

Livy and the Bacchanalia

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In 186 BC, the Roman Senate passed the *senatus consultum (S.C.) de Bacchanalibus*, a law that, so it is said, “suppressed”¹ the cult of Dionysus – the Bacchanalia – in Rome and Italy. We know this because of an inscription found in Bruttium that contains the *S.C.*,² which confirms Livy’s narrative in *Ab Urbe Condita* 39.8-19.³ It features one of the consuls of 186, Spurius Postumius Albinus, who conducted a *quaestio* (“investigation”) into a *coniuratio* (“conspiracy”) that had allegedly arisen out of the Bacchanalia. These events, though a minor episode in Livy’s text, have received a lot of attention from scholars, partly because of their relevance to later persecutions of Christians. Scholars often question Livy’s account, pointing out literary embellishments,⁴ offering historical explanations about why Rome would suppress the Bacchanalia,⁵ and describing how Livy uses the text to achieve its moral purpose,⁶ but rarely taking seriously his description of the cult. In particular, the allegations of debauchery, forgery, poison, and murder can not be substantiated in any of the other evidence concerning the cult of Dionysus. These may reflect both Livy’s moral message and the reaction of Roman senators against foreign cults. There are, however, exceptions to this interpretation. Scullard refers to a “wave of crime” that had spread through Italy,⁷ and Bauman raises the question briefly, though

¹Sarolta A. Takács, “Politics and Religion in the Bacchanalian Affair of 186 BCE,” *Harvard Studies in Classical Philology*, Vol. 100 (2000), 301. He calls it a “harsh suppression,” which is typical of the way these events are described.

²*Senatus consultum de bacchanalibus* (186 BC). CIL I2.581=ILS 18=ILLRP 511. In Victoria Emma Pagán, *Conspiracy Narratives in Roman History*, 51-52, 145-146. Austin: University of Texas Press, 2004.

³For this essay, I have referred to two versions of the text: Titus Livius, *Ab Urbe Condita*, 39.8-19, trans. Evan T. Sage (London: Heinemann, 1965), Vol. XI, 240-275; and trans. Henry Bettenson, in *The Ancient Mysteries*, ed. Marvin W. Meyer (Philadelphia: HarperCollins, 1987), 81-93. All direct quotations are taken from the Latin text in the former source and are my own translation in comparison to both. Translations of the *S.C.* are my own as well.

⁴For example, Scafuro points out literary motifs that may have influenced the *Hispania* narrative (Adele Scafuro, “Livy’s Comic Narrative of the Bacchanalia,” *Helios* 16 (1989), 119-142) and Walsh analyzes Livy’s sources to find out where those literary motifs originated (P.G. Walsh, “Making a Drama out of a Crisis: Livy on the Bacchanalia,” *Greece & Rome*, 2nd Ser., Vol. 43, No. 2 (Oct., 1996), 188-203).

⁵For example, McDonald looks at how the events of 186 were related to Rome’s changing relationship with Italy (A.H. McDonald, “Rome and the Italian Confederation (200-186 B.C.),” *The Journal of Roman Studies*, Vol. 34, Parts 1 and 2 (1944), 11-33) and Toynbee relates the events to the aftermath of the Second Punic War (Arnold J. Toynbee, *Hannibal’s Legacy*, Vol. II (London: Oxford University Press, 1965), 387-400).

⁶Pagán discusses the way Livy’s narration conveys conspiracy to his readers, both assuring them that the conspiracy is contained and discouraging further conspiracies (Victoria Emma Pagán, *Conspiracy Narratives in Roman History* (Austin: University of Texas Press, 2004), 50-67).

⁷H.H. Scullard, *Roman Politics, 220-150 BC* (Oxford: Clarendon Press, 1973), 147.

he does not address it in detail.⁸ This essay explores that very question, and reaches two conclusions. First, it is certain that the *S.C.* was a reaction to foreign cults, and that Roman prejudices against Greek culture influenced these events, and second, while it is possible that in 186 BC Roman senators opposed the Bacchanalia simply because its internal hierarchy was not subordinate to the state, it is equally possible that a criminal organization had attached itself to a Bacchic organization, and was using it as a cover for its operations, and that this was crucial in moving the Senate to act.

Livy begins his account by claiming that the Bacchanalia had come to Rome from Etruria and Campania.⁹ Classical Bacchic cult was a ritual enactment of the maenads' frenzies, but Livy says that in Italy the cult was also associated with horrible crimes: debauchery, forgery, poison, and murder. He writes that an equestrian named Aebutius was warned by his lover, Hispala, that if he was initiated, terrible things would be done to him. Aebutius informed the consul, Postumius, who questioned Hispala and concluded that there was indeed a conspiracy connected to the Bacchanalia. Postumius then brought this to the attention of the Senate, which ordered an investigation into the matter. Postumius led the investigation, arresting many accused conspirators; some were executed, but others were not. When the investigation was complete, he reported back to the Senate, which issued the *S.C. de Bacchanalibus*, creating regulations for Bacchic worship in Italy. Finally, Postumius obtained permission from the Senate to offer rewards to his informants.

There is an important detail that is rarely mentioned concerning Livy's narrative.¹⁰ In this passage, there are three *senatus consulta* in which Postumius was involved: the first one (39.14.6-9) authorizes an investigation; the second one (39.18.8-9) is the *S.C. de Bacchanalibus*, and is passed after the investigation; and the third one (39.19.3-4) authorizes rewards given to

⁸Richard Bauman, *Women and Politics in Ancient Rome* (London & New York: Routledge, 1992), 39.

⁹The Hellenistic Period was a time of growth for the cult of Dionysus, the Greek god of wine, who was followed by the maenads, a band of wild women who followed him as he travelled through Greece and Asia, spreading his cult and teaching the art of making wine.

¹⁰Some scholars have proposed theories that assume Livy made a mistake, offering explanations; for example, he exaggerated the Senate's meeting by repeating the law twice, or he did it twice to enhance the reader's sympathy for the consuls and informants (Pagán, *Conspiracy Narratives*, 53).

informants.¹¹ It is important to note that the *S.C. de Bacchanalibus* from Ager Teraunus in Bruttium, dated October 7, 186 BC, was passed *after* Postumius had already completed the initial *quaestio*.

Because Livy provides us with our only narrative of these events, we must question the reliability of the content of the text. It is reasonable to suppose that Livy's description of the Bacchanalia as the "workshop of all kinds of evil"¹² was the result of Livy's moral bias, and that the mysteries of Dionysus were no different in Rome than they were anywhere else in the Mediterranean world, where Bacchic initiatory rites definitely did not include debauchery, forgery, poison and murder.¹³ Rather, despite the paucity of evidence, we can logically accept those rituals to which the sources most universally attest: singing hymns and dancing, processions and sacrifices followed by meals, led by ritual specialists; and funeral rites.¹⁴ All of these rites were common in Greek religion, and indeed, in most ancient religion. There was nothing about the actual practices of the mysteries of Dionysus that sufficiently explains why the Bacchanalia was made illegal in 186. Yet, Livy's allegations are very specific: debauchery, forgery, poison, and murder.¹⁵ Why would he list those four? The reliability of these claims depends on the reliability of the text as a whole.

¹¹Technically there are four *senatus consulta* in Livy's text, but the last two give rewards to informants; Q. Marcus Philippus proposes one (39.19.1-2) and Postumius proposes another (39.19.3-7).

¹²Livy 39.10.6.

¹³There is slight evidence that could be used to support ritual violence in Bacchic cult. An inscription from Milesia (276/5 BC) contains a vague reference to *omophagia*. In pottery, maenads are sometimes shown practicing *sparagmos*, but never *omophagia*, so Henrichs argues that the Greeks substituted a domesticated sacrifice. Therefore, this is not an indication of ritual violence (Albert Henrichs, "Greek Maenadism from Olympias to Messalina," *Harvard Studies in Classical Philology*, Vol. 82 (1978), 147-153). In the Agrionia in Orchomenos, women who represented the Minyads in Bacchic myth were ritually murdered by priests, but as horrible as this was, it was a localized traditional ritual based on a specific etiological myth (Walter F. Otto, *Dionysus: Myth and Cult*, trans. Robert B. Palmer (Dallas: Spring Publications, 1981), 77, 103, 118, 133-134).

¹⁴For example, Diodorus Siculus tells us that "it is lawful for the maidens to carry the thyrsus and to join in the frenzied revelry, crying out [*euhoi!*] and honoring the god; while the matrons, forming in groups, offer sacrifices to the god and celebrate his mysteries and in general extol with hymns the presence of Dionysus, in this manner acting the part of the maenads" (Diodorus 4.3.3, cited in Dirk Obbink, "Dionysus Poured Out: Ancient and Modern Theories of Sacrifice and Cultural Formation," in *Masks of Dionysus*, ed. Thomas H. Carpenter and Christopher A. Faraone (Ithaca & London: Cornell University Press, 1993), 71-72). Funerary rites and concern with the afterlife are especially attested in Thessaly and Magna Graecia in this period (Martin P. Nilsson, "The Bacchic Mysteries of the Roman Age," *The Harvard Theological Review*, Vol. 46, No. 4 (Oct. 1953), 192).

¹⁵Livy 39.8.7-8.

Ab Urbe Condita is a mixture of three kinds of texts: annalist, literary, and rhetorical; and important considerations flow from this fact. Annalistic material includes the annual elections of consuls, the allotment of provinces, and portents. When Livy consulted these sources (e.g. Claudius Quadrigarius, known for his antique style), he tended to be scrupulous about transmitting the correct details.¹⁶ When he consulted literary sources, his method was to find the best narrative of the event in question, and to transmit that passage as faithfully as possible. When narrating events in the east, he followed eastern sources (e.g. Polybius, an important extant source), and when narrating internal Roman events, he followed Roman sources (e.g. Antias, known for his literary embellishments).¹⁷ Therefore, the historical value of a literary section depends on Livy's source; in other words, his Polybian passages are more reliable than his Antian passages.¹⁸ In rhetorical sections, Livy constructs speeches, and these are entirely his own composition, but this was a respectable practice in ancient historiography, and he sought to maintain the speeches' substance, if not their form.¹⁹ All three kinds of text (annalistic, literary, and rhetorical) appear in Livy's account of the Bacchanalia, but one must bear in mind that the most reliable sections of Livy's text are the annalistic sections.

For sake of simplicity, we can divide Livy's account into two sections: the "Hisपालa narrative" (39.8-13), which is literary, and the "Postumius narrative," which is annalistic (39.14-19). The Hisपालa narrative is a colorful account that was most likely based on a literary source, while the Postumius narrative is a simple, straightforward account that was most likely based on an annalist,²⁰ so the Postumius narrative is more reliable.²¹

The Hisपालa narrative contains the story of Publius Aebutius and Hisपालa Faecenia, who

¹⁶P.G. Walsh, *Livy: His Historical Aims and Methods* (Cambridge: Cambridge University Press, 1967), 150.

¹⁷Walsh, *Livy*, 29-33, 120-140; T.J. Luce, *Livy: The Composition of His History* (Princeton, NJ: Princeton University Press, 1977), 96-105.

¹⁸Luce, *Livy*, 143-147, 227-229.

¹⁹Walsh, *Livy*, 219-220, 235.

²⁰Walsh traces Livy's sources for this passage. He suggests that the historian A. Postumius Albinus (*cos.* 151) had family records and would have wanted to paint his relative in a positive light. Most likely the story had passed through three generations of annalists (Walsh, "Making a Drama out of a Crisis," 192-193).

²¹Within the Postumius narrative is a speech that he delivers from the Rostra (39.15.2-17.13), which is entirely Livy's construction and is not, strictly speaking, historical.

brought the Bacchanalian conspiracy to the attention of the consul Postumius. Aebutius and Hispala were real people; we know this because the third *S.C.* addressed to Postumius authorizes their rewards as informants.²² The chain of events Livy narrates, however, is a romantic literary account that Walsh considers little more than a “soap opera.”²³ There are plausible details, but for our purposes the Hispala narrative is mostly irrelevant; although certain details affect this analysis, the issue is not how the information got to Postumius, but what he thought about it and what he did about it. Therefore, the passage that concerns us the most is 39.14-19.

We can approach the Postumius narrative with more certainty than the Hispala narrative. In classic Dionysian fashion, the text takes a sudden reversal from a literary narrative to an annalistic record. There are no individual character sketches, and no dramatic dialogues, simply a narration of the basic events without much detail. Livy was very careful about accuracy when he transmitted information from annalistic sources, so the Postumius narrative is the most reliable section of the text, but at the same time, it provides the most unsatisfactory level of detail. In order to approach the content of the passage with precision, an analysis of context will fill in the details that Livy’s narrative does not include, and it will also clarify the relevant themes that influenced these events; broad historical processes were at work, beginning before 186 and continuing after 186, and these came together in senatorial discourse to influence the Senate’s decisions: political opposition to Greek customs, and the Roman concept of *coniuratio*.

The Bacchanalia was only one example of many Greek cultural influences that came into Rome in this period, and had been doing so for quite some time, meeting both acceptance and opposition from senators. These came through many channels: trade, personal and diplomatic contacts, travelers, migrations from Magna Graecia, and more. Roman literature had arisen under the influence of Greek literature, including a Latin translation of the *Odyssey*, the first history of Rome (written in Greek), and the first Roman dramas (which were patterned after Greek drama).²⁴ Prominent Romans sought Greek education in literature, philosophy and rhetoric, and

²²Livy 39.19.3-6.

²³Walsh, “Making a Drama out of a Crisis,” 202.

²⁴Graham Shipley, *The Greek World after Alexander, 323-30 BC* (London & New York: Routledge, 2000),

many were bilingual. Religion was definitely included, from official consultations of the Delphic oracle to the clandestine organization of the Bacchanalia.²⁵ The Hellenization of Rome was not nearly as advanced in the 2nd century as it was at the end of the Republic – it was merely in its early stages – yet this process was advanced in fundamental ways after the Second Macedonian War (200-197 BC).

Greece and Rome had been interacting for a long time through public and private contacts, but the most profound changes were the result of war. In addition to the First (214-205) and Second (200-197) Macedonian Wars, the war against Antiochus III (197-188) was a recent event.²⁶ One of the most important figures in these events was Titus Quinctius Flamininus, the *imperator* who defeated Philip V of Macedonia in 197 BC, ending the Second Macedonian War, and famously declaring the freedom of the cities of Greece. When Flamininus made this announcement at the Isthmian Games in Corinth, it instantly made him a hero of the Greeks.²⁷ Plutarch credits him with a change in diplomatic relations with Greece,²⁸ and he was admired by Greeks everywhere, even receiving cult honors.²⁹ He achieved enormous prestige both at Rome and beyond, and continued to be influential in diplomatic missions to Greece,³⁰ and by proclaiming the freedom of the Greeks, Flamininus sparked a deep and lasting political transformation in Greek society.

The political transformation of Greece was mirrored by cultural transformations in Rome. At the spearhead of this movement were prominent Romans who, as Flamininus, were philhellenes. The characteristic that defined philhellenes in Roman society was their admiration of Greek culture, which they both absorbed and envied. Scipio Africanus was a notable example; in 205 he was seen in Syracuse “wearing a Greek mantle and sandals ... in the

370-371.

²⁵Erich S. Gruen, *The Hellenistic World and the Coming of Rome*, Vol. I (Los Angeles: University of California Press, 1984), 250-253.

²⁶Shiple, *The Greek World after Alexander*, 370-377.

²⁷Plutarch, *Titus Flamininus* 10.1-6 (Trans. Bernadotte Perrin. London: Heinemann, 1959), 349-351; cf. Livy 34.32-33.

²⁸Plutarch, *Flamininus* 2.2-4.

²⁹Plutarch, *Flamininus* 16.3.

³⁰Gruen, *The Hellenistic World and the Coming of Rome*, 220-221.

gymnasium, giving his attention to books in Greek and physical exercise.”³¹ Greek education was also desirable to Romans such as Aemilius Paullus, whose children were educated by Greek philosophers, rhetors, and artists.³² Greek intellectuals were brought into the inner circle of the Roman elite; the poet Ennius, for example, was brought to Rome in 203, and while there he became a friend of the Scipios.³³ And later in the century, Scipio Aemilianus was a patron of Panaetius, a Stoic philosopher, and of Polybius.³⁴ Somewhat ironically, philhellenes often imported large collections of Greek art that were war booty; for example, Q. Fabius Maximus, after the capture of Syracuse in 211, brought back a large collection of paintings, bronze and silver work, and statues, including a huge marble statue of Herakles.³⁵ However, despite these trends, philhellenes never allowed their love of Greek culture to interfere with their loyalty to Roman policy; their official business was always conducted in Latin, and Greek enemies in war were treated just as any other enemy.³⁶

Many prominent Romans, by contrast, were not philhellenes, and were in fact opposed to the corruption of Roman society that they perceived as resulting from Greek influence. The best example of this conservative attitude was Marcus Porcius Cato, a *novus homo*³⁷ who believed in, and lived by, traditional Roman virtue. He lived a very frugal life: Plutarch recalls that he “was contented with a cold breakfast, a frugal dinner, simple raiment, and a humble dwelling,”³⁸ and that he practiced his own medicine, being “suspicious of Greeks who practiced medicine at Rome,”³⁹ and that although he had received Pythagorean teaching in Tarentum in 209, he took over his children’s education from a Greek slave.⁴⁰ According to Plutarch, “he always clung to

³¹Livy 29.19.12. Or, at least, this is what his accusers would have had us believe.

³²Gruen, *The Hellenistic World and the Coming of Rome*, 257.

³³Ibid., 255.

³⁴Ibid., 257-258.

³⁵Ibid., 252-253, 259. Later we see Fabius allied with Cato against Scipio Africanus. This paradox can easily be explained by the fact that there was a stigma attached to philhellenism in elite Roman society; using philhellenism against Scipio was a political tool that aided Fabius against a rival faction.

³⁶Ibid., 267-270.

³⁷Plutarch, *Marcus Cato* 1.1-2, trans. Bernadotte Perrin (London: Heinemann, 1959), 303.

³⁸Plutarch, *Cato* 4.1.

³⁹Plutarch, *Cato* 23.3-4.

⁴⁰Gruen, *The Hellenistic World and the Coming of Rome*, 255-257, 260-261; Plutarch, *Cato* 2.3-4.

his native ways, and mocked at those who were lost in admiration of anything that was Greek,”⁴¹ and he “made mock of all Greek culture and training, out of patriotic zeal.”⁴² Whether Cato lived according to traditional Roman virtue out of patriotic zeal or political posturing (either interpretation could be argued),⁴³ he was at the forefront of Romans who stood in defense of Roman values against Greek influence.

The events of 186 happened in the context of Cato’s final political battles against Scipio Africanus and Flaminius.⁴⁴ Cato and Scipio represented two opposing ends of the spectrum of Roman opinion, and indeed, they were bitter rivals,⁴⁵ and we must be careful to recognize how very personal politics of this period were. Factions in the Roman Senate were not organized political parties, but much more fluid, relying on both the persuasiveness of individual orators and the connections between patrons and clients. Scullard argues that in the early 180s there were a limited number of prominent families who dominated magisterial positions, and that the most important division of the time was an alliance of the Fabii and Claudii (two influential families), who were rivals to Scipio’s family.⁴⁶ While family alliances may have influenced who could run for elected magistracies, Millar questions Scullard’s overall conclusion. He points out the importance of public assemblies, and the way senators had to promote themselves in the Forum in order to be elected into magistracies: a politician’s ancestry did contribute to his success in gaining public favor, public office was limited to a small number of families, and clients did actively support their patrons, but oratory was just as necessary to succeed in winning elections and passing legislation.⁴⁷ Yet, Scullard also accepted this aspect of Roman politics and

⁴¹Plutarch, *Cato* 12.4.

⁴²Plutarch, *Cato* 23.3-4.

⁴³Gruen, *The Hellenistic World and the Coming of Rome*, 260.

⁴⁴In 189 Flaminius had been elected censor and listed Scipio as *princeps senatus*; Scipio remained in this position until 184, when Cato allied with the Fabii against him. Scipio’s prestige rendered prosecution impossible. However, after giving a speech in the Forum, he returned home, and then retired to Liternum (Walsh, *Livy*, 92-104; *Livy* 38.50.4-60.10), and soon after Scipio’s retirement, Cato began his censorship in 184; a period known both for its strictness and for its excellent administration (Scullard, *Roman Politics*, 151-176; Plutarch, *Cato* 16-29; *Livy* 39.40-44). Cato expelled Flaminius from the Senate and listed L. Valerius Flaccus (*cos.* 195) as *princeps senatus*, replacing Scipio (Scullard, *Roman Politics*, 152; Plutarch, *Flaminius* 8-9; *Livy* 39.42.5).

⁴⁵Scullard, *Roman Politics*, 100, 112.

⁴⁶*Ibid.*, 136-144. These alliances formed at least in time for the elections in 189.

⁴⁷Fergus Millar, “The Political Character of the Classical Roman Republic, 200-151 B.C.” *The Journal of*

qualifies his thesis by stating that their power was “very great but not unchecked.”⁴⁸ He quotes Polybius, who says, “the People are the sole source of honours and of punishment,” “the only court to try capital charges,” and “have the absolute power of passing or rejecting laws.”⁴⁹ Whether their influence was based on public opinion or family connections, Cato and Scipio were leaders in opposing factions, but neither faction was a fixed group.

In addition to this, many Romans (in whatever faction) exhibited characteristics of both sides of the argument. As already noted, even Cato had received a Greek education, and philhellenes always placed Roman policy above philhellenism. Elite Romans had both an appreciation and a disdain for Greek culture, and recognized that an attraction to Greek culture could be a political liability. Gruen goes so far as to say that there was a “stigma” attached to philhellenism, and Romans “denied it or played it down as much as possible,”⁵⁰ and it is probably safe to say that many Romans stood near the center, either accepting some aspects of Greek culture and rejecting others, or having more neutral opinions. Nevertheless, Cato and Scipio exemplify two ends of a spectrum, and in 186 members of the Senate and *populus* alike were of differing opinions about Greek culture that cut across factional boundaries, and sometimes this led to tensions.

In 187, Gnaeus Manlius Vulso celebrated a triumph for his victory over the Galatians, shortly after the war with Antiochus. He brought back vast wealth, “luxurious furniture,” female musicians and other entertainment for banquets, and, worst of all in Livy’s mind, expert cooks.⁵¹ Other Roman politicians opposed Vulso’s triumph, accusing him of corruption, but his *amici* were able to gain favor with the people, so the triumph was unhindered.⁵² Livy sees this event as the root of Roman corruption, “for the beginnings of foreign luxury were introduced into the city by the army from Asia.”⁵³ He also recognizes that this was “scarcely” the beginning: “the seeds

Roman Studies, Vol. 74 (1984), 15.

⁴⁸Scullard, *Roman Politics*, 29.

⁴⁹Polybius 6.14.16, cited in Scullard, *Roman Politics*, 29.

⁵⁰Gruen, *The Hellenistic World and the Coming of Rome*, 264-266.

⁵¹Shibley, *The Greek World after Alexander*, 376-377; Livy 39.6.3-7.5.

⁵²Livy 39.6.4-6, 7.4-5.

⁵³Livy 39.6.7.

of future luxury.”⁵⁴

This event provides us with an example of the infiltration of Greek culture into Rome, the tensions this created, and the growing corruption that was seen to have resulted. It is recorded in the same book as the persecution of the Bacchanalia, and occurred only a year before, and although Livy does not link these two events historically, their quasi-contiguity suggests a thematic link: Livy narrates Vulso’s triumph as the source of Rome’s corruption, and the Bacchanalia as an example of corruption. Cato would have agreed wholeheartedly.

In response to such perceived corruption, the Senate had already begun to use legislation to control the foreign influence of Greek culture, and some attempts involved the suppression of foreign cults. In 213, “good citizens” complained to the Senate of foreign cults being practiced in public places. Itinerant priests “had taken a hold of men’s minds,”⁵⁵ profiting from plebs during the panic of the Punic War. The Senate sent minor magistrates to clear out the crowd, but they could not control the Forum, so the *praetor urbanus* stepped in and addressed a *contio*. He demanded that books containing prophecies, prayers, and ritual instructions be turned in to him, and forbade foreign cults from being practiced in public or sacred spaces.⁵⁶ As luxury continued to increase, M. Fulvius Nobilior celebrated a triumph in 186 featuring ten days of games: Rome’s first athletic competition, *artifices* from Greece, and a *venatio* of lions and panthers. Its extravagance concerned the Senate, who passed a law restricting future games to no more than the cost of Nobilior’s triumph; none the less, *panem et circenses* had arrived.⁵⁷

At various times in the 2nd century, the Senate also took legal action against Greek philosophy: two Epicureans were expelled in 173, a *senatus consultum* banned philosophers and rhetors in 161, and the philosopher Carneades was expelled on Cato’s initiative in 155. Gruen argues that they “attest at least to an official stand” against foreign ideas that contradicted Roman

⁵⁴Livy 39.6.9.

⁵⁵Livy 25.1.8.

⁵⁶Wilfried Nippel, “Policing Rome,” *The Journal of Roman Studies*, Vol. 74 (1984), 20-21; Livy 25.1.6-12.

⁵⁷Gruen, *The Hellenistic World and the Coming of Rome*, 260; Scullard, *Roman Politics*, 24; Livy 35.5.7-10, 22.1, 40.44.8-12.

values,⁵⁸ and these events were part of a pattern, for the Senate sought various means to legislate limits on Greek influence. Although they did not affect the events of 186, they did influence Livy, and demonstrated that the Bacchanalia was neither the first nor the last episode of this nature.

Rome's relations with its Italian allies were also changing in this period. Traditionally, Rome did not interfere with the allies' internal affairs, but by the 2nd century, Rome was growing in importance as an economic center, transforming its political and legal relations with the allies. Rome began extending its authority over their internal affairs, but the allies did not seem to mind, for their own security was at stake.⁵⁹ Three examples involved civil law, rights to citizenship, and conspiracy. Limits had been set on the interest rates of Roman money-lenders, but it was discovered in 193 that they were sub-contracting with Italian business partners, who charged higher interest rates, circumventing the legal limit. Rome extended *commercium* to these allies, leading to increased legal and commercial integration throughout Italy.⁶⁰ Second, Latin citizens enjoyed rights of *migratio*, but in 187 Latin cities complained that too many of their men had migrated to Rome. They were unable to meet their military commitments, so Rome deported 12,000 Latins.⁶¹ The third example was not *conubium*, but *coniuratio*.

The earliest known literary uses of the verb *coniurare* refer to the taking of an oath, or joining a group with a common purpose; for example, at the beginning of the Trojan War, the Greeks take an oath against the Trojans. Soldiers in the Roman military actually swore two *coniurationes*: one that bound them to loyalty with the Republic, the commander, and fellow-soldiers; and one that bound them to discipline and obedience to their commanders. These two oaths were combined for the first time at the Battle of Cannae, "that they would not quit their ranks for flight or fear, but only to take up or seek a weapon, either to strike an enemy or save a

⁵⁸Gruen, *The Hellenistic World and the Coming of Rome*, 262-263.

⁵⁹A.H. McDonald, "The History of Rome and Italy in the Second Century B.C." *Cambridge Historical Journal*, Vol. 6, No. 2 (1939), 125-126. Or else the allies were afraid to say "no" because they feared Roman retribution.

⁶⁰McDonald, "Rome and the Italian Confederation," 20; Livy 35.7.1-5.

⁶¹Scullard, *Roman Politics*, 146; Livy 39.4-6.

comrade.”⁶² In such times of emergency, when there was no time for soldiers to swear oaths individually, the general pronounced, “who so wishes the Republic to be safe, let him follow me” and soldiers swore collectively.⁶³ In its earliest, most important use, therefore, *coniuratio* was a soldier’s oath of allegiance to the Roman state.

Coniuratio had a dark side as well, though, for an “oath” could be sworn against the state, giving rise to its meaning “conspiracy.” The word had two diametrically opposed meanings, which Pagán refers to as “binary capacity.”⁶⁴ Logically, an oath of loyalty to a group was also an oath against the group’s enemy, and it was in the best interests of the Senate for citizens to only swear loyalty to the state. While the military *coniuratio* was a public oath of loyalty to the state, the secret *coniuratio* was a private oath of subversion to the state. In the process of suppressing conspiracies, *coniuratio* evolved into a precise legal term. To truly understand this requires a brief digression into Roman jurisprudence.

Early Roman law was based on interpretation of the Twelve Tables (c. 451 BC), a code with provisions for legal procedures, and both civil and criminal law. The division between civil and criminal law simply did not exist in Roman justice, though, since civil and criminal law were based on the same principles. In the same way that a “civil” suit was paid in kind, a case such as forgery, murder, theft, and arson was paid by private vengeance. The death penalty applied to these cases, but punishments were inflicted by the victim, not the state, and were made to fit the crime: the penalty for arson was to be burned to death, and the penalty for forgery was to be cast into an abyss. In cases of treason and *coniuratio*, however, the victim was the state, so criminals were punished by the state.⁶⁵

Early legal practice was jealously guarded by the *pontifices*, the priestly college drawn from the same class as senior magistrates. The earliest legal formulae were developed out of the practice of ritual formulae, which relied on strict use of the correct words. The practice of these

⁶²Pagán, *Conspiracy Narratives*, 11; Livy 22.38.2-4.

⁶³Pagán, *Conspiracy Narratives*, 11.

⁶⁴Ibid., 13.

⁶⁵Wolfgang Kunkel, *An Introduction to Roman Legal and Constitutional History*, 2nd ed. trans. J.M. Kelly (Oxford: Clarendon Press, 1973), 23-27.

formulae was reserved to the *pontifices*, an elite group of initiates whom Kunkel argues held a “monopoly” on “this secret knowledge.”⁶⁶ As well as rituals, *pontifices* were the only ones who could write wills and contracts, and present evidence to the courts. Under the *pontifex maximus*, the *comitia curiata* determined sacral law, and the pontifical colleges controlled state religion and ritual instruction. All officially sanctioned rites (e.g. the Vestal Virgins, the Capitoline Triad) were controlled by the same people who controlled the state.⁶⁷

From the beginning of the 3rd century BC, however, there emerged a class of jurists (*iurisconsulti*) who were not *pontifices*, and knowledge of the law became public as jurists (mostly senators) began practicing as consultants in matters of private law.⁶⁸ New laws proliferated in this period, as new *leges* were passed, as well as *plebiscita* after 287.⁶⁹ Sacral law included sacrificial ritual and wills, and continued to be the domain of the *pontifices*. Public law included decisions regarding the state, such as war and peace.⁷⁰ Private law included contracts and crime, and this was where the jurists concentrated their activities.⁷¹ They mastered the art of making wills and contracts, and presenting evidence.

As in other areas of life, Roman justice was at an embryonic stage of transformation at the beginning of the 2nd century, both resisting and absorbing the influence of the Greeks. For example, Greek rhetoric began to flow into Roman courts, but in 186 the predominant characteristic of Roman legal practice was formalism. Roman jurisprudence had earlier been somewhat flexible, but the jurists of the early 2nd century practiced a formalism that had cemented into a tradition. They were less concerned with theoretical questions than with the practical, technical procedures to use in particular cases. Legal literature, therefore, consisted of long lists of actual decisions, rather than expositions of abstract concepts. Likewise, legal

⁶⁶Kunkel, *Roman Legal and Constitutional History*, 95; cf. Fritz Schulz, *History of Roman Legal Science* (Oxford: Clarendon Press, 1946), 11-28.

⁶⁷Kunkel, *Legal and Constitutional History*, 10; Valerie M. Warrior, *Roman Religion* (Cambridge: Cambridge University Press, 2006), 42-48. Cicero believed that “among the many divinely inspired institutions established by our ancestors, nothing is more outstanding” than the state’s control of religion.

⁶⁸Kunkel, *Roman Legal and Constitutional History*, 96; Schulz, *Roman Legal Science*, 41.

⁶⁹Kunkel, *Roman Legal and Constitutional History*, 30.

⁷⁰*Ibid.*, 10-11.

⁷¹Alan Watson, *Law Making in the Later Roman Republic* (Oxford: Clarendon Press, 1974), 6-13.

training consisted not of theoretical instruction, but of practical experience, for apprentices followed jurists as they went about consulting clients in the Forum.⁷² Roman formalism was the norm in 2nd century legal practice, and *iurisconsulti* mastered the art of finding the clearest, most precise words to state the legal formula, in a practical manner to get to the truth.⁷³

Greek rhetoric, in contrast, was the norm in Hellenistic legal practice; *oratores* mastered the art of finding the most persuasive, colorful words to sway the judge's opinion, in a sophistic manner that sometimes obscured the truth.⁷⁴ Beginning in the 2nd century, Roman *oratores* ("advocates") with political ambitions began offering their services as advocates in the courts,⁷⁵ and this caused problems, since *oratores* and *iurisconsulti* were diametrically opposed in principle. Roman jurists refused to consider theoretical matters that were central to Greek justice (e.g., methods of interpretation, constitutional law, the theory of natural law), preferring to immerse themselves in the practice of day-to-day procedures,⁷⁶ and though Stoicism and Plato's dialectical method eventually began to influence Roman jurists, Romans resisted the forces of Hellenism with staunch conservatism. The result was that in Rome neither rhetoric nor philosophy was as advanced in the days of Cato as both were in the days of Cicero, a century later.⁷⁷

As the Mediterranean entered a new era – an *episteme* that Horace epitomized better than anyone – even as Roman justice attempted to counteract the wave of Greek culture which swept in like a frenzy of maenads, Roman justice itself was being transformed. At the center of that process, Roman justice met Bacchic madness, and for the moment, Roman justice prevailed. The key, the formula that ignited the whole affair, was *coniuratio*. *Coniuratio* had developed a new meaning and the Senate had developed a policy for dealing with it.

⁷²Fritz Schulz, *Principles of Roman Law*, trans. Marguerite Wolff. Oxford: Clarendon Press, 1956), 32, 48, 54-55, 176; Kunkel, *Roman Legal and Constitutional History*, 96-98, 111; Schulz, *Roman Legal Science*, 25-26, 57-61.

⁷³ Schulz, *Roman Legal Science*, 54-55.

⁷⁴Ibid., 54-55.

⁷⁵Ibid., 38-39, 43-45.

⁷⁶Ibid., 56, 70-71.

⁷⁷Ibid., 62-67. Kunkel argues that although dialectical method was introduced, Roman justice never became a legal science along the lines of Greek science (Kunkel, 101).

Early in the Republic, the Senate was opposed to clandestine organizations that paralleled the state. At the dawn of the Conflict of the Orders, the plebeians had organized themselves in nocturnal assemblies. These secret meetings ran counter to the patricians' meetings in the Forum, and the consuls thought them "ruinous;" subsequently, they were banned in the Twelve Tables.⁷⁸ In the 3rd century, Rome responded to allied revolts, and conspiracies to revolt, by sending magistrates to suppress them. Open revolts were treated like war, while conspiracies to revolt were dealt with by arresting the ringleaders and sending garrisons. A good example was the twelve cities, including Tarentum and Locri, which revolted in 209.⁷⁹

Another came in 198, when a group of slaves who had been captured in the Second Punic War planned a conspiracy to take a Latin town. The *praetor urbanus*, L. Cornelius Lentulus, received information about this from two slaves, whom he put into protective custody. He brought what he had learned to the Senate, which advised him to conduct a *quaestio* and to suppress the *coniuratio*. First, Cornelius made his assistants swear the legitimate soldiers' *conuratio*, and then he arrested the ringleaders of the slave conspiracy, while the rest of the conspirators fled. Returning to Rome, Cornelius received a reward of 100,000 bronze coins, and the slave informants were rewarded with money and freedom. The conspirators regrouped and tried to take Praeneste, so Cornelius went there to crush them, executing 500 Punic slaves and leaving the rest in chains.⁸⁰ This procedure mirrors closely that practiced by Postumius in 186.

There were also incidents of poisoning and brigandage in Italy in the 180s, which the Senate treated as conspiracy.⁸¹ In 185, a *coniuratio* of shepherds in Apulia infested public pastures and roads with highway robbery; L. Postumius conducted a *quaestio* and executed 7,000 people.⁸² In 184, the praetor over Sardinia conducted a *quaestio* into cases of poisoning, and in 180, two prominent Romans died of disease, which the Senate interpreted as a portent; once again, they commissioned a praetor to investigate poisonings. He found so much evidence that it

⁷⁸Nippel, "Policing Rome," 24; Livy 2.28.1-5.

⁷⁹Nippel, "Policing Rome," 24; McDonald, "Rome and the Italian Confederation," 13-14.

⁸⁰Livy 32.26.4-18.

⁸¹McDonald, "Rome and the Italian Confederation," 15.

⁸²Livy 39.29.8-10, 41.5-7. He was Spurius Postumius Albinus' cousin.

diverted him from his *provincia* in Sardinia.⁸³ In the early 2nd century BC, conspiracies and poisonings were endemic to Italian society.

Public order had become an Italy-wide concern, so Rome developed a policy for dealing with conspiracies. People who swore oaths of loyalty to a group that was not the state, in secret nocturnal meetings, were dangerous to the stability of the state, and this concept was contained in the word *coniuratio*. When a *coniuratio* was discovered, Rome's policy was to commission a magistrate to conduct a *quaestio*, to execute the ringleaders and neutralize the rest of the group, and to reward informants. Conspirators were often tried in "extraordinary courts" (*quaestiones extraordinariae*), under a consul or praetor, with a *consilium* of senators.⁸⁴ In doing so, Rome extended its jurisdiction over the allies, using as its "constitutional justification" the word *coniuratio*, which McDonald understands to mean "state of emergency."⁸⁵ No longer was a *coniuratio* simply an "oath," but a "conspiracy," associated with murder, poisoning, and subversion to the state. To invoke *coniuratio* was to raise the Senate's worst fears, and it tended toward drastic reactions. This should all sound familiar, for that is precisely what the Senate did in 186.

How did the Bacchanalia make its way to Rome? Livy claims that an "unknown Greek came first to Etruria" who was a "priest of nocturnal rites and of secrets," and that later the rites were transformed by a priestess in Campania.⁸⁶ There is archaeological evidence of Dionysus in Etruria and Campania, and he had been established in *polis* cult in Magna Graecia since the 6th century BC.⁸⁷ Frank suggests that the cult was brought to Rome by Greek slaves from Tarentum and Locri, who had been captured in the Second Punic War,⁸⁸ and Toynbee widens the suggestion by describing a massive demographic shift of slaves and refugees alike.⁸⁹ Both argue

⁸³Scullard, *Roman Politics*, 155; Livy 39.38.3; 40.37.1-9, 43.2-3, 44.6.

⁸⁴Kunkel, *Roman Legal and Constitutional History*, 65.

⁸⁵McDonald, "Rome and the Italian Confederation," 14-15.

⁸⁶Livy 39.8,13.

⁸⁷Martin P. Nilsson, "The Bacchic Mysteries of the Roman Age," *The Harvard Theological Review*, Vol. 46, No. 4 (Oct. 1953), 192; Larissa Bonfante, "Fufluns Pacha: The Etruscan Dionysus," in *Masks of Dionysus*, 221-222;

⁸⁸Tenney Frank, "The Bacchanalian Cult of 186 B.C." *The Classical Quarterly*, Vol. 21, No. 3/4 (June-Oct. 1927), 128-132.

⁸⁹Toynbee, *Hannibal's Legacy*, 390.

that the Bacchanalia came to Rome by Greek migrations, not by Romans being initiated.

Burkert prefers to agree with Livy, citing other examples of wandering charismatics who spread mystery cults.⁹⁰ Graf agrees with Burkert, based on evidence found in Orphic gold tablets. He argues that Orphic teachings provided ritual formulae for Bacchic rites, and that both were expanded by Orphic itinerants (*orpheotelestai*).⁹¹ We may include in this list every other kind of social contact there was between Greece and Rome. The Bacchanalia came to Rome because of all of these things; it was inevitable with the city's growing importance. Here Livy's account stands up to reason: Magna Graecia, Campania and Etruria, having been in Rome's sphere of influence for over a century, were the most likely points of origin, and the process had begun gradually, long before 186.

Dionysus had been called Liber in Rome since 496 BC, and was honored in traditional Roman cult, but had long since been Romanized by the Senate and pontifical college.⁹² The difference between Liber and the Bacchanalia was that the Bacchanalia were ecstatic mystery rites, but even more ecstatic was Magna Mater – Kybele – and she was welcomed by the Senate with the highest honors in 204 BC. At the advice of the Sibylline oracles, Rome sent Scipio Nasica to bring Kybele from Pergamum. When she arrived, she was greeted by a great celebration and taken to the Palatine, where her temple was completed in 191. The orgiastic rites of the castrated, cross-dressing *galli* certainly did not appeal to conservative Roman tastes, but the cult of Kybele was restricted and supervised by Roman magistrates. Only one priest and priestess and one annual procession were allowed, while Roman citizens were forbidden from its priesthoods and practices, and the wildest rites were banned entirely.⁹³ Liber was a traditional cult and Magna Mater was a mystery cult, but here is the point: both were state-regulated.

Even so, there were aspects of Bacchic ritual that were not state-regulated and were not

⁹⁰Walter Burkert, *Ancient Mystery Cults* (Cambridge, Mass: Harvard University Press, 1987), 31-33.

⁹¹Fritz Graf and Sarah Iles Johnston, *Ritual Texts for the Afterlife: Orpheus and the Bacchic Gold Tablets* (London and New York: Routledge, 2007), 142-144, 175.

⁹²Toynbee, *Hannibal's Legacy*, 387-388.

⁹³Toynbee, *Hannibal's Legacy*, 384-387; Gruen, *The Hellenistic World and the Coming of Rome*, 222; Scullard, *Roman Politics*, 123; Livy 29.14; 36.36.3. Scipio Nasica considered this his life's greatest achievement.

suppressed. For example, the most obvious, important characteristic of Dionysus was that he was the god of wine. As such, every time a libation was poured, at every sacrifice, every *symposium*, every meal, Dionysus was present, the most immanent deity in the pantheon.⁹⁴ He was the deity most frequently depicted in pottery,⁹⁵ most frequently invoked in sacrifice, and most conspicuous at theatrical performances. Far from being a secret mystery, Dionysus was the most famous of all the gods; in fact, he was inescapable. He was popular as the god of the theater, which, contrary to the ancient assertion that it had “nothing to do with Dionysus,” was permeated with Bacchic themes.⁹⁶ By 186 BC, the theater had appeared in Rome, and the earliest Latin literature includes playwrights from this period, including Ennius, Naevius, and Plautus.⁹⁷

Plautus is important because his comedies are some of the first Roman literary sources that mention Bacchus, and the nearest sources to the events of 186.⁹⁸ Scattered Bacchic references appear, and are clearly pejorative. In *Rudens*, the slave Trachalio asks a group of fishermen if they have seen the scoundrel who has cheated his master, and describes him as “a Bacchus-type ... hateful to gods and men, vicious and evil.”⁹⁹ In *Aulularia*, a cook named Eel, after being put to work, runs out of the kitchen crying, “Debutantes of Dionysus! Me and my boys have been taking some Bacchic beating.”¹⁰⁰ Plautus spins two classic Roman puns in *Bacchides*, a comedy about two sisters, both named Bacchis. Bacchis I’s lover Pistoclerus senses that the sisters are manipulating him and declares, “I’m afraid of you bacchantes and your bacchanals, Bacchis.”¹⁰¹ Later in the play, Pistoclerus’ slave Lydus comes out of the Bacchides’ house, shocked at their

⁹⁴Dirk Obbink, “Dionysus Poured Out: Ancient and Modern Theories of Sacrifice and Cultural Formation,” in *Masks of Dionysus*, 78-79.

⁹⁵Albert Henrichs, “Dionysus,” in *The Oxford Classical Dictionary*, 3rd edition, ed. Simon Hornblower and Antony Spawforth (New York: Oxford University Press, 1996), 481.

⁹⁶Renate Schlesier, “Mixtures of Masks: Maenads as Tragic Models,” in *Masks of Dionysus*, 91, 114; Froma I. Zeitlin, “Staging Dionysus between Thebes and Athens,” in *Masks of Dionysus*, 147-149.

⁹⁷Robert Rousselle, “Liber-Dionysus in Early Roman Drama,” *The Classical Journal*, Vol. 82, No. 3 (Feb.-Mar. 1987), 193-195.

⁹⁸Ibid. Plautus died between 186 and 184, so it is unclear which plays were produced before or after 186.

⁹⁹Plautus, *Rudens* 309-312, trans. James Tatum, in *Plautus: The Comedies*, Vol. II, ed. David R. Slavitt and Palmer Bovie (Baltimore: John Hopkins University Press, 1995), 21.

¹⁰⁰Plautus, *Aulularia*, 508-509, trans. Palmer Bovie, in *Plautus: The Comedies*, Vol. II, 120.

¹⁰¹Plautus, *Bacchides* 131-132, trans. James Tatum, in *Plautus: The Comedies*, Vol. II, 168.

immoral behavior, and tells the audience that “these sisters Bacchis aren’t Bacchises, they’re Bacchae!”¹⁰² In Roman comedy, “Bacchic” was a colloquial insult, denoting violent frenzies and sexual deviance by low status, immoral people. To call someone Bacchic was to describe him or her as the worst kind of human being.

Plautus’ comedies would have both influenced, and been influenced by, popular Roman perceptions of Bacchic myth and cult. Roman spectators would have perceived the Bacchic mysteries in a negative light. But just as important as what Plautus says is what he does not say; Bacchic references in his comedies are fleeting, and do not stop to explain themselves to the audience. Plautus assumed that his audience already had some level of understanding about Bacchic cult, and would find such jokes appealing. Therefore, the most important thing Plautus’ comedies reveal is that Dionysus was generally known by members of the Roman *populus*. By 186, members of the Roman Senate were quite familiar with Dionysus, and we can be sure that Cato and Scipio had different opinions.

What would Postumius have thought? There is no doubt that Spurius Postumius Albinus was a historical figure, for he lends his name to the consular year of 186 BC,¹⁰³ and his name appears on the *S.C. de Bacchanalibus*.¹⁰⁴ References to him and his family are found scattered in Roman history.¹⁰⁵ In the early Republic (499 or 496 BC), A. Postumius Albus and T. Aebutius Helva built the temple of Ceres, Liber, and Libera at the foot of the Aventine, and the Postumii maintained its customs until the late Republic. This suggests not only that Postumius opposed the Bacchanalia in 186 to defend his family’s position, but also that the Aebutii may have maintained or restored their alliance with the Postumii.¹⁰⁶ Scullard suggests that the Postumii were allied with the Fabii, who were friends with the Claudii and the Plautii; this implies that Postumius’ and Plautus’ views may have been in accord. If we accept Scullard’s interpretation

¹⁰²Plautus, *Bacchides* 563.

¹⁰³Scullard, *Roman Politics*, 304; Livy 39.8.1.

¹⁰⁴*S.C. de Bacchanalibus* 1.

¹⁰⁵Scullard found ten Postumii in the period 220-150 BC (Scullard, *Roman Politics*, 322-323).

¹⁰⁶Robert Rousselle, “Persons in Livy’s Account of the Bacchic Persecution,” *Studies in Latin Literature and Roman History* 5 (1989), 61-63.

of factions in this period, then we can deduce that in 186 Postumius was allied to the Fabii and Claudii, and by extension, to Cato.¹⁰⁷ In this case, Postumius would have been in a faction that was opposed to philhellenism. Therefore, it makes sense to conclude that Postumius was ideologically predisposed to oppose the Bacchanalia.

Livy begins by saying that the consuls were “diverted” from military duties in Liguria in 186 when “a *quaestio* about clandestine *coniurationes* was decreed.”¹⁰⁸ They had been preparing for war, which suggests that it was spring when “at last information came” to the consul through P. Aebutius, “in mostly this way.”¹⁰⁹ By introducing the Hispala narrative in this manner, Livy himself expresses suspicion over the historicity of the following section (39.9.2-13.14). He was well aware that literary sources had embellished the details, and he probably added touches himself. This suspicion has prevailed in modern scholarship, but certain details can be verified by analyzing people’s names.

Livy introduces Aebutius, whose mother and stepfather conspired to deprive him of his inheritance by having him initiated into the Bacchanalia. The Aebutii were not prominent, having held no major magistracies since the 5th century – Aebutius’ father was an equestrian (*equo publico*) – but T. Aebutius Carus became a praetor in 178, and after this time the Aebutii achieved greater success in Roman politics. These details indicate that Aebutius did exist, and that his service to the consul increased his family’s fame.¹¹⁰

When Aebutius informed his lover, Faecenia Hispala, of his mother’s intentions, Hispala warned him of the cult.¹¹¹ Livy describes her as a *nobile scortum* (“well-known/noble prostitute”), a manumitted slave who had been to an initiation before she was freed, but had not returned since.¹¹² The plausibility of Hispala’s existence and role is confirmed by the reward conferred to her in the more reliable Postumius narrative.¹¹³ The name “Hispala” indicates a

¹⁰⁷Livy 39.45.8.

¹⁰⁸Livy 39.8.1-3.

¹⁰⁹Livy 39.9.1-2.

¹¹⁰Rousselle, “Persons in Livy’s Account,” 63-65; Scullard, *Roman Politics*, 283, 308; Livy 39.9.2.

¹¹¹Livy 39.9.2-10.9.

¹¹²Livy 39.9.5, 10.5.

¹¹³Livy 39.19.5.

Spanish origin, and the *nomen* “Faecenia” is seen in inscriptions from Rome and Ostia.¹¹⁴

Whether or not Livy’s narrative is a faithful account of the exact chain of events, we can be relatively sure that Aebutius and Hispala were Postumius’ informants. The consul prepared his witnesses carefully, placing them into protective custody, and presented his case to the Senate, “expositing everything in order.”¹¹⁵ He arranged the facts in as precise a manner as possible, using the correct legal format for presenting evidence. That he would prepare his witnesses carefully lends more weight to the historicity of these events, for “everything in order” would have been preserved, if not in state records, at least in the family records of the Postumii.

Livy narrates the Senate’s meeting briefly, describing the moral shock of the Bacchanalia without relaying much of senatorial discourse. Walsh accuses Livy of idealizing the Senate’s morality and being naïve about politics,¹¹⁶ and perhaps this can be seen in his depiction of their reaction. The Senate was swept into a Bacchic frenzy of panic, “both in the name of the public, lest these *coniurationes* and nocturnal assemblies introduce hidden frauds or dangers, and then privately on their own account, lest any of them be connected to this offense.” Immediately they voted a decree of thanks to Postumius and ordered a *quaestio*.¹¹⁷

Livy does not specify whether or not Postumius called a special meeting of the Senate, or even when the meeting was; it could have been any time between early spring and late summer.¹¹⁸ The Senate met regularly on the *calendae*, *nonae*, and *ides* (1st, 5th or 7th, 13th or 15th) of every month;¹¹⁹ perhaps he had been anticipating an upcoming meeting when he took the time to prepare his witnesses, but we can not know. Most often the Senate met in the Curia Hostilia, at the north end of the Forum, not far from the Comitium and the Rostra, but at times they met at

¹¹⁴Rousselle, “Persons in Livy’s Account,” 61.

¹¹⁵Livy 39.14.1-3.

¹¹⁶Walsh, *Livy*, 166.

¹¹⁷Livy 39.14.4-5.

¹¹⁸The consuls were elected on March 15, so the meeting was after this date. During the *quaestio*, the courts were plugged for 30 days (39.18.1-3) and the *S.C. de Bacchanalibus* is dated October 7, so the *quaestio* lasted at least a month, but probably longer.

¹¹⁹A.G. Russell, “The Procedure of the Senate,” *Greece & Rome*, Vol. 2, No. 5 (Feb. 1933), 114; *S.C. de Bacchanalibus* 1; Livy 39.14.3, 18.8-10.

the temples of Apollo and Bellona on the Campus Martius.¹²⁰ After receiving the Senate's advice, Postumius proceeded directly to the Rostra,¹²¹ so this particular meeting of the Senate was probably at the Curia.

Postumius approached the Senate, ostensibly not for a vote but for consultation. After addressing his topic, he would have asked, "What do you advise? (*Quid censes?*)"¹²² The first person to speak in senatorial debate was the *princeps senatus*: in this case, Scipio Africanus. Following the censor's list, other senators spoke according to order of rank: first those of consular rank, then praetors, and so on. As the speeches continued, senators indicated their positions on the argument, not by a formal vote, but by standing next to the speaker with whom they agreed. Decisions were often made in this way in the Senate,¹²³ so as soon as a clear majority of senators stood next to Postumius, the decision was reached.

We can make a reasonable estimate of who was in attendance that day. Q. Marcus Philippus, the other consul, must have been there, as well as delegations of the Fulvii, Fabii, and Claudii. As we observed earlier, these families were allied in competition with the Scipios during this period.¹²⁴ Scipio Africanus and Flamininus would have been there, for the events of 186 happened in the context of their final battles with Cato. Scipio had not yet retired, Flamininus had not yet been expelled, and Cato had not yet listed L. Valerius as *princeps senatus*.¹²⁵ It is unclear whether this was the same L. Valerius whose name appears on the *S.C. de Bacchanalibus*, which does not list cognomens¹²⁶ – at least two other L. Valerii were active in politics in this period¹²⁷ – yet this indicates links between the *S.C.*, the Valerii, and Cato.

Cato was certainly there. We even have a fragment of a speech that he might have delivered, *De Coniuratione*, but only one word is extant: *precem*.¹²⁸ *Precem* can be translated as

¹²⁰Russell, "The Procedure of the Senate," 119.

¹²¹Livy 39.15.1.

¹²²Russell, "The Procedure of the Senate," 116.

¹²³Ibid., 116-117.

¹²⁴M. Claudius, L. Valerius, and Q. Minucius appear in the *S.C. de Bacchanalibus* 1-2.

¹²⁵Scullard, *Roman Politics*, 152; Plutarch, *Flamininus* 8-9; Livy 39.42.5.

¹²⁶*S.C. de Bacchanalibus* 1.

¹²⁷Scullard, *Roman Politics*, 325. One was a tribune in 195, and the other was a praetor in 192.

¹²⁸Cato the Elder, "Orationum M. Porci Catonis Fragmenta," X.68, Found online at

“request, entreaty; prayer; good wish; curse.”¹²⁹ This tells us little; he could either be referring to an “entreaty” for the Senate to do its duty, or the “curse” that the Bacchanalia was bringing to the city. But the title speaks volumes; his speech was “on conspiracy,” so we have a very clear idea of where Cato and his supporters stood: literally, they stood next to Postumius.

However, we do not know any more about what Scipio and Flamininus would have said than what we can infer from the general rhetoric. If they were concerned with law and order, or if they wanted to play down their philhellenism, then they would have spoken against the cult; but if they were motivated by factional rivalries, then they might have spoken against the *quaestio*. Scullard argues that Cato promoted the *S.C. de Bacchanalibus* to oppose the Scipios, who were importing foreign customs.¹³⁰ Rousselle argues that the Scipios did not support the cult, and Bauman supports Rousselle by pointing out that L. Crassus is named on the *S.C.*, and that he was a supporter of the Scipios.¹³¹ If Scipio did not support the cult, then his reason may have been to maintain his political prestige against growing opposition within the Senate; however, because of factional rivalries, he would not have stood next to Cato, but advocated a less extreme response. Philhellenism and its opposition cut across factional boundaries; L. Crassus was not bound by the opinions of the Scipios no matter what his factional loyalties were, so his inclusion on the *S.C.* does not conclusively prove that the Scipios did not support the cult. In terms of right and left on a spectrum, Scipio would have stood near the center; he may not have supported the Bacchanalia, but he did not support Cato.

Livy records two reactions: first, for the sake of the public, “lest these *coniurationes* ... introduce hidden frauds or dangers,” and second, for their own sake, “lest any of them be connected to this offense.”¹³² What he does not say is whether these were the same senators, or whether these were two types of reactions by different groups of senators. In other words, the following scenario is likely: the philhellenes were afraid that they might be accused of

http://www.thelatinlibrary.com/cato/cato_frag.html on November 4, 2007.

¹²⁹Joyce Littlejohn (ed.), *Collins Latin Dictionary plus Grammar* (Glasgow: HarperCollins, 1997), 170.

¹³⁰Scullard, *Roman Politics*, 147.

¹³¹Bauman, *Women and Politics*, 36-37.

¹³²Livy 39.14.4.

conspiracy, and the anti-philhellenes were concerned about the dangers of the foreign cult. So the philhellenes, in order to avert such a danger, played down their philhellenism by taking a moderate stance against the cult. Livy may not always have been as naïve about Roman politics as Walsh thinks, and Scullard may not have been too far off the mark. But philhellenes never let love of Greek culture stand in the way of Roman policy, so if they believed that there was a *coniuratio*, then they would have supported the *quaestio*.

When the Senate had reached a decision, it authorized the issue of a *senatus consultum*, which was worded not as a statute, but as advice to the magistrate. The consuls appointed a committee to draft the *S.C.*, which included the magistrate who had proposed the resolution (i.e. Postumius) and some of his supporters.¹³³ After drafting this *S.C.*, the Senate ordered minor magistrates to investigate,¹³⁴ and a copy was filed in the *aerarium* at the temple of Ceres, where plebian aediles maintained copies of state documents.

Postumius' next duty was to address the People. It was customary for a magistrate who was passing legislation to address the *populus* in a *contio*. A *contio* was an informal assembly, in contrast to a *comitia*, where formal votes were cast, which helps explain the difference between a *senatus consultum* and a *lex*. In order for a *lex* to be passed, a magistrate was required to bring the legislation to a *comitia* or the *concilium plebis* for a vote. Magistrates often convened a *contio* as a preliminary meeting, after which a formal assembly ratified the proposal, and the *lex* was passed.¹³⁵ But in the case of a *senatus consultum*, the *contio* was little more than an informational meeting, simply called to publicize the Senate's edicts.¹³⁶ The *populus* were not given a chance to vote, but the *S.C.* was not legally binding on the people in the same way as a *lex*: it was not a law for the people to obey, but a mandate for the magistrate to act. Regardless of the lack of formal authority, the Senate's *auctoritas* assured the cooperation of most Romans.

¹³³Russell, "The Procedure of the Senate," 116-117; *S.C. de Bacchanalibus* 1-3.

¹³⁴Scullard, *Roman Politics*, 251; Arnaldo Momigliano and Tim J. Cornell, "*Senatus consultum*," in *The Oxford Classical Dictionary*, 1388; Livy 39.14.9-10.

¹³⁵Watson, *Law Making in the Later Roman Republic*, 6-20.

¹³⁶Millar, "The Political Character of the Roman Republic," 2-4, 16-19; Kunkel, *Roman Legal and Constitutional History*, 30.

Senatus consulta were regarded as equal to the law by custom, but not by jurisdiction, for they were not formal law.¹³⁷ However, magistrates tended to heed the Senate's advice. There were five decrees in the first *S.C.* of Livy 39.8-19:¹³⁸

(1) The first decree was a motion of thanks to Postumius for bringing the conspiracy to the Senate's attention. This decree was fulfilled as soon as it was uttered.

(2) The second decree was an "extraordinary" mandate for the consuls to conduct a "*quaestio* into the Bacchanalia and their nocturnal rites." In addition to an "investigation," a *quaestio* was a special court set up for cases involving mass numbers and important political cases.¹³⁹ Beyond their regular duties, the consuls were to conduct an investigation into the Bacchic cult and to prosecute those guilty of crimes.

(3) The third decree was for Aebutius and Hispala to be placed under protection. Because Postumius had already done this, this decree simply put the Senate's seal of approval on his actions.

(4) The fourth decree was that "the priests of these rites" throughout Italy were to be found and placed "in the power of the consuls" (*in consulum potestate*). Livy's synopsis of this decree does not specify what the consuls were to do with the priests, but most likely they were detained and interrogated, and perhaps not all of them were prosecuted.

(5) The fifth decree was that "in addition" (*praeterea*) edicts were to be drafted and sent throughout Italy, forbidding initiates from assembling. This was the section of the first *S.C.* that ordered the draft of the *S.C. de Bacchanalibus*, published on October 7, 186.

But "before all of these things" (*ante omnia*), a *quaestio* was ordered into who was involved in the *coniuratio*, especially those guilty of "debauchery or crime" (*stuprum flagitiumve*).¹⁴⁰ This *S.C.* gave the consuls a mandate to conduct a *quaestio* and to arrest Bacchic initiates in Rome and throughout Italy. Let us note what can be called the "*ante omnia* clause."

¹³⁷Watson, *Law Making in the Later Roman Republic*, 21-30.

¹³⁸Livy 39.14.5-9.

¹³⁹Ernst Badian and A.W. Lintott, "*Quaestiones*," in *The Oxford Classical Dictionary*, 1286-1287.

¹⁴⁰Livy 39.14.8-9.

“Before all of these things” (including the drafting of the *S.C. de Bacchanalibus*), Postumius was to take priests into custody, question them, and arrest conspirators. Postumius heeded the Senate’s advice and began immediately. With a customary prayer and a speech in the Forum, Postumius publicized the first *S.C.* and commenced with the *quaestio*.

There is not room here for a discussion of the full process of the *quaestio*, but in its results we begin to see how opposition to philhellenism, mixed with Roman formalism, produced these extraordinary events. The consuls offered rewards to informants and summoned people to court; anyone who failed to appear in court was condemned *in absentia*. It was forbidden to buy or sell products that might help suspects escape, and guards were posted at city gates.¹⁴¹ Primarily, the consuls were concerned with those guilty of debauchery, forgery, poison, and murder. Conspirators who were guilty of these crimes were executed, while those who had been initiated but had not committed crimes were “left in chains.”¹⁴² Livy estimates that there were seven thousand conspirators,¹⁴³ adding that more were executed than imprisoned, and that there were both men and women in each category. Some committed suicide, but the “priests and founders” were brought directly to the consul and tried immediately. Livy even tells us the ringleaders’ names: Marcus and Gaius Atinius (Roman plebs), Lucius Opernicus (Faliscan), and Minius Cerrinius (Campanian).¹⁴⁴ Women with *manus* were handed over to the *paterfamilias* of their *gens*, and the consuls traveled throughout Rome, destroying shrines.¹⁴⁵

What was the fate of those “left in chains”? Rome had nothing like a modern prison system, so where they were imprisoned, and how long, is a mystery. Cerrinius, the Campanian ringleader, was imprisoned in Ardea, and the Ardeans were told to keep an eye on him.¹⁴⁶ He was probably under house arrest, the most common means of Roman imprisonment. Larger

¹⁴¹Livy 39.14.8-9, 17.1-6.

¹⁴²Livy 39.18.3-5.

¹⁴³There were probably fewer than 7,000. Compare his account of two battles against Antiochus. In 36.9.11-12, he compares Polybius’ numbers to Antias’ and finds Antias’ exaggerated. In 37.44.1-2, he estimates large numbers and does not discuss his sources. The number 7,000 in this passage was “rounded up,” as it were.

¹⁴⁴Livy 39.17.5-7, 18.5-6.

¹⁴⁵Livy 39.18.6-8. This is an interesting example of how Roman justice was a mixture of both formal and informal systems; another example is the *auctoritas* of a *senatus consultum*.

¹⁴⁶Livy 39.19.2.

households had areas where misbehaving slaves (and much earlier in the Republic, debtors) were kept. By this method, suspects awaiting criminal prosecution, and criminals awaiting execution, were normally imprisoned only for short periods of time.¹⁴⁷ Conspirators who were “left in chains” were probably not left there very long, but were detained to assist the *quaestio* and released when it was over.

Cerrinius was kept in close custody, not only to prevent his escape, but also to prevent him from committing suicide. Considering the number of executions that are alleged to have taken place, it seems strange that one of the “priests and founders” would not be executed, but be imprisoned and even prevented from suicide.¹⁴⁸ Livy offers no explanation, but obviously Cerrinius ratted on his friends, and negotiated a plea bargain with the consuls. He was probably left alive because of his value as an informant. Yet this also completes what Pagán calls the “strategy of containment” in Livy’s narrative,¹⁴⁹ and it satisfies the desire of ancient historians to uncover what happened (*res gestae*).¹⁵⁰ Cerrinius’ imprisonment provides resolution to the plot, assurance that the conspiracy is no more, and it answers the question of who was ultimately responsible for the conspiracy.

Ancient shrines were not destroyed, which probably means that *polis*-related ritual was left alone.¹⁵¹ The temples of Demeter, Persephone, and Dionysus, dating back to the 6th century, might have been spared, but relatively newer, private organizations were targeted. Many of them might have been gravesites where *thiasoi* performed funerary rites.¹⁵² Livy merely states that ancient and consecrated shrines were left intact, and archaeological evidence for the cult of Dionysus in Italy mysteriously disappears in the 2nd century.¹⁵³ It should not be surprising that

¹⁴⁷Adolf Berger and A.W. Lintott, “Prison,” in *The Oxford Classical Dictionary*, 1248.

¹⁴⁸Livy 39.19.2-3; cf. 39.17.6-7.

¹⁴⁹Pagán, *Conspiracy Narratives*, 6.

¹⁵⁰Luce, *Livy*, 158.

¹⁵¹Livy 39.18.7-8.

¹⁵²Burkert, *Ancient Mystery Cults*, 22; Graf and Johnston, “Dionysian and Orphic Eschatology,” 258; Nilsson, “The Bacchic Mysteries of the Roman Age,” 192.

¹⁵³There were two distinct periods of Bacchic mysteries: from the 6th to 3rd centuries BC (diminishing after 200 BC), and from the early 1st century BC to Late Antiquity, a period when *thiasoi* appeared more conservative in nature. This could indicate either that the Bacchanalia stopped after 186 or that it continued *incognito*, but neither idea is persuasive due to lack of evidence (Burkert, “Bacchic *Teletai* in the Hellenistic Age,” in *Masks of Dionysus*,

the Roman Senate would have more respect for the *mos maiorum* of its allies than for new foreign cults inside Rome. This, then, raises the question: was there really a conspiracy, or was all of this merely the Senate's prejudiced reaction against Greek cult?

Although opposition to philhellenism provided powerful rhetoric to Senate debates, it was only a supporting argument. Otherwise, they might have suppressed the rites earlier, or suppressed other Greek influences, such as the theater. If foreign cults were their only concern, they might have simply passed laws, as they had done in 213. However, despite the rivalry between Cato and Scipio, Scipio certainly would have stood against a *coniuratio*. The courts were not yet flooded with *oratores*, and judges would not have wasted their time with arguments about the value of Greek culture. Judges were concerned with more precise questions, and *iurisconsulti* gave them precise answers. Did the defendants swear an oath of loyalty to a Bacchic organization, and did they participate in secret nocturnal assemblies? If so, they were guilty of *coniuratio* and "left in chains," at least for the duration of the *quaestio*. Did they participate in such activities as debauchery, forgery, poison, and murder? If so, they were executed.

When the initial *quaestio* was complete, the Senate passed the *S.C. de Bacchanalibus*, summarized in 39.18.8-10. Although *senatus consulta* were available to Livy both in the *aerarium* and in book form, Walsh argues that he transmitted the *S.C. de Bacchanalibus* from a late annalist.¹⁵⁴ Fortunately, we have an extant copy of the *S.C. de Bacchanalibus* (*CIL* I² 581=*ILS* 18), found in Ager Teuranus in Bruttium,¹⁵⁵ and we can approach it directly. It contains the basic legal formula of most *senatus consulta*:¹⁵⁶

(1) Lines 1-2a list administrative details: the names of the presiding magistrates, Postumius and Philippus, and the members of the drafting committee are listed (M. Claudius, L. Valerius, Q. Minucius), along with the date (October 7) and the place of drafting (temple of

259-260).

¹⁵⁴Walsh, *Livy*, 112.

¹⁵⁵Pagán, *Conspiracy Narratives*, 51.

¹⁵⁶This analysis is based on the structure explained in the *Oxford Classical Dictionary*, 3rd ed. (Momigliano and Cornell, "Senatus consultum," 1388).

Bellona).

(2) Lines 2b-3a contain a statement by the proposing magistrate: “About the Bacchanalia (*De Bacchanalibus*), they decreed that this decree be issued to the allies (*foederati*).” These are the words of the consuls to the allies, introducing the decrees of the Senate, which are then quoted. Here the consuls are simply obeying the Senate’s advice.

(3) Two decrees are contained in lines 3b-18; usually these were stated as advice to magistrates with: *si eis videbitur* (*sev*), which means “if it seems right to them.” These words do not appear in the *S.C. de Bacchanalibus*, but that can be explained by the fact that this copy of the *S.C.* was published as a decree to the Italian allies; it was not the copy that was deposited in the *aerarium*. The formula *sev* might have been contained in the *aerarium* copy, but lines 19-30 most likely were not.

(4) Decrees were made official with a mark of the Senate’s approval: either the word *censuere* or the letter *C* (“they decreed”). *Censuere* is indeed contained at the end of lines 9 and 18. These decrees were addressed to the consuls, so in order for the *S.C.* to have legal effect on the allies, the consuls inscribed direct instructions (lines 19-30). The end of line 30, “*in agro Terauno*,” applies the consul’s decrees to that specific place.

With this format in mind, we can now analyze its content. The first decree states that “none of [the allied cities in Italy] is to consent to conduct a Bacchic rite,” and no individual, whether Roman, Latin, or Italian, was to “consent to attend Bacchic rites” unless they applied to the *praetor urbanus* and received instructions from a meeting of the Senate, “provided that no fewer than a hundred senators are present when the matter is discussed” (lines 3b-9). The first decree does not, therefore, ban the Bacchae. It provides an application process by which both cities and individuals could receive legal sanction to perform Bacchic rites. This decree says nothing about the rites themselves, but merely provides regulations for their assimilation into the Roman religious system.

The second decree creates limitations on the organizational structure:

No man shall be a *sacerdos*; no man or woman shall be *magister*; none among them

shall consent to administer a common chest ... nor henceforward seek to conspire, make vows, or make promises or guarantees in unison ... No one must seek to celebrate rituals in secret; nor strive to celebrate them publicly, privately, or outside the city, without approaching the *praetor urbanus* [and a hundred senators] ...¹⁵⁷

By now it should be clear that the purpose of the *S.C.* was not to obliterate Bacchic cult, but to place state regulations on it, incorporating it into the Roman system. The second decree is clearly concerned with the organization of the cult. The only stipulations that say anything about the rites themselves are about where and when they can be performed. They must not be done secretly, and whether public or private, they must first be approved by the Senate. There must not be vows to the group, for the only legitimate vows are vows to the state. By repeating the same Latin prefix (*coniourase neve comvovise neve conspondise neve conpromesise*) four times, the *S.C.* demonstrates that its primary task was to ensure that the Bacchic mysteries would not be used as a cover for conspiracy.¹⁵⁸

For this reason, the second decree places strict rules on the administration of the cult. Women, but not men, could be *sacerdotes*, and neither women nor men could be *magistri*. The fact that only women could be priestesses demonstrates that Bacchic rites were to be preserved in their ancient structures: Classical Greek *thiasoi* were run by women.¹⁵⁹ Until recently, the difference between a *sacerdos* and a *magister* in this context was not clear; but since the discovery of the Orphic gold tablets, it is possible to formulate a hypothesis. In southern Italy and central Greece, Bacchic cults utilized Orphic writings in their initiatory and funerary rites. We know this because of gold leaves found on the chests of people in gravesites. The inscriptions on the gold leaves provide evidence of Orphic teachings in Bacchic ritual.¹⁶⁰ Though not all that was Bacchic was Orphic, and not all that was Orphic was Bacchic, there was a definite connection between the two, like two circles on a Venn diagram. It is therefore likely that the *sacerdos* was the person who performed the rites, while the *magister* was the person who read from Orphic writings.

¹⁵⁷*S.C. de Bacchanalibus* 10-18.

¹⁵⁸Pagán, *Conspiracy Narratives*, 54.

¹⁵⁹Burkert, *Ancient Mystery Cults*, 1-10.

¹⁶⁰Graf and Johnston, *Ritual Texts for the Afterlife*, 142-143.

The teachings, then, were not acceptable, but the rites were. This further confirms that the rites themselves were not the Senate's concern. That there was to be no common fund or hierarchy of magistrates comes as no surprise if we interpret the *S.C.* as a law against conspiracy, not against customs. In this sense, the *S.C.* actually protected Bacchic ritual from being abused. The only regulations that could not be by-passed by a meeting with the *praetor urbanus* and a hundred senators were the first half of the second decree. Only women could be priests, and no further structural hierarchy was permitted.

The third decree limits the number of participants to no more than five – three women and two men – unless granted permission by the Senate in the same manner as the first two decrees.¹⁶¹ It is followed by the consuls' words, with the Senate's advice for capital charges to be placed on those who disobeyed, and it was to be announced publicly. Ancient shrines were to be left untouched, but “any Bacchic objects other than what is sacred there should be dismantled.”¹⁶² As with the rituals, so with the shrines: the Senate did not suppress the allies' ancient customs, but private, recent organizations.

What the *quaestio* did was not to destroy the mysteries of Dionysus in Italy, or to execute people for strange, foreign cultic behavior, but to temporarily place initiates in the hands of the consuls, in order to assist the investigation of a *coniuratio*. Initiates who had not committed any crimes were “left in chains” and most likely released when the *quaestio* was complete. Those found guilty of debauchery, forgery, poison, and murder were executed by the state, under the legal use of the word *coniuratio*. Thereafter, the Senate received protection, because by exercising this control they could prevent the Bacchanalia from being used as a cover for a *coniuratio*.

At the same time, initiates received protection, because through the application process they could continue mystery practices with legal sanction. The *S.C.* says nothing about the rites themselves, so the Senate did not care about whether people dressed like maenads and danced in

¹⁶¹*S.C. de Bacchanalibus* 19-22a.

¹⁶²*S.C. de Bacchanalibus* 22b-30.

the mountains, or whether they placed gold leaves on the chests of their dead, or whether they invoked Dionysian madness through drunken revelry – none of these things. The *S.C.* did not suppress these rites at all, but in fact, made them sacred. All anyone ever had to do to continue to practice them was to apply to the praetor and arrange a meeting with 100 senators. Once the Senate had accepted their application, their rites became *mos maiorum*, as sacred as the Vestal Virgins.

The *S.C.*, then, was a practical compromise with the changing times, and an example of the ways in which Rome tried to contain foreign influence. Two strands of thought came together in many Romans' minds during the events of 186, and convinced them that a *quaestio* was in order: opposition to philhellenism, and a duty to protect the state from a *coniuratio*. The Senate did not, however, suppress a religious movement; the *S.C.* was not concerned with the rites, but with the organization of the cult. After the consuls had suppressed a *coniuratio*, the Senate passed the *S.C.* to incorporate the Bacchanalia into Roman ritual. This decree both legitimized Bacchic rites and protected the state from *coniuratio*. Therefore, the *S.C. de Bacchanalibus* did not suppress or persecute the Bacchanalia, but assimilated them.

But if this was the case, then what was the *coniuratio*? If it was only the organizational structure that worried the Senate, then they could have at any time imposed regulations, and peacefully assimilated the Bacchanalia into Roman cult. This was standard procedure in Roman sacral law. There had to be something more than the oath itself, some specific crime that had come to light. The Senate was well aware of Dionysus, but something that Aebutius and Hispala said to Postumius triggered them to action. The best way to solve this problem is by closely considering the specific crimes that Livy mentions.

Livy is strangely precise with this list:

There was not [only] one form of offense, promiscuous violation (*stupra promiscua*) of free-born men and women, but [also] false testimonies, false seals and wills and evidence were coming out of the same workshop: from the same place poisons (*venena*) and hidden murders ...¹⁶³

¹⁶³ Livy 39.8.7-8.

Perhaps we can dismiss *stuprum* (“debauchery or violation,” both between men and women and between men and men) as Livy exaggerating for moral effect, for nocturnal meetings had been associated with sexuality since the days of Euripides. Dionysus himself refutes this notion in *The Bacchae* when he tells Pentheus that “you can find debauchery by daylight too.”¹⁶⁴ Frank suggests that the Romans reacted to pederasty, which “had not been unusual” in cities like Tarentum and Locri, where Dionysus and Persephone shared temples and temple prostitutes associated themselves with Persephone.¹⁶⁵ It would take a big stretch of the imagination to conclude from these premises that *stuprum* loomed large in Bacchic ceremonies.¹⁶⁶ But if a criminal organization had attached itself to Bacchic associations, and was practicing forgery, poison, and murder, then it would not be unreasonable to accept the possibility that they were also promiscuous. Indeed, bandits who were willing to commit murder and forgery may not have been averse to committing rape.

Stuprum generally refers to disgrace, and particularly sexual activities that are abnormal,¹⁶⁷ but Livy emphasizes the forced violation of freeborn Roman men. Postumius reminds the *contio* of the cults their ancestors had established, and of the legitimate daytime assemblies led by magistrates. He contrasts these with the nocturnal assemblies of the *bacchoi* and foreign rites, in which boys were initiated before reaching the proper age to serve in the army. The idea here is that by submitting to violation, initiates were made unfit for military service,¹⁶⁸ and this could be a pejorative misrepresentation that adds the stigma of *stuprum* to the consuls’ real concern: nocturnal assemblies that ran counter to the state, a clandestine hierarchy that was undermining the state hierarchy. Accusations of debauchery added weight to the argument that the Bacchic *coniuratio* encouraged divided loyalties, making freeborn Roman males unfit for the legitimate

¹⁶⁴Euripides, *Bacchae* 487.

¹⁶⁵Frank, “The Bacchanalian Cult of 186 B.C.,” 131. See also McDonald, “Rome and the Italian Confederation,” 26-27.

¹⁶⁶Not even the maenads of myth were characterized by sexuality, let alone the *thiasoi* who commemorated them. In pottery, the maenads use *thyrsos* to fight off the satyrs’ advances, and Dionysus’ sexuality is never “overt” but “latent” (Michael Jameson, “The Asexuality of Dionysus,” in *Masks of Dionysus*, 44-47).

¹⁶⁷Pagán, *Conspiracy Narratives*, 58.

¹⁶⁸Livy 39.15.2-14.

coniuratio of the military.

The mysteries of Dionysus did not, as a matter of course, include homosexual rape as a sacred initiatory rite, but if acts of forgery, poison, and murder were being committed by a group of bandits who had attached themselves to a Bacchic organization, then it would not be surprising if these bandits were also perverts, and twice Livy places this stereotype in a separate category from forgery, poison, and murder. In the beginning of the passage, he emphasizes “not [only] one form of offense, *stupra promiscua* ... but [also]” forgery, poison and murder.¹⁶⁹ Postumius tells the *contio* that “it would be minor if their disgraces merely made them effeminate ... if their hands abstained from crimes, and their minds from frauds,” but that the *bacchoi* were planning to take control of the state.¹⁷⁰ There was no law that specifically forbade *coniuratio*,¹⁷¹ so there was no legal formula for outlawing the organization of the cult itself. But because conspiracies led to crimes, invoking *coniuratio* allowed the consuls to detain suspects for interrogation. Therefore, the central question is whether the crimes of forgery, poison, and murder were committed.

As noted previously, conspiracies and poisonings were endemic to Italian society in the 180s. After the initial *quaestio* in 186, there were further investigations into the Bacchanalia that correlated with these incidents. In 184, L. Postumius Tempanus, the cousin of Sp. Postumius Albinus and the praetor in Tarentum, “diligently prosecuted what was left of the Bacchanalian investigation.”¹⁷² In 181, L. Duronius, the praetor assigned to Apulia, conducted another investigation into the Bacchanalia.¹⁷³ These operations were virtually simultaneous with other *coniurationes* involving poison in the same years, such as the Apulian slave herdsmen in 185. In 180 the investigations into poisoning were instigated after the death of Gaius Calpurnius Piso; it was thought that his wife had poisoned him.¹⁷⁴ All of these events may have been reactions to

¹⁶⁹Livy 39.8.7-8.

¹⁷⁰Livy 39.16.1-4.

¹⁷¹Pagán, *Conspiracy Narratives*, 54. There was no specific law against *coniuratio* until after Sulla.

¹⁷²Livy 39.41.6-7; see also Scullard, *Roman Politics*, 190.

¹⁷³Livy 40.19.9-11.

¹⁷⁴Bauman, *Women and Politics in Ancient Rome*, 38-39; Livy 40.37.1-7.

disease (e.g., lead poisoning from plates), or they may have been actual murders. There is a strong correlation between the Bacchanalian *quaestio* and other *quaestiones* dealing with poison in the same period, especially in Magna Graecia, where Bacchic cult was most firmly established. Therefore, it is plausible to suppose that criminals had attached themselves to Bacchic organizations, and were poisoning initiates. From this premise, murder naturally follows, but the question of motive is raised; to answer this question, we turn to the accusation of forgery.

Specifically, Livy mentions “false testimonies, false seals and wills and evidence.”¹⁷⁵ In order for conspirators to present false testimonies, seals, wills, and evidence, they would have needed some level of knowledge about Roman formalism, since wills usually followed a uniform customary formula.¹⁷⁶ In order for a will to be legally binding, it required the presence of five witnesses, six people altogether. The *S.C. de Bacchanalibus* restricts cult membership to five people, which made it impossible for the organization to forge wills, so it appears that the *S.C.* confirms the Senate’s concern with forgery.¹⁷⁷ This raises the question of how the “priests and founders” of the Bacchanalia were able to obtain access to knowledge of legal formulae.

There was an incident in 181 BC that may offer an explanation. Two stone chests were found buried under the Janiculum; they were sealed with inscriptions, claiming that one contained the body of Numa Pompilius (it was empty; cf. “false seals”), and the other contained his books. In the second chest, two bundles of seven books each, which looked quite new, were found: one bundle was written in Latin and discussed pontifical law, and the other was written in Greek and contained what were thought to be Pythagorean teachings. These were seen as subversive of *religio*, so the Senate ordered them burned.¹⁷⁸ These writings may well have been Orphic. Though scholars are uncertain about the link between Pythagoras and Orpheus, the link between Orpheus and Bacchus is clear. Whether we accept Herodotus’ view that Dionysus is Osiris and

¹⁷⁵Livy 39.8.7-8.

¹⁷⁶Schulz, *Principles of Roman Law*, 23, 70-71, 156.

¹⁷⁷Pagán, *Conspiracy Narratives*, 55.

¹⁷⁸Livy 40.29.3-14.

that Orphic writings are Pythagorean, this was the prevailing view in the ancient world.¹⁷⁹ But why would books of pontifical law be considered subversive? Perhaps they contained instructions about legal formulae, which the conspirators used to forge wills and present false evidence.

Due to the paucity of evidence, the purpose of this essay has not been so much to prove a thesis as to suggest an hypothesis, a possibility that deserves consideration. The generally accepted interpretation suggests that the events of 186 were a reaction to foreign cults by prejudiced senators, or that they were the suppression of a parallel hierarchy that contradicted the state hierarchy. However, *coniurationes* (meaning an “oath” of loyalty to a group) were not illegal in and of themselves, and other attempts to legislate limits on the spread of Greek culture were not considered *coniuratio* and did not involve execution. Certainly there were Roman politicians, such as Cato, who were opposed to foreign cults and viewed Bacchic initiates in a negative light. Perhaps there had been controversy between factions over the legitimacy of private mystery cults. All of these themes run throughout this chain of events, but there must have been something specific that triggered the Senate to act. This essay suggests that the following scenario is possible:

Shortly before 186 BC, Marcus and Gaius Atinius, Lucius Opernicus, and Minius Cerrinius obtained pontifical writings with legal instructions and Orphic writings with ritual instructions. Operating under the aegis of the mysteries of Dionysus, into which the Atinii had been initiated by their mother, they began to lure initiates into nocturnal rites. There they poisoned their victims and disposed of the bodies, and then drafted false wills, using the proper legal formula, and funnelled the victims’ property into the cult’s common fund. This is precisely the strategy which Duronia and T. Sempronius Rutilus, Aebutius’ mother and stepfather, used to try to deprive him of his inheritance.¹⁸⁰

By this or some other means, Aebutius and Hispala found out about these crimes in 186

¹⁷⁹Graf and Johnston, *Ritual Texts for the Afterlife*, 69, 159. They refer to Herodotus, *Histories* 2.81.

¹⁸⁰Livy 39.9.2-4.

and informed Postumius. The Senate ordered Postumius to conduct a *quaestio* into the affair, and Bacchic initiates of all kinds were detained for questioning. When news of the *quaestio* became public, one of the conspirators hid the books in a chest, and buried two chests with false seals, claiming that they belonged to Numa Pompilius. Cerrinius struck a bargain with the consuls, acted as their chief informant, and was spared execution. When the courts had determined who was guilty of forgery, poison, and murder, those suspects were executed, while those who had merely been initiated into the mysteries of Dionysus were briefly imprisoned, and then released.

After the *quaestio* was over, Postumius met with the Senate at the temple of Bellona on October 7, 186. The Senate decreed the *S.C. de Bacchanalibus* for a variety of reasons, including the ancient state policy of assimilating foreign cults, political opposition to Greek customs, and most of all, a desire to prevent the Bacchanalia from being used again as a cover for criminal operations. However, conspirators fled to Magna Graecia and continued their operations, and *quaestiones* concerning *coniurationes* continued throughout the 180s. In the meantime, a legal mechanism had been created, by which people who wanted to participate in rituals honoring Dionysus could apply for legitimate cult status.

Again, it is impossible to conclusively verify the above scenario. It is possible that the Senate suppressed a cultic organization because of conservative prejudices and disapproval of a hierarchy that was not state-sanctioned, and that Livy's list of crimes was the result of his own moral bias. However, it is just as possible that a criminal organization had attached itself to the hierarchy of the mysteries of Dionysus in Italy, and was using the cultic organization as a cover for criminal operations, including rape, forgery, poison, and murder. If this was the case, then there really was a conspiracy, in the sense that such operations were subversive to law and order. Because of this possibility, a full reconsideration of Livy's narrative has become essential to our understanding of the relationship between Bacchic madness and Roman justice.

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