

ESCAPE FROM THE BATTLEFIELD AND ITS IMMEDIATE PUNISHMENT IN THE OATH OF THE SAMNITE LINEN LEGION (LIV. 10.38)*

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PART 2

ABSTRACT

In the account of the Third Samnite War (298–290 BC) Livy records a special commitment of the Samnite Linen Legion that faced the Romans at Aquilonia in 293 BC. The oath of this élite formation required discipline and sacrifice to a greater extent than the obligations of the other Samnite troops and the Roman military oath of these times. According to Livy, the Linen Legion's soldiers swore not to flee the battlefield and to instantly kill anyone from among themselves who would try to run away. Threatening soldiers to kill them on the spot in case of desertion in the face of the enemy and issuing such an order during battle was a widespread practice in the Roman army as well as in other armies of different epochs. It appears that in the Samnite picked troops, it was the military oath itself that included the obligation to punish the *fugientes* immediately. Strengthening military discipline and soldiers' sworn commitments was a systemic solution aimed at enhancing combat effectiveness of the army in situations of extreme danger. Analogies can be drawn between the Samnite case and examples of Greek and Roman military oaths reinforced in the face of an invader. The peculiar clause of the Linen Legion's oath may be seen as one of such systemic measures. The article examines the reasons for its use by the Samnites and attempts to demonstrate the credibility of this detail given by Livy.

Keywords: Samnites, Third Samnite War, Linen Legion, escape from the battlefield (desertion in the face of the enemy), military oath, *sacramentum*, military discipline, rituals of war, punishment for desertion.

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ROMAN VISION OF SAMNITE RITUALS OF WAR AT AQUILONIA AND RELIABILITY OF LIVY'S ACCOUNT

The veracity of the Livian description of the Samnite oath may raise many doubts.¹ We do not know whether the Romans could have known the oath's content, and if so, to what extent it was distorted. Livy's account is confusing and vague.² If we take it literally, we should assume that only the *nobiles* were taking the oath, "those of the highest degree in birth and deeds of arms,"³ out of whom ten men were selected to begin the recruitment of the Linen Legion. But the exact course of events is uncertain; it may be that Livy has transmitted some information which was already corrupted in his sources and which was not clear for him.⁴ From the entire description and other sources we can presume that the whole legion was sworn in, even if only the chosen men participated in the special ritual.⁵

The Roman vision of the Samnite rituals of war at Aquilonia is a kind of historical manipulation. Livy shows them as an act of desperation: fear of the Romans prompts the Samnites to use ancient, barbaric rituals. The *ritus sacramenti* contains some horrible elements, like killing the nobles who refused to take the oath,⁶ or the terrible

¹ One of the most sceptical about this passage was Edward Togo Salmon (*Samnum and the Samnites*, Cambridge 1967, pp. 183–186).

² It suggests e.g. that the oath was sworn in the camp, just before the battle of Aquilonia, but it is more plausible that in reality the solemn ceremony took place much earlier, in one of the Samnite cult places; for more details see e.g. A. La Regina, "Il Sannio" [in:] *Hellenismus in Mittelitalien*, ed. P. Zanker, Göttingen 1976, p. 226; F. Coarelli, A. La Regina, *Abruzzo, Molise*, Roma–Bari 1984, pp. 234–235; F. Coarelli, "Legio linteata. L'iniziazione militare nel Sannio" [in:] *La Tavola di Agnone nel contesto italico*, ed. L. Del Tutto Palma, Isernia 1996, p. 15; G. Tagliamonte, *I Sanniti. Caudini, Irpini, Pentri, Carricini, Frentani*, Milano 2005, pp. 183–185. Cf. O. de Cazanove, "Il recinto coperto del campo di Aquilonia: santuario sannita o praetorium romano?" [in:] *Saturnia Tellus. Definizioni dello spazio consacrato in ambiente etrusco, italico, fenicio-punico, iberico, celtico*, eds. X. Dupré Raventós, S. Ribichini, S. Verger, Roma 2008, pp. 335–339 (the author argues that Livy's vision of *locus consaeptus* was most probably modelled on the *praetorium* in the Roman military camp).

³ Liv. 10.38.7 (transl. of all quotations from Book 10: B.O. Foster).

⁴ C. Saulnier, *L'armée et la guerre chez les peuples samnites (VI^e–IV^e s.)*, Paris 1983, p. 94 with n. 33.

⁵ A short fragment of Dio's Book VIII suggests that the oath was sworn by the whole Samnite army, not only the Linen Legion, but it seems unlikely (Cass. Dio 8.36.29). In the description of the battle, Livy speaks about "sworn and the unsworn." Popławski argues that the oath taken by the *principes* was binding on their "tribes," i.e. the entire legion, M.S. Popławski, *Bellum Romanum. Sakralność wojny i prawa rzymskiego*, Lublin 1923, pp. 329–330; Briquel assumes that, given the specific recruitment of the Linen Legion, the oath was taken by all its soldiers and was to ensure its exceptional cohesion, D. Briquel, "Sur les aspects militaires du dieu ombrien Fisis Sancius," *Mélanges de l'École française de Rome – Antiquité* 1978, vol. 90, pp. 141–146.

⁶ It is unlikely that among the illustrious warriors there were some who would have refused to take the oath, it is certainly a distortion on the part of the Roman tradition; moreover, killing the distinguished Samnites before the battle would have been military, psychological and social improbability; such an action would only have undermined and not strengthened the army's morale, M. Członkowska-Naumiuk, "Candore tunicarum fulgens acies. Lniany Legion i wizerunek Samnitów w IX i X księdze *Ab Urbe condita* Liwiusza," *Nowy Filomata* 2017, vol. XXI, no. 2, pp. 229–231. The tale of human sacrifices

curse upon the head, the household, and the family of a deserter. In the Livian vision, it is not a voluntary commitment of soldiers, but a secret, ominous rite imposed on them.⁷ The ceremony is described as a dire initiation, bringing to mind the rituals of the ill-famed Bacchanalia of 186 BC.⁸ Only the negative aspects of the oath are shown – elements of coercion and some reluctance of recruits, including those representing the highest nobility. The whole description of the preparations for the battle suggests that the Samnites lacked courage and had to be forced to fight out of fear, whereas their bitter resistance to the Roman conquest, mentioned by Livy himself in many passages of his narrative, proves the contrary.⁹ Just at the very beginning of the description of the Samnite rites he states that they “had made their preparations for the war with the same earnestness and pomp and all the magnificence of splendid arms (as in 309 [310] BC)”¹⁰ – these “earnestness and pomp” indicate that they prepared themselves for a decisive struggle, which proves their determination, not fear. The authority of the commanders also had to play an important role in maintaining their morale and discipline. Even after the death of Gellius Egnatius at Sentinum, the Samnites certainly had good commanders-in-chief who managed to mobilise them again to defy the Romans shortly after a major defeat. In this passage, however, Livy overlooks any aspects of their positive motivation and will to fight.

The Roman army at Aquilonia was commanded by the consul L. Papirius Cursor, while the other consul, Sp. Carvilius Maximus, is said to have fought at Cominium where a parallel battle took place on the same day.¹¹ Livy’s narrative, clearly biased,

might be a distorted echo of a widespread custom to seal important public oaths with blood sacrifices of animals, see e.g. C. Faraoane, “Molten Wax, Spilt Wine and Mutilated Animals: Sympathetic Magic in Near Eastern and Early Greek Oath Ceremonies,” *The Journal of Hellenic Studies* 1993, vol. 113, pp. 60–80; D. Segarra Crespo, “Il faut s’allier avant la bataille. Sur certaines pratiques « sacrificielles » face au danger,” *Revue de l’histoire des religions* 1998, vol. 215, no. 2, pp. 195–216.

⁷ M. Simon-Mahé, “Le serment de la légion de lin,” *Würzburger Jahrbücher für die Altertumswissenschaft* 2014, vol. 38, pp. 51–52.

⁸ Liv. 39.8–19; on some common features of both descriptions, see e.g. C. Saulnier, *L’armée et la guerre*, p. 92; S.P. Oakley, *A Commentary on Livy Books VI–X*, vol. IV: Book X, Oxford 2005, pp. 404–405.

⁹ E.g. Liv. 10.14.9; 10.16.5–6: “[the Samnites] had renewed hostilities, because peace with servitude was harder to endure than war with liberty;” 10.31: shortly after the defeat at Sentinum, the Samnites (and the Etruscans) take up arms and renew the war; 10.31.11–14: “. . . in the year just last the Samnites had fought in the territory of Sentinum, in the Pelignian country, at Tifernus, and in the Stellate plains, now by themselves, with their own levies, now in company with troops from other nations, and had been cut to pieces by four armies under four Roman generals; they had lost their nation’s most distinguished commander; they beheld their comrades in war, the Etruscans, Umbrians, and Gauls, in the same plight as their own; nor could they longer maintain themselves, either by their own resources or by those of outside nations; yet would they not abstain from war; so far were they from wearying of a liberty which they had unsuccessfully defended preferring rather to be conquered than not to try for victory.”

¹⁰ Liv. 10.38.2. The historian refers here to the dictatorship of L. Papirius Cursor, father of the consul of 293 BC, Liv. 9.40.

¹¹ Liv. 10.43.

seems to have been influenced by the family tradition of the Papirii;¹² this is suggested by the eulogistic tone of more than one passage, e.g.

The following year brought with it a consul, Lucius Papirius Cursor, remarkable both for his father's glory and for his own, and a mighty war, with a victory such as no one, save Lucius Papirius, the consul's father, had until that day obtained over the Samnites.¹³

In Livy's account, the most depreciating vision of the Samnites is that given in the Papirius' speech to the soldiers¹⁴ which might be a survival of his real "propaganda" aimed at raising the Roman soldiers' morale by discrediting the martial valour of the enemy. It is interesting, however, that another tradition, transmitted by Pliny the Elder,¹⁵ attributes the victory over the Samnites *lege sacrata pugnantis* to Carvilius, which means that he had at least an equal part in the victory.¹⁶

SPECIAL OATH AND SPECIAL COMMITMENTS

One might assume that Livy reconstructed the Samnite oath, by combining probably scarce data preserved in the sources with elements of ancient oaths, sacred laws and the Roman *sacramentum militiae*. Most of the Livian Samnites' commitments are similar to those of the Romans: to obey the commander, to follow him wherever he would lead the army and not to desert. Yet, this similarity may result not only from the fact that Livy modelled his text on the Roman military oath, but also from general similarities of military oaths sworn in Italy.¹⁷

Furthermore, Livy's version illustrates well the very nature of ancient oath-taking. A strong religious sanction evoking the gods' punishment for violation of the oath remained a typical element of any public oath not only in Italy.¹⁸ Livy's vision could

¹² M. Sordi, "Il giuramento della 'legio linteata' e la guerra sociale" [in:] *I canali della propaganda nel mondo antico*, ed. M. Sordi, Milano 1976, p. 163.

¹³ Liv. 10.38.1.

¹⁴ Liv. 10.39.14–17.

¹⁵ Plin. *Hist. nat.* 34.18.43, see n. 92 and 109 in the first part of the article. As Marta Sordi points out, the information given by Pliny is antiquarian and has no ideological tone, M. Sordi, "Il giuramento della 'legio linteata' e la guerra sociale," p. 163.

¹⁶ Carvilius celebrated the triumph one month earlier than Papirius, *Fasti Capitolini*, p. 97.

¹⁷ Obviously, there were some universal features of ancient military oaths sworn by different peoples, as we shall see in the Greek example.

¹⁸ The execration, or more precisely, a conditional self-cursing of the oath-taker was a characteristic and constant element of the oaths in general, see e.g. Liv. 22.53.2: "si sciens fallo, tum me Iuppiter Optimus Maximus domum familiam remque meam pessimo leto adficiat." On the origin of the "mechanism" of swearing, see e.g. M.S. Popławski, *Bellum Romanum*, pp. 299–305; É. Benveniste, *Le vocabulaire des institutions indo-européennes*, vol. 2, Paris 1969, pp. 111–122; G. Agamben, *The Omnibus Homo Sacer*, essays translated by various translators, Stanford, CA 2017, Part II.3: *The Sacrament of Language: An Archaeology of the Oath*, transl. A. Kotsko, pp. 323–335. On Greek and Near Eastern oath taking rituals see C. Faraone, "Molten Wax, Spilt Wine and Mutilated Animals"; D. Segarra Crespo, "Il faut s'allier avant la bataille." The execration could also be directed at the family of the oath-breaker,

have been close to genuine oaths sworn at that time by Italic troops formed under a *lex sacrata*. The Samnite rite was a *ritus sacramenti vetustus*, an ancient form of *sacramentum*, as Livy says himself (10.38.2). What is stressed in the oath is the curse upon the head of the soldier, “his household, and his family, if he went not into battle...” Such a curse was also characteristic of the *leges sacratae* “which have the sanction that anyone who breaks them becomes ‘accursed’ to one of the gods, together with his family and property.”¹⁹ The same divine sanction was used for both the laws and the public oaths, as in early communities it was considered the strongest sanction that could be applied.

There is an example of an archaic form of *sacramentum* in the Roman military practice: the oath of a centurion, M. Flavoleius (480 BC), who swears to return victorious from the battle and curses himself if he does not do it; the centurion makes a kind of *praeiuratio* and then the oath is taken by his fellow legionaries.²⁰ In this early version of *sacramentum* the man offers his life as a pledge, a guarantee of what he swears to do²¹. The content of Flavoleius’ oath does not differ much from the Samnite version: in both cases soldiers oblige themselves to win or die. What primarily distinguishes the Samnite oath from the Roman one – archaic or “standard” *sacramentum* – is the commitment of every soldier to kill those who would try to flee.

The inclusion of this obligation in the genuine oath of the Linen Legion seems likely from the military point of view. It may have resulted primarily from extraordinary

C. Faraone, “Molten Wax, Spilt Wine and Mutilated Animals,” e.g. p. 78: “This is standard feature of everyday Greek and Hittite oaths, which frequently in a single sentence call down destruction upon the heads of the perjurer, his family and his household.”

¹⁹ Festus *Gloss. Lat.* p. 422 L, transl. given in T. Cornell, *The Beginnings of Rome: Italy and Rome from the Bronze Age to the Punic Wars (c. 1000–264 BC)*, London–New York 1995, p. 449, n. 68. It should also be stressed that a sacred law was not an oath, which is sometimes maintained, even if it was often accompanied by an oath, G. Pellam, “Sacer, Sacrosanctus, and Leges Sacratae,” *Classical Antiquity* 2015, vol. 34, no. 2, pp. 322–334; we may have an idea of how a *lex sacrata* was formulated when we look at Dionysius passage concerning the law establishing the tribunate, Dion. Hal. *Ant. Rom.* 6.89.2–4: “But Brutus, calling the plebeians together, advised them to render this magistracy sacred and inviolable, insuring its security by both a law and an oath. ‘Let no one compel a tribune of the people, as if he were an ordinary person, to do anything against his will; let no one whip him or order another to whip him; and let no one kill him or order another to kill him. If anybody shall do any one of these things that are forbidden, let him be accursed and let his goods be consecrated to Ceres; and if anybody shall kill one who has done any of these things, let him be guiltless of murder.’ And to the end that the people might not even in future be at liberty to repeal this law, but that it might forever remain unalterable, it was ordained that all the Romans should solemnly swear over the sacrificial victims to observe it for all time” (transl. E. Cary).

²⁰ Liv.2.45.13–14; M. S. Popławski, *Bellum Romanum*, pp. 333, 336; F. Hinard, “Sacramentum,” *Athenaeum* 1993, vol. 81, 1, pp. 256–257.

²¹ Originally, the *sacramentum* was a legal term which meant a “sacred deposit” in lawsuits, Varro, *Ling.* 5.180: “If it is that money which comes into courts in lawsuits, it is called *sacramentum*, sacred deposit, from *sacrum*” (transl. R.G. Kent); Festus *Gloss. Lat.*, s.v. *sacramentum*, p. 466 L; 511 L; Ernout-Meillet, s.v. *sacer*, p. 586; *OLD*, s.v. *sacramentum*. See also G. Agamben, *The Omnibus Homo Sacer*, p. 349: “in the Roman trial, the term *sacramentum* did not immediately designate the oath, but the sum of money . . . that was, so to speak, put at stake by means of the oath. The one who did not succeed in proving his right lost the sum, which was paid into the public treasury.”

circumstances in which the Linen Legion had to fight and from a special character of this formation. The plausibility of this detail can be confirmed by the analogous methods of strengthening of discipline used by the Greeks and the Romans in similar situations.

DRASTIC TIMES CALL FOR DRASTIC MEASURES

The disastrous defeat of Sentinum made the Samnites aware of the scale of the danger. The newly recruited army was supposed to fight a formidable enemy whose aim was to subjugate the Samnite peoples.²² Forced to fight for freedom and defend their homeland, systematically plundered for many years,²³ the Samnites made an enormous war effort. It was quite natural that during the war which was to decide the fate of the community, any offence, misconduct or even failure on the part of the soldiers was treated as treason. The Romans perceived military failures in this way during the Hannibalic War.²⁴ On the other hand, the fear of the enemy could increase the risk of desertion. In this situation, picked troops obeying to special discipline had to constitute the core of the army. The Linen Legion was to fight in a different way than the Samnite custom was – not to avoid direct clashes or retreat quickly to secure positions, but fight firmly in formation during a battle. These requirements might represent an answer to the need for effective fight against the Romans during pitched battles, which were inevitable despite the Samnites' tactical preferences.

Strengthening discipline and taking special oaths in the face of a particularly dangerous enemy was a widespread practice. We know examples of such measures taken by the Ancients after major defeats and before decisive battles during wars waged against powerful invaders.

A GREEK ANALOGY: WIN OR DIE

Interesting parallels may be drawn between the Samnite oath known from Livy and a Greek pledge from the times of the Persian Wars. What is particularly valuable in this case is that we can use an epigraphic source: the stele of Acharnae in Attica

²² On the aggressiveness of Rome during the Samnite Wars see e.g. L. Grossmann, *Roms Samnitenkriege. Historische und historiographische Untersuchungen zu den Jahren 327 bis 290 v. Chr.*, Düsseldorf 2009; S.P. Oakley, "The Roman Conquest of Italy" [in:] *War and Society in the Roman World*, eds. J. Rich, G. Shipley, London–New York 2002, pp. 9–37, esp. 31–33.

²³ E.g. Liv. 8.25; 9.31.1–5; 10.14.5; 10.15.2–5; 10.16–17; 10.33.10.

²⁴ A strong need and willingness to punish traitors and deserters during wars against the invaders is a widespread phenomenon; during the Persian Wars, the Greeks committed themselves to punish cities that "voluntarily chose the cause of the Persians," Diod. Sic. 11.3.3 (transl. C.H. Oldfather).

from the fourth century BC on which two oaths are recorded: the “ancestral oath of the Ephebes,” and the “oath which the Athenians swore when they were about to fight against the barbarians.”²⁵ The second text is probably based on a genuine oath of the Greek coalition army, identified by some scholars with the “Oath of Plataea” known from literary sources.²⁶ It contains certain universal commitments taken by the soldiers in situations when a community has to resist an invader: the pledge to fight to the death for freedom, not to abandon the commanders and to obey them in any circumstances. These commitments are recorded in the lines 23–29 of the inscription:

I shall fight while I am alive, and I shall not regard being alive as more important than being free [*eleutheros*].

And I shall not leave my *taxiarchos* or my *enômotarchês*, whether he is alive or dead.

And I shall not go away unless the leaders [*hêgemonês*] lead us away,

and I shall do whatever the generals [*stratêgoi*] order.²⁷

Despite the “Athenian context”²⁸ of the Attic inscription, several peculiar features of this pledge, among which the term *enômotarchês*, the name of a specifically Spartan commander, indicate its Spartan origin.²⁹ As Hans van Wees convincingly argues, the genuine “Oath of Plataea,” sworn by the Greeks who fought under the leadership of Sparta, was most probably modelled on an archaic oath of the “sworn band” (*enômotia*), the smallest unit of the Spartan army.³⁰ The *enômotia* was “so

²⁵ *Greek Historical Inscriptions 404–323 BC*, eds. P.J. Rhodes, R. Osborne, Oxford 2007, No. 88 (transl. from this publication).

²⁶ E.g. Diod. Sic. 11.29.2–3: “And when the Greek forces were assembled at the Isthmus, all of them agreed that they should swear an oath about the war, one that would make staunch the concord among them and would compel entrenchment nobly to endure the perils of the battle. The oath ran as follows: ‘I will not hold life dearer than liberty, nor will I desert the leaders, whether they be living or dead, but I will bury all the allies who have perished in the battle . . .’” (transl. C.H. Oldfather). The Acharnae inscription has often been considered a fourth-century Athenian forgery, see references in H. van Wees, “The Oath of the Sworn Bands: the Acharnae Stela, the Oath of Plataea and Archaic Spartan Warfare” [in:] *Das Frühe Sparta*, ed. A. Luther, M. Meier, U. Thommen, Berlin 2006, p. 125, n. 4; and more recently e.g. P. Cartledge, *After Thermopylae: The Oath of Plataea and the End of the Graeco-Persian Wars*, Oxford–New York 2013. Currently, the scholarly opinion is less categorical and different interpretations are still proposed. In his article from 2006, Hans van Wees argues for the authenticity of the oath reproduced in the inscription – he supports the view that it may be identified as the “Oath of Plataea” – and presents sound arguments in favour of its Spartan origin.

²⁷ The transl. is that of H. van Wees, “The Oath of the Sworn Bands,” p. 126. This part of the inscription includes also a pledge to bury the fallen comrades on the battlefield.

²⁸ *Ibid.*

²⁹ Van Wees’ hypothesis is well substantiated; the scholar analyses each element of the oath (e.g. the terms used to name the commanders, or a typically Spartan commitment not to leave the commanders alive or dead), as well as historical sources; he also explains possible reasons for which Herodotus does not mention the “Oath of Plataea” and for which the oath was “revived” in the mid-fourth century by the Athenians, *ibid.*, pp. 126–143, 151–153.

³⁰ *Ibid.*, pp. 126–135. On *enômotiai* see also e.g. RE s.v. *enômotia*, vol. V.2, Stuttgart 1905, col. 2636; J.K. Anderson, *Military Theory and Practice in the Age of Xenophon*, Berkeley–Los Angeles, 1971, p. 241; R. Kulesza, *Sparta w V–IV wieku p.n.e.*, Warszawa 2003, pp. 159–162; S. Hodgkinson, “Social Order and the Conflict of Values in Classical Sparta” [in:] *Sparta*, ed. M. Whitby, New York 2012, pp. 119–122; N. Sekunda, *The Spartan Army*, Oxford 1998, p. 14. In different periods the

called because they swore not to leave the formation”³¹ and because it was “bound by an oath through blood-sacrifices.”³² Such a Lacedaemonian blood (animal) sacrifice can be identified with the rite performed to seal the oath of the Greeks, recorded on the Acharnae stela:

So they swore, covered the blood sacrifices with their shields, and, at the sound of trumpet, uttered a curse: if they broke any of the sworn pledges and did not remain faithful to what was written in the oath, those who swore would themselves be accursed.³³

In this ritual there was an element of sympathetic magic, used in Greek oath ceremonies only “in situations in which compliance with the oath was believed to be exceptionally difficult.”³⁴ One of such situations was an imminent struggle and the necessity to ensure loyalty of an army in the face of a more powerful enemy. “Since in oath-taking ceremonies the oath-breaker is often threatened with the same fate as the sacrificial victim . . . or some other object . . ., one might assume that this ceremony enacts the killing of the oath-breaker by his comrades.”³⁵ Obviously, in historical sources we will not find any commitment of the Spartan, or generally Greek, soldiers to kill their comrades who would violate the oath and desert the ranks,³⁶ but the blood sacrifice sealing the oath, clearly a survival of an archaic custom, remained a ritual warning for potential oath-breakers.

If we accept Hans van Wees’ hypothesis, we can see here a model example of the strengthening of the military oath in the face of an invader. “The history of the Oath of Plataea . . . begun in archaic Sparta with the oath of the sworn bands in which soldiers pledged to fight to the death, stand by their officers and bury their fallen comrades on the battlefield . . . When the Spartans led out a coalition army, they imposed the same oath upon their allies, with the addition of an inserted pledge of obedience to the central command.”³⁷

enômotia consisted of about 32, 36 or 40 soldiers, *ibid.*, pp. 14–15; H. van Wees, “The Oath of the Sworn Bands,” p. 125.

³¹ Photius, *Lexicon*, s.v. *enômotia*; transl. given in H. van Wees, “The Oath of the Sworn Bands,” p. 135, n. 32.

³² Hesychius of Alexandria, *Lexicon*, s.v. *enômotia* (“*taxis tis dia sphagiôn enômotos*”); transl. given in H. van Wees, “The Oath of the Sworn Bands,” p. 147, n. 69.

³³ Lines 39–51, transl. *ibid.*, p. 145. On this ritual see also: C. Faraone, “Molten Wax, Spilt Wine and Mutilated Animals”; D. Segarra Crespo, “Il faut s’allier avant la bataille,” pp. 202–203.

³⁴ C. Faraone, “Molten Wax, Spilt Wine and Mutilated Animals,” p. 78.

³⁵ H. van Wees, “The Oath of the Sworn Bands,” p. 145; see also É. Benveniste, “L’expression du serment dans la Grèce ancienne,” *Revue de l’histoire des religions* 1947, vol. 134, nos. 1–3, pp. 90–94.

³⁶ On Spartan discipline and punishment of the cowards (*tresantes*) see e.g. Xen. *Lac.* 9; G. Velho, “Les déserteurs des armées civiques en Grèce ancienne ou la négation du modèle du citoyen-soldat,” *Les Études Classiques* 2002, vol. 70, pp. 239–256; R. Kulesza, *Sparta*, pp. 165–168; *idem*, *Starożytna Sparta*, Poznań 2003, pp. 96–98; *idem*, “*With the Shield or upon It*: Military Death and Cowardice in Sparta,” Warszawa 2008; N. Sekunda, *The Spartan Army*, p. 19. On differences between the Greek and the Roman concepts of discipline, see e.g. H. Delbrück, *History of the Art of War*, vol. I: *Warfare in Antiquity*, transl. W.J. Renfroe, Lincoln–London 1990, pp. 286–290; D. Faszczka, M.N. Faszczka, *Dyscyplina w armiach europejskich od antyku do 1914 roku*, Oświęcim 2018, pp. 22–25.

³⁷ H. van Wees, “The Oath of the Sworn Bands,” p. 151.

Although the vision of the swearing-in ritual of the Linen Legion in Livy is fragmentary and vague, it appears that in many respects this oath-taking may have been closer to the archaic oath of the Spartan “sworn bands” than to the later Roman *sacramentum militiae*. The Linen Legion’s soldiers also committed themselves not to leave the formation, not to surrender,³⁸ and a blood sacrifice also sealed the Samnite oath. “A commitment to fight to the death was of course considered typically Spartan in antiquity.”³⁹ It would probably be difficult to identify any direct Spartan influences in the Samnite ritual, and we should rather see here some common features of the oath-taking rites shared by many ancient peoples.⁴⁰ Yet, it is significant that in Southern Italy there were traditions on Spartan origins of the Samnites, their kinship or coexistence (*synoikia*).⁴¹ Customs and values shared by both peoples were highlighted, and the Samnites were attributed some typical Spartan features, like „warlike character, austerity, and *disciplina*.”⁴² Such opinions expressed by the Southern-Italian Greeks reflected mainly a pro-Samnite propaganda of Tarentum (funded by the Spartans), developed in the fourth century BC and aimed at reconciling the neighbouring Italic peoples and gaining allies, but there must have been some real similarities in the customs, military practices and martial valour of these two peoples on which the Tarentine propaganda could be built.

³⁸ Festus *Gloss. Lat.*, p. 102 L.

³⁹ H. van Wees, “The Oath of the Sworn Bands,” p. 128. Despite a stereotypical view of the Spartans, one should remember that “Sparta did value its citizens’ lives: from its men it expected courage and conduct worthy of a hoplite, and not suicidal actions. The words ‘win or die’ describe a readiness to sacrifice one’s life should the need arise; they constitute a moral guideline, and not an all-encompassing, ruthless requirement,” R. Kulesza, “*With the Shield or upon It*,” p. 32.

⁴⁰ See e.g. C. Faraone, “Molten Wax, Spilt Wine and Mutilated Animals”; D. Segarra Crespo, “Il faut s’allier avant la bataille.”

⁴¹ Str. *Geogr.* 5.4.12.: “Some say . . . that a colony of Laconians joined the Samnites, and that for this reason the Samnites actually became philhellenes, and that some of them were even called ‘Pitanatae.’ But it is thought that the Tarantini simply fabricated this, to flatter, and at the same time to win the friendship of, a powerful people on their borders” (transl. H.L. Jones). On “Spartan traditions” concerning the origins of the Samnites see e.g. E. Dench, *From Barbarians to New Men: Greek, Roman, and Modern Perceptions of Peoples of the Central Apennines*, Oxford 1995, pp. 53–58; G. Tagliamonte, *I Sanniti*, pp. 23–28; on Greek-Samnite mutual influences see E. Dench, *From Barbarians to New Men*, pp. 29–66. It is worth noting that numismatic sources confirm the use of the term *Pitanatae* in Samnium and Lucania, A. La Regina, “La lancia e il toro” [in:] *La cultura della transumanza*, ed. E. Narciso, Napoli 1991, pp. 48–49; G. Tagliamonte, *I Sanniti*, p. 28: “Le tradizioni sulle presenze spartane nel Sannio e sull’esistenza di una comunità locale che traeva la sua denominazione da uno dei . . . distretti di Sparta (Pitanati/Pitane) trovano comunque un singolare riscontro nella documentazione numismatica. In Puglia (Brindisi), nel Sannio (dintorni di Campobasso), in Campania (Cales) si sono infatti avuti sporadici rinvenimenti di monete a legenda greca PERIPOLON PITANATAN . . . Dal momento che con il termine *peripoloi* nel mondo greco si designano formazioni militari o paramilitari – giovanili e no, incaricate a presidiare e pattugliare i confini della *chòra* – è possibile che questa emissione si riferisca all’esistenza di contingenti mercenari di origine sannitica, a tale scopo ingaggiati e stipendiati da Taranto; l’etnico Pitanati loro attribuito rivela verosimilmente la volontà di sottolineare i presunti legami dei Sanniti con Sparta e, di conseguenza, con Taranto.”

⁴² E. Dench, *From Barbarians to New Men*, p. 58.

The Greek case also helps us to explain why as many as sixteen thousand Samnite soldiers, as Livy asserts, could be bound by an oath which might seem more appropriate for a smaller élite unit. According to van Wees, in 479 BC, due to extreme circumstances, the Spartans as leaders of the Greek coalition imposed the oath of the *enômotiai*, the most demanding of all, upon their allies. “In their last-ditch defence against the invaders, all allies merged, as it were, into one giant sworn band.”⁴³ There are good reasons to think that in a similar situation, the Samnites acted in a similar way. “In their last-ditch defence” they reinforced their “federal” Linen Legion to face the Roman consular army and they imposed on its soldiers a special oath, presumably adjusted accordingly at this critical moment.

A ROMAN ANALOGY: NOT TO QUIT THE RANKS

Analogous steps were taken by the Romans in a situation of growing fear of Hannibal during the Second Punic War. In 216 BC, after the defeat of Lake Trasimene and before Cannae, when the threat from Hannibal and the number of desertions increased, the Roman military oath was strengthened. When the conscription (*dilectus*) had been completed,

a new departure was made; the soldiers were sworn in by the military tribunes (*iure iurando ab tribunis militum adacti milites*). Up to that day there had only been the military oath (*sacramentum*) binding the men to assemble at the bidding of the consuls and not to disband until they received orders to do so. It had also been the custom among the soldiers, when the infantry were formed into companies of 100, and the cavalry into troops of 10, for all the men in each company or troop to take a voluntary oath to each other that they would not leave their comrades for fear or for flight, and that they would not quit the ranks save to fetch or pick up a weapon, to strike an enemy, or to save a comrade. This voluntary covenant was now changed into a formal oath taken before the tribunes.⁴⁴

As is well known, the first part of this passage is far from being clear as regards the content and mutual relation of *sacramentum* and *ius iurandum* in this particular context.⁴⁵ Given the problems of interpretation, it seems that the only sound conclu-

⁴³ H. van Wees, “The Oath of the Sworn Bands,” p. 151.

⁴⁴ Liv. 22.38.2–5: “Tum, quod numquam antea factum erat, iure iurando ab tribunis militum adacti milites; nam ad eam diem nihil praeter sacramentum fuerat, iussu consulum conventuros neque iniussu abituros, et ubi ad decuriandum aut centuriandum convenissent, sua voluntate ipsi inter sese decuriati equites, centuriati pedites coniurabant sese fugae atque formidinis ergo non abituros neque ex ordine recessuros nisi teli sumendi aut petendi et aut hostis ferendi aut civis servandi causa. Id ex voluntario inter ipsos foedere ad tribunos ac legitimam iuris iurandi adactionem translatum” (transl. C. Roberts); Frontin. *Str.* 4.1.4. On this oath see e.g. F. Hinard, “*Sacramentum*,” pp. 255–258; C. Wolff, *Déserteurs et transfuges dans l’armée romaine à l’époque républicaine*, Napoli 2009, pp. 136–137.

⁴⁵ It is worth noting that its first sentences (Liv. 22.38.2–3) consistent with the manuscripts have been emended in the 18th century; the correction, adopted by most later editors, radically changed the meaning of the text as regards the content of the earlier *sacramentum*. Some scholars (e.g. F. Hinard, “*Sacramentum*”; C. Wolff, *Déserteurs et transfuges*, pp. 136–137) accept the manuscript-based version

sion we can draw from it is that in 216 BC the Roman *sacramentum*, a religious and ritual act “transforming a citizen into a warrior,” was in some way “codified and no doubt re-phrased.”⁴⁶ The critical situation made it necessary to increase coercion and add certain obligations concerning military discipline.

It should be stressed that the Roman *sacramentum* was a prerequisite for *militia legitima* and only those “who *sacramento dixerunt* were regular soldiers, *milites*.”⁴⁷ The *sacramentum* “presupposes a general obligation to military service; it is connected with the *dilectus*. Its function was to transform this general obligation to serve into concrete military service. Although it could be taken voluntarily, it was not a voluntary oath. The conscript could not refuse to swear it; if he did he was severely punished.”⁴⁸ This obligatory oath of the Roman citizens becoming soldiers was strengthened in the face of an extreme danger for the community. The earlier *sacramentum*, essentially religious in nature, was given a more legally binding character.

There were, of course, differences between the oath of the Linen Legion and the Roman military oath. First of all, in the Roman army there were no élite troops comparable with the Linen Legion, thus the military oath bound all legionaries. But it is evident that in 216 BC the Romans had the same intention as the Samnites: to tighten discipline. From the point of view of the purpose of this article, the most important information provided by Livy is that this more formalised Roman military oath was reinforced with a clause concerning the escape from the battlefield.⁴⁹ The historian tells us that the commitment not to abandon the ranks during combat, which up to this date had been a part of a voluntary pledge⁵⁰ that Roman soldiers traditionally made to each other in smaller units after having been sworn-in, was transformed into *legitima iuris iurandi adactio* – a compulsory, legally binding oath taken before the tribunes.⁵¹

(“tum, quod numquam antea factum erat, iure iurando ab tribunis militum adacti milites, iussu consulum conventuros neque iniussu abituros”), according to which the commitment to “assemble at the bidding of the consuls and not to disband until they received orders to do so” was added to the new military oath, while according to the emended version, this commitment had already been a part of the earlier *sacramentum* (“nam ad eam diem nihil praeter sacramentum fuerat, iussu consulum conventuros neque iniussu abituros”). For an analysis of this issue, see F. Hinard, “*Sacramentum*.”

⁴⁶ C. Nicolet, *Le métier de citoyen dans la Rome républicaine*, Paris 1976, p. 142: “Remontant ainsi à la plus haute antiquité, ce serment a été sans doute codifié dans une forme nouvelle en 216” (Eng. citations from: *The World of the Citizen in Republican Rome*, transl. P.S. Falla, London 1980, pp. 103–104).

⁴⁷ J. Linderski, “Rome, Ahrodisias and the ‘Res Gestae’: The *Genera Militiae* and the Status of Octavian,” *The Journal of Roman Studies* 1984, 74, p. 77 and n. 13 in the first part of this article; see also C. Nicolet, *Le métier de citoyen*, p. 142.

⁴⁸ J. Linderski, “Rome, Ahrodisias and the ‘Res Gestae,’” p. 80.

⁴⁹ C. Nicolet, *Le métier de citoyen*, pp. 142–143; C. Wolff, *Déserteurs et transfuges*, pp. 136–137 and n. 239. For a discussion on the use of the term *ius iurandum* in this passage, see F. Hinard, “*Sacramentum*.”

⁵⁰ *Voluntarium foedus*, Liv. 22.38.5: “Id ex voluntario inter ipsos foedere ad tribunos ac legitimam iuris iurandi adactionem translatum.”

⁵¹ Literally “a legal obligation to take an oath” (“the legal compulsion of an oath” in Spillan and Edmonds’ translation from 1849). All meanings of the verb *adigo*, *-ere* are closely related to compulsion, coercion: “to force, to compel,” etc.; *adigere aliquem iure iurando/ (ad) ius iurandum/ sacramento/ ad sacramentum* – means “to cause a person to take an oath, to bind a person by an oath,” *OLD*, s.v. *adigo*.

In situation of extreme danger, it was precisely the ban on leaving the ranks during battle that was formally imposed on all legionaries, though without the obligation to immediately kill the fugitives like in the Samnite case.

We do not know the exact content of the Roman military oath at the time of the Samnite Wars, but Livy's information on its strengthening in 216 BC is crucial. If we trust him, we may assume that the Samnites had included the obligation not to flee the battlefield in the military oath – though only of their picked troops – earlier than the Romans.

VIR VIRUM LEGERE AND UNIT COHESION

The Linen Legion was to set an example of particular discipline, loyalty and devotion. As *sacrati*, its soldiers formed a special community and were subject to special rules; they had a higher status like any other élite unit, but more was required of them. Since the stronger the ties in the unit, the better it would perform difficult tasks, strong bonds of loyalty had to be established between its soldiers. The fight was a collective action, its effectiveness depended on the cooperation of soldiers, each case of misbehaviour could cause a defeat. It is logical that in an élite formation, bound to win or die, a “social control” was applied, as “the most effective form of discipline is implemented collectively by comrades from the unit”:⁵² everyone committed himself to watch discipline and to prevent the escape of another soldier.⁵³ The severity with which the Samnites were supposed to treat comrades fleeing the battlefield seems to be an example of a more general phenomenon, characteristic of units with a strong cohesion and a high level of internal control.⁵⁴

Livy tells us that a special system of recruitment was applied in order to form the *legio linteata*, which consisted in selection and binding of a soldier by another soldier (*vir virum legere*).⁵⁵ It certainly assumed a very high degree of responsibility of soldiers for comrades-in-arms. According to Livy, the army raised under a sacred law

⁵² M.N. Faszczka, “The Social Perception of the Spartacus Revolt and the Decimation of Crassus’ Soldiers in 71 BC” [in:] *Spartacus: History and Tradition*, ed. D. Słapek, Lublin 2018, p. 89 and n. 26 on the same page.

⁵³ C. Ardant du Picq, *Études sur le combat*, Paris 1880, pp. 77–78: solidarity in battle includes the responsibility of everyone for each and mutual *surveillance* (“oeil de tous ouvert sur chacun”), which soldiers should understand as “un droit et un devoir de salut commun.”

⁵⁴ E.g. in the Swiss armies of the 14th–16th centuries, distinguished by their internal cohesion and many “democratic” principles, like judging guilty by the entire unit, the soldiers were allowed to kill deserters and defeatists, and some of them had a special duty to kill those who were trying to flee, D. Faszczka, M.N. Faszczka, *Dyscyplina w armiach europejskich*, pp. 84–85; C. Oman, *A History of the Art of War in the Sixteenth Century*, London 1937, pp. 67, 70.

⁵⁵ Such explanation was proposed by Niebuhr and is generally accepted, although this practice is not described in detail in the sources; B.G. Niebuhr, *Römische Geschichte*, vol. III, Berlin 1832, pp. 457–458; S. Tondo, “Il ‘sacramentum militiae’ nell’ambiente culturale romano-italico,” *Studia et Documenta Historiae et Iuris* 1963, no. 29, pp. 77–79, 82–85; D. Briquel, “Sur les aspects militaires

and by means of this kind of recruitment actually fought better. During the Second Samnite War, the Etruscans, “employing a *lex sacrata*, had raised an army in which each man had chosen his comrade, and joined battle, with greater forces, and at the same time with greater valour, than ever before.”⁵⁶ This passage and the description of Samnite rituals at Aquilonia may indicate that *vir virum legere* represented an “ancient and fundamental part of recruiting *lege sacrata*.”⁵⁷ Even though the passage concerning the Etruscans shows that *vir virum legere* was applied to recruit all the soldiers of an army raised under a sacred law, not only the picked troops, the Samnite case is likely to have been slightly different. The number of Samnite soldiers to be recruited could have been too big to apply this method to the entire army. The obligation of each Linen Legion’s soldier to kill a comrade who would try to desert during combat might be strictly connected with this individualised method of recruitment implying full responsibility for the loyalty of the companions, which suits very well the special character of this formation.

The soldiers of the Linen Legion were therefore subject to a special discipline, they were obligated to kill those fleeing not on command, but by virtue of the oath itself, which means that they were granted a power to punish other soldiers. The Linen Legion’s oath was a sort of permanent order in an exceptional situation.⁵⁸

du dieu ombrien Fisis Sancius,” p. 141; S.P. Oakley, *A Commentary on Livy*, vol. IV, p. 394. It should be reminded that also the Latin noun *legio* derived from *legere*, *legio* was a result of a selection of men.

⁵⁶ Liv. 9.39.5: “ad Vadimonis lacum Etrusci lege sacrata coacto exercitu, cum vir virum legisset, quantis numquam alias ante simul copiis simul animis dimicarunt” (transl. of all quotations from Book 9: B.O. Foster).

⁵⁷ S.P. Oakley, *A Commentary on Livy*, vol. IV, p. 394.

⁵⁸ Interesting analogies can be found in the military law of early modern Europe, strongly influenced by ancient Roman tradition. In the military codes and articles of war of the regular armies, extraordinary measures were foreseen against soldiers who showed cowardice in the face of the enemy, such as the legally granted permission to kill on the battlefield those who were trying to flee; such measures were applied e.g. in the regular army of the Duchy of Prussia in the 16th century, K. Łopatecki, „*Disciplina militaris*” w wojskach Rzeczypospolitej do połowy XVII wieku, Białystok 2012, pp. 487–489; in the regular armies of the Polish-Lithuanian Commonwealth in the 16th and 17th century, S. Kutrzeba, *Polskie ustawy i artykuły wojskowe od XV do XVIII wieku*, Kraków 1937, p. 190 (the article “Kto by z bitwy uciekał, może go każdy zabić, a gdy takowy ujdzie, tedy jednak bezecny będzie” – “He who would flee the battlefield, can be killed by anyone, and if he manages to escape, he will be infamous,” is repeated in most military articles of the Polish regular troops in the 16th and 17th century); L. Kania, “Przegląd i charakterystyka źródeł wojskowego prawa karnego w dawnej Polsce na tle dziejów polskich sił zbrojnych (do 1795 r.). Rys prawno-historyczny,” *Studia Lubuskie* 2005, vol. 1, pp. 35, 47; K. Łopatecki, *Przestępstwo ucieczki z pola bitwy w Rzeczypospolitej szlacheckiej – z badań nad karą śmierci wymierzaną w trybie pozasądowym [in:] Culpa et poena. Z dziejów prawa karnego*, ed. M. Mikuła, Kraków 2009, p. 192 with n. 4 and 5; idem, “*Disciplina militaris*”..., p. 517; in the army of Gustavus Adolphus of Sweden, in the 17th century, W. Winthrop, *Military Law and Precedents*, Washington 1920, p. 910; K. Łopatecki, *Przestępstwo ucieczki z pola bitwy*, p. 201; in the British army in the 17th century whose regulations were modelled on the Swedish example, *ibid.*, pp. 201–202. During defensive wars or insurrections, if the soldiers were deeply committed to the cause, killing deserters and defeatists in battle could have been their spontaneous reaction, since desertion meant treason for them, see e.g. *ibid.*, p. 197 with n. 45.

But did not the Roman soldiers also kill deserters on the battlefield without an order, considering it a duty? We may only suppose that in certain specific situations there could have been permission to do so, but the sources do not provide us with clear evidence.⁵⁹

Although there is no record of the Roman *sacramentum militiae* ever obliging soldiers to kill deserters, it is symptomatic that in 216 BC the Roman military oath was reinforced with a formalised ban on leaving the ranks during battle. The fact that the earlier soldiers' pledge not to escape was voluntary, which probably means that it was a military custom developed from the bottom up, indicates that the soldiers themselves felt the need to take such an oath to protect themselves from actions against the cohesion and security of the group – the men were more motivated not to disappoint their colleagues, not lose their honour. Mutual commitment was very strong, since on the battlefield the life of each soldier depended on his comrades' behaviour.⁶⁰ In this context it is easier to understand why a soldier who broke this oath, strongly binding the comrades-in-arms, was treated so severely and excluded from the community.

It is quite probable that originally, in the Samnite forces recruited with the *vir virum legere* method, the obligation not to leave the comrades during battle was a voluntary and deeply internalised commitment of each soldier, as it was in the Roman units before 216 BC. Additionally, it may have included immediate elimination of those attempting to run away. And it is likely that these commitments were formalised only when it was necessitated by exceptional circumstances after the battle of Sentinum and before Aquilonia.

⁵⁹ According to Catherine Wolff (*Déserteurs et transfuges*, p. 105) a rhetoric example given by Quintilian (1st century AD) might perhaps suggest that Roman soldiers were allowed to kill deserters during combat: Quintilianus, *Decl. min.*, 315, pr., but this can hardly be confirmed by the Latin text: “Vir fortis desertorem sua manu occidat. Eodem proelio qui pater fortiter fecit eiusdem filius deseruit” (“Let a hero kill a deserter with his own hand. In the same battle at which a father became a hero his son deserted,” transl. D.R. Shackleton Bailey). The opening sentence refers to or quotes a customary law requiring the deserter to be executed by a brave soldier, cited also in 315.17: “lex occidi a viro forti desertorem voluit.” The first sentence does not relate to the father from the following sentences. Throughout this passage, Quintilian considers the problem of whether a hero should be forced to punish his own son who deserted during battle.

⁶⁰ Using information gathered by the American army historical service on human behaviour in combat during the WWII, John Keegan stresses the strong loyalty within small units or teams of soldiers, J. Keegan, *The Face of Battle*, London 1976, p. 53: “Ordinary soldiers do not think of themselves, in life-and-death situations, as subordinate members of whatever formal military organization it is to which authority has assigned them, but as equals within a very tiny group – perhaps no more than six or seven men . . . it will not be because of . . . anyone else's leadership that the group members will begin to fight and continue to fight. It will be, on the one hand, for personal survival, and, on the other, for fear of incurring by cowardly conduct the group's contempt;” see also A.K. Goldsworthy, *The Roman Army at War: 100 BC–AD 200*, Oxford 1998, pp. 252–253, 257. One should remember, however, that in the Antiquity the role and authority of the commanders-in-chief were usually far more important for soldiers than today. In the case of some units, the *esprit de corps* should be also taken into consideration.

WHAT MAY THE ROMANS HAVE RECORDED?

In the oath of the Linen Legion, there was undoubtedly something striking for contemporary Romans, something more radical than in their own military oath.⁶¹ They remembered that the Samnites *non cessuros se Romano militi iuraverunt*⁶² – had committed themselves not to yield to the Roman soldier. A special *sacramentum* had to ensure their deadly combat effectiveness. Yet, the Romans of these times also obliged themselves, though informally, not to abandon the ranks or flee before the enemy, therefore not escaping from the battlefield and fighting to the end could not be unusual for them. The only thing that might be really more rigorous was the obligation of each soldier to kill anyone who would try to flee, and the fact that it was a sworn commitment. The Samnites in a sense formalised and sanctioned a battlefield practice used by commanders and soldiers in extreme situations. For the Romans, this may have been one of the most striking elements of the Linen Legion's oath.

CONCLUSIONS: SPECIAL MEASURES TO ENHANCE COMBAT EFFECTIVENESS OF THE SAMNITE PICKED TROOPS DURING A DECISIVE STRUGGLE

The sources and the analogies discussed above do not allow us to simply reject the information given by Livy on a special commitment of the Linen Legion's soldiers. The obligation to instantly kill anyone trying to abandon the ranks and flee seems plausible from a cultural and a military point of view. Death was "inscribed" in archaic oaths, particularly those that concerned the most vital aspects of the communities' existence. They included a menace, a conditional cursing, often accompanied by an animal sacrifice evoking the fate of a potential oath-breaker. In extraordinary circumstances, in military contexts, Greek and Roman oaths were tightened to ensure maximum loyalty of the soldiers and more severe discipline, as was also the case with the Samnite *sacramentum*. Furthermore, the obligations of the Linen Legion were inextricably linked with its specific character and its mission to defend Samnium in a critical situation. Like the picked troops of the Hernici, the Linen Legion's soldiers had "an obligation to exert themselves beyond the capacity of ordinary men,"⁶³ and

⁶¹ C. Saulnier, *L'armée et la guerre*, pp. 94–95: "Tite-Live affirme que certains soldats étaient *sacرات*: dans le langage courant cet adjectif peut désigner les militaires engagés par serment, mais si l'on se réfère à son sens premier qui est très fort, il s'applique à un objet ou un être consacré, voué aux divinités. Or le fait que la tradition ait gardé le souvenir, même déformé, d'une sorte d'initiation réservée à certains guerriers, invite à prendre le terme en ce dernier sens. Il est donc vraisemblable que les conditions du serment prêté par les *militēs linteati* allaient au-delà de celles du *sacramentum* romain."

⁶² See n. 38.

⁶³ Liv. 7.7.5 (transl. B.O. Foster).

they “had consecrated themselves, as their custom was”⁶⁴ – they bound themselves to fight to the death. A commitment to fight for freedom and not to surrender was presumably included in the Linen Legion’s oath, although Livy does not mention it, as he focuses his account not on heroic but on negative aspects of Samnites’ preparations for the battle. From other passages of his narrative⁶⁵ it clearly appears that in the last years of the wars against Rome the Samnites had the same goal as the Greeks before the Battle of Plataea: to fight for freedom while they were alive. The Linen Legion was probably reinforced before a decisive struggle, and one might say that all its soldiers “merged into one giant sworn band.”⁶⁶

Strengthening military oaths and formalising certain requirements was a systemic solution aimed at ensuring better combat effectiveness of the soldiers in situations of extreme danger. A ban on leaving the ranks during battle was one of the crucial clauses of the military oaths taken in such circumstances, which is clearly confirmed by the later Roman example. The Samnites had formalised it earlier than the Romans, and most probably they added another, more radical systemic measure to enhance the effectiveness of the core of their army: they granted soldiers the power to instantly eliminate those who would attempt to flee, thus sanctioning a common battlefield practice.

Obviously, we should not forget that the military oath of the Linen Legion was not a “standard” Samnite *sacramentum militare*, but a special swearing-in ritual of an élite formation. It made its soldiers *milites sacrati* who were bound to fight to the death to defend their land when the independence of the Samnite peoples was at stake.

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⁶⁴ This is said about the Samnites fighting against L. Papirius Cursor the elder in 309 (310) BC, Liv. 9.40.9: “sacratos more Samnitium milites eoque candida veste et paribus candore armis insignis.”

⁶⁵ Esp. Liv. 10.31.14–15, they preferred “rather to be conquered than not to try for victory.”

⁶⁶ See n. 43.

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