin, in August 2012.

[1] 2.8.3 (1267b): Διῄρει δ'εἰς τρία μέρη τὴν χώραν, τὴν μὲν ἱεράν, τὴν δὲ δημοσίαν, τὴν δ'ἰδίαν.

[2] 7.10.11 (1330a): Ἀναγκαῖον τοίνυν εἰς δύο μέρη διῃρῆσθαι τὴν χώραν, καὶ τὴν μὲν εἶναι κοινήν, τὴν δὲ τῶν ἰδιωτῶν, καὶ τούτων ἑκατέραν διῃρῆσθαι δίχα πάλιν, τῆς μὲν κοινῆς τὸ μὲν ἕτερον μέρος εἰς τὰς πρὸς τοὺς θεοὺς λειτουργίας, τὸ δὲ ἕτερον εἰς τὴν τῶν συσσιτίων δαπάνην κτλ.

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To do this for the totality of Greek cities would result in a sizeable volume, and it is therefore extremely fortunate that we now have a monograph dealing with the city that has yielded by far the most extensive evidence: Nikolaos Papazarkadas' recent *Sacred and Public Land in Ancient Athens*.[3] In this brilliant and detailed study, Papazarkadas considers the whole of Athenian 'non-private' landed property. From the outset he has to tackle the question of the unity or duality of sacred land and public land, and he begins his analysis by reviewing the positions of his predecessors.[4]

Papazarkadas himself proposes three criteria for distinguishing sacred from public land: (1) sacred land was inalienable; (2) the revenues from sacred land were used specifically for cults; (3) sacred *temenè* were cultivable but there were also sacred properties distinguished by their uncultivability. It is the combination of these criteria which should help us to decide whether sacred property was institutionally and legally different from public property.[5]

Let us consider then if it is possible to give a clear answer to this difficult question, first for Athens, then also for other Greek cities. The sheer volume of the Athenian evidence means that it cannot here be dealt with in any detail; but we can follow, and discuss, Papazarkadas' analysis and assess the pertinence of the criteria and classifications which he proposes. I shall then introduce into the debate the evidence from other cities: these cases, often ignored in recent discussions, will take us all round the Aegean – though not into those parts of the hellenized world, Asia Minor in particular, where landed estates and 'sacred villages' attached to sanctuaries were part of a different institutional organization.[6] As well as seeking to clarify in which circumstances I consider it legitimate to use the notion of 'ownership' in a Greek context, I shall ask to what extent sacred property either differed from, or constituted part of, public property. In doing so, I shall touch also on monetized wealth and the difference between sacred and public finances.

I. Landed property administered by Athenian collectivities

Let us first investigate Papazarkadas' analysis of the different Athenian collectivities that administered landed property and evaluate his main conclusions.

The first part of his study ('The Athenian polis as administrator of sacred realty', 16–98) is dedicated to sacred land administered by the central institutions of the city. This part of the book begins with an analysis of the landed property of Athena Polias, both in Attica and beyond its boundaries: land acquired during the period of the first Delian League, for example at Chalkis and Samos. Among the estates dedicated to the goddess, Papazarkadas also includes the land called *Nea* at Oropos, received by the Athenians in 335, on the grounds that its revenues served to finance Athena's cult. But we should remember that others have not hesitated to classify the *Nea* among the public properties of the city despite the allocation of its revenues, basing their judgment on the fact that it was the *poletai* who were involved in the leasing, not the *archon basileus*.[7] Already we see that taking the allocation of revenues as a criterion by which to assess the status of the land is in need of some discussion.

In his analysis of the properties of the gods other than Athena, Papazarkadas rightly pays special attention to a recently published law of Brauron. This text shows a number of buildings of different kinds being dedicated to Artemis: all these, so the inscription tells us, 'the city, having built them, dedicated to the goddess'. Should we follow Papazarkadas in thinking that the conse-

[3] N. Papazarkadas, *Sacred and Public Land in Ancient Athens* (Oxford 2011). *Cf.* p. vii: 'A study of non-private land in Athens'. I have written a very favourable review of this book (*REG* 126 (2013) 251–53), but without entering into the questions dealt with here.

[4] Papazarkadas (n.3) 2–8. *Cf.* also below, nn.60–61.

[5] Papazarkadas (n.3) 7, 11.

[6] On this, see in particular P. Debord, *Aspects sociaux et économiques de la vie religieuse dans l'Antiquité gréco-romaine* (Bordeaux 1982) especially 127–62; B. Dignas, *Economy of the Sacred in Hellenistic and Roman Asia Minor* (Oxford 2002).

[7] Papazarkadas (n.3) 22, 53 n.152, 227, discussing the inscription *IG* II^3 447 (Rhodes and Osborne *GHI* no. 81). For the *Nea* as 'state-owned land' see M.K. Langdon, *Athenian Agora* XIX (Princeton 1991) 64 (following D.M. Lewis).

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cration of the buildings erected by the city entailed, *ipso facto*, a 'transfer of ownership' to the goddess?[8] In my view this is to create an unwarranted opposition between sacred and civic property (*cf.* below, section III).

A study of sacred land administered by the central authorities of the city has to deal with two important questions: how was the rental income used and what part did it play in the economy? As Papazarkadas shows (38–39) in a general discussion of the use of revenues for cultic purposes (especially sacrifices), the Eleusinian accounts *IG* II^2 1672 are among the most explicit about the use of both rental income and income in kind, in this case for the celebration of the Great Mysteries and the contests at Eleusis. The rental income from land was probably also used for the cult of Amphiaraos at Oropos (*I.Oropos* 297, with Papazarkadas's comments on 46–47). Papazarkadas also shows that the revenues from estates belonging to a single deity could be used for the cults of other deities, either to pay for building work or for sacrifices. That the needs of various cults were commonly met from income derived from land is well-known, both for Athens and for other cities, but such information should not be used conversely as a heuristic rule for establishing the origin of a deity's revenues. To assume categorically that such revenues came from leased-out land, for instance in the case of the *prosodoi* of Artemis documented in the law of Brauron mentioned above, would be to generalize rather too freely.[9]

Papazarkadas presents a number of interesting calculations concerning the part played in the Athenian economy by the city's leasing out of sacred estates. Only for Athens is the evidence full enough to allow for any kind of precision. It is worth mentioning as an aside that for the whole of Aegean Greece we have virtually no record of a lease explicitly mentioning the capital value of the land in question alongside its rental value, nor its surface measurement.[10]

For Athens, the revenues known from the leases in *Athenian Agora* XIX L6 and L9–12 represent, in 343/342 BC, six talents, out of a total estimated at 500 talents, i.e. 1.2% of the city's revenues; in the time of Lykourgus, this was 15.5 talents out of a total estimated at 1,200, so 1.29 %. Taking into account the uncertainties of calculating the total sum, these revenues will have constituted at most between 1.5 and 2% of the 'annual state income' (Papazarkadas 93–94). Another series of calculations, based among other things on an estimate of the total capital value (*timema*) of Athens in the fourth century (6,000 talents in 354 BC, according to Demosthenes 14.19, 30) and the likely correlation between rental and capital value of the sacred land administered by the city, leads to the conclusion that the sacred estates known from the same *Agora*-leases had as their total capital value in the years 330–320 probably 193.75 talents, that is 3.23% of the *timema* of 6,000 talents, or at most 4% if we take into account a number of other sacred estates. But does this represent 4% of 'the total Athenian arable territory' (Papazarkadas 97) or 4% of the 'total landed property in Attica' (Papazarkadas 98)?[11] This inconsistency as to how we should define the point of reference which is the city's landed capital is also inherent in the uncertainty (admitted by Papazarkadas) surrounding the *timema* of 6,000 talents, which renders his calculations somewhat questionable.

[8] *SEG* 52.104 (*ca.* 300–250 BC) ll. 6–7: … καὶ τἆλλα πάντα [ὅσα ἡ] πόλις οἰκοδομήσασα ἀνέθηκεν τῆι θεῶι, with comments on p. 28: 'the polis might have built the premises, but it automatically transferred ownership to the goddess through consecration'.

[9] *SEG* 52.104, with comments on p. 89. On the other hand, it is perhaps better not to translate *temene* unequivocally as 'tillable land' in preference to 'shrines': the interpretation along these lines of Xenophon [*Ath. Pol.*] 2.9 and Lycurgus *Leoc.* 1.143, 147 (Papazarkadas (n.3) 78–79, n.269) seems to me rather forced.

[10] A point emphasized, among others, by M. Brunet, G. Rougemont and D. Rousset, 'Les contrats agraires dans la Grèce antique', *Histoire et sociétés rurales* 9 (1998) 211–45, at 216; I. Pernin, *Les baux ruraux en Grèce ancienne: corpus épigraphique et étude* (Lyon 2014). In this work, Pernin re-edits and discusses several of the Attic inscriptions mentioned in the main text of my article.

[11] Papazarkadas (n.3) 235 estimates the total surface usable for agriculture and arboriculture to have been 1,000km^2, out of a total Attic territory of 2,400km^2; at 271 he opts for 840km^2.

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Included in the sacred landed property administered by the city were the sacred olive trees, the *moriai*, thought to be off-shoots from the original tree given by the goddess to the Athenians and which provided oil for the Panathenaic prizes. Papazarkadas deals with these in a chapter (260–84) rich in new insights, masterfully combining textual commentary (of the *Athenaiôn Politeia* 60.1–3 especially) and archaeological sources (in particular the Panathenaic amphorae). By means of a series of calculations he shows that, for each celebration of the Great Panathenaia, approximately 2,100 amphorae or 80,514 litres of olive oil were needed as prizes. At a yield of three half-*kotylai* per tree (*Athenaiôn Politeia* 60.1–3) this would mean 198,800 individual trees, which are estimated to have covered between 2.35% and 6.76% of all cultivable land in Attika. This calculation explains perfectly the passage in the *Athenaiôn Politeia* according to which 'the city now obtains the oil simply from the property, not specifically from the sacred olive trees' (60.2: τὸ δὲ ἔλαιον ἐκ τοῦ κτήματος, οὐκ ἀπὸ τῶν στελεχῶν ἐστι τῇ πόλει): at the time of the *Athenaiôn Politeia*, the total number of trees needed to produce the required volume of oil exceeded that of the 'actual' sacred olives, which were called *moriai*.[12]

As is clear from the sources analysed by Papazarkadas, especially Herodotos, Androtion, Philochoros and Istros,[13] the *moriai* were considered sacred property, treated with respect not only by the Athenians but also by those of their enemies who invaded Attika. We can therefore classify them as 'inviolable'. I do not, on the other hand, understand what it is in the texts on the *moriai* that would suggest, or even 'confirm' that the sacred property was 'inalienable' (Papazarkadas 282), for the sources nowhere even raise the possibility of an alienation of these trees.

Are we perhaps asked to accept this because of Papazarkadas' wish to emphasize that the olives were not 'public' property, as has been suggested many times, but the property of the goddess? That these trees were isolated, like enclaves, perhaps even marked off, within the estates of private individuals, does not in the least imply that they constituted some kind of *temene*, to use the rather precarious expression borrowed by Papazarkadas from Lin Foxhall.[14] These inferences are excessive, for they result both from a false equivalence between 'sacred property', *temenos* and inalienability, and from a forced dichotomy between 'sacred' and 'public'. We should instead pay attention to what the *Athenaiôn Politeia* says about the olive oil belonging 'to the city' and the *Etymologicum Magnum*'s explanation of the term *moria*, which explicitly links the sacred character of Athena's olive trees to the public share (*demosia moira*) levied on the fruit of the trees.[15] It was therefore most certainly the 'community' or the 'city' which received part of the fruit of Athena's sacred *moriai*, to be used for the Panathenaic Games. The – indisputable – fact that the olive trees were sacred does not, in my view, exclude that they were public property, as I will show further below.

Papazarkadas next moves on to an investigation of the institutional sub-units of the city, the tribes and demes, as administrators of landed estates (99–162) . Here, unlike in the previous section, Papazarkadas deals not only with 'sacred realty', but with the totality of landed properties (as he also does in the next section on 'Non-constitutional associations). And it is here especially that the distinction between 'sacred' and that which, by contrast, must then be rendered as 'secular' becomes important.[16]

[12] Papazarkadas (n.3) 263, 269–72.

[13] Papazarkadas (n.3) 278–81: Hdt 5.82; Androtion, *FGrH* 324 F39; Philochoros 328 F125; Istros 334 F30.

[14] L. Foxhall, *Olive Cultivation in Ancient Greece: Seeking the Ancient Economy* (Oxford 2007) 120: 'The *moriai* … appeared symbolically as 'mini-*temenoi*' [*sic*] (sacred precincts) in the fields of Attica, separated from the secular world by a physical boundary'. *Cf.* Papazarkadas (n.3) 283, and, on the *moriai* as enclaves within sacred property, 264–66.

[15] *EM s.v.* 'μορίαν': οἱ μὲν πᾶσαν ἐλαίαν οὕτω καλοῦσιν· οἱ δὲ τὰς ἱερὰς τῷ θεῷ ὅτι δημοσίαν μοῖραν ἐκ τῶν καρπῶν ἐλάμβανον, cited by Papazarkadas (n.3) 282 n.97, bearing in mind that this gloss does not constitute an acceptance of the implied etymology.

[16] See below (section II) for the use and meaning of the word 'secular'.

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He deals first with the tribes, emphasizing that tribal properties are known essentially from the last three decades of the fourth and the beginning of the third century, especially those acquired in the wake of the reacquisition of Oropos in 335, which considerably enriched their fortune. The nominal and legal status of those tribal properties which in the inventory lists were linked to the eponymous heroes of the tribes was, according to Papazarkadas, 'sacred rather than secular' (109). But he acknowledges, on the other hand, that it is impossible to decide whether there existed a clear distinction between sacred and secular tribal funds (111).

The demes, too, according to Papazarkadas, owned land in two separate categories, the first of which was without doubt sacred land, as is clear from a large number of sources mentioning *temene*, whose rental income was used to finance cults. But Papazarkadas has a tendency to extrapolate from this to less clear-cut cases, such as the properties leased by the Plotheians and the Teithrasians; and we detect the same tendency in his discussion of certain revenues used to finance cults.[17]

The demes also possessed land which Papazarkadas defines as 'non-sacral' because it had no connection with any cults, for example the Phelleis in the lease document from Aixone (*IG* II^2 2492). In this case Papazarkadas concludes that the revenues of this land were destined for the non-sacral (*hosion)* funds of the deme (147–48). Even though it is certainly true that the distinction between *hieron* and *hosion* existed in some demes (*cf*. *IG* II^2 1215, with Papazarkadas 148), I am not sure whether it is possible in all those cases to trace a clear line between sacred and public where the deme funds and their specific uses are concerned, as is shown in the following three examples. Should the 'revenue of the demesmen' (ἡ πρόσοδος τῶν δημοτῶν) at Aixone, on the basis of its name alone, be defined as a 'non-sacral' fund, even though it served to pay for a sacrifice? The same question comes up at Acharnai in the case of a sacrifice which, if it could not be paid for out of the leasing out of the theatre, would have to be paid for ἐκ τ[ῆς κοινῆς διο]ικήσεως τῆς τῶν δη[μοτῶν]: should we in this case distinguish between the 'deme's common budget' and a sacred fund of Dionysos fed from the revenue of the renting out of the theatre? And finally, at Eleusis, should a fund used for a sacrifice really be classified as 'the non-sacral fund of the deme' because it was called *koinon* (δοῦναι δὲ εἰς θυσ[ί]αν Δαμασίαι Η δραχμὰς ἀπὸ τοῦ κοινοῦ)?[18] I wonder more generally if the variations in the origins of the sums spent and the uncertain nature of our financial nomenclature should not in fact give cause for the greatest possible caution when trying to infer from the cultic use of rental income the sacred nature of the land from which it derived (see above, this section, the case of Plotheia; and also that of the *Nea* of Oropos, above, this section, and below, section II).

Concerning the taxonomy of land, it should also be pointed out that, for the deme of Teithras, plots of land are designated in a deme-decree as *koina*: these are the 'communal landholdings' which should not be defined as either 'sacred' or 'secular', as was noted judiciously by Papazarkadas himself in 2007.[19] These 'communal landholdings' may well have approximated

[17] See *IG* I^3 258 and *SEG* 57.131, cited and discussed by Papazarkadas (n.3) 137, 140–41. The lands leased by the Plotheians, which Papazarkadas classifies as sacred, are considered 'deme land' and not as '*hieros* property' by J. Blok, 'Deme accounts and the meaning of *hosios*. Money in fifth-century Athens', *Mnemosyne* 63 (2010) 73, n.30, 83. *Cf.* now L. Migeotte, 'Pratiques financières dans un dème attique à la période classique: l'inscription de Plôtheia *IG* I^3 258', in G. Thür (ed.), *Symposion 2009. Vorträge zur griechischen und hellenistischen Rechtsgeschichte (Seggau, 25–30 August 2009)* (Vienna 2010) 53–66, at 62: 'nous ignorons si les loyers … provenaient de biens publics ou de biens sacrés'.

[18] See respectively *IG* II^3 1198, of 326/325; 1206, re-edited by N. Papazarkadas, 'Four Attic deme documents revisited', *ZPE* 159 (2007) 167–69 (*SEG* 57.124) dated to before 314; 1186 (mid-fourth century): all three inscriptions are cited and discussed by Papazarkadas (n.3) 148–50, nn.226, 234, 236.

[19] A decree of the deme of Teithras of *ca.* 350 BC, re-edited by N. Papazarkadas (n.18) 155–60 (*SEG* 57.131), n.23: 'The κοινά here are clearly landed property belonging to the community of the Teithrasians … Whether they were sacred … or secular property, or even both (as I believe) is another issue'. The decree is discussed by Papazarkadas (n.3) 151–52.

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what were called *eschatiai*, outlying lands that were in practice set aside for common use, and *demosiai*, the 'commonly held properties' shown as administered by deme-officials in land sales of the third quarter of the fourth century, traces of which can be found in the so-called *Rationes centesimarum*.[20]

Papazarkadas then deals with the 'non-constitutional' Athenian associations as administrators of landed property (163–211). These are, in essence, the phratries, the *gene* and the *orgeones*.[21] From the beginning (14), Papazarkadas underlines the difficulties involved in studying the property of these groups: 'These being in essence religious associations, their landholdings should a priori be of sacred character. Yet again, the actual situation turns out to be more complicated'.

Among the properties of the phratries are sanctuaries, *oikiai* and also land that was rented out and cultivated: this was the case for instance with the *chorion* of the phratry of the Dyaleis called the Sakkne, leased out for ten years, but with the possibility of its being sold to the lessee or his heirs, according to a clause which in fact has no parallel in Attic leases.[22] In trying to classify these properties, and in the absence of any precise qualification, Papazarkadas proposes to see the houses of the phratries as 'secular property' (164). In other words, use seems to determine legal status. As for Sakkne of the Dyaleis, he abstains from calling it either 'sacred' or 'secular': is it the explicit authorization that the land could be sold which causes this hesitation?

The *gene,* the hereditary priestly groups, are known as owners of landed estates especially through the documents concerning the Salaminioi, which stipulate that the rental income is to be used for sacrifices, as well as, probably, for the perquisites of the priests.[23] Among the other cases discussed by Papazarkadas may be mentioned that of the Eikadeis, several of whose landed estates are called *koina*.[24] The estates of the *gene* were in some cases sacred, and so, according to Papazarkadas, 'inalienable', while others, which in the *Rationes centesimarum* show up as capable of being sold, are deemed 'secular'.[25] This dichotomous schema would surely cease to be valid if it were conceded that a sacred plot could be sold: see below, section II.

The same uncertainty prevails when trying to classify the landed properties of religious groups worshipping heroes or deities, the *orgeones*. In the case of an orgeon whose name is lost to us, an arbitration of the mid-third century adjudicates that certain land belonged to a goddess, that it should neither be sold nor mortgaged and that its rental income was to be used exclusively for sacrifices:[26] should we imagine that in this case the inalienability of the land followed directly from the fact that the land belonged to the goddess and that the sole point of the judgment was to reiterate and enforce an already existing rule? Or did the arbitration rather modify a legal framework which did not *a priori* exclude the right of sale?[27] As in the case of the properties of

[20] S.D. Lambert, Rationes centesimarum. *Sales of Public Land in Lycourgan Athens* (Leiden 1997) 51–52, F7A, ll. 9–18, 208–09; Papazarkadas, (n.3) 160–61.

[21] The recent book by P. Ismard, *La cité des réseaux: Athènes et ses associations, VIe–Ier s. av. J.-C.* (Paris 2010), which appeared too late for Papazarkadas to take account of, treats 'Les associations et la propriété foncière' at 163–85.

[22] For the Dyaleis, *cf. IG* II^2 1241 with Papazarkadas (n.3) 166–68; for the clause allowing the sale, I have suggested, in ll. 43–44, the correction καταβαλόντ[ες] rather than καταβαλόντ[ων] in 'Épigraphie grecque et géographie historique du monde hellénique', *Annuaire de l'EPHE, Section des sciences historiques et philologiques* 143 (2010–2011) 65. For the *oikiai* of the phratries, *cf. IG* II^2 2622 and *SEG* 46.229 with Papazarkadas (n.3) 164.

[23] Langdon (n.7) L4a, L4b; Papazarkadas (n.3) 171–81.

[24] *IG* II^2 1258, 2631, 2632; Papazarkadas (n.3) 184.

[25] *Cf.* Papazarkadas (n.3) 184–85, 189, with reference to the sale of lands by the *gene* in the *Rationes centesimarum.*

[26] *IG* II^2 1289; in the new edition of N. Papazarkadas, 'Ἀττικὰ ἐπιγραφικὰ σημειώματα', *Horos* 17–21 (2004–2009) 91–108, at 91–95: τὰ μὲγκτήματ[α εἶναι τῆς] θεοῦ καὶ μηθενὶ ἐξεῖναι μὴτ' [ἀποδόσθαι] μήτε ὑποθεῖναι, ἀλλὰ ἐκ τῶν π[ροσόδων θύ]ειν τὰς θυσίας τὸν ἱερέα μετ[ὰ τῶν ὀργεώ]νων κατὰ τὰ πάτρια. (…) μηθένα ὀργ[εώνων τῶν κτη]μάτων τῶν ἑαυτῆς μηδ[ὲν ἀποδίδοσθαι μη]δὲ μισθοῦσθαι εἰς ἄ[λλο ἢ εἰς τὰς θυσίας].

[27] In this sense, M.I. Finley, *Studies in Land and Credit in Ancient Athens, 500–200 BC. The* Horos *Inscriptions* (New Brunswick 1951) 97.

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the *gene*, Papazarkadas sees for the *orgeones* an opposition between the alleged inalienability of 'sacred' land and the actual sale of other land, as attested in the *Rationes centesimarum*;[28] logically, this other land would therefore be 'secular' (199 and 203–04). Rather than distinguish between 'sacred' and 'secular', a distinction never made in the sources themselves for these estates, should we not rather admit that the religious associations were probably able to dispose of their landed property without any kind of implicit categorization? And does this not show the fragility of any attempt at classifying the estates of such non-constitutional sub-groups?

The final category studied by Papazarkadas is that of public, non-sacred landed property (212–36). Here we are confronted with the 'notorious problem of the alleged absence of public landholdings, that is secular property under the administration of Athens' (14). This is an allusion to the opinion expressed by D.M. Lewis in 1990: although the city did own both movable and immovable property, it never 'retained, worked, or leased anything called *gè demosia* (public land)', at least not through the agency of any of its central institutional bodies; any properties confiscated by the city were, it seems, immediately resold and were not put to use to generate permanent income.[29]

This is the position adopted by Papazarkadas, too rigidly in my view. A close scrutiny of the sources allows for a number of points to be made. There existed what we would call public property of the state, such as roads, waterways or the agora (218–21; *cf*. also 229 n.81). There was, equally, public property which we would call private state property, such as the Laurion mines and the majority of the quarries in Attika, among which those of Pentele and Hymettos, exploited mainly by private individuals (229–30). Then there was land, called *demosia*, designated for common use, often mountainous territory, where anyone could let animals graze and collect wood. Such common land is known for instance from a decree of the Augustan period.[30]

Both the notion of public property and its reality were very much alive, as is shown both in the foundation decree of the second Athenian confederacy of 377, in which the Athenians renounce 'whatever Athenian properties there happen to be, whether private or public, in the territory of their allies' (τὰ ἐγκτήματα ἢ ἴδια ἢ [δ]ημόσια), and by a 'boundary stone of the public land of the Athenians' dating from the fourth century BC, found on the island of Astypalaia.[31]

[28] Lambert (n.20) 222; *cf*. Papazarkadas (n.3) 198 n.157.

[29] D.M. Lewis, 'Public property in the city', in O. Murray and S. Price (eds), *The Greek City from Homer to Alexander* (Oxford 1990) 245–63, quotation at 251.

[30] See Papazarkadas (n.3) 222–25, using in particular *IG* II^2 1035, also *SEG* 26.121, sections of which I give here to aid the discussion (*cf*. below, nn.39 and 49): ll. 4–5: [ἐπειδὴ ὁ δῆμος ἐψήφισται περὶ τῶν ἱερῶν] κ̣α̣ὶ̣ τεμενῶν ὅπως ἀποκατασταθῆι το[ῖ]ς θεοῖς καὶ τοῖς ἥρωσιν ὧν ἐξ ἀρχῆς ὑπῆρχε καὶ τοῦ δή[μου - - -]; ll. 8–9: [τὰ δὲ ἱερὰ καὶ τεμένη εἶναι τῶν θεῶν καὶ τῶν ἡρώων ὧν ἐξ ἀρχῆς ὑπῆρχε· καὶ μὴ ἐξεῖναι εἰς τὸν μετὰ τ]α̣ῦτα χ[ρόνον ἀ]ποδόσθαι τι τῶν ἱερῶν τεμενῶν κατὰ μηδένα τρόπον, μηδὲ ὠνήσασθαι μη[δὲ ἀποτίμημα ἢ δῶρον λαβεῖν· εἰ δὲ μή, εἶναι φάσιν πρὸς τὸν βασιλέα τῶι βουλομένωι, καὶ τὸν βασιλέα γράφει]ν̣ κ̣[ατ]ὰ̣ τ̣ῷ̣[ν] ἀποδομένων γραψὰς ἀσεβείας [κ]α̣ὶ̣ ὀφίλειν τῆι Ἀθηνᾶι τὸ χρῆμα ὅσου ἀπέδοντο; ll. 14–15: [ἀναγράψαι δὲ τὸν ταμίαν τῆς ἱερᾶς διατάξεως ἐν στήλαιν λιθίναιν δυοῖν τάδε τὰ ψηφίσματα] περὶ τῶ[ν ἱερῶν κ]αὶ τεμενῶν [καὶ τ]ὰ ἀποκατασταθέντα ἱερὰ καὶ τεμένη καὶ εἴ τινα δημοτε[λῆ ὄρη ὑπάρχει ἃ κατὰ τάδε τὰ ψηφίσματα ἀποκατασταθῆι] (or should we restore an indicative, for example ἀποκατεστάθη?); ll. 16–17: [ἀπομισθῶσαι δὲ αὐτὰ τὸν ἐπὶ τοὺς ὁπλίτας στρατηγὸν Μητρόδωρον μετὰ τοῦ βασι]λέως καὶ τοῦ ταμίου [τῆς ἱ]ερᾶς διατ̣[άξε]ως εἰς τετραετίαν καὶ ἀναγράψαι ἐν στήληι τά τε τῶν μεμι[σθωμένων ὀνόματα καὶ ὅσου ἕκαστος ἐμισθώσατο]; l. 18: [π]ρονοησόμενον [ὅπως μὴ αἱ τῶ]ν ἀνα̣κτηθέ̣ντων ἱερῶν καὶ τεμενῶν μισθώσεις καὶ αἱ τῶν [δημοσίων οἰκιῶν - - -]; ll. 20–21: τὰ δὲ ὄρη τὰ δημόσια καὶ τὰς δημοτελεῖ[ς ἐσχατιὰς - - -]; l. 59: [ὄρη δ]ημόσια ἃ καὶ [9 l. + ἄ]πασιν νέμειν κ[αὶ ὑ]λάζεσθαι. On the date, *cf*. G.C.R. Schmalz, 'Inscribing a ritualized past: the Attic restoration decree *IG* II^2 1035 and cultural memory in Augustan Athens', *Eulimene* 8–9 (2007–2008) 9–46, at 14–16.

[31] *Cf*. Rhodes and Osborne *GHI* no. 22, ll. 27–29; *cf*. ll. 36–38. The boundary stone of Astypalaia, which Papazarkadas notes as unpublished ((n.3) 228, n.68), has now been published by D. Quadrino, 'Un inedito *horos* da Astypalaea', *Epigraphica* 63 (2011) 51–59: [ὅρο]ς δημ[οσί]ας Ἀθη[ναί]ων; the author does not exclude [χώρα]ς or [γῆ]ς instead of [ὅρο]ς; dating is by letter forms.

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These are examples of land belonging to the Athenian state which were, without any doubt, intended to generate income, as were most certainly the Athenian cleruchies – those on Chalkis, for example, acquired in 446 and in Lesbos in 427, where several thousands of such cleruchic plots were cultivated as part of the public domain of the Athenians.[32] Finally, we should surely add to the list of Athenian properties outside Athens the *Nea* at Oropos (*cf.* above, this section) as well as Athenian properties abroad in the Hellenistic period, such as the ἀγρὸς Ἀθηναίων at Haliartos in Boiotia.[33]

To the patchwork of public landed property in Attika we could almost certainly add more examples, which Papazarkadas attempts to discard, unconvincingly in my view. Thus the *demosia kteana*, mentioned alongside the *hiera kteana* in a fragment of Solon, 'cannot be shown to denote exclusively landed property', for they could be movables as well as immovables.[34] There are also several boundary stones of the fifth century found in Piraeus, which describe as *demosia* not only buildings, but also an extent of land:[35] Papazarkadas does not pronounce on the legal status of this land and the buildings on it, even though both are explicitly called 'public'.

As for built properties, we know of 'public houses' in Athens, one in the vicinity of the Sanctuary of Kodros, Neilos and Basile, attested in an inscription of the fifth century, and others in the Laurion region, mentioned in the *Poroi* of Xenophon.[36] Should we dismiss the idea that these were houses rented out by the state to private individuals and think of all of them as 'public houses' in the sense of brothels, as argued by A.J. Graham? Papazarkadas accepts Graham's interpretation, because it 'tallies better with the detected absence of public farmland'! The argument is circular, and is in plain contradiction with another passage in the book where the author, following *communis opinio*, describes the same houses in the Laurion region as being rented out to those engaged in mining.[37]

The reader of *Sacred and Public Land in Ancient Athens* should be aware that (s)he will not there find a complete inventory of all forms of state-owned property – the stated aim of the book, clearly announced on page 13, is to study primarily landed property without reference to buildings. But if one chooses to take the public houses of Laurion into account, even if only to remove them from the list of state-owned property, would it not have been better also to consider the *demosia oikodomemata* inspected by the Council (*Ath. Pol.* 46.2)? These were surely state-owned buildings. There were also, around 355, public hostels, *demosia katagogia*, mentioned in Xenophon, who proposes that more should be built and leased out to private individuals in order to increase the city's revenue.[38]

[32] See Aelian *VH* 6.1; Thuc. 3.50.2; P. Gauthier, 'Les clérouques de Lesbos et la colonisation athénienne au Ve siècle', *REG* 79 (1966) 70–72. On cleruchies and the public nature of this land, *cf.* N. Salomon, *Le clerouchie di Atene. Caratteri e funzione* (Pisa 1997) especially 25, 147–48, 167–68. Papazarkadas (n.3) 225–27 discusses the issue of the cleruchies, but finds their legal status difficult to assess, and discounts them as evidence on the grounds that their being situated outside Attica means they need to be dealt with separately.

[33] See C. Habicht, *Athènes hellénistique* (Paris 2006) 239–40 with notes, especially n.78: the Athenian territory at Haliartos is known both from Polybios 30.20 and Strabo 9.2.30 (C 411), and from boundary stones, found *in situ*, inscribed ἀγ(ρὸς) Ἀθ(ηναίων). Precision is not possible in the case of other Athenian possessions of the Hellenistic period, on Lemnos, Imbros and Skyros.

[34] Solon, *fr.* 4; Papazarkadas (n.3) 213.

[35] *IG* I^3 1102, 1103, 1105–08, 1109 ([Ἀ]πὸ τε[σ]δε τες [h]οδὸ τὸ πρὸς τὸ λιμέν[ο]ς πᾶν δεμόσ[ι]όν ἐσ[τι]) and 1110, boundary stones which Papazarkadas (n.3) 214–18 adroitly links with 'uninhabited parts of the city' (ἐρῆμα τῆς πόλεως) mentioned by Thucydides (2.17.1).

[36] *IG* I^3 84 l. 36; Xen. *Vect.* 4.49; P. Gauthier, *Un commentaire historique des* Poroi *de Xénophon* (Paris 1976) 187. *Cf.* also *Vect.* 4.19 with Gauthier 147–48.

[37] For the theory of Graham, see A.J. Graham, 'Observations on the "Stele from the Harbour" of Thasos', *JHS* 118 (1998) 33–37 (but *cf.* P. Gauthier, 'Bulletin épigraphique', *REG* 112 (1999) 661 no. 428); followed by Papazarkadas (n.3) 231; contrast Papazarkadas (n.3) 178 n.68: 'premises which could be let out to those engaged in mining [are] well known from Xen. *Vect.* 4.49'.

[38] Xen. *Vect.* 3.12–13, with the comments of Ph. Gauthier (n.36) 105–07.

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The general picture of property owned by the Athenian state as it is presented in the book is therefore not exhaustive. Although complete as far as 'landed' property is concerned, Papazarkadas' investigation seems to me not entirely convincing even here. For the Athenian possessions overseas as well as the cleruchies included public land cultivated for profit, while in Attika itself there existed landed property referred to as *demosia*: apart from the public property of the state made up of areas and buildings that were indispensable for communal life, there were mines, quarries, public houses and hostelries, and also land, attested both in the sixth and fifth centuries, whose precise use is not specified in the sources. In other words, the documents allow for a much richer and more diverse picture than is usually assumed.

It remains the case that the central Athenian authorities do not appear in our documents as engaged in the leasing of 'non-sacred' cultivable land, at least not in the 'Classical period' as Papazarkadas specifies.[39] The volume of the sources is such that we cannot dismiss this as an argument *e silentio*. It seems certain that for a long time the city abstained from leasing out, and thus from rendering profitable, publicly-owned land. How to explain this when we know of numerous certain cases of apparently 'non-sacred' land being cultivated, both in the demes of Attika and in other Greek cities? Papazarkadas ingeniously explains this singularity by linking it to the formation of Athenian territory: despite the unification of Attika as a result of the synoecism, non-private, surplus (in fact 'public') land remained under the control of the local communities, the demes, but nominally belonged to the city, and it never merged with actual, proper 'deme-land'. The latter Papazarkadas calls *demotika ktemata*.[40]

II. How to classify landed property: criteria and terminology

What does the Athenian evidence, collected and examined by Papazarkadas and reviewed here, contribute to our understanding of how landed property was classified more generally? Given enough time it might well be possible to draw up a survey of the specific terminology used to define landed property: as well as the noun *temenos* we find the adjectives *demosion*, *demoteles*, *demotikon*, *koinon* and *hieron* (or 'belonging to a deity'). The word *hosion*, however, is extremely rarely used for built property and, as far as I know, not at all for land.[41] The conceptual distinction between *hieron* and *hosion* – whatever precisely the latter's meaning, on which there is no agreement – was never applied to landed property.[42] For this reason, I shall abstain from using the words 'profane' or 'secular' to denote landed property.

Even without a full investigation, it seems to me that in reality explicit terminology was very little used. The Athenians never developed a coherent classificatory scheme which they observed at all social and institutional levels and which they kept unchanged over the centuries. But the absence of such a systematically applied scheme in antiquity does not mean we should not attempt to develop one ourselves.

[39] Papazarkadas (n.3) 229. Should we see in this chronological precision an allusion to the exploitation of property referred to in the decree of the Augustan period, cited above, n.30?

[40] Papazarkadas (n.3) 232–36. The actual expression *demotika ktemata* does not, as far as I know, occur in the sources and should not be used as if it did.

[41] *Hosion* used for the city's ornaments: see Isocr. 7.66 *(Areopagiticus)*; *cf*. 15.234 (*Antidosis*).

[42] *Cf*., for example, W.R. Connor, '"Sacred" and "secular". Ἱερὰ καὶ ὅσια and the Classical Athenian concept of the state', *AncSoc* 19 (1988) 161–88; S. Scullion, '"Pilgrimage" and Greek religion: sacred and secular in the pagan polis', in J. Elsner and I. Rutherford (eds), *Pilgrimage in Graeco-Roman and Early Christian Antiquity: Seeing the Gods* (Oxford 2005) 111–30, at 112–19; Blok (n.17) 61–93; with reference to finances, see also L. Migeotte 'La gestion des biens sacrés dans les cités grecques', in H.A. Rupprecht (ed.), *Symposion 2003. Vorträge zur griechischen und hellenistichen Rechtsgeschichte* (Vienna 2006) 233–46; 'L'apport des inscriptions à l'étude des finances publiques et sacrées des cités grecques', in A. Martínez Fernández (ed.), *Estudios de Epigrafía Griega* (La Laguna 2009) 251–60; 'Finances sacrées et finances publiques dans les cités grecques', in *Économie et finances publiques des cités grecques* I (Lyon 2010) 439–44. Papazarkadas himself emphasizes the distinction between *hieron* ('sacred') and *hosion* ('profane', 'secular', 'non-sacred'): *cf*. especially Papazarkadas (n.3) 9–10, 75 n.256, 147–48.

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According to Papazarkadas, the most transparent category is that of sacred land, which was used to finance cults, whose ownership was 'uncontested', and which existed 'beyond the public sphere'. The status of 'non-sacred' land, on the other hand, is much more difficult to determine, especially land administered by the demes, the phratries and the *orgeones*, all of which had the right to dispose of it. Then there was common land, less easily recognizable in our sources: notably the marginal, mountainous zones, often little productive or uncultivated; these can be called 'public land'. In the end then, we are left with three categories: 'sacred', 'non-sacred' and 'common', that is to say 'public'.[43]

And so the initial criteria for classifying land have rather fallen by the wayside: prohibition or authorization to cultivate sacred land; use of revenues for cultic purposes; inalienability of sacred land (*cf.* above, introduction). As we have seen, this trio of criteria has proved insufficiently clear-cut. We know of only a few cases of sacred land burdened with a prohibition on cultivation: the only case in Attika is that of the *hiera orgas* near Eleusis.[44] As for the connection between the source of the revenues and their use for either cultic or profane expenditure, we have seen that a great deal of sacred land was certainly used to produce rental income to be spent on cultic activities and equipment. But we have also seen several examples where cultic expenditure was financed from revenue which our sources do not allow us to define as 'sacred' or which they discourage us from so defining: for instance in the case of the *Nea* at Oropos and that of some deme-administered land. As a result, the use to which certain revenues were put cannot be an unambiguous indicator of the institutional category of the land that generated them.

As for the inalienability of sacred land, this is a rule which does not seem to me to be established, either for Athens or for the rest of the Greek world.[45] Of course, it is obvious that, when dedicating landed property, one would seek to safeguard it in the longer term and to avoid as much as possible shrinkage of the capital, just as with movable goods. We can see this in those cases where the consecration of a plot of land or of a sum of money to set up a foundation is said to be 'in perpetuity',[46] while occasionally the terms of the foundation stipulate the prohibition on disposing of the capital.[47]

But was there ever a rule which intrinsically linked consecration and inalienability? In the Attic sources, I can find just two documents which invoke the prohibition on alienating the land in question.[48] There is, first, an arbitration of the mid-third century, discussed earlier (see above and

[43] See the conclusion of Papazarkadas' book, (n.3) 240–43. The reader interested in putting Papazarkadas' conclusions in a wider context is referred to the classification proposed in D. Rousset, 'Terres sacrées, terres publiques et terres privées à Delphes', *CRAI* (2002) 215–41; *Le territoire de Delphes et la terre d'Apollon* (Athens 2002).

[44] I refer here only to large stretches of land left deliberately uncultivated. This is different from smaller plots immediately surrounding a sanctuary which were left deliberately untilled. For land burdened with a prohibition on cultivation, see R. Parker, *Miasma. Pollution and Purification in Early Greek Religion* (Oxford 1983) 160–66; Rousset (n.43 Athens 2002) especially 283–66; M. Horster, *Landbesitz griechischer Heiligtümer in archaischer und klassischer Zeit* (Berlin 2004) 92–138.

[45] The inalienability of sacred land is alleged without detailed argument by S. Isager and J.F. Skidsgaard, *Ancient Greek Agriculture* (London 1992) in some rather hasty pages (181–90) on sacred land. The same inalienability is also postulated by M. Horster (n.44) 14, 86, who then expresses astonishment (158–59) at the sale of properties belonging to Herakles and the hero Alkimachos at Athens (see above, n.28) and at the case of Philippi, mentioned below.

[46] For land, *cf.*, at Thespiai, *OGIS* 749: Φιλέτηρος Ἀττάλω Περγαμεὺς ἀνέθεικε τὰν γᾶν τοῖ Ἑρμῆ ἐν τὸ ἐληοχρίστιον ἰαρὰν εἶμεν ἐν τὸν ἅπαντα χρόνον. For a monetary gift at Delphi, see the text cited below at n.92. *Cf.* B. Laum, *Stiftungen in der griechischen und römischen Antike. Ein Beitrag zur antiken Kulturgeschichte* I (Leipzig 1914) 169.

[47] So, for instance, *I.Smyrna* 712, l. 14: ἱερὰ καὶ ἀμετάθετα; or, at Xanthos, *TAM* II 261 B, republished by L. Robert, *Documents de l'Asie Mineure méridionale* (Geneva 1966) 35: [δίδωμ]ι δὲ τοὺς ἀγροὺς (…) Λητοῖ Ἀπόλλωγ[ι Ἀρτέμ]ιδι, ὥστε εἶναι αὐτοὺς ἱερο[ὺς τῶν προ]γεγραμμένων θεῶν ἀ[ναπαλλο]τριώτους καὶ ἀνυποθέ[τους καὶ ἀνεπ]ιδανείστους εἰς τὸν ἀεὶ [χρόνον].

[48] Papazarkadas (n.3) 175, 189 also invokes the case of the *hiera aroura* of the Salaminioi of the Seven Tribes as an example of inalienability (Langdon (n.7) L4b, ll. 43–44): I do not see what this assumption, which goes back to W.S. Ferguson, 'The Salaminioi of Heptaphylai and Sounion', *Hesperia* 7 (1938) 72, is based on. On the alleged inalienability of the *moriai* see above, section I.

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n.26) which stipulates that the sacred land may neither be sold nor mortgaged: there the question was whether this inalienability followed logically from the sacred nature of the land or whether it was imposed as a restriction in a situation where the right of disposal was not *a priori* excluded. Then there is the decree of the Augustan period already cited, organizing the return to the gods and the heroes of *hiera* and *temene*, and which prohibits, subject to prosecution for sacrilege, their being gifted, mortgaged or sold and which annuls sales that have already taken place.[49]

Should we see these sales as sacrilegious *ipso facto*, as violations of the unwritten rule of the absolute inalienabilty of sacred land?[50] Such a view is contradicted by what is known from other cities during the Hellenistic period, where we have examples of sacred land being mortgaged. Cases such as that of Akraiphia mortgaging the sacred land of Apollo or Kalymna and Sikyon losing respectively a sacred wood and a sacred estate to their creditors have been studied by L. Migeotte.[51] There is also the case of the *sympoliteia* of Stiris and Medeon, where both communities took care to ensure that all their properties, starting with their *hiera*, were free of mortgages.[52]

Should we then imagine that the pledging of sacred land as security was characteristic of the Hellenistic period and that it represented a change in how sacred property was perceived and treated?[53] That would be to postulate, but without explanation, an evolutionary development, while forgetting in the process two certain cases of sale of *temene* in the Archaic and Classical periods. In the sixth century, the men of Byzantion, being short of funds, put up for sale their sacred lands, both those administered by the central *polis* authorities (τὰ τεμένη τὰ δημόσια) and by the associations and other subdivisions of the city (τά τε θιασωτικὰ καὶ τὰ πατριωτικά).[54] And an inscription of Philippi of the second half of the fourth century shows the sale of eight *temene*, respectively those of Philip II of Macedon, Ares, the Heroes and Poseidon.[55] For the subsequent period I know of two cases of alienation of sacred landed property. In 278 BC, on Delos, the people decided that a house consecrated to the god in the past but now delapidated should be put up for sale, which brought in 180 drachmai.[56] In 27 BC in Kyme in Aeolis a Sanctuary of Dionysos was sold to an individual buyer; this generated litigation because the members of the thiasos wanted to restore the property to the god. They were able to refer to a ruling of the consuls Augustus and Agrippa who had at that time banned all forms of alienation of public or sacred sites, presumably because of complaints from other communities about similar transactions having taken place during this troubled period.[57]

[49] *IG* II^2 1035; *SEG* 26.121, ll. 8–9, cited above, n.30. Papazarkadas does not discuss the clause forbidding the alienation of the *hiera*.

[50] I cannot here engage with the question of the alienability of movable sacred goods, such as offerings and objects deposited in sanctuaries.

[51] See respectively, *SEG* 3.359; *Syll.*^{3} 953; Pol. 18.16.1–2; with L. Migeotte, 'Engagement et saisie de biens publics dans les cités grecques', in *Économie et finances publiques des cités grecques* I (Lyon 2010) 49–58; and further in *L'emprunt public dans les cités grecques* (Paris 1984) nos 16B, 59, 17. See also below, section III.

[52] *Syll.*^{3} 647; with Migeotte (n.51 1984) no. 28.

[53] Horster (n.44) 47–48.

[54] Arist. *Oec.* 2.2.3 (1346b): Βυζάντιοι δὲ δεηθέντες χρημάτων τὰ τεμένη τὰ δημόσια ἀπέδοντο, τὰ μὲν κάρπιμα χρόνον τινά, τὰ δὲ ἄκαρπα ἀεννάως· τά τε θιασωτικὰ καὶ τὰ πατριωτικὰ ὡσαύτως· καὶ ὅσα ἐν χωρίοις ἰδιωτικοῖς ἦν· ὠνοῦντο γὰρ πολλοῦ ὧν ἦν καὶ τὸ ἄλλο κτῆμα. This text, which for a long time was badly understood, has now been clearly explained by L. Migeotte, 'Téménè dèmosia', in P. Brillet-Dubois and E. Parmentier (eds), *Φιλολογία. Mélanges offerts à Michel Casevitz* (Lyon 2006) 187–95.

[55] P. Ducrey, 'Des dieux et des sanctuaires à Philippes de Macédoine', in D. Knoepfler (ed.), *Comptes et inventaires dans la cité grecque* (Neuchâtel 1988) 207–13; *SEG* 38.658; J. Game, *Actes de vente dans le monde grec. Témoignages épigraphiques des ventes immobilières* (Lyon 2009) no. 40. S. Dušanić, 'Notes épigraphiques sur l'histoire arcadienne du IVe siècle', *BCH* 102 (1978) 344–45, mentions still other inscriptions of the Archaic and Classical periods concerning the alienability of sacred land, which do not, however, strike me as pertinent.

[56] *IG* XI.2 162, A ll. 42–43.

[57] R.K. Sherk, *Roman Documents from the Greek East* (Baltimore 1969) no. 61; *I.Kyme* 17; with Dignas (n.6) 121–26; F. Hurlet, *Le proconsul et le prince d'Auguste à Dioclétien* (Bordeaux 2006) 204–09; the latter two with full references to previous discussions.

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In the light of the growing evidence for mortgaging and sales, I believe that we should have no hesitation in following P. Guiraud, L. Beauchet or E. Karabelias, all of whom consider that the consecration of a piece of land did not *ipso facto* make it inalienable;[58] or at least that the inalienability clause which might accompany the act of consecration could in reality be easily annulled.

However, we should not conclude from this that historically the alienation of sacred property was a frequent practice.[59] Liquidating capital is not usually good management. But it must also be stressed that, from a heuristic point of view, it is not justifiable, in the absence of a firmly attested legal rule, to use evidence of the sale of a piece of landed property as proof of its 'non-sacred' character, let alone as an indicator that such a property, if it belonged to a religious association, was 'secular' (cf. above, section I). In sum, the criteria suggested for classifying non-private landed properties have proved less than conclusive and do not allow us to establish a clear division between sacred land and public land in Athens.

That it was impossible to establish such a division has been well understood by some of Papazarkadas' predecessors, whose decision to study the totality of Athenian non-private land under the heading of 'public lands'[60] goes back to a frequently-held position which considers sacred land as a subdivision of public land and sacred property as an 'annexe' of state property.[61] It is this position which I have adopted here in the case of Athena's sacred olives, the *moriai*, which, despite their sacred status seem to me to be part of public property (cf. above, section I).

It is tempting to examine, *in abstracto*, notions of 'property' and *demosion* in ancient Greece, and to seek some enlightenment from the political thinkers. For my present purpose, and before turning to an analysis of the evidence for other Greek cities, let me make only the following brief points, to justify my use of the notion of 'ownership':

(1) the Greeks did not have a notion of, or a terminology which differentiated clearly between, full ownership and other degrees of control, possession, usufruct or enjoyment, definitions used in current legal systems influenced by Roman law;[62]

(2) the properties consecrated to the gods did not belong to a 'moral person' who was legally distinct from the city or one of its subdivisions: nothing is more deceptive than to speak in general terms of properties belonging to 'the temple' or to 'the sanctuaries', frequently encountered in the work of otherwise well-informed historians;[63]

(3) according to most common usage, it was the magistrates of these different bodies who administered sacred property, not the priests.

[58] P. Guiraud, *La propriété foncière en Grèce jusqu'à la conquête romaine* (Paris 1893) 376–77; L. Beauchet, *Histoire du droit privé de la république athénienne* III. *Le droit de propriété* (Paris 1897) 42–43; E. Karabelias, 'L'expropriation en droit grec ancien', in *Études d'histoire juridique et sociale de la Grèce* (Athens 2005) 191–227, at 208.

[59] A point often made, for example by Migeotte (n.42 2006) 237; also by M. Dreher, 'Antwort auf Léopold Migeotte' in H.A. Rupprecht (ed.) (n.42) 247–49.

[60] So M.B. Walbank in Langdon (n.7) 49–52. Along the same lines, R. Osborne, 'Social and economic implications of the leasing of land and property in Classical and Hellenistic Greece', *Chiron* 18 (1988) 279–323.

[61] For example, Guiraud (n.58) 374; Beauchet (n.58) 39; A.R.W. Harrison, *The Law of Athens* I (Oxford 1968) 235.

[62] See, for example, A. Kränzlein, *Eigentum und Besitz im griechischen Recht des fünften und vierten Jahrhunderts v. Chr.* (Berlin 1963) with the review of H.-J. Wolff, *ZRG* 81 (1964) 333–40; A. Maffi, 'Forme della proprietà', in S. Settis (ed.) *I Greci. Storia, Cultura, Arte, Società* II 2 (Torino 1997) 345–68, at 346; J. Velissaropoulos-Karakostas, *Droit grec d'Alexandre à Auguste (323 av. J.-C.–14 ap. J.-C.). Personnes – biens – justice* II (Athens 2011) chapter 7. On international law, A. Chaniotis, 'Justifying territorial claims in Classical and Hellenistic Greece: the beginnings of international law', in E.M. Harris, L. Rubinstein (eds), *The Law and the Courts in Ancient Greece* (London 2004) 185–213, at 87–90.

[63] So Velissaropoulos-Karakostas (n. 62) 31, at the start of a section on public and sacred property which is otherwise correct: 'Tant les cités que les temples possèdent des propriétés foncières considérables …'; or the very title of the book by Horster (n.44). I repeat (*cf.* above, n.6) that the status of landed property attached to certain sanctuaries in Asia Minor was very likely somewhat different and I do not discuss these in the present study.

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It is worth repeating these well-known points in order to emphasize that we should not, where the ownership of landed property is concerned, create an artificial opposition between divine and human. From this it follows that it is inappropriate, for instance, to speak of a 'transfer of property' from city to goddess when the city of Athens consecrated to Brauronian Artemis a number of recently constructed buildings (above, n.8). Finally, when defining the legal position of the city in relation to sacred property, I use the notion of ownership in the modern sense of the word: 'having full title and full right of disposal'.

III. Sacred and public property in other Greek cities

Let us now consider further evidence for our main question as to the difference, or lack thereof, between public and sacred land, and the possible subsuming of the second under the first. I begin by discussing four documents attesting the existence of land, *chôra*, defined simultaneously as 'sacred and public'.

At Argos, in an (only partly published) decree of the late Hellenistic period, we find the term ἁ ἱερὰ καὶ δαμοσία χώρα. This 'sacred and public land' had in the past been divided up into plots generating rental income 'for the city'. It is possible that this 'sacred and public' land included the *hiera chôra* specifically reserved for each of the following gods: Hera, Herakles, Apollo Pythaios and Alektryon.[64]

At Hyampolis in Phocis an inscription documenting a gift of land to Apollo and Artemis of the second century BC, whose context cannot be reconstructed from the fragmentary text, contains the line τὰν [ἰε]ρὰν καὶ δαμοσίαν [χώραν *vel* γᾶν].[65]

At Thebes, in a list of the Hellenistic period we find those who 'undertake to cultivate the sacred and public land': [Ο]ἵδε ἀπε[γράψαντο ἐπ]ιληψόμενοι γεω[ργεῖν τ]ὴν δημοσ[ίαν κα]ὶ ἱερὰν γῆν, which is how we should restore the heading of this text (see fig. 1), abandoning the earlier restoration [τὴ]ν δημο[σίαν καὶ τὴν] ἱερὰν γῆν, which not only does not fit the available space, but would introduce a second article and so a distinction between public and sacred land.[66]

Finally, in the early Empire, the city of Kos expressed its gratitude to a proconsul who had protected the ἱερὰ καὶ δαμοσία χώρα which Kos owned on Cyprus and had managed to safeguard the city's rights to this land.[67] Although complete on the stone, the expression ἁ ἱερὰ καὶ δαμοσία χώρα appeared so odd to S.M. Sherwin-White that she decided to offer comment instead on ἡ [sic] ἱερὰ καὶ ἡ [sic] δαμοσία χώρα, explaining the duplication of the article from the existence of two separate categories of land…[68] How difficult it is to accept the idea that land could be sacred and public at the same time!

[64] Decree cited by C. Kritzas, 'Aspects de la vie politique et économique d'Argos au Ve siècle avant J.-C.', in M. Piérart (ed.) *Polydipsion Argos. Argos de la fin des palais mycéniens à la constitution de l'État classique* (Athens 1992) 231–40 (*SEG* 41.282): Κατασταθεὶς δὲ καὶ [- - -] τᾶς ἱερᾶς καὶ δαμοσίας χώρας [- - -] τοὺς μὲν γύας ἰδιωτικοὺς γεγενημένους [- - -] τῶν πολιτᾶν, ἔπεισε ἄνευ πραγμάτων ἀποδόμεν τοὺς γύας. Τοὺς δὲ μὴ ἀποδίδοντας εἰσαγαγὼν εἰς τὸ δικαστήριον καὶ παραδείξας τοῖς δικασταῖς ἀδίκως καρπευομένους τοῖς γύαις καὶ μὴ ὀφειλομένους μηθέν, ἀνάγκαξε ἀποδόμεν τᾶι τε Ἥραι καὶ τῶι Ἡρακλεῖ καὶ Πυθαεῖ καὶ Ἀληκτρυῶνι καὶ ἀπεκατέστασε ἑκάστωι τῶν θεῶν τὰν ἱερὰν χώραν. […] Κατασταθεὶς δὲ καὶ δωτινατὴρ τᾶς ἱερᾶς καὶ δαμοσίας χώρας, μετὰ Μενεστράτου τοῦ ταμία, ἐποιήσατο δικαίως τὰν δωτίνασιν καὶ εἰσάγαγε τᾶι πόλει καθ' ἕκαστον ἐνιαυτὸν πλεῖον ἢ ταλάντωι τὰν δωτίναν εὑρεῖν παρὰ τὰν πρότερον οὖσαν δωτίναν καὶ φερομέναν τᾶι πόλει.

[65] *IG* IX.1 87, attributed to Hyampolis.

[66] *IG* VII 2446, ll. 1–2, edited thus: [Ο]ἵδε ἀπε[γράψαντο ἐπ]ιληψόμενοι γεω[ργεῖν]| [τὴ]ν δημο[σίαν καὶ τὴν] ἱερὰν γῆν; *cf.* already the *editio princeps* of B. Haussoullier, 'Inscription de Thèbes', *BCH* 9 (1885) 357–58, who wrote: 'les biens affermés sont "les domaines public et sacré"'. On the basis of the facsimile in *IG* and the photograph (fig. 1) kindly sent to me by Y. Kalliontzis, there is space in l. 2 for 6–7 letters between ΔΗΜΟ and ΙΕΡΑΝ: [τὴν] is therefore excluded and we should restore [τ]ὴν δημοσ[ίαν κα]ὶ ἱερὰν γῆν.

[67] G. Patriarca, *Bull. Comm. Roma* 60 (1932) *App. Bull. del Museo dell'Impero Romano* 3 (1933) 6–7 no. 3 with facsimile (*AE* (1934) 86) then *IG* XII.4 866: Αὖλον Δίδιον Πόστομον ἀνθύπατον Κύπρου, ἀντιλαβόμενον τᾶς ἱερᾶς καὶ δαμοσίας ἁμῶν ἐν Κύπρωι χώρας καὶ πρ[ο]νοαθέντα τῶν τᾶς πόλιος δικαίων.

[68] In presenting this text, S.M. Sherwin-White ('A Coan domain in Cyprus', *JHS* 95 (1975) 183) offers the

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Fig. 1: *IG* VII 2446. Thebes museum. Photo: Y. Kalliontzis, published here with the kind permission of the Ninth Ephorate of Prehistoric and Classical Antiquities.

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I wish to stress that in these four examples we should not understand ἁ ἱερὰ καὶ δαμοσία χώρα as the totality of civic terrritory, that is to say the area over which the *polis* and its magistrates had sovereign control, for such a designation would pass over in silence the part of the territory that was in private hands; and besides, it is perfectly clear in the case of Thebes, Kos and probably Argos, that the operations did not concern the totality of civic territory, for, had this been the case, the *entire* territory would have had to be brought into cultivation from scratch (Thebes), recovered (Kos) or parcelled out *ex toto et nihilo* (Argos). In all these cases only a part of civic territory was involved, and that part was designated as 'sacred and public'.

We should, in addition, note the case of Miletos, Herakleia under Latmos and Pidasa, known from two treaties concluded at the beginning of the second century BC. Between 186 and 181 we hear of a dispute between Miletos and Herakleia over a frontier zone in the mountainous region between the two cities: the Milesians claimed it was 'sacred and belonged to Apollo' while the Herakleians alleged that it belonged to that part of their territory which they called 'public and sacred'.[69] These two definitions, used in the clause with which the two cities jointly submitted their disagreement to the arbitration of a third city, correspond to legal categories which must have had a precise meaning for each of the parties, but which – and this needs emphasizing – also differed between the cities. A similar difference in presentation between two neighbouring communities occurs in the *sympoliteia* treaty which united Pidasa to Miletos in *ca*. 185. Here conditions are outlined under which the Pidasans would continue to cultivate 'their present properties, sacred and public, and those that might accrue either for the gods *or* for the people':[70] for the Pidasans the properties of the gods were different from those of the people. These three neighbouring communities had different ways of designating the non-private sections of their territory and they could, perhaps depending on whether the document was intended for an internal or external audience, either distinguish sacred and public property or refer to 'public and sacred' territory as a unity, without always having to make explicit the legal sub-categories that were – probably – subsumed (*cf*. *infra*).

Let us next investigate some examples which raise the problem of co-ownership and joint possession between god and city.

In Herakleia in Lucania, at the end of the fourth or beginning of the third century, the specifications of the emphyteutic leases of the 'estates of Dionysos' which L. Migeotte (and before him H. Swoboda) has drawn to our attention, raise the question of the actual ownership of the god's estates. In fact, this document stipulates 'non seulement des pénalités pour les fermiers qui manqueraient à leurs devoirs, mais aussi la confiscation de leurs plantations et de leurs constructions *au profit de la cité*', with the magistrates to be responsible for auctioning off the land in question; 'en outre, si un fermier mourait sans enfants et intestat, tous les fruits de sa terre revenaient également *à la cité*'.[71] We should not here set up an opposition between the god as

following comment on the 'Coan domain': 'from its description as ἡ ἱερὰ καὶ ἡ δαμοσία χώρα it clearly included a *temenos*', with n.7: 'The unnecessary repetition of the article in this phrase suggests that the land was technically of two different kinds'.

[69] *Das Delphinion in Milet* 150 (*Syll.*[3] 633) ll. 78–81: περὶ δὲ τοῦ μέρους τῆς χώρας τῆς ὀρεινῆς τῆς ἀμφισβητουμένης, ἣν Μιλήσιοι μὲν ἀποφαίνο[υ]σιν εἶναι τῆς Μυησίας ἱερὰν ὑπάρχουσαν τοῦ Ἀπόλλωνος τοῦ Τερβινθέως, καὶ ἣν εἶναί φασιν τῆς Τηΐας καὶ τῶν κεκτημένων ἐγ Κυσσήλει, Ἡρακλεῶται δὲ τῆς Κισαρίδος καὶ τῆς πρὸς τῶι Κυκλωπείωι καὶ τῆς δημοσίας καὶ ἱερᾶς. On the date and the background to the conflict, *cf*. M. Wörrle, 'Der Friede zwischen Milet und Magnesia. Methodische Probleme einer Communis opinio', *Chiron* 34 (2004) 49–52, with all references.

[70] *Das Delphinion in Milet* 149 ll. 28–30: νέμεσθαι δὲ Πιδασεῖς τάς τε ὑπαρχούσας ἱερὰς κτήσεις καὶ δημοσίας καὶ ἄν τινες ἄλλαι προσγίνωνται τοῖς θεοῖς ἢ τῶι δήμωι *κτλ*. The following clause of the treaty mentions the sacred mountains (*hiera orè*), 'circumscribed' (*periôrismena*), where wheat grew. For the precise identity of the *demos* of the Pidasans united to the Milesians, *cf*. P. Gauthier, 'Les Pidaséens entrent en sympolitie avec les Milésiens: la procédure et les modalités institutionnelles', in A. Bresson, R. Descat (eds), *Les cités d'Asie mineure occidentale au IIe siècle a.C.* (Bordeaux 2001) 117–27, at 124–27.

[71] *IG* XIV 645, l. 112: τὰ ἐν τᾶι γᾶι πεφυτευμένα καὶ οἰκοδομημένα πάντα τᾶς πόλιος ἐσσόνται; ll.

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owner of the soil and the city becoming owner only of the 'improvements' made as a result of the emphyteutic lease, because it was the totality of the leased land, soil and improvements which had to be reallocated under the same conditions, without the benefits being divided between god and city. How then should we explain the unexpected intervention of the city of Herakleia in the affairs of Dionysos? Instead of invoking 'une sorte d'osmose entre les finances sacrées et les finances publiques' or 'des raisons particulières, que nous ignorons', should we not rather admit that the city of Herakleia was the 'effective' owner of the land sacred to Dionysos?[72]

That the city was able to dispose of sacred land as would an owner, is demonstrated without a shadow of a doubt by the four cases concerning the alienation of land discussed earlier, where we saw a city mortgaging sacred land for its own benefit. Analysing cases of sacred land being mortgaged, at Sikyon, Akraiphia and Kalymna, L. Migeotte decided initially that these sacred properties were part of public property. In my view, this was right. But since then, in light of his more recent studies of the relationship between sacred and public finances, he has tried to play down the significance of these cases – though without presenting any new arguments.[73] I will come back to this *in fine*.

The certain attestations, discussed above, of the existence of land called both 'sacred and public' and of the city's complete control over sacred properties may also help to clarify those instances where land was dedicated or donated jointly to 'a deity and the city'. Among the many examples crying out for a more detailed analysis, I shall here discuss only a few instances pertaining to a rather diverse range of immovable and movable properties (leaving aside donations in cash):

(1) the lands donated 'to Zeus and the city of Aizanoi', probably by Attalos I and Prousias I;[74]

(2) the 24 plots and more than 90 houses donated to 'the god and the city' by M'. Acilius Glabrio when liberating Delphi in 191/190;[75]

(3) the 'land dedicated to Dionysos and the city' at Thespiai;[76]

(4) the cows donated to 'the city and to Asklepios' and 'to the citizens and the god' at Morrylos in Chalkidike;[77]

(5) at Delphi the gift of slaves 'to the god and the city' by king Nikomedes and queen Laodike of Bithynia;[78]

151–52: τᾶς πόλιος πᾶσαν τὰν ἐπικαρπίαν ἦμεν. *Cf.* Migeotte (n.42 2006) 237, whose analysis is cited in the main text. Already on this text: H. Swoboda, 'Über griechische Schatzverwaltung', *Wiener Studien* 11 (1889) 65–87, at 77.

[72] Citations from Migeotte (n.42 2006) 237; A. Ugguzoni, F. Ghinatti, *Le tavole greche di Eraclea* (Rome 1968) 212, see the city as 'proprietaria effetiva'. H. Swoboda (n.71) sees the city as 'Mitbesitzerin' of the land.

[73] L. Migeotte 'Engagement et saisie de biens publics dans les cités grecques', in J.-B. Caron, M. Fortin and G. Maloney (eds), *Mélanges d'études anciennes offerts à M. Lebel* (St-Jean-Chrysostôme 1980) 161–71. At 165: 'les biens des dieux ont toujours été clairement distingués des biens dits "publics"'; 'il n'en demeure pas moins que les uns comme les autres faisaient partie de la cité; la distinction moderne entre le profane et le sacré n'aurait ici aucun sens'; at 167: 'les cités … pouvaient … hypothéquer des biens-fonds et des édifices publics, même si certains d'entre eux faisaient partie du domaine sacré'. In the postscript of the re-edition of this article (n.51 2010), Migeotte writes that he prefers to modify the final expression to: 'des biens-fonds et des édifices publics, et même des biens du domaine sacré', wishing to indicate more clearly the distinction between public and sacred property. In the same sense Migeotte (n.42 2006) 236–37.

[74] See U. Laffi, 'I terreni del tempio di Zeus ad Aizanoi', *Athenaeum* 49 (1971) 3–53; *MAMA* IX xxxvi–xxxvii, nos 8–9; with M. Wörrle, 'Neue Inschriftenfunde aus Aizanoi V: Aizanoi und Rom I', *Chiron* 39 (2009) 426–29.

[75] Rousset (n.43 Athens 2002) no. 41, 254–67; A. Jacquemin, D. Mulliez, G. Rougemont, *Choix d'inscriptions de Delphes* (Paris 2012) no. 144.

[76] *IG* VII 1786: ἀ γᾶ ἰαρὰ Διονούσω κὴ τᾶς πόλιος Θεισπιείων ἂν ἀνέθηκε Ξενέας Πούθωνος; three similar boundary stones in *BCH* 50 (1926) 392, nos 6–8 (early Hellenistic).

[77] Decrees of the second century BC: ἐδεδώκει τῆι πόλ[ει] ὥς τ<ετ>ε τῶι Ἀσκληπιῶι βοῦν ἀγελαῖαν; βοῦς τε ἀγελαίας ἔδ̣ω̣κεν τοῖς πολείταις ὥς τε τῷ θε[ῷ]; M.B. Hatzopoulos, *Macedonian Institutions under the Kings* II (Paris 1996) nos 53–54; also C. Chandezon, *L'élevage en Grèce, fin Ve–fin Ier s. a.C. L'apport des sources épigraphiques* (Paris 2003) nos 20–21.

[78] Decree of the city of Delphi of 102/101, *FD* III 4, 77; republished by Rousset (n.43 Athens 2002) no. 31, 267; Chandezon (n.77) no. 14; Jacquemin et al. (n.75) no. 185.

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(6) the very numerous offerings of buildings to one or more gods and to the city (not easily distinguishable from dedications to a god and to the deified People or City so frequent under the Empire).[79]

In some of the cases mentioned it is possible that the double dedicatory formula was intended to show, by putting the divine recipient first, that he or she was the 'owner', while the city, placed second, was just the 'administrator': this is indeed the interpretation which I myself have proposed for the donation of slaves by the Bithynian king and queen to Delphi and for one of the decisions of M'. Acilius Glabrio, which stipulated that the city was to be entrusted with the *epimeleia* of two of the donated estates.[80] L. Migeotte, accepting this explanation, uses it in support of his own generalization about the administration of sacred land in Greek cities: 'la propriété divine et la gestion civile cohabitaient dans une sorte d'équilibre, certes fragile et parfois rompu, mais qui traduisait l'osmose typiquement grecque entre le "profane" et le "sacré"'.[81]

Similarly, one could invoke the fact that *demosios*, when qualifying land, at times appears to mean 'the concern of the city', that is to say the city's central institutions as opposed to its subdivisions, local magistrates and associations. This is Migeotte's convincing interpretation in the case of the *temene demosia* of Byzantion and the *hiera demosia* of Zeleia.[82]

But should we then think of interpreting *hieron kai demosion* as 'belonging to the god and administered by the people'? And yet, the properties called *demosia* at Pidasa are well and truly those that belong to the *demos*, clearly distinguished from those belonging to the gods. On the other hand, in a general sense, *demosios* signifies that which belongs to the 'state',[83] and which is not only administered by the community but of which the latter could also freely dispose, that is to say its 'property'.

It seems clear to me, then, that when the city, or the people, were made joint recipients of a donation with a god, they cannot be reduced by us to the role of administrator, whatever may have been their actual role in the management of the property in question. It is for this reason that I have previously proposed the idea of a common and indivisible ownership in the case of the Delphic donations.[84] M. Dreher, too, in his reply to Migeotte's study, is not persuaded that the 'joint recipient formula' should be interpreted as a sequential one, with the 'owner' listed first followed by the 'administrator'. He offers instead the idea that the community of citizens was 'co-owner' or 'real owner' of the property whose 'ideal' owner may well have been the god.[85]

In any case, there is in our sources nothing whatsoever that suggests we should place the city at a level inferior to the god in terms of control over donated or consecrated property or to see the god as sole owner. It is true that in these joint donations the god is often mentioned first. But does this not simply result from a reverence towards the divine, which hardly needs mentioning in a Greek context and which finds a counterpart for instance in Aristotle's classification of land, where sacred land is always mentioned first (*cf.* above, nn.1–2)? Indeed, among the examples

[79] See, for example, *IG* VII 2235, 3097, 3099; *IG* IX.2 31; *I.Smyrna* 753.

[80] See the passage in one of the decisions of M'. Acilius Glabrio 'giving or transferring to the city of Delphi the administration of two estates consecrated for the provision of oil', Rousset (n.43 Athens 2002) no. 41 B 54–61, 267.

[81] Migeotte (n.42 2006) 243; along the same lines, Migeotte (n.54) 192.

[82] Migeotte (n.54) 191–2, with reference to the text cited above, n.54, and to *Syll.*[3] 279. As Riet van Bremen has pointed out to me, in the case of Zeleia, *ta hiera ta demosia* could simply mean 'the sacrifices offered by the *demos*'.

[83] On *demosios* see, for example, A. Fouchard, '*Dèmosios et dèmos*: sur l'État grec', *Ktema* 23 (1998) 59–69.

[84] Rousset (n.43 Athens 2002) 267–68, 273, 287; see also Rousset (n.43 *CRAI* 2002) 234.

[85] Dreher (n.59) 251–52: 'Ins allgemeine gewendet könnte sich also die Bürgerschaft einer Polis … eher als Miteigentümer oder auch Untereigentümer des göttlichen Vermögens verstanden haben. Die Gottheit mag … ideeller Eigentümer gewesen sein, reelle Eigentümer waren die menschlichen Gemeinschaften'.

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mentioned earlier, the order is sometimes inverted, with the people or the city placed first, as in [τ]ὴν δημοϙ[ίαν κα]ὶ ἱερὰν γῆν at Thebes, τῆς δημοσίας καὶ ἱερᾶς at Herakleia under Latmos and, at Morrylos, the cows gifted to τῆι πόλ[ει] ὥς τ<ετ>ε τῶι Ἀσκληπιῶι or τοῖς πολείταις ὥς τε τῷ θε[ῷ]. For all these reasons, it would be hazardous to expect to be able to construct an official hierarchy from the order in which god and city are mentioned.

The present study cannot offer a full analysis of the relation between sacred property and public property, for that would have to deal not only with immovables but also with movable goods and with monetary wealth. Over the past few years, L. Migeotte has repeatedly underlined the distinction between sacred and public in the financial sphere.[86] My intention here is not to contest the general proposition, which is without doubt solidly founded and extensively documented. But we must certainly qualify it, as did H. Swoboda many years ago in a groundbreaking article in which he established the distinction between sacred and public finances, but not without presenting a number of counter-examples.[87]

Let us therefore only consider here a few cases to illustrate the point that the distinction was not universal to all Greek cities and communities. First of all, we should remind ourselves that among the Attic tribes and demes discussed earlier there were some that distinguished between *hieron* and *hosion* in their financial organization, but others for whom it was difficult, if not hazardous, to draw a clear line between sacred and public funds – though perhaps only because of inadequate evidence.[88]

Of Hellenistic Delos, on the other hand, a city whose financial organization during the period of its independence is well-known, it has been said that 'la cité se jugeait propriétaire des biens de son dieu'. Even though 'le trésor sacré était distinct du trésor public et avait ses administrateurs particuliers, la caisse sacrée représentait, aux yeux de la communauté délienne, une sorte de caisse de secours toujours à sa disposition'[89] and over which, I add without hesitation, the city exercised complete sovereignty. Did the city then not, in this case, have all the rights of ownership? To see in this an inappropriate encroachment, and accuse the Delians of 'désinvolture' and of 'malhonnêteté à l'égard de la fortune sacrée',[90] is generated by the wish to separate the sacred from the public at all costs, which is in itself revealing of our contemporary preoccupations and is assuredly false in the case of the Greek city.

I should like, finally, to draw attention to two examples, from central and northern Greece, each of which shows that sacred property occupied a distinct and reserved place within the city's overall property. The first is a long decree voted by the city of Delphi in 159/8, which regulates the administration of a foundation set up with a gift of Attalos II for the education of boys and for financing certain ceremonies and sacrifices.[91] The king had sent 'to the city' 21,000 drachmai as capital, the interest of which was to be used for the purposes stipulated. The first decision of the city after receiving the capital, 'in order that the donation remains in perpetuity, the salaries are regularly paid to the teachers and the costs of the ceremonies and sacrifices are paid from the

[86] See especially Migeotte (n.42 2006); (n.42 2009); (n.42 2010).

[87] H. Swoboda, 'Über griechische Schatzverwaltung', *Wiener Studien* 10 (1888) 278–307; (n.71) especially 75–77, 86.

[88] Above, section I.

[89] The three quotations are from C. Vial, *Délos indépendante* (Paris 1984) 275–77. In the same sense, V. Chankowski, 'Banquiers, caissiers, comptables. À propos des méthodes financières dans les comptes des hiéropes', in V. Chankowski, K. Vandorpe and K. Verboven (eds), *Pistoi dia tèn technèn. Bankers, Loans and Archives in the Ancient World. Studies in Honour of Raymond Bogaert* (Leuven 2008) 77–92, at 84–87; 'Monnayage et circulation monétaire à Délos aux époques classique et hellénistique', in M.-C. Marcellesi and O. Picard (eds), *Nomisma. La circulation monétaire dans le monde grec antique* (Athens 2011) 379: 'les Déliens considéraient que les deux caisses appartenaient à un seul et même ensemble'.

[90] Vial (n.89) 277.

[91] Main editions: *Syll.*[3] 672; J. Pouilloux, *Choix d'inscriptions grecques* (Paris 1960) no. 13; Jacquemin et al. (n.75) no 168. Extracts discussed in Rousset (n.43 Athens 2002) 221–22, no. 36.

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interest of the money lent out', was to decree that 'the money be sacred to the god'.[92] Having thus of its own account declared the capital sacred and, in fact, inalienable, the city decided on the usual measures to prevent any alternative use or diversion, declaring anyone acting counter to these measures liable to prosecution for stealing 'sacred funds'.[93] If any money was left after the salaries of the teachers had been paid, the *epimeletai* were to refer the matter to the *probouloi* and to the people and 'what is adopted will be enforceable': any surplus accruing from the interest on the capital was therefore at the free disposal of the city.[94]

The next section sets out the conditions on which one could borrow on the capital, stipulating personal guarantees and mortgage securities:

> Those who have borrowed money must repay it in its totality to the city in the fifth year. If they do not repay it according to these clauses, the securities will fall to the city and the *epimeletai* in charge of loans then in office are entitled to sell them. If the sale of the securities does not yield to the city the full amount for which they were mortgaged, the borrower himself and his guarantors will be subject to recovery by the *epimeletai* then in office to the amount of the missing sum. They may recover it in any way they choose, just as the other public and sacred funds are recovered.[95]

Let me clarify for the 'other public and sacred funds' that the association of the adjectives δαμόσια καὶ ποθίερα does not in this case mean that these moneys were, without distinction, public *and* sacred; both, though separate, were subject to the same rule governing financial administration.[96]

Commenting on these clauses some ten years ago, I wrote: 'les hypothèques sont faites "en faveur de la cité" …; c'est à la "cité" que reviennent ces biens en cas de défaillance de l'emprunteur … Dans le cas présent, il est donc impossible de distinguer entre biens sacrés et biens de la cité. Le capital de cette fondation n'est-il donc pas tout à la fois public et sacré?'[97] L. Migeotte has recently contested this interpretation: 'une telle confusion entre biens publics et biens sacrés n'est pas envisageable, à mon avis, car les uns et les autres ont toujours constitué des catégories distinctes dans les cités grecques'. In his view, the city of Delphi was only ever the administrator of Apollo's money; that the securities were said to 'fall to the city' simply meant 'the procedural intervention of the city', for here, as in other cases, if sacred property belonged to a city this meant that it 'relevait de sa responsabilité tout en étant propriété divine'.[98]

For my part, I do not at all believe that one can say that such property 'fell under the city's responsibility' while at the same time 'belonging' to the god. I would nowadays characterize the status of the foundation as follows. The city received the capital and decided on its own account to consecrate it to the god in order to protect it in perpetuity: having free disposal of it, estab-

[92] ll. 2–13: ἐπειδὴ βασιλεὺς Ἄτταλος … ἀπέστειλε τᾶι πόλει εἰς μὲν τὰν τῶν παίδων διδασκ[α]λίαν ἀργυρίου δραχμὰς Ἀλεξανδρείους μυρίας καὶ ὀκτακισχιλίας, εἰς δὲ τὰς τιμὰς καὶ θυσίας δραχμὰς τρισχιλίας, ὅπως ὑπάρχῃ ἁ δωρεὰ εἰς πάντα τὸν χρόνον ἀΐδιος καὶ οἱ μισθοὶ τοῖς παιδευταῖς εὐτακτέωνται καὶ τὸ ἀνάλωμα εἰς τὰς τιμὰς καὶ θυσίας γίνηται ἐγδανεισθέντος τοῦ ἀργυρίου ἀπὸ τῶν τόκων· ἀγαθᾶι τύχαι· δεδόχθαι τᾶι πόλει, εἶμεν τὸ ἀργύριον ποθίερον τοῦ θεοῦ. Equally, in the case of a foundation of Eumenes II, it was the city that decided to dedicate the capital to the god: *Syll.*[3] 671 B ll. 13–14.

[93] ll. 15–17: εἰ δέ τις τούτων τι ποιήσαι ἢ ἄρχων ἢ ἰδιώτας, κατάμαστρος ἔστω ἱερῶν χρημάτων φωρᾶς.

[94] ll. 19–20: εἰ δέ τι περισσεύοι ἀπὸ τῶν τόκων, διδομένων τῶμ μισθῶν τοῖς παιδευταῖς καθὼς διατέτακται, ἀνενεγκεῖν ἐν τοὺς προβούλους καὶ τοὺς πολλοὺς καὶ τὸ δοχθὲν κύριον ἔστω.

[95] ll. 67–76: ἀποδιδόντω δὲ οἱ δανεισάμενοι τὸ ἀργύριον πᾶν τᾶι πόλει ἐν τῶι πέμπτωι ἐνιαυτῶι· εἰ δέ κα μὴ ἀποδιδῶντι καθὼς γέγραπται, τὰ ἐνέχυρα αὐτῶν τᾶς πόλιος ἔστω καὶ οἱ ἐπιμεληταὶ ἀεὶ οἱ ἐγδανείζοντες κύρ[ι]οι ἔστωσαν πωλέοντες· εἰ δὲ πωλείμενα τὰ ἐνέχυρα μὴ εὑρίσκοι τὸ ἀργύριον ποθ' ὃ ὑπέκειτο τᾶι πόλει, πράκτιμοι ἔστωσαν τοῖς ἐπιμεληταῖς ἀεὶ τοῖς ἐνάρχοις τοῦ ἐλλείποντος ἀργυρίου αὐτός τε ὁ δανεισάμενος καὶ οἱ γενόμενοι ἔγγυοι, τρόπωι ὧι θέλοιεν πράσσειν, καθὼς καὶ τἄλ[λ]α δαμόσια καὶ ποθίερα πράσσονται.

[96] Rousset (n.43 Athens 2002) 221, n.807.

[97] Rousset (n.43 Athens 2002) 222.

[98] L. Migeotte, 'La fondation d'Attale II à Delphes: dispositions administratives et financières', *Dike* 12–13 (2009–2010) 203–17, at 216–17.

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lishing in complete freedom the parameters of its use, was it not then the city which had full ownership in the sense defined earlier? By deciding to preserve the capital among its sacred funds, the city did not confuse this capital sum with others under its control, but applied to it the same clear distinction between sacred and public funds that governed all its funds.

The next example to which I wish to draw attention is the recently published agreement of reconciliation between factions in the city of Dikaia in Thrace (*ca.* 364/3). Several clauses in this text present different formulations for the confiscation of property: he who refuses to take the oath will see his property 'made sacred and confiscated for the benefit of Apollo Daphnephoros' (ἱερὰ καὶ δημόσια ἔστω τοῦ Ἀπόλλωνος τοῦ Δαφνηφόρου) and will be punished with *atimia*. It is further stipulated twice over that he who intends to start court proceedings, despite the agreements that have been concluded, will be exiled and will have his property 'confiscated' for the benefit of the community (δημόσια ἔστω), while whoever authorizes these same proceedings will have his property 'made sacred and confiscated for the benefit of Apollo Daphnephoros' (ἱερὰ καὶ δημόσια ἔστω τοῦ Ἀπόλλωνος τοῦ Δαφνηφόρου) and will be punished with *atimia*.[99] The confiscations appear to have two different degrees of severity: the second, making the property *hieron*, is more precise and more severe than the first, which only makes it *demosion*; the confiscation is doubled by the act of consecration. Does this not show that there existed a specifically sacred sphere at the heart of what belonged to the civic community?

The documents from Delphi and Dikaia seem to me to show, each in its own way, the existence of such a sacred sphere set aside within the public domain. It seems to me that this idea of a reserved sphere is also present in the ps.-Aristotelian *Rhetoric to Alexander* which, in describing the usage current in the cities of his time, represents the properties of the gods as a specific category among those of the city.[100] The division of land proposed by Aristotle in book VII of the *Politics* corresponds perfectly, for there Aristole makes sacred land a subdivision of a city's communal land (above, n.2).

And so in Greek cities, the 'sacred and public' landed domain, for all that it was, in some places, designated as a unity, was very likely not one, homogenous and indivisible, as I hope my analysis of the treaties concluded by Miletos has shown, and as the decree of Argos also appears to show. It is likely that hiding beneath the unitary designation one would find a number of estates within the larger civic territory, that were specifically considered as sacred, either because they were reserved for cultic use or because they were intended to be rented out for cultivation in order to generate income for cultic purposes, or simply because it was thought that by 'making them sacred' they would be safeguarded and protected for the longest possible period: for this reason it was also only in the last resort that such set-aside sacred land was mortgaged or sold.

[99] *Cf.* E. Voutiras and K. Sismanidis, *Ancient Macedonia, Seventh International Symposium held in Thessaloniki Oct. 2002* (Thessaloniki 2007) 253–74; E. Voutiras, 'La réconciliation des Dikaiopolites: une nouvelle inscription de Dikaia de Thrace, colonie d'Érétrie', *CRAI* (2008) 781–92; *SEG* 57.576, ll. 7–20: ὃς δ' ἂμ μ[ὴ ὀ]μόσηι τὸν ὅρκον καθάπερ γέγραπται, τὰ χρήματα [α]ὐτοῦ ἱερὰ καὶ δημόσια ἔστω τοῦ Ἀ[π]όλλωνος το[ῦ] Δαφνηφόρου ἄτιμός τε ἔστω; ll. 32–36: ὁ μὲ[ν δ]ικ[α]ζόμενος φ[ευ]γέτω τὴν γῆν τὴν Δικαιοπολιτῶν καὶ τὰ [χ]ρ[ή]ματα αὐτο[ῦ ἔ]στω δημόσια, ὁ δὲ διδ[ὺ]ς τὴν δίκην ἄτι[μο]ς [ἔ]στω καὶ τὰ χρήματα [α]ὐτοῦ ἱερὰ καὶ δημόσια ἔστω τοῦ Ἀ[π]όλλωνος τ[ο]ῦ Δαφνηφόρ̣ō; ll. 42–45: ὁ μὲν δικαζόμενος ἄτιμος [ἔ]στω καὶ τὰ χρήματα αὐτοῦ δημόσια ἔστω, τοῦ δὲ διδ[ό]ντος τὴν δίκην τὰ χρήματα ἱερὰ καὶ δημόσια ἔστω [τ]ο̣ῦ Ἀπόλλωνος τοῦ Δαφνηφόρου.

[100] Arist. *Rh. Al.* 2.2.33–34 (1425b): Λείπεται δ' ἡμᾶς ἔτι περὶ πόρου χρημάτων διελθεῖν. Πρῶτον μὲν οὖν σκεπτέον εἴ τι τῶν τῆς πόλεως κτημάτων ἠμελημένον ἐστὶ καὶ μήτε πρόσοδον ποιεῖ μήτε τοῖς θεοῖς ἐξαίρετόν ἐστι. Λέγω δ' οἷον τόπους τινὰς δημοσίους ἀμελουμένους ἐξ ὧν τοῖς ἰδιώταις ἢ πραθέντων ἢ μισθωθέντων πρόσοδος ἄν τις τῇ πόλει γίνοιτο· κοινότατος γὰρ ὁ τοιοῦτος πόρος ἐστίν; 'It remains for us to study resources. First, then, we must inquire whether any property belonging to the city is neglected, neither bringing in any revenue nor being dedicated to the gods: I mean, for example, any public lands which are neglected and might bring in revenue to the city if they were sold or leased to private persons; for this is a very common source of income'. To be read with the comments of L. Migeotte, 'Les ressources financières des cités et des sanctuaires grecs: questions de terminologie et de classement', *RPhil.* 82 (2008) 323–24.

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In the light of the documents here discussed, both those concerning landed property and the (few) cases of movable property, I cannot subscribe to the statement that 'la règle était bien la séparation entre la fortune publique et la fortune sacrée'.[101] We should probably admit that there existed a relatively varied picture, in which there was room both for cases of separateness between the two spheres, for instance in financial matters, and for cases where sacred property was included within public property. In this picture we cannot yet easily place the city of Athens and its sub-units, for we often do not know what degree of control over landed property (ownership, usufruct) pertained to the city or to its sub-units; and, besides, the Athenians did not themselves have a coherent and consistent classificatory system for landed property. But whether for Athens or for other Greek cities, the criteria advanced by modern scholars (the effective alienation of certain properties, the presumed inalienability of sacred land, the specific use of rental income) do not make for a clear scheme either and have not succeeded in establishing a valid dichotomy between sacred and public.

Partly due to the contemporary interest in the question of the separation between Church and State, the debate about the distinction between public and sacred property in the Greek world is certainly not closed. Whatever evidence we will be able to take into account in the future, we should try to work with a more precise definition of what we mean by 'ownership' and 'property' and use with the greatest possible precaution notions like 'profane' and 'secular'. Finally, I hope that any future debate will focus not only on the dichotomy and the opposition between the two categories, but also on the inclusion of sacred property within the totality of the property over which the city had *de facto* – and thus in our sense *de iure* – ownership.

[101] Migeotte (n.42 2006) 238.

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