

Census and *Religio*¹

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This paper is a study of a single entry in the second-century CE Lexicon of Festus, which seems to use the word *religio* in a particularly puzzling way. The entry, now sadly fragmentary, told a series of stories about the doings of censors in Rome in the second century BCE, which the original author of the text must have thought showed how the office of the censor had a special *religio*. Can we reconstruct what he was trying to prove and what sense of the word he was assuming in his argument? Only the content of the successive narratives offers clues.

The fragmentary MS (the *Farnesianus* or *F*)² of the lexicographer Festus seems to have been discovered somewhere around the middle of the fifteenth century and was the subject of intensive study already in the course of the fifteenth and sixteenth centuries. Rather more leaves of the MS were found initially than are now preserved in the Library of Naples, but all the leaves were apparently already damaged.³ The fragment to be discussed here⁴ is unusual in the context of Festus' lexicon. It is not the longest entry to be extant or partially extant,⁵ but it is far longer than the average and consists of a single long quotation from a named source, Varro the great first-century BCE antiquarian. It contains, as was already established by the time of Orsini's edition of 1582, ten short notices each of them commenting on a single pair of censors; the censorships covered are successive, starting from that of 179 BCE and ending with that of 131 BCE, ten censorships in all.

Festus himself makes it explicit in another passage of the Lexicon⁶ that his whole

¹ This is offered as a tribute to Hannah, not because its subject will have been her favourite, but because it intersects with many of her interests in a different but not too remote, field of scholarship. It raises issues of language and law, of religion and politics; of the place of ritual in social relations; above all, of the possibility of using fragmentary texts to increase our understanding or to raise new questions, even when they cannot be restored with any certainty.

² Bibl. Naz. IV.A.3.

³ For an account of the history of the text, see the introduction to Glinister and Woods (eds.) 2008: 1-9. The standard edition of the text is the Teubner text of W.M. Lindsay 1913, which includes the text of *F*, a text of the lost pages, based on various humanist copies, and the text of Paul the Deacon's summary.

⁴ Festus 358-62 L, s.v. *religionis*.

⁵ which is Festus 326-330 L, s.v. *Romam*.

⁶ Festus 242-4 L, s.v. *poriciam*: 'It is hardly necessary to refute Verrius' opinion, either in this case or in many others, since my plan is to omit from his large number of books the words that are half dead and buried, and such as he himself often admits have no use or authority, and to collect the rest as concisely as possible into just a few books'. That he is summarizing seems quite clear, despite the surprisingly dismissive tone of the whole comment.

work was intended to be an epitome of the Augustan antiquarian Verrius Flaccus, who must himself have drawn on the work of Varro, his great predecessor.⁷ The particular lemma with which this paper is concerned, *religionis*, is one of those that had the unluckiest fate: the final word is *claritatem*, but there is all too little clarity in what remains of the preceding forty-four lines. It is also unfortunate that the great standby of the restorer of Festus' text, the summary of Paul the Deacon, is also not available at this point: Paul, who is often interested in entries about pagan practices, religious and legal, here simply skipped the whole entry.⁸

Only the first three words of *religionis* are complete and certain, but the opening can be quite plausibly reconstructed as:

Religionis praecipuae habetur censor[is maiestas, cuius multa profert] Varro exe[m]pla . . .

[The authority of] the censor is thought to have a special *religio*, [of which] Varro [offers many] examples:

Evidently, whatever Varro himself may have said in the text Verrius was using, or whatever the source from whom Varro drew his examples may have thought, Verrius or at least Festus himself must have believed that the narratives that follow demonstrated some special quality of the censor's office. Questions arise immediately: first, why should Varro have chosen just these years for his analysis? Secondly, why was this collection of narratives supposed to illustrate the thesis that the censors' position held a special *religio*? Thirdly, in this context, what was *religio*? At first sight, there is no very obvious answer to any of these questions.

In any case, the inference seems unavoidable that, whoever chose this set of censorships, did so specifically in order to prove that a special quality of *religio* applied to the censors in office that did not apply to anyone else. From those opening words onwards, the text is one of the least fortunate of the Festus entries of which the MS preserves traces. When the MS was found, of the four columns on each double page the outer two had been burned away, so that only a few letters survived, in the first of the four columns only the last few letters of each line; in the last column only the first few. The entry *religionis* happens to have begun at the very end of the second full column of Quaternion XIII. 21; it then has 34 lines with only the beginning of lines preserved and another 11 lines with only the ends preserved. Already by the time of Orsini's edition, an almost full text had been constructed, but much of it was (and is) speculative⁹ and our text as printed below (Appendix I) is very far from being certain throughout. The

⁷ For Varro and Verrius: Kriegshammer 1903; Lhommé, M-K, in Glinister and Woods (eds.) 2008: 33-47.

⁸ For Paul, Woods C., in Glinister and Woods (eds.) 2008: 109-35.

⁹ Fulvio Orsini (ed.) 1582, *Sex. Pompei Festi de verborum significatione*. Florence: apud Iunctas, 93-5.

translations, offered wherever there is continuous text, should be regarded as indicative rather than word-for-word.¹⁰

At first sight, there seems to be no good reason why Varro should have chosen these particular ten successive censorships for his discussion.¹¹ It is not clear that they particularly illustrate any argument that he wanted to put forward. They all have anecdotes connected with the behaviour of the various colleges of censors, starting from a famous case (No. 1) in 179 BCE. It is true that this series of censorships runs regularly almost without either gaps in the sequence or complete failures in the conduct of their office.¹² Varro could not, for these reasons, have found such a straightforward run of censorial colleges in his own day, by which time the regular republican system was apparently breaking down.¹³

By no means all the fragments can be restored with enough certainty to yield any positive clue as to what the point might have been. There are a few of them that have what we might classify as having a definite “religious” element in the story. So, No. 2 involves a consultation of the Sibylline Books, which recommended the celebration of a religious ritual;¹⁴ No. 6 reports a kind of prodigy, which is given a damning interpretation and seems to lead to the disgrace of the pair of censors in question.¹⁵ The others in so far as we can tell concern the good or bad behaviour of the two censors, sometimes in relation to one another. Thus in No. 1 there is a famous reconciliation between the two censors; in No. 3, one censor rescues the other from condemnation in a trial; on the other hand, in at least one other, No. 8, a definite conflict between the two is implied.¹⁶

No. 2 presents definite puzzles for any general theory: it tells of the disasters that befell Fulvius Flaccus, one of the censors of 174/3 BCE. He lost two sons, who had been fighting in Illyricum, and he lost his sight to an eye-disease. No doubt such personal disasters might have presented a problem for the religious validity of the procedure and

¹⁰ It is also split up into the accounts of the different censorships, Nos. 1-10. The text is the result of work by the Festus Project, in UCL. Those who would like more detail of the *app. crit.* and other material should contact Fay Glinister on f.glinister@ucl.ac.uk .

¹¹ For the history of the censorship, see Mommsen 1887-8; Leuze 1912; Suolahti 1963; Pieri 1968; Wiseman 1969; Nicolet 1980: 49-99; Lintott 1999: 115-20; Cornell 2000; Bunse 2001.

¹² There is, however, a longer than normal period between censorships No. 6 (154 BCE) and No. 7 (147 BCE) and also between No. 8 (142 BCE) and No. 9 (136 BCE).

¹³ On which see Wiseman 1969.

¹⁴ This consultation seems not to be known from elsewhere, perhaps because Livy would have recorded it in a now lost section of Book 43. (See Engels 2007: 516-17). The death of an ex-censor by suicide could well have been treated exceptionally, as in itself a prodigy, but Livy might also have mentioned it when he reports Fulvius’ death (42.28.10-12) and does not.

¹⁵ Discussed as a prodigy in Rasmussen 2003: 87-8; Engels 2007: 532-3. The interpretation comes to us from Piso Frugi (see below, 161-162); whether it was an official priestly exegesis, we have no way of telling.

¹⁶ Little of the entry for No. 8 survives, but enough to make the reference to the conflict between Aemilianus and Mummius reasonably secure, though not how it was handled in the text.

it was his colleague who performed the *lustrum* the essential closing ritual of the censorship. Livy, however, reports his death by suicide at the end of the year 172 and that must have happened after the completion of the censorship or Postumius would have had to resign and could not have performed a valid *lustrum*; the chronology is unclear.¹⁷ The real puzzle however is that from Livy's account in Book 40 we know the beginning of the story, which the Festus entry omits and for which there is no space in the text: Fulvius Flaccus had committed an unacceptable act by removing the tiles from the roof of the temple of Hera Lacinia at Locri, in order to provide a roof for the temple he himself was having built in Rome;¹⁸ his actions had been condemned by the senate and the stolen roof-tiles were returned to the community of Locri. The omission of this part of the story may of course have been the result of abbreviation either by Varro himself, or by Verrius or Festus or by a combination of the three. But if the purpose of telling all these stories was to show that misbehaviour by a censor created religious dangers, then the omission of this part of the story seems quite remarkable.

Something rather similar seems to have happened in the case of No. 3, where Livy tells us that the censor Ti. Gracchus was the victim of a *consecratio bonorum*, an archaic religious ritual whereby the victim's property was consecrated so as to become the property of the gods.¹⁹ The same procedure was used again in 131/130 BCE (See on No. 10).²⁰ Both these cases seem clear illustrations of the connection between the office of the censor and various forms of religious activity, in these cases hostile to him, and again these omissions seems quite remarkable.

There is another, even more surprising, omission from the body of material collected in these entries: strikingly, the *lustrum* seems to have figured very little in what survives of these entries, though editors have suggested various points where it might be restored.²¹ Yet this was a religious ritual that should have happened at the end of all censorships and we know that its failure was a serious problem for the censors. A major duty of one of the censors towards the end of his eighteen months of office was to carry out a procession round the assembled Roman People, the sacrifice of a *taurus*, perhaps in fact as part of the *suovetaurilia* ritual.²² The sacrifice evidently marked the end of one period of five years and the beginning of the next. It seems straightforward to assume

¹⁷ For the death of Flaccus: 42.28.10-12; for the founding of the *lustrum* by Postumius, Liv. 42.10.1-4.

¹⁸ Livy's account of the incident is at 42.3. The temple in question was dedicated by Fulvius to Fortuna Equestris in 173 BCE, according to Liv. 42.10.5. Livy reports it just after the founding of the *lustrum*.

¹⁹ Liv. 43.16.10; cf. Cic. *Rep.* 6.8 from Gell. *NA* 7.16.11. For the *consecratio bonorum*: Wissowa 1912: 388-9; Fiori 1996.

²⁰ Cic. *Dom.* 123-4.

²¹ In the text at Appendix I, below, we restore the word under No. 10 *et eo lu[stro maximam sibi comparuerunt] claritatem*; in No. 2, it would be possible to read *[propter mor]bum ocular[em lustrum condere non poterat, senatus]* etc., but we know that Postumius not Fulvius Flaccus performed the ritual and the chronology is too uncertain to know whether Fulvius' misfortunes caused his withdrawal.

²² The *suovetaurilia* was a triple sacrifice of male victims, probably bull, ram and boar. For the ritual and significance of the *lustrum* see Otto 1916; Ogilvie 1961; Pieri 1968.

that the ritual closing of the *lustrum* would have been an essential prerequisite for the successful completion of the whole magistracy and that, if the ritual had not been carried out successfully, then the whole process would have been invalidated and this has often been supposed.²³ However, this seems not to have been the case. We know of occasions when the *lustrum* ritual was not completed, and nevertheless the work of the censors — the reviews of the senate and *equites*, the counting of the people, the letting of contracts²⁴ — stood on the record as though nothing had happened to discredit it, and we do not hear of the very serious problems that would have arisen had all the many censorial decisions been cancelled at a stroke.²⁵ There were other occasions when a new college was elected the following year, but this does not always happen.²⁶ So it seems not to have been the case that the whole process was a single enterprise that the gods would either validate or not validate.

On the other hand, we have strong reasons to think that the whole activity, the bureaucratic exercise of adjusting the membership of the many internal divisions of the people, as well as the religious ceremonies of the *lustrum*, formed together a single coherent process. This is, for instance, strongly implied by the so-called altar of Domitius, the first-century BCE relief that shows the assembled army, the ritual of sacrifice and the assessing of property-returns as a single process, within a single frame. It would be hard to believe that this conception did not reflect the reality of the censorship.²⁷

The implication seems to be that the logic of the ritual worked the other way round: not that the *lustratio* validated the review, but that the *lustrum* could not be set up until the community had been redefined by the censor's work. The whole activity of the censors can be perceived as a operation of the drawing of boundaries within the community, ensuring that those who had become senators, but were unworthy, and those who had achieved higher standing in voting or in the army than they should have done, should be weeded out and demoted, i.e. returned to their proper level; those wrongly demoted, raised to their proper level. The ritual, the *lustratio*, would then only be possible once the practical reviewing by the censors had taken place, as a *post eventum* confirmation by the gods that the defining of the community had been successfully completed.²⁸ The completion of the whole cycle of activities would then look forward to the promise of a *felix lustrum*, the coming successful five-year period.

²³ E.g. by Pieri 1968; Linderski 1986: 2184-90 and others.

²⁴ For the duties of the censor, see Nicolet 1980: 44-99.

²⁵ As in 214 BCE, when the death of one censor forced the other to resign: *MRR* I.259; no further college was elected until 210.

²⁶ As in 231/30 BCE when the first college abdicated because of a flaw in their election and a new one was elected in 230. *MRR* I.226-7. But, of course, in such a case, the first college had not carried out the census at all.

²⁷ Torelli 1982: 5-25; cf. Coarelli 1968.

²⁸ The normal interpretation of *lustratio* is as an act of purification (so, e.g., Beard et al. 1998: 178): in this case it is hard to see what pollution had occurred. Also, John Scheid has pointed out in an unpublished lecture that Liv. 3.18.10 clearly implies that, where there was pollution, there had to be purification as well as *lustratio*: the Capitolium had to be *purgatam et lustratum*. See also Scheid 1989-90 for the fulfillment of vows.

There are powerful arguments that support this view: first, we know that part of the *lustrum* ritual involved the taking of a vow, which would of course have looked forward to the coming period. Specific evidence of this comes from Suetonius' *Life of Augustus*,²⁹ which refers to the 'vows that it is customary to take for the coming *lustrum*'. If the vows are looking forward, then it seems probable the whole ritual would have been doing so. Secondly, one quite normal meaning of the word *condere* is to found or set up a new state or a period of time; the sense is no doubt being echoed in Virgil's *Augustus Caesar, divi genus, aurea condet saecula*.³⁰ The censor founds the new five-year period by reforming the people and making his vow to the deities. Thirdly, the ritual involved a procession round the people, in the form of the Roman army assembled in the *campus Martius*. The defining of the army by the procession must have been the symbolic consolidation of the internal defining of boundaries through the censor's efforts in the previous eighteen months.

No. 8 (142/1 BCE) raises a more acute problem: enough of Festus' text survives to make it very probable that the subject of the narrative was the conflict between Aemilianus and Mummius over the degree of severity with which they should exercise their powers.³¹ The flashpoint was the case of Claudius Asellus, who was expelled from the Senate by Aemilianus and restored by Mummius. According to Cicero's version of the incident Mummius went on to found the *lustrum*, which proved *infelix*.

ut Asello Africanus obicienti lustrum illud infelix, 'noli' inquit 'mirari; is enim, qui te ex aerariis exemit, lustrum condidit et taurum immolavit'.³²

However, this account of events, while compatible with Livy's report that the *lustrum* was duly founded in 141 BCE,³³ is flatly contradicted by an anecdote in which Valerius Maximus claims³⁴ that Aemilianus, while actually performing the *lustrum*, changed the *precatio* i.e. the text of the vow. The issue for the present argument is not which of these versions may have been the truth, if either was, but the author's complete omission of both versions of the incident. His silence might be taken to confirm his lack of interest in the *lustrum* as a whole. However, another possibility might be that when the narrative behind No. 8 was being composed, the stories about Mummius and Aemilianus had not yet been fabricated.

To sum up the argument of this section, the author seems to show no particular interest in the "religious" aspects of his stories; if anything, it would be easier to show — on the basis of the evidence he discusses — that many of the censors in the sequence were in one way or another put at risk or actually suffered disasters during their terms of

²⁹ Suet. *Div. Aug.* 97 (14 CE). He asked Tiberius to take the vows on his behalf, because he would not live to see them fulfilled: not, perhaps, a thought in the best republican tradition.

³⁰ Vir. *Aen.* 6.792-3.

³¹ For which, see Gell. *NA* 3.4.1; Dio fgt. 76.

³² As when Africanus said to Asellus, who was reproaching him for his inauspicious *lustrum*: 'No wonder, considering that the man who founded the *lustrum* and sacrificed the ox was the same who rescued you from the *aerarii*'. Cic. *De Or.* 2.268.

³³ Liv. *Per.* 54

³⁴ Val. Max. 4.1.10. For discussion, Astin 1967: 325-31; for the sense of *infelix* and *parum felix*, Linderski 1986: 2184-90.

office or close to it. Of the substantial narratives that can be restored with any plausibility: we can list No. 2, where Fulvius suffers various disasters and is mentally afflicted as a result; No. 3 where the censor is rescued by his colleague from condemnation; and probably, though the surviving traces do not fully support this, No. 5, in which there seems certain to have been an allusion to the famous death of Paullus' remaining two sons, years before his censorship;³⁵ and No. 8 where we know from other sources of a bitter conflict between the two censors.³⁶ But of course it also seems clear that other examples from the list must have carried some degree of threat and danger.

Before turning to discuss the meaning of the whole passage, there are specific questions that should be asked. First, why should Varro have selected these particular censorships rather than making a selection of those that would have illustrated his thesis, whatever exactly it was? Secondly, is it possible to establish at what date was the issue of the *religio* introduced into the discussion?

The ten entries run from 179 to 131 BCE. Three points seem relevant: first the best reason for any author to have picked this run is that at the time of his picking them, they were the ten most recent censorships and therefore within his memory or at least that of his immediate forebears. If so, we might date the ultimate source as having written between, say, 130 BCE and the next censorship, which was held in 125.³⁷ This suggests immediately that the source might be Calpurnius Piso the consul of 133.³⁸ Secondly, Piso in quotations from his work, shows some interest in the history of the censorship;³⁹ he was himself censor later, in 120 BCE,⁴⁰ and then, according to a somewhat insecure anecdote, given the cognomen Censorius.⁴¹ Moreover, if he was born in around 175 BCE, these ten would have been all the censorships of his lifetime.⁴² Thirdly, one of the entries in the collection, that of 154 BCE, shows a distinct resemblance in theme and even text to a known fragment (though perhaps that is the wrong word for it) of his work.

Nec non et Romae in Capitolio in ara Iouis bello Persei enata palma victoriam triumphosque portendit; hac tempestatibus prostrata eodem loco ficus enata est M.

³⁵ The two deaths, both at the time of Aemilius' triumph in 167 BCE: Plut. *Aem.* 35.1-2; Liv. 45.40.7-8; Val. Max. 5.10.2. For discussion of Paullus' status at this moment — between victor and victim — see Beard 2007: 137-8.

³⁶ Astin 1967: 119-21.

³⁷ *MRR* I.510

³⁸ If Piso was 42 in 133 BCE, he would have been born in 175/4: see *RE* III.1.1392-5. (Calpurnius no. 96 — Münzer/Cichorius). For the suggestion that Varro's source might have been Piso Frugi, see Forsythe 1994: 404-5; 496.

³⁹ Pobjoy in Cornell (ed.) 2013: 1.396: see in particular, Piso *FRHist* 9 F 16 (= F14 Peter F21 Forsythe, F16 Chassignet); and Piso *FRHist* 9 F39 (= F37 Peter, F47 Forsythe, F40 Chassignet).

⁴⁰ *MRR* I.523.

⁴¹ According to Dion. Hal. 2.38.3; 39.1; Plin. *NH* 13.87; Censorinus, *D.N.* 17.11. Of course, the story may be *ben trovato*, rather than true.

⁴² On the date of writing, see Pobjoy in Cornell (ed.) 2013: 1.392

*Messallae C. Cassii lustrum, a quo tempore pudicitiam subuersam Piso grauis auctor prodidit.*⁴³

Moreover even in Rome on the Capitoline, on the altar of Iuppiter during the war against Perseus, a palm tree that sprang up was a portent of victory and triumphs; when this tree was blown down by storms, a fig-tree sprang up on the same spot during the *lustrum* of M. Messalla and C. Cassius, from which time, according to Piso a serious authority, the sense of shame was subverted.

If we take the ten words surviving from Festus' entry

*in Capitolio in ara [
sico nata fuerat, fl
tam ficum, infamesque [*

and restore the lost part using as much as possible of the text reported by Pliny, and respecting the known line-length of this part of *F*,⁴⁴ we could suggest:

nam pro palma, quae]
in Capitolio in ara [ipsa Iovis optimi maximi bello Per-]
sico nata fuerat, flertur a Pisone loco eodem ena-] 30
tam ficum, infamesque [reddidisse qui sine]
ullo pudicitiae resp[ctu fuerant censores.]

There seems, therefore to be a strong case, on the basis of this passage, for thinking that Pliny was looking at the same text as Festus. Pliny names him: if Festus did so as well, the identification is lost in the lacuna. It must be emphasized at this point that there can be no case for suggesting that the texts included in *religionis* should be seen as, or described as, a "fragment" of Piso's history. It is a report by Festus of a version by Verrius of a text that Varro can be argued to have derived from Piso. On the other hand, it seems likely that the original list, with its series of anecdotes, might well have been Piso's conception, whether it was part of his history or as a separate work. If we can accept it as a plausible hypothesis that what Varro was reporting had originated in a passage of Piso, written in the 120s BCE, what does such a hypothesis help to clarify? It suggests, though it could never prove, that the idea behind the discussion of *religio*, was based on some sense of the word as normally accepted in Piso's day, the second half of the second century BCE.

Notoriously, the meanings of the word *religio* in the later republic are varied and highly contested. It has often been claimed that the distinction between *religio* as the established, state-supported religion of Rome as opposed to *superstitio*, as the irregular, unaccepted popular religion was fundamental and that it goes back to far earlier periods of Rome's history.⁴⁵ In this way, we tend to speak of *religio* as the religion of Roman state as overseen by the great priestly colleges, roughly co-extensive with the subject-

⁴³ Plin. *NH* 27.244 = Calpurnius Piso Frugi Piso *FRHist* 9 F40 = F38 Peter, F48 Forsythe. F41 Chassignet. Cf. Pobjoy in Cornell (ed.) 2013: 3.392.

⁴⁴ Roughly, at this point in the MS, forty letters or spaces per line. However, abbreviation is frequent, but also erratic, so the space occupied by a particular set of words cannot be precisely predicted.

⁴⁵ For this view, Martin 2003.

matter of Wissowa's great hand-book.⁴⁶ It is far from clear how the modern conception of religion as a system of practice and belief could be related to *religio* in either of these senses, though it is arguable that Cicero in particular sometimes moves in the direction of using *religio* in this broader sense.⁴⁷ On the other hand Richard Gordon has argued very effectively that the opposition of *religio* and *superstitio* should not be seen as a traditional inherited Roman conception, but rather as a late republican innovation.⁴⁸

It is also clear that there are other more limited senses of the word, which certainly do have their roots in earlier Roman ritual practice: In the first place the word can be used simply to mean acts of worship, as when Augustus receives deification, which Tacitus defines as

... *templum et caelestes religiones decernuntur.*⁴⁹

... a temple and divine rituals were decreed.

Quite frequently, the word can be used in the sense of a religious obstacle to certain forms of action or the state of being in violation of such a ban as:

*Simulacrum, si dedicasti, sine religione loco moveri potest.*⁵⁰

If you have dedicated a statue, it can still be moved without a religious violation (*religio*) ensuing.

Sometimes it even comes close to the sense of superstitions, as when Roman soldiers defending a site where there had been an earlier defeat, generate new *religiones* on the basis of the place itself:

*Plerique novas sibi ex loco religiones fingunt . . .*⁵¹

Most invented new superstitions (?) for themselves, derived from the place they were in ...

There is, however, one usage that seems more relevant to the present set of issues. The word *religio* is sometimes used to describe a quality somehow adhering to a person:

*Is ... ut qui nec rei publicae maiestate in legatis nec in sacerdotibus tanta offusa oculis animoque religione motus esset, multo obstinatio adversus lacrimas muliebres esset.*⁵²

A man who had been unmoved by the majesty of the Republic, as conveyed by the legates, and also by the power of *religio*, overwhelming to both eyes and spirit, as conveyed by the priests would surely be even more resistant to the tears of women.

⁴⁶ Wissowa 1912.

⁴⁷ Though it is never possible, in my view, to be sure that the sense goes further than the Roman system of ritual and worship.

⁴⁸ Gordon 2008.

⁴⁹ Tac. *Ann.* 1.10.

⁵⁰ Cic. *Dom.* 121.

⁵¹ Caes. *BGall.* 6.37.8.

⁵² Liv. 2.40.3.

Or again:

*etenim si Atheniensium sacra summa cupiditate expetuntur, ad quos Ceres in illo errore venisse dicitur frugesque attulisse, quantam esse religionem convenit eorum apud quos eam natam esse et fruges invenisse constat?*⁵³

Even though the rituals of the Athenians, to whom Ceres is said to have come by mistake and to have brought the crops, are sought out with special fervor, how great must be the *religio* that attaches to those in whose land she was born and where the crops were first discovered.

In both these cases *religio* seems not so much to be a personal quality or virtue, inherent in an individual person (the priest or the inhabitants of the plain of Enna), as a kind of sanctity attached to an office or religious identity. This would obviously move the argument far closer to the *religio praecipua* used of the censors in the present fragment.

It follows that, on the Pisonian hypothesis that we are exploring, the word was chosen by “Piso” because it carried the implications that the office of censor had a special sanctity. The anecdotes and incidents included in the narratives should then tell us what the evidence was that would — or would not — prove the point. It has been argued in this paper that the author took the view:

(a) that the sanctity in question might be proved by either good or bad fortune befalling the censors, since he includes both such stories;

(b) that what we would classify as the “religious” obligations or accidents of the censor were not specially relevant; he sometimes included them, sometime not;

(c) that the celebration of the *lustrum* was not one of the issues of which he took particular account.

(d) that the severity or otherwise of the censors’ carrying out of their duties was not an issue, which it very often is in other accounts of individual censorships.

(e) that it perhaps did not matter whether the incident in question had occurred during the actual period of office, or earlier or later.⁵⁴

It is important to recall at this point that *religio* is a word whose range of usage shows a deep-seated ambivalence about the divine and the potential response of the Romans’ gods and goddesses. The word can be used to evoke the body of inherited skills and knowledge that guaranteed that the Roman community would stay in the right relationship with its divine supporters and so maintain its power and success.⁵⁵ It was, in fact, their respect for *religio* that distinguished the Romans from their rivals. On the other hand, it can also mark the places and practices that might pose real threats either to the state and its magistrates, or even to the individual citizen. The role of the priests was to foster the benefits and avoid the dangers. So it is not to be wondered at that the notion of *religio praecipua* should reflect this ambivalence in the underlying conception.

In trying to grasp the argument of “Piso” the historian, we have to respect the views that his selection of ten narratives implies and to take a flexible view of what he would

⁵³ Cic. *Verr.* 2.4.108.

⁵⁴ See No. 2 (where the deaths in question may have been later) and No. 3 (where they were certainly earlier).

⁵⁵ On which see Santangelo 2011: 161-86.

have seen as being at stake in his account. In order to make sense of his argument, we have to assume that his basic idea was that the office of censor placed a man in a position of extreme sensitivity in his relationship to the divine: this might lead to good fortune and enhanced reputation, especially if he had acted in an honourable and virtuous manner; but there were also risks of disaster or disgrace for himself, or of serious harm to the state and the community. At least this is what the collection of anecdotes seems to imply.

In his introduction to the fragments of Piso Frugi, Mark Pobjoy seeks to identify as the originality of Piso in his *History* the introduction of a moral element, as most clearly expressed in the fragment preserved by Pliny.⁵⁶ A further still more speculative step would be to develop this suggestion, by arguing that the sequence of censorships in *religionis* was designed to represent the superiority of Roman behaviour in the 170s BCE and its decline after the turning point of the censors of 154 BCE, who lost the sense of shame. There is certainly some support for this interpretation in the earlier entries, where at least Nos. 1, 3 and perhaps 4 showed these censors collaborating and behaving well, as though this was the positive side of the story. The problem here is that the entries after No. 6 are too fragmentary to carry this story on. No. 7 provides a disreputable candidate and No. 8 division between the two censors, but nothing in the surviving text of No. 10 provides a suitable climax to the story.

This particular idea may be a speculation too far, though it has a certain seductive charm. However, the general approach taken in this paper does offer an explanation for the unevenness and even eccentricity of the account of censorship offered in the article *religionis*. The only obvious alternative explanation would be to take the original as simply a collection of memories and anecdotes about censors collected as a matter of record. The problem then would be to explain why anybody, whether Varro, Verrius or any other would have mistaken such a collection for examples of censorial *religio praecipua*.

⁵⁶ Pobjoy in Cornell (ed.) 2013: 1.397-99.

Appendix I: The ten censorships in Festus s.v. religionis, 358–62 L

MRR = Broughton 1951–87

RC = Suolahti 1963

1. 179 BCE

M. Aemilius Lepidus and M. Fulvius Nobilior MRR I.392; RC. 358-5 (nos. 124/125)

For their reconciliation: Liv. 40.41.6-46.16; Cic. *Prov.Cons.* 20; Val. Max 4.2.1; Gell. *NA* 12.8.5-6.

Religionis praecipuae habetur censoris [maiestas, cuius multa profert] Varro exemp[la: M. enim Lepidus, M. Fulvius Nobilior, ce[n]n(sores), quod, [cum ante magistratum inter se] admodum iam in[imici semper essent, multaque in] dicia cum facta essent, ut etiam M. Lepidi sponsio] quae in probr[um facta esset, censorio delato mune-] re, hominis [amici personam acceperunt; quod animi] iudicium felic[issimum omnibus visum est.]

5

The censor's [authority] is thought to have special *religio* and Varro [records many] instances of this: [thus M. Lepidus and Fulvius Nobilior as censors, because, [while before their magistracy they had] always been great [enemies to one another and] while there had been [many] evidences [of this, as for example Lepidus' *sponsio*] in *probr[um* (a 'wager of disgrace' against Fulvius), once the office of censor had been conferred, they accepted the role of] cooperation, [which seemed to everybody to be] a most fortunate decision.

2. 174 BCE

Q. Fulvius Flaccus and A. Postumius Albinus MRR I.404; RC 366-72 (126/127)

Liv. 41.27; 42.3.1-11; 42.28.10-12 (his death); Val. Max. 1.1.20

A. Postu-] mius Q. Ful[uius cen(sores) facti, Fulvius autem cum filium] amiserat i[n Illyrico militantem et propter mor-] bum ocular[em] senatus] ut libri Sibylli[ni] adirentur censuit, ex quibus ut pu-] blic[a]e suppli[caretur decemviri s.f. responderunt.]

10

Perhaps?

propter mor-] bum ocular[em] lustrum condere non poterat,

on account of] an eye disease [was unable to carry out the ritual founding of the *lustrum*

A. Postumius and Q. Fulvius were made censors], but Fulvius, when] he had lost [one of his sons fighting in Illyricum and also on account of] an eye disease [was the senate ruled] that the Sibylline Books [should be consulted and the *decemviri s.f.* replied] that a public supplication should be held.

3. 169 BCE

C. Claudius Pulcher and Ti. Sempronius Gracchus *MRR* I.423-5; *RC* 371-6 (128/129)
Liv. 43.15.6-16 (cf. 44.16.8); Val. Max. 6.5.3; *de vir ill.* 57.3

Ti. Sempronius, [cum a P. Rutilio tr. pl. censoria] 15
fides labefact[aretur, ob parietem dirutum iratus]
cum esset aedific[ata in publico, C. Claudio a multis]
condempnato [suasit octo quae vocandae ili-]
co erant condemp[nationi ut deficerent centuriae.]

[When] trust [in the censorship] was being undermined [by P. Rutilius as tribune of the plebs, who was angry about a wall demolished (by the censors)] because it had been built [on public land], Ti. Sempronius, [after his colleague Claudius] had been condemned [by many centuries, persuaded eight of them not to make up the total] that were needed for condemnation, [when they were on the point of being summoned in].

4. 164 BCE

L. Aemilius Paullus and Q. Marcius Philippus *MRR* I.439; *RC* 376-81 (130/131)
Plut. *Aem.* 38.5-6; cf. Liv. *Per.* 46. Death of his younger sons: Liv. 45.40.6-7; 41.1-12.

L. Aemili Pauli et [Q. Philippi censura . . .] 20
fuit. laboravit [tamen Paulus filiorum superstitem]
amissione, capi[.]

[The censorship] of L. Aemilius Paulus [and Q. Philippus was [???; but Paulus] was afflicted by the loss [of his remaining sons] . . .

5. 159 BCE

P. Cornelius Scipio Nasica (Corculum) and M. Popillius Laenas *MRR* I.445-6; *RC* 381-7 (132/33)
Piso fgt 37 (Peter), cf. *de vir.ill.* 44.

M. Popili]
et P. Corneli Sc[ipionis censura P-]
opilius, post consulatum ?]
fuit uq[ui]datus[.] 25
constat.

6. 154 BCE

M. Valerius Messalla and C. Cassius Longinus *MRR* I. 449; *RC* 387-390 (134/135)
For the fig-tree story: Plin. *NH* y 17.244 (ref. to palm-tree 169 BC); other activities of Cassius Cic. *Dom.* 130; 136.

*M. Vale[rius Messalla, C. Cassius Lon-]
ginus censores, q[uod in eorum magistratu subversa pudici-]
tia fuerat, famosi [extiterunt. nam pro palma, quae]
in Capitolio in ara [ipsa Iovis Optimi Maximi bello Per-]
sico nata fuerat, f[ertur a XXX loco eodem ena-] 30
tam ficum, infamesque [reddidisse qui sine]
ullo pudicitiae resp[ectu fuerant censores.]*

M. Vale[rius Messalla and C. Cassius Lon]ginus as censors became infamous [because during their magistracy there was a subversion of shame. For in place of the palm-tree] that had sprung up on the altar [of Iuppiter Optimus Maximus on the Capitol at the time of the war against Perseus,] a fig-tree sprang up [in the very same place, according to Piso(?), and made those censors] infamous [who had been without] any respect for shame.

7. 147 BCE

L. Cornelius Lentulus Lupus and L. Marcius Censorinus *MRR* I.463; *RC* 390-93 (136/137)

The condemnation on the charge of peculation: Val. Max. 6.10.

*L. Corneli Lentuli C. [Censorini sequitur censura,]
Lentulus iudicio pub[lico quamquam dampnatus]
fuerat. 35*

[There followed the censorship] of L. Cornelius Lentulus and C. [Censorinus, despite the fact that [Lentulus had] suffered condemnation] in a public court.

8. 142 BCE

P. Cornelius Scipio Aemilianus and L. Mummius Achaicus *MRR* I.474; *RC* 393-97 (137/138)

Asellus case? Cic *De Or.* 2.268 on the *infelix lustrum*, see also Gell. *NA* 2.20.6; 3.4.1; 4.17.1; 6.11.9. See also, Astin (1967), 326-7

*[Plurimi itaque spe P. Africani et] L. Mummi
[censurae] segnit]iae in agen-
[do] Asellum nul]la soluta poe-
[na ex aeraris exemit.] severitate
[.]*

9. 136 BCE

App. Claudius Pulcher and Q. Fulvius Nobilior *MRR* I.486; *RC* 398-401 (140/141)

Dio, fgt. 81

*Ap. Claudi Pulchri]et Q. Fulvi No- 40
[bilio]ris] i] fuit no-
[bilissima censura] uiribus notis
[.]*

40. *et* read by Loewe.

42. *uiribus* : *tribus* read by Orsini; *uiribus* (not *tribus* or *nribus*) read by Loewe: *oribus* read by Keil, Zangemeister.

10. 131 BCE

Q. Caecilius Metellus Macedonicus and Q. Pompeius *MRR* I.500; *RC* 402-9 (142/143)
Consecration of Metellus property: Cic. *Dom.* 123; Liv. *Ep* 59; Plin. *NH* 7.143

Q. Pompeii et Q. C]aecili Metelli
[in censura in numerum s]enatus adsum-
[pti. multi amoti senat]ores, et eo lu- 45
[stro maximam sibi comparauerunt] claritatem.

[In the censorship of Q. Pompeius and Q. C]aecilius Metellus [.] were added to [the number] of the senate [and many unworthy senators were removed; and they achieved the greatest] fame by that *lu*[strum].

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