

# ARCTOS

ACTA PHILOLOGICA FENNICA

NOVA SERIES

VOL. V

HELSINKI 1967 HELSINGFORS

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# THE FOEDUS GABINUM

Patrick Bruun

The rise of Rome to be the leading power of Italy was slow and arduous; centuries passed before the nextdoor neighbours of the city on the Tiber were pacified and subdued. The Rome of the kings used the resources of Etruria to assert its superiority over its fellow states within the Latin Confederation, the Rome of the early republic faced rivals both in the south, Latins, and in the north, Etruscans and Sabines.

The earliest conquests of the Roman republic appear to have been the right bank of the Tiber, the *Lydia ripa*, and Fidenae on the left bank, not more than five miles from Rome. The natural sequel to the capture of Fidenae in 426 B.C.,<sup>1</sup> was the Veientane war aiming at securing the trade routes to the interior of Etruria.<sup>2</sup> Otherwise Etruria seems to have been a secondary preoccupation of the Romans at this juncture. Not until Rome was master of the Latin Confederation did it in real earnest launch an offensive against the Etruscan city states.

Once liberated from Etruscan domination, the expansion of the sovereign Roman people in Latin territory was gradual and cautious. The different phases are difficult to reconstruct. Our records are interwoven with mythical traits and legendary tales. The little city state of Gabii, not more than twelve miles from Rome, half-way to Praeneste, with a territory of 54 square kilometers,<sup>3</sup> occupies an important position in the history of the relations between Rome and its neighbours.

The only extant account of Gabian history which is coherent concerns what

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<sup>1</sup> Cf. A. ALFÖLDI, *Early Rome and the Latins*, Michigan U.P. 1963 (1965?), 316 ff. for the organization and formation of the earliest Roman tribes.

<sup>2</sup> ARNOLD TOYNBEE, *Hannibal's Legacy I*, London 1965, 414 ff., with reference to the detailed studies of D. ANZIANI, 'Caeritum Tabulae', *Mélanges d'archéologie et d'histoire* 31, Paris 1911, 435–458; F. TAMBORINI, *La vita economica nella Roma degli ultimi re*, *Atheneum* 18, N.S. 8, 1930, 299–328; 452–487, and M. SORDI, *I rapporti romano-etruschi e l'origine della civitas sine suffragio*, Rome 1960.

<sup>3</sup> BELOCH, *Römische Geschichte bis zum Beginn der punischen Kriege*, Berlin—Leipzig 1926, 178.

our sources regard as the Roman conquest of Gabii in the very remote past. The narratives of Livy and Dionysius of Halicarnassus tally perfectly with regard to the dating (the reign of Superbus in Rome), and to the device of reducing Gabii (Sextus Tarquinius appearing in Gabii in the guise of a refugee). With regard to the final outcome of the Roman campaign Livy simply states (I 54, 10) that *Gabina res regi Romano sine ulla dimicatione in manum traditur* and much later remarks, having recorded the expulsion of Superbus from Rome that, *Sex. Tarquinius Gabios tamquam in suum regnum profectus . . . est interfectus* (I 60, 2). Dionysius, however, does not end his account of the Gabian war with the capture of the city, but goes on to tell that Tarquin showed clemency towards the inhabitants, had his son elected king of Gabii and concluded a treaty with Gabii (DH IV 58, 4). It is the purpose of this paper to dwell upon the scanty data pertaining to the contents of the treaty, and on the circumstances connected with the conclusion of the *foedus Gabinum*.

The authenticity of the Gabian treaty has been seriously disputed, but there is no doubt that a strong tradition regarding the treaty existed in early Imperial Rome. We have the positive testimony of Dionysius, who tells us that the treaty was inscribed on a hide covering a shield deposited in the temple of Dius Fidius Semo Sancus (DH IV 58, 4).<sup>1</sup> We have further the evidence of some silver coins struck by the Augustan moneyers C. Antistius Vetus and C. Antistius Reginus, with the reverse legend FOEDVS P(*opuli*) R(*omani*) QVM (or CVM) GABINIS.<sup>2</sup> This, however, does not prove anything except that a tradition about the *foedus Gabinum* must have existed. Dionysius does not give any details about the contents of the treaty. Even if he had personally seen the shield in the temple of Dius Fidius, it is very doubtful whether he or his contemporaries would have been able to read and understand the archaic script on the hide.

We have, however, other independent evidence, which clearly shows that a *foedus Gabinum* must have existed, though we cannot say whether this treaty is identical with the one mentioned by Dionysius. This indirect evidence is found in Varro's well-known words (LL V 33): »As our State Augurs set forth, there are five kinds of fields: Roman, Gabine, peregrine, hostic, uncer-

<sup>1</sup> Dionysius of Halicarnassus (= DH) IV 58,4: . . . ἀσπίς ξυλίνη βύρση βοεία περίτονος τοῦ σφαγιασθέντος ἐπὶ τῶν ὀρκίων τότε βόός . . . Festus (ed. W. M. LINDSAY, Teubner, Leipzig 1913), 48, 19 remarks: »clipeum antiqui ob rotunditatem etiam corium bovis appellarunt, in quo foedus Gabinorum cum Romanis fuerat descriptum.»

<sup>2</sup> MATTINGLY-SYDENHAM, Roman Imperial Coinage I, London 1923, mint of Rome, nos. 153–54; 178–79.

tain. 'Roman' field-land is so called from Romulus, from whom Rome got its name. 'Gabine' is named from the town of Gabii. The 'peregrine' is field-land won in war and reduced to peace, which is apart from the Roman and Gabine, because in these latter the auspices are observed in one uniform manner: 'peregrine' is named from *pergere* 'to go ahead', that is, from *progredi* 'to advance'; for into it their first advance was made out of the Roman field-land. By the same reasoning, the Gabine also is peregrine, but because it has auspices of its own special sort it is held separate from the rest. 'Hostic' is named from the *hostes* 'enemies'. 'Uncertain' field-land is that of which it is not known to which of these four classes it belongs.»<sup>1</sup>

This remarkable statement makes it clear that, Gabii constituted a unique case in the history of Roman relations with the surrounding world. Gabii seems to have been one of the *triginta populi Latini* or the *prisci Latini*.<sup>2</sup> Nevertheless all the other Latin city states and their territories were considered as *agri peregrini*, and beyond the confines of the *ager peregrinus* was hostile territory.

Varro's text demonstrates that *ager peregrinus* is a technical term used by the Romans when defining and classifying non-Roman territories. The status of *ager peregrinus* accorded to a certain territory implied that certain rights and privileges had been extended to that particular territory, and thus generally presupposed contractual relations between Rome and the rulers of the territory in question.<sup>3</sup> As Varro pointed out, the Gabian territory was also *ager peregrinus*, but it differed from the other peregrine territories in that it enjoyed *auspicia singularia*. *Auspicia* could normally be taken exclusively *in agro Romano*, but Gabii had obviously been accorded this right by way of a special treaty. The treaty with Gabii was consequently of a higher degree, it conferred favours of a higher order upon the population of Gabii, religious as is shown by Varro's words, political as is demonstrated by Dionysius, who speaks about

<sup>1</sup> »Ut nostri augures publici disserunt, agrorum sunt genera quinque: Romanus, Gabinus, peregrinus, hosticus, incertus. Romanus dictus unde Roma ab Rom(ul)o; Gabinus ab oppido Gabi(i)s; peregrinus ager pacatus, qui extra Romanum et Gabinum, quod uno modo in his serv(a)ntur auspicia; dictus peregrinus a pergendo, id est a progrediendo: eo enim ex agro Romano primum progrediebantur: quocirca Gabinus quoque peregrinus, sed quod auspicia habet singularia, ab aliquo discretus; hosticus dictus ab hostibus; incertus is, qui de his quattuor qui sit ignoratur.»The translation above is in accordance with the Loeb edition. Varro's curious etymology of the word *peregrinus* does not affect our evaluation of the passage.

<sup>2</sup> DH V 61,3, Cic. *Pro Planc.* 9,23, cf. ALFÖLDI, *op.cit.*, 15, 54.

<sup>3</sup> MOMMSEN, *Römisches Staatsrecht III*<sup>3</sup>, 830 f. MOMMSEN here suggests that *ager Gabinus* by Varro was used *technisch exemplificierend* for all territory of the Latin League. This interpretation has for subsequent research obscured the real significance of the *foedus Gabinum*.

isopolity, *ισοπολιτεία* (IV 58, 3). No other Latin city state ever reached the same status as Gabii.

The unique position of Gabii within the framework of the Latin League should be seen against the background of the political development. The isopolity and the singular auspices conceded to the Gabians presuppose negotiations from equal strength and mutual services of the highest importance. When the treaty was concluded the time was past when Etruscan resources had made Rome the dominating factor among the Latin peoples. The decline of Etruscan power and the expulsion of the Etruscan king is thus a *terminus post* for the treaty.<sup>1</sup>

<sup>1</sup> We are here faced with serious difficulties with regard to the interpretation of what, by the unanimous verdict of scholarly research, happened in Rome in the late sixth and early fifth centuries B.C. The decline of Etruscan power is obvious, and so is the gradual impoverishment of Rome; a corollary of both these phenomena is the discontinuation of Greek imports in the archaeological finds in Rome (E. GJERSTAD, *Early Rome III*, 462, *Acta Instituti Romani Regni Sueciae*, Series in 4°, XVII: 3, Lund 1960).

GJERSTAD (for instance, *Discussions Concerning Early Rome*, 102, *Opuscula Romana III*, *Acta Instituti Romani Regni Sueciae*, Series in 4°, XXI, 69—102) thinks with reference to the archaeological evidence that Etruscan domination in Rome came to an end about the middle of the fifth century, when the Roman economic recession was manifest; for a modified interpretation of the material, cf. recently P. G. GIEROW, *The Iron Age Culture of Latium I*, 458, 493, *Acta Instituti Romani Regni Sueciae*, Series in 4°, XXIV: 1, Lund 1966. K. HANELL (*Das altrömische eponyme Amt*, *Acta Instituti Romani Regni Sueciae*, Series in 8°, Lund 1946) has with great acumen evaluated the literary sources and arrived at the conclusion that the Roman republic in the proper sense of the word was born roughly at the same time, the time of the decemvirate (206). HANELL maintains that the office of the consuls was created with the centuriate assembly in 449 B.C., and that the eponymous magistrates of earlier date were praetors (184; HANELL presupposes only one eponymous magistrate originally, a contention that subsequently was corrected by GJERSTAD, *Discussions Concerning Early Rome*, 99 n.1, who stated that they must have been two). R. WERNER, *Der Beginn der römischen Republik*, Munich 1963, 240—264, reverts to the traditional view and demonstrates convincingly that at the same time as the king lost his political power, the leadership of the Roman state was entrusted to two consuls, the eponymous magistrates.

I agree with this picture of the general development, though it does not answer all the questions involved. There are particularly two facets of the problem which should be considered, (a) the fall of the kingship, and (b) the character of the decline of Etruscan power in Rome. With regard to the first question, I agree with scholars like HANELL (185 f.) and, more recently, TOYNBEE (*op.cit.*, I 368 f.) that the kingship in the same way as, for instance, in Athens, was ultimately turned into a religious office, the office of the *rex sacrorum*, without political significance or power. But I do not think that the deflation of the position of king was possible under Etruscan domination; only after the expulsion of the last Etruscan king, Tarquin according to tradition, was it possible to degrade the king and turn his office into an exclusively religious one. When, in the sequel, I speak of the expulsion of the last king, or the last Etruscan king, I refer to Tarquinius Superbus, the last foreign king to rule Rome.

As to the latter question, research by ANZIANI, TAMBORINI and SORDI (cf. note 1, above) has shown that close commercial relations were maintained between Rome and Etruria, particularly Caere, for a long time after the expulsion of the last Etruscan king. Many Etruscans must have established themselves in Rome as the *tabulae Caerites* show (TOYNBEE, *op.cit.*, I 423). A study of the earliest names of the *Fasti*, even after the radical revision carried out by

Now, in the Twelve tables (I 5) we have a passage,<sup>1</sup> which has been interpreted as a fragment of a paragraph dealing with the status of certain peoples in Roman territory. With some degree of probability it has been demonstrated that the *For(c)ti* mentioned in the text were identical with the *Gabini* in the same way as the *Sanates* (Ms. *Sanati*) were identical with the *Tiburtes*.<sup>2</sup> This gives us the year *c.* 450 B.C. as a *terminus ante* for the treaty. These time limits tally well with the fact that the isopolity between Rome and Gabii in 422 B.C. is demonstrated by the election of a member of the Gabine gens *Antistia* to the office of *tribunus plebis*.<sup>3</sup>

The aftermath of the expulsion of the Etruscan king from Rome implied the formation of two Latin federations hostile to Rome, each making a bid for the

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WERNER (*op.cit.*, 291 f.) with the earliest acceptable entries recorded for 472 B.C., reveals a great many of Etruscan origin (GJERSTAD, Discussions Concerning Early Rome, 99 f., accepts most of the names of the early *Fasti* as genuine, which cannot be correct, cf. WERNER, *loc.cit.*, I would regard the first group of Etruscan magistrates mentioned by Gjerstad as entirely spurious, and the second as no proof at all of the existence of Etruscan kingship in Rome at that time).

Thus it would seem that the expulsion of Tarquinius Superbus implied the end of political kingship, and the end of Etruscan rule in Rome. But there was no contemporaneous political revolution. The romanized families of Etruscan origin stayed on, and similarly Etruscan settlers without Roman citizenship (cf. GIEROW, *op.cit.*, 493).

<sup>1</sup> S. RICCOBONO, *Fontes iuris anteiustiniani* I<sup>2</sup>, Florence 1941, 28: *nexi* [ ] *forti sanati* [ ]

<sup>2</sup> A. ROSENBERG, *Zur Geschichte des Latinerbundes*, *Hermes* 54, 113—173, particularly 127—132, cf. further M. LEJEUNE, *Revue des études Latines* 29, 1951 (1952), 43 ff., and WERNER, *op.cit.*, 430 ff. ROSENBERG has studied the *Foreti* and *Manates* known from Plin. NH III 5, 68—70, and connects them very convincingly with the *Forcti* and *Sanates* appearing in the Twelve tables according to Festus, 426, 428 and particularly 474: »Itaque in XII cautum est, ut idem iuris esset Sanatibus quod Forctibus, id est bonis, et qui numquam defecerant a populo Romano,» cf. also HÜLSEN in GRADENWITZ, *Die Gemeindeordinanzen der Tafel von Heraclea*, *Heidelberger Sitzungsberichte* 1916, Abh. 14, 53 f. The combination *Sanates—Tiburtes* is firmly established. Because of the geographical affinity of, on the one hand, the *Sanates* and the *Forcti*, as confirmed by the texts, and on the other, of Tibur and Gabii, ROSENBERG arrives at the conclusion that the *Forcti* corresponded to the *Gabini* in the same way as the *Sanates* did to the *Tiburtes*. The theory behind this is simple (ROSENBERG, 130); peoples and tribes with the passing of time frequently assumed the name of their capital, or were by others called after their capital. In this way we have the *Laurentes Lavinates*, the *Marsi Marruvini* and the *Marsi Antinates*, the *Rutuli Ardeates*, and the *Quirites Romani*.

This interpretation of our knowledge of the Twelve tables adds something to the understanding of our particular subject, the circumstances surrounding the conclusion of the *foedus Gabinum*. By *c.* 450 B.C. *Tiburtes* and *Forcti* (*Gabini*) were loyal allies of Rome. This suggests that after the battle of Regillus, when Praeneste went over to the Romans, Tibur followed suit, very soon afterwards if not immediately.

<sup>3</sup> Liv. IV 42, 1, cf. T. R. S. BROUGHTON, *The Magistrates of the Roman Republic*, New York 1951—61, 69. BELOCH, *Römische Geschichte*, 155 rejects Antistius as *tribunus plebis* in 422 B.C. though earlier, *Der italische Bund unter Roms Hegemonie*, Leipzig 1880, 47, he had accepted the tradition preserved by Livy. In *Römische Geschichte*, however, he primarily rejects the consular tribunates of the Antistii in 419 B.C. and in 379 B.C. and then *ex analogia* excludes the *tribunus plebis* also from the list of magistrates, without specific reasons.

leadership among the Latin peoples and each establishing a centre for the worship of the Latin Diana, the one federation at Corne near Tusculum<sup>1</sup>, the other at Nemi, near Aricia.<sup>2</sup> It should be noted that Roman claims to leadership among the Latin peoples had been underlined, under the Etruscan period, by the formation of a centre for the cult of Diana on the Aventine.<sup>3</sup> The Arician federation, embracing the majority of the Latin city states, seems to have remained passive, whereas the Tusculan federation, allied to the Etruscans (probably under Etruscan leadership) and to the last Etruscan king of Rome, Tarquinius Superbus, tried to recapture the territories in the north, liberated when King Tarquin was expelled from Rome.

Gabii must have been in an extremely difficult position at this juncture. Guarding the main road from southern Etruria to Campania, which south of Gabii passed between the Praenestine Hills and the eastern slopes of the Alban Hills, where Tusculum was situated, it actually cut off King Tarquin from his Etruscan motherland and allies. Any offensive would therefore primarily be directed against Gabii, with Rome, guarding the coastal road to Etruria, as a secondary objective. This is the general background of the battle of Lake Regillus, the sequel to the expulsion of King Tarquin.

Livy mentions Lake Regillus in connexion with two different campaigns against Tusculum in the years *a.u.c.* 255/499 B.C. and 294/460 B.C. (II 19 and III 20, 4—6); the battle proper he dates in the former year. In the later instance Lake Regillus occurs in a muddled account of events related to Appius Herdonius' capture of the Capitol. A good deal of Livy's story seems to lack foundation, and the mention of the Tusculans coming to the aid of the Romans appears to have been brought in with the purpose of motivating later Roman action against the *Aequi*, subsequently mentioned as occupants of Tusculum, but also in order to ingratiate the Romans with the Tusculan *gens Mamilia*, as I hope to show below.

Lake Regillus in the latter context occurs in the following circumstances: having been elected consul instead of Publius Valerius, who had been killed

<sup>1</sup> ALFÖLDI, *op.cit.*, 89, cf. Plin. NH XVI 91, 242. ALFÖLDI, however, dates the federal cult of Diana of Corne in the second half of the fifth century, cf. Werner, *op.cit.*, 408. Florus I II, 1: *Omne Latium Mamilio Tusculano duce* must be an exaggeration.

<sup>2</sup> WERNER, *op.cit.*, 408.

<sup>3</sup> ALFÖLDI, *op.cit.*, 85 ff. ALFÖLDI contends that the cult of the Arician Diana precedes the worship of the Aventine Diana. WERNER, *op.cit.*, 408 justly remarks that the shrine of the Arician Diana was rededicated after the expulsion of King Tarquin. The cult on the Aventine *erat confessio caput rerum Romam esse* (Liv. I 45, 3). Note that the sacred grove of Diana, being open for worship to all Latin peoples, was located outside the pomerium (ALFÖLDI, 99).



when trying to recover the Capitol from Appius Herdonius and his followers, Cincinnatus held a moving speech: »We therefore command that all you who took the oath report to morrow, armed, at Lake Regillus» (Liv. III 20,4),<sup>1</sup> but a certain uneasiness prevailed among the people: ». . . a story was about that the augurs had been commanded to present themselves at Lake Regillus, there to inaugurate a place where the auspices could be taken and matters brought before the people . . . » (Liv. III 20, 6).<sup>2</sup> »The people» is here equivalent to the centuriate assembly, the army. But despite the seeming urgency, nothing really happens until the next year, when Livy reports that the *Aequi* had captured the citadel of Tusculum. Subsequently Lake Regillus plays no part in the story, nor do we hear anything of auspices taken outside the pomerium.

Very likely we have here an instance of Livy's difficulties in reconciling his sources. I propose to return to this question below, having considered the circumstances in which Lake Regillus appears in Livy's text.

Lake Regillus, known from the annalistic tradition in connexion with the war against Tusculum and the Etruscans in an earlier period, could well have been mentioned, separately, in augural records for particular reasons. Only rarely can auspices have been taken outside the pomerium, and this always presupposed exceptional steps, the creation of the fiction that a piece of land was Roman territory, the dedication of a *templum*, a sacred precinct, for the augural rites.<sup>3</sup> Knowledge of such a singular event would certainly have been preserved by the augural tradition, and for a date closer to actual chronology than the one given by the annalists. In reality, however, Lake Regillus only once appears connected with a war against Tusculum, during the campaign which Gabians and Romans together sustained after the expulsion of King Tarquin from Rome. At this juncture the auspices must have been taken *ad Regillum lacum*.<sup>4</sup>

The site of Lake Regillus has not been established beyond dispute, though

<sup>1</sup> »Edicimus itaque, omnes qui in verba iurastis crastina die armati ad lacum Regillum adsitis.»

<sup>2</sup> ». . . quod et augures iussos adesse ad Regillum lacum fama exierat, locumque inaugurari ubi auspiciato cum populi agi posset . . . » In the quotations above I have followed the Loeb translation, but accepted BAYET'S text, III 20, 6, *de proferendo exerc(itu ex)itu* in the preamble to the latter passage, cf. OGILVIE, A Commentary on Livy, Oxford 1965, 431 f. *ad loc.*

<sup>3</sup> MOMMSEN, Römische Staatsrecht I<sup>3</sup>, 102 ff., WISSOWA, RE II, col. 2586 s.v. *Auspicium*.

<sup>4</sup> Livy must have had very great difficulties in assigning the battle of Lake Regillus to the proper year; he reports it at first for *a.u.c.* 254—55/500—499 B.C. (cf. II 19), then he lets three years pass and remarks: *Hoc demum anno ad Regillum lacum pugnatum apud quosdam* (i.e. Licinius Macer) *invenio* (II 21, 3). Cf. further II 21, 4, quoted below.

Ashby's identification of the lake with Pantano Secco close to Frascati (and Tusculum)<sup>1</sup> has been widely accepted. Ashby's suggestion was to a large extent founded on the inacceptability of the *lacus Gabinus*, the present-day drained, dried-out Lago di Castiglione, on the grounds that Lake Regillus was located in Tusculan territory and that, if the battle had been fought outside the walls of Gabii, this would certainly have been mentioned by our sources.<sup>2</sup> Livy writes (II 19, 3): *A. Postumius dictator T. Aebutius magister equitum . . . profecti ad lacum Regillum in agro Tusculano agmini hostium occurrerunt . . .*, and having described the battle he concludes (II 20, 13): *Hoc modo ad lacum Regillum pugnatum est*. Neither passage, in my opinion, definitely excludes the interpretation that the Romans encountered their enemies *in agro Tusculano*, though they first had marched to Lake Regillus, where they had encamped. In this case they would have taken the auspices in the camp, in Gabine territory, before the actual battle, which would have been fought in the territory of Tusculum. Consequently the *singularia auspicia* granted to the territory of Gabii would have found their precedent and thus their origin in connexion with the battle and in the war which for all time seems to have cemented the friendship of the two Latin cities of Rome and Gabii. Against this attractive solution speaks (a), the order of words in the former of the two Livian passages: it is more natural that *in agro Tusculano* should be referred to *ad lacum Regillum* than to *occurrerunt* though the less natural explanation can be supported by the assumption that Livy's order of words was chosen for artistic and rythmical considerations; (b) that the battle is henceforth named the battle *ad lacum Regillum*, but, again, the name may derive its origin from the location of the camp; and (c) that Dionysius (VI 3, 3) explicitly states that the Latins, and not the Romans, were encamped *παρὰ λίμνην Ἐρηγίλλη καλουμένην*. A reference to the epic character of Dionysius account cannot conclusively discredit this little scrap of topographical information.

Where does this leave us? We are left with the bare evidence that, at the point when Rome expelled King Tarquin, and the Latin city states went about reconstructing their federation, liberated from Etrusco-Roman domination, the threat from Tusculum and its Etruscan allies brought together the two neighbours Rome and Gabii, which together blocked communications be-

<sup>1</sup> TH. ASHBY, The True Site of Lake Regillus, *Classical Review* XII, 1898, 471, with detailed analysis in *Rendiconti Lincei* 1898, Sul vero sito del lago Regillo, 103–126, but see recently L. PARETI, Sulla battaglia del lago Regillo, *Studi Romani* 1959, 18–30, suggesting Prata Porci situated close to Tusculum, i.e. *in agro Tusculano*.

<sup>2</sup> ASHBY, *Classical Review* 1898, 471.

tween Etruria proper and the Alban Hills. A treaty was signed on equal terms, a *foedus aequum* was concluded granting Gabians and Romans isopolity and, probably because of a precedent during the campaign, according Gabian territory the same special rights as Roman territory. It cannot be proved that Lake Regillus, which gave its name to the decisive battle of the war, is identical with the *lacus Gabinus* and consequently that the auspices exceptionally taken at Lake Regillus, according to Livy, correspond to this precedent.

We should now continue with an attempt to establish the exact date of the treaty with the Gabians and, consequently, of the battle of Regillus. Both are connected with Tarquin's attempt to reduce Gabii and open the way to southern Etruria. The lower time limit can in accordance with the foregoing analysis be given as *c.* 450 B.C., but we can probably establish the date with greater precision. The contents of the *foedus Gabinum* with regard to the unique position granted to the territory of Gabii clearly show that this treaty must precede the *foedus Cassianum* between Rome and the *populi Latini*. Again, the Cassian treaty, another *foedus aequum*, was a defensive alliance born under the pressure of the imminent invasion of the *Aequi* and the *Volsci* about 460 B.C.<sup>1</sup> Rome alone, before the Gabian treaty and before the victory of Lake Regillus, would have counted for very little. The victory strengthened Rome considerably; Livy reports that in the same year Praeneste went over to the Romans (II 19, 2).<sup>2</sup> The eastern flank of the Latin Confederation was consequently weakened and the approaches of the Latin plain were under Roman control. Again, from the Roman point of view, the forces that could be mustered to meet the new enemies must have appeared weak and insufficient. Hence the *foedus Cassianum*.

I have stressed above that the contents of the *foedus Gabinum* are compatible solely with the political situation in Latium after the expulsion from Rome of Superbus. It is therefore not devoid of interest that both Livy and Dionysius connect the Gabino-Roman war with the last years of regal rule in Rome. In fact, both accounts take us a little further from the regal period — and SCHACHERMAYR from a different point of departure arrived at the conclusion that the *foedus Gabinum* was a treaty with the Roman people as one of the contracting

<sup>1</sup> WERNER, *op.cit.*, 459 f.

<sup>2</sup> »His consulibus Fidenae obsessae, Crustumeria capta, Praeneste ad Romanos descivit.» The operations against Fidenae and Crustumerium suggest that the Rome-Gabii alliance had to secure the territory north of Gabii in order to prevent possible Etruscan forces from joining the army of Tarquin and Tusculum. Tibur probably followed the example set by Praeneste very soon, cf. n. 2, p. 55, above.

parties.<sup>1</sup> It was a *foedus populi Romani*, as the Augustan coins have it, and not a *foedus regum* as Horace (*Epist.* II 1, 24) defines it, probably influenced by the annalistic tradition. These facts, Superbus' war against Gabii and the FOEDVS PR QVM GABINIS, concluded immediately after the war, as Dionysius records, are not at all irreconcilable in reality if we alter the setting in the political field. The Tarquinian war would thus have been conducted from Tusculum, and not from Rome. Rome would have been the ally of Gabii, and the adversary of Tarquin.

How a war conducted by the Tusculans allied to the Etruscans under Superbus, could in later accounts appear as a Roman campaign conducted by Superbus, is not so difficult to explain. We have certain reasons to believe that the tradition regarding the regal period was first codified by the Tusculan Ti. Coruncanus, *pontifex maximus* in 253 or 252 B.C.<sup>2</sup> It would seem that he also inserted numerous notes in the historical records, all aiming at stressing the friendship between Tusculum and Rome.<sup>3</sup> Thus Tusculum, generally, from the Roman point of view, appeared in a more favourable light than is warranted by historical reality.

The dictator of Tusculum, Octav(i)us Mamilius, was son-in-law of King Tarquin (Liv. I 49, 9; II 15, 7; DH IV 45, 1) and therefore a natural ally of his father-in-law, when the latter had been forced to leave Rome. In order to polish Tusculum's records in Roman eyes, Coruncanus altered the setting of

<sup>1</sup> SCHACHERMAYR, RE, II. Reihe, IV 2, col. 2384, s.v. Tarquinius.

<sup>2</sup> A. ENMANN, Die älteste Redaktion der röm. Pontifikalannalen, Rhein. Museum 57, 1902, 517—533, cf. particularly 531 f. W. SOLTAU, Die Anfänge der römischen Geschichtsschreibung, Leipzig 1909, is generally speaking in agreement with the principles laid down by ENMANN (179 f.) and with the idea that the oldest pontifical chronicle was conceived by a single writer (227, 231 f.). E. KORNEMANN, Der Priestercodex in der Regia und die Entstehung der altrömischen Pseudogeschichte, Tübingen 1912, takes ENMANN'S main thesis as a point of departure (11), and identifies certain strata of the annalist tradition as originating in the pontifical chronicle. KORNEMANN (36 f.), however, arrives at the conclusion that the oldest conception of this chronicle is about 25 years older than what ENMANN thought. But this does not imply that the hypothesis that Ti. Coruncanus *der Schöpfer der alten Pseudogeschichte sei*, must be abandoned. ENMANN had based his theory on a study of the regal period, while KORNEMANN had focused his attention on the fourth century, down to 340 B.C. The solution is that the codification of the Roman *Pseudogeschichte* must have been gradual; the chroniclers worked backwards in time, and the history up to the Gallic invasion seems to have been their first subject (40 f.). Subsequently, at a later date coinciding with the period suggested by ENMANN, events preceding the Gallic invasion were dealt with (48 f.). Thus Ti. Coruncanus may well have been responsible for this part of the pontifical records. Cf. also C. W. WESTRUP, Introduction to Early Roman Law. Comparative Sociological Studies, IV. Sources and Methods, Book I. Primary Sources, London—Copenhagen 1950, 24; WERNER, *op.cit.*, 219, n. 2. MÜNZER, Römische Adelsparteien und Adelsfamilien, Stuttgart 1920, 66, is opposed to the idea that Tusculum was favoured by the compiler of the pontifical chronicle.

<sup>3</sup> Cf. ENMANN, *op.cit.*, 529 ff., and WERNER, *op.cit.*, 414, n. 2.

Tarquin's war against Gabii (and Rome). He made it begin when Superbus was still in power in Rome, and thus Tusculum and Mamilius disappeared from these particular pages of history. A study, particularly of Livy, shows how badly the whole Gabian war fits into the even otherwise extremely confused account of the events after the expulsion of King Tarquin.<sup>1</sup> At the same time Coruncanius inserted the story of L. Mamilius, of whom Cato, another Tusculan, said in his *Origines*: *nam de omni Tusculana civitate soli Lucii Mamilii beneficium gratum fuit*,<sup>2</sup> who hastens to the aid of Rome, threatened by the insurrection of Appius Herdonius. For this L. Mamilius was awarded Roman citizenship two years later (Liv. III 29, 6). It is significant that this revision of the historical records by Coruncanius was carried out during the first Punic war (Ti. Coruncanius was consul in 280 B.C., was appointed *pontifex maximus* in 253 or 252 B.C. and died in 243 B.C.) when two branches of the *gens Mamilia* rose to leading posts in Rome. L. Mamilius Vitulus was consul in 265 B.C., Q. Mamilius Vitulus in 262 B.C., Q. Mamilius Turrinus was augur in 260 B.C., and C. Mamilius Turrinus consul in 239 B.C.

Coruncanius' *Ehrenrettung* of Tusculum and the Mamilii was not entirely successful. Later historians such as Livy and Dionysius preserved the account of Rome's and Tarquin's war with Gabii, but at the same time, from other sources, obtained the records of Tarquin's attempts to enlist the aid of Tusculum in recovering his position in Rome. Analysing Livy's sources for the years 509—499 B.C. (II 1, 1—II 21, 1) one easily understands his desperate grumble (II 21, 4): »One is involved in so many uncertainties regarding dates by the varying order of the magistrates in different lists that it is impossible to make out which consuls followed which, or what was done in each particular year, when not only events but even authorities are so shrouded in antiquity.»<sup>3</sup> It would appear that Livy used Aelius Tubero for II 1, 1—7, 4, Calpurnius Piso for II 7, 5—8, 9, Tubero for 9, 1—15, 7, Piso for 16, 1—18, 4 with certain additions from Valerius Antias for 18, 4 ff., Piso for 19, 1—2, Antias for 19, 3—20, 13, and finally Piso for 21, 1—6; after that he resorts to Licinius Macer.<sup>4</sup>

Coruncanius' conscious efforts to distort the historical records imply that little historical importance can be attached to the accounts of king Tarquin's

<sup>1</sup> SOLTAU, *op.cit.*, 85, noted this without being able to explain the reason for it.

<sup>2</sup> Cf. H. PETER, *Historicorum Romanorum Reliquiae* I<sup>2</sup>, Cato, *Origines* I, frg. 25 (p. 63).

<sup>3</sup> »Tanti errores implicant temporum aliter apud alios ordinatis magistratibus ut nec qui consules secundum quos, nec quid quoque anno actum sit in tanta vetustate non rerum modo sed etiam auctorum digerere possis.»

<sup>4</sup> WERNER, *op.cit.*, 410, n.l.

Gabian war, and even more so as it has been shown convincingly that the most significant details are borrowed from Greek historians.<sup>1</sup> In this context, solely the chronological element is of importance when we try to assess the date of the *foedus Gabinum*. The analysis above suggests that it roughly coincided with King Tarquin's attempt to recover his position in Rome (and Gabii). Again, this could be connected with the fact that the Gabian treaty was deposited in the temple of Dius Fidius, according to Dionysius a temple dedicated in 466 B.C. (DH IX 60, 8), though it cannot be maintained that the treaty was deposited in the temple immediately after its conclusion.

»This temple», records Dionysius, »had been built by Tarquinius, the last king, but had not received at his hands the dedication customary among the Romans. At this time by order of the senate the name of Postumius was inscribed in the temple.»<sup>2</sup> Thus Dionysius shows that the general political setting was the same for the temple dedication as for the conclusion of the Gabian treaty. This suggests that, in 466 B.C. some time had passed from King Tarquin's expulsion, which should be dated not later than 468 B.C. Therefore, the date of the Gabian treaty falls in the time span 468—460 B.C.<sup>3</sup>, 460 B.C. being the approximative time of the Cassian treaty, which must have followed after the *foedus Gabinum*, as I demonstrated above.

The one scrap of chronological evidence not evaluated so far concerns Lake Regillus in conjunction with the augural practices (Liv. III 20, 4—6). I have stressed above that these passages in Livy were very loosely connected with the story of Appius Herdonius and with L. Mamilius and the Tusculans coming to the aid of the Romans. Comparing Livy's text with the account of Dionysius (X 18) we note that the latter, when recording Cincinnatus' speech completely omits Lake Regillus and the auspices to be taken there. Instead he threatens to conduct the army, the unruly plebs, which shortly before had taken the oath as soldiers, on a campaign that would last the whole winter unless the people returned to order. This they did, the consul abandoned his plans, and the soldiers returned to their homes.

Thus, in both cases we have a cancelled military campaign; Livy does not

<sup>1</sup> SCHACHERMAYR, RE, II. Reihe, IV 2, col. 2384, s.v. Tarquinius; SOLTAU, *op.cit.*, 85 f.

<sup>2</sup> DH IX 60,8: . . . τὸν νεῶν . . . κατασκευασθέντα μὲν ὑπὸ τοῦ τελευταίου βασιλέως Ταρκυνίου, τῆς δὲ νομιζομένης παρὰ Ῥωμαίοις ἀνιερώσεως οὐ τυχόντα ὑπ' ἐκείνου. τότε δὲ τῆ βουλῆ δόξαν ὁ Ποστόμιος ἔλαβεν αὐτοῦ τὴν ἐπιγραφὴν.

<sup>3</sup> GJERSTAD, Discussions Concerning Early Rome, 97, in a similar manner tried to evaluate the chronological implications of the *foedus Gabinum*, but, accepting the account of Tarquin's conquest of Gabii, arrived at the wrong conclusions.

explain why things took such a turn, while Dionysius vaguely points to the behaviour of the people as Cincinnatus' reason for abandoning his original design.

It would seem that the sources of both writers contained information difficult to reconcile with the main trend of the story, information concerning auspices taken at Lake Regillus, and a military expedition. Both historians in different ways tried to fit this information into their accounts without being able to make their stories logically coherent.

The character of the basic information entered in the historical records for the year *a.u.c.* 294/460 B.C. seems to guarantee its reliability. It concerns primarily religious practices in exceptional circumstances, auspices taken during a military campaign outside the *ager Romanus, ad Regillum lacum*. Inasmuch as *auspicia* taken in foreign territory in this early period must have been unusual, it is easy to conceive that they were noted in the pontifical records, the basis for the subsequent reconstruction of early Roman history. In the same way the dedication of the temple of Dius Fidius, some years after the expulsion of King Tarquin, had been noted for 466 B.C. Despite later elaborations of the Roman *Pseudogeschichte*, the pontifical notes regarding the *auspicia ad Regillum lacum* maintained their place in the original chronological context, i.e. they were always referred to the same year, 460 B.C., and similarly the temple dedication was always referred to 466 B.C. (with slight variations in accordance with the different chronological systems adopted by different annalists).

The decisive remodelling of the course of events, which later confused both Livy and Dionysius was, very likely, due to the Tusculan Ti. Coruncanianus. Above I have tried to explain how he refashioned Tarquin's military expedition against Gabii. It was disconnected from its original framework of the war decided by the battle of Regillus. In Coruncanianus' account, no doubt not very explicit, there must have remained a concise entry for the year 460 B.C. about the auspices taken at Lake Regillus in connexion with a military expedition. Coruncanianus, it should be remembered, had omitted everything that would have shown the Mamiliii and Tusculum to have been the enemies of Rome. Instead he entered in the pontifical records that L. Mamilius came to the aid of Rome, in conjunction with the note concerning Lake Regillus. For later writers it remained to elaborate his loosely connected notes. We have seen above that they did not succeed very well.

If this interpretation of our sources is correct, the notes in Livy with regard

to Lake Regillus would give us the correct date of the battle, i.e. *a.u.c.* 294/460 B.C. according to Livy's chronology. In the same year the treaty between Rome and Gabii was concluded.

Gabii remained loyal to Rome forever after, in the crucial years of the Gallic invasion (Liv. VI 21, 9) as well as during the Romano-Latin war.<sup>1</sup> The records showing Gabii as a dreadful enemy to Rome must go back to a very remote antiquity (Festus p. 402, 5 ff.)<sup>2</sup> as certainly does the memory of the execration of the city (Macrob. Sat. III 9, 13).<sup>3</sup>

It remains to sum up the results of the foregoing study.

The augural classification of territories appears to be sufficient proof of the historicity of the *foedus Gabinum*, mentioned in texts and on coins. The dual political and religious implications of the treaty made it unique in Roman experience. It was concluded after the regal period in Rome in connexion with the war between, on the one hand, Tusculum with its Etruscan allies under the leadership of King Tarquin himself, and, on the other, Rome and Gabii. The decisive battle of this war was named after Lake Regillus. The *foedus Gabinum* must precede in time the *foedus Cassianum*. The Gabian treaty was concluded about 460 B.C.; the Cassian treaty must have followed very soon after that date. In addition this investigation has suggested that a *terminus ante* for the expulsion from Rome of King Tarquin is *c.* 468 B.C. This would in turn support Werner's contention that, what he refers to as *der Beginn der römischen Republik* is to be dated as 472—470 B.C. I would prefer to say,<sup>4</sup> the termination of the political power of the kings, and the end of Etruscan rule in Rome. But not of Etruscan influence.

The treaty was the first milestone on the way to political leadership in Italy of the sovereign Roman people. The alliance between Gabii and Rome not only brought about the defeat of Tusculum, but also gave Rome control over Fidenae (for a while at least) and Crustumerium; subsequently Praeneste joined Rome (or the alliance) and not much later Tibur followed suit. Thus Rome and its allies cut off the Etruscans both from Latium and from Cam-

<sup>1</sup> TOYNBEE, *op.cit.*, I 129.

<sup>2</sup> »Suburam Verrius . . . a pago Succusano dictam ait: hoc vero maxime probat eorum auctoritatem, qui aiunt, ita appellatam et regionem Urbis et tribum a stativo praesidio, quod solitum sit succurrere Esquilis, infestantibus eam partem Urbis Gabinis . . .»

<sup>3</sup> »In antiquitatibus autem haec oppida inveni devota: (Hi)stonios, Fregellas, Gavios, Veios, Fidenas,» cf. ALFÖLDI, *op.cit.*, 378. I can think of no reason for dating the execration after the conclusion of the *foedus Gabinum*, in connexion with, for instance, the Romano-Latin war in 340—338 B.C.

<sup>4</sup> Cf. note 1, p. 54, above.



pania. This is the political background of the *foedus Cassianum* concluded in face of the threat of the *Volsci* and the *Aequi*.

The narrative sources were shown to give a badly distorted picture of the historical development. Behind the sources used both by Livy and Dionysius could be discovered an older stratum obviously based on the codification of the Roman historical tradition with regard to the time prior to the Gallic invasion. This codification was clearly biased in favour of Tusculum, and thus supported the contention that the original edition was carried out by Ti. Coruncanius during the first Punic war. King Tarquin's conquest of Gabii, recorded both by Livy and by Dionysius, was demonstrated to reflect an Etrusco-Tusculan campaign against Gabii, obscured by the pro-Tusculan editing of the pontifical chronicle. The confusion of our narrative sources was partly due to their efforts to reconcile the pro-Tusculan records with other accounts of the earliest Roman history, *Pseudogeschichte*.

One way of ascertaining the character of these other records of early Roman history is to examine the sources of the two accounts of the battle of Regillus. Whereas it can be assumed that Livy followed Piso (II 19, 1—2) and Valerius Antias (II 19, 3—20, 13), Dionysius resorted at least to Macer, but also to Cn. Gellius as he himself states (VI 11, 2): *Δικίννιος μὲν γὰρ καὶ οἱ περὶ Γέλλιον*. This suggests that Dionysius here mainly followed Macer, but at times went back to Gellius in search of more detail.

In Gellius we are confronted with a source earlier than the *Annales maximi* of Mucius Scaevola,<sup>1</sup> with the first broad account of early Roman history;<sup>2</sup> Gellius devoted no less than fifteen books to the period from the origins of Rome to the Gallic invasion. He may well, indiscriminately, have incorporated material from sources of greatly varying type and greatly varying historical value; at least in the work of Gellius, both versions of King Tarquin's campaign against Gabii (the conquest, Livy I 53, 4—54, 10, and the war ending with the battle of Regillus, Livy II 19, 1—20, 3) must have been accepted as genuine. But Gellius may well have had a predecessor in Fabius Pictor. Writing in Greek under the influence of Hellenistic historians, Fabius can, at any rate, be held responsible for the acceptance and the embellishment of the pro-Tusculan version ascribed to Ti. Coruncanius. In an attempt »to provide flesh and blood to an otherwise emaciated fact»<sup>3</sup> he inserted in the story of

<sup>1</sup> WERNER, *op.cit.*, 41.

<sup>2</sup> WERNER, *ibid.*

<sup>3</sup> OGILVIE, *op.cit.*, 205.

Tarquin's conquest of Gabii two episodes from Herodotus (III 154 and V 92, 6).<sup>1</sup> Thereby Ti. Coruncanus' amendment of the historical records assumed a different character; its original purpose was obscured, and consequently it was accepted more or less unaltered by posterity.

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<sup>1</sup> OGILVIE, *ibid.*, SCHACHERMAYR, *op.cit.*, cols. 2353, 2384.