

LEGES AGRARIAE: MYTHS ANCIENT AND MODERN

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ONE OF THE LAST STUDIES by Arnaldo Momigliano was “New Paths of Classicism in the Nineteenth Century.”¹ Here he discussed his current focus of interest, Roman land tenure. There was, as usual, a broad sweep of modern historiography and the recalling to our attention of important—and probably forgotten—stages in the growth of our current understanding. The lion’s share of the credit for a correct view of the *leges agrariae* was given by Momigliano to Barthold Georg Niebuhr.

Niebuhr’s history “virtually created the modern study of Roman history.” The revolutionaries in France had shortly before this completely misinterpreted Roman agrarian history to claim that the Romans imposed a limit on *private* land holding, which was to serve as a model for revolutionary confiscations. As Momigliano summed up:

The notion that five hundred iugera (c. 330 acres) was the maximum allowed for private property became a commonplace in the handbooks of ancient history which began to get into the market at the end of the seventeenth century and multiplied in the early eighteenth century: for instance those by the Englishman Lawrence Echard, the two Jesuits Catrou and Rouille, and Charles Rollin. Even the most sophisticated student of the Roman revolutions, the Abbe de Vertot, and the critical interpreter of the traditions of early Rome, Louis de Beaufort, agreed on this.²

This summary, as will be made clear, is extremely misleading.

As Momigliano knew, Niebuhr had a notable predecessor in the correct interpretation of the laws: Christian Gottlieb Heyne, whose *Leges agrariae pestiferae et execrabiles* was published in Göttingen in 1793. Heyne was “the first to point out unequivocally that the agrarian law did not affect private land, but only the distribution of public land.”³ Niebuhr himself took up the matter about a decade later, in an unpublished study, but he was acquainted with Heyne’s work.⁴ His views came to general notice only with the first edition of his Roman history, published in 1811–12.

1. *Studies on Modern Scholarship* (Berkeley and Los Angeles, 1994), 223–85, first published in *History and Theory* 21 (1982), Beiheft.

2. *Ibid.*, 231.

3. *Ibid.*, 232.

4. *Zur Geschichte der römischen Ländereien*, c. 1804, now in the Berlin Academy. Niebuhr did not here repeat his faux pas over the “ballad theory,” which he thought that he had discovered, only to find that he had long been preceded by Perizonius. See R. T. Ridley, *The Historical Observations of Jacob Perizonius* (Venice, 1992), chap. 6.

The reason for the confusion in the first place lay, according to Momigliano, in the fact that the main sources for the *ager publicus*, the *lex Licinia Sextia* and the *lex Sempronia*, are unclear. Plutarch (*Ti. Gracch.* 8–9) describes how Rome used conquered land: part was sold, the rest was made public land (δημοσίαν) and rented to poor citizens. The rich offered higher rents and drove out the poor. A law was therefore passed limiting holdings of more than 500 *iugera*—of what is not specified, but obviously the public land that Plutarch has mentioned immediately before. When the same problem arose again, Tiberius Gracchus framed a law against injustice and greed and the illegal occupiers (παρὰ τοὺς νόμους ἑκαρποῦντο χῶραν).

Appian, another Greek writer of the second century, tells the same story (*B Civ.* 1.7–9). Conquered land was assigned to colonists, sold, or leased. The part devastated by war was leased rather than allotted. The rich, however, managed to occupy most of this unallotted land (τῆς ἀνεμήτου γῆς)—that is, the leased land—and so a law was passed to restrict holding of this self-same land to 500 *iugera*. Gracchus proposed the same law again, much to the anguish of the rich, some of whom claimed that they had paid for the land, while the poor complained that the land had been acquired by their services and that they were being robbed of public property (τῶν κοινῶν ἀποστερήσονται).

One can only say that these accounts were unclear only to those who had no time or inclination to read and ponder them, in their haste to misinterpret them. It seems likely, however, that the text most used by such people was Livy. He describes the *lex Licinia Sextia* as simply *de modo agrorum: ne quis plus quingenta iugera agri possideret* (6.35.5). The citations of this law from the Renaissance on prove, indeed, that this was the most quoted version. Livy later further explains that the land in question had been allotted (*dividerentur*); was it fair that the plebeians received 2 *iugera* but senators could amass more than 500? (6.36.11). The powerful are stated, however, to hold these lands illegally (*agrum iniuria possessum a potentibus*, 6.39.10). Livy then, paradoxically, is less clear than the Greek biographer and historian, because, as is notorious, he hated these laws.⁵ Even here, nevertheless, a more than cursory reading would have been enlightening.

We must begin our survey of modern writers with Niccolò Machiavelli's *Discorsi*, first published in Florence in 1531. He echoed Livy, on whom, after all, he was commenting, that the agrarian laws caused the destruction of the Republic. He went on to enunciate the rule that in "well-ordered republics" the state should be rich, but the citizens poor. The Romans had failed to

5. A further important text is 4.48, but something is dramatically wrong. The tribunes Sp. Maecilius and M. Metilius proposed dividing enemy land (obviously *ager publicus*) among citizens. This is said to mean the confiscation of the fortunes of a great part of the nobles, but also that land that had been sold or assigned by the state was mostly held by plebeians. The two observations are contradictory, and as R. M. Ogilvie has suggested (*A Commentary on Livy Books 1–5* [Oxford, 1965], 607), the latter statement has to be emended: either plebeians gained only land that came on the market, or when land was sold or assigned, plebeians failed to obtain it.

As George Long, always worth consulting, observed: "The examination of the disputes about the Public Land, as reported by Livy, from the attempt of Cassius to the time of Licinius, will show any unprejudiced person that Livy thought that the law of Licinius applied to all the Public Land and to nothing else, although the term Public does not occur when he mentions the provisions of the Licinia Lex" (*Decline of the Roman Republic*, 5 vols. [London, 1864], 1:153).

maintain this law. The agrarian laws had laid down that no citizen should have more than a certain amount of land, and that all land taken from the enemy was to be divided among the people. The rich were offended because those who possessed more than the limit were to be deprived of it, and because they would not share in the distribution among the poor plebeians.⁶ The reader of this analysis would not, it must be confessed, be left with a crystal-clear idea of what land was in question, but at least some was public land because it had been taken from the enemy. Some later argument is interesting. Niebuhr drew our attention to the basic fact that Machiavelli was "far from condemning the agrarian laws." The principle he approved; it was the disputes aroused by the laws that were the source of the disaster. George Cornewall Lewis commented, however, that Niebuhr had exaggerated Machiavelli's errors.⁷

The scholar who in the sixteenth century knew most about the Republic was Carlo Sigonio. In his edition of the *fasti* with commentary of 1556 he is noncommittal about the *lex Cassia* of 486: "legem de agro Herniciorum Latinis et civibus Romanis dividendo ad conciliandum sibi plebem primus Romae promulgavit." On the *lex Licinia Sextia* (366) he is, like everyone else, more concerned with the admission of the plebeians to the consulship; the agrarian law is merely *de modo agrorum*, without definition of those lands. Should anyone be in doubt, however, the *lex Sempronia* (133) was given in the form that, as will become apparent, one could only wish others had been careful enough to follow: "ne quis *ex agro publico* plus quam D iugera possideret."⁸

In the seventeenth century the leading editor of the annals was the Flemish librarian and canon who had spent eight years in Italy, Stephan Pigge. In his edition of 1615, he gave the *lex Licinia Sextia* in Livy's terms, but he could not have been clearer about the *lex Cassia*, the first *lex agraria*: "de agro Hernicorum Latinis civibus Romanis dividendo, quemque *publicum* a privatis civibus possideri criminabatur."⁹

The French Historiographer Royal, Scipion Dupleix, dedicated to Richelieu his history from the foundation of Rome, published in 1638. Again, nothing could be clearer: the *lex agraria* was to divide land "lequel *appartenant au public*, était néanmoins possidé par aucuns de la Noblesse." Even though the point was not reemphasized for the *lex Licinia Sextia* (the usual Livian formula) or the *lex Sempronia*, the definition of the land affected by the laws had been established.¹⁰

6. N. Machiavelli, *Discorsi* (Florence, 1531), 1:37.

7. B. G. Niebuhr, *History of Rome*, 2d ed., trans. J. C. Hare and C. Thirlwall, 3 vols. (London, 1828–42), 2:131; G. Cornewall Lewis, *Enquiry into the Credibility of the Early Roman History*, 2 vols. (London, 1855), 2:137.

Leslie Walker in his *Discourses of Niccolò Machiavelli*, 2 vols. (London, 1950), 2:66–67, has no note on the real nature of the *leges agrariae* or Machiavelli's understanding of them.

8. C. Sigonio, *Commentarius in fastos et triumphus romanos* (Venice, 1556), 13–14, 28, 89. The emphases are mine here and henceforth. On Sigonio, see W. McCuaig, *Carlo Sigonio. The Changing World of the Late Renaissance* (Princeton, 1989). Onofrio Panvinio, on the other hand (*Fasti* [Venice, 1558]), had no comment on 486 (p. 192), 366 (p. 218: "ne cui civi plus quam quingenta agri iugera habere liceret"), or 133, save Gracchus' death (p. 356).

9. S. Pigge, *Annales Romanorum* (Antwerp, 1615), 242, 101.

10. S. Dupleix, *Histoire romaine depuis la fondation de Rome*, 3 vols. (Paris, 1638), 1:334.

A seventeenth-century work not to be overlooked, although seemingly having little to do with the early Republic, was the well-known history of the triumvirates by Samuel Broe, translated into English only five years after its first publication in 1681. Broe is quite unequivocal about the *lex agraria*: it was "a Proposition for the disposal of such lands as *belonged to the Republic in common*."¹¹

The first English history of the Republic was by the divine, Lawrence Echard, 1695, and was not highly thought of, being moralizing and designed for young readers. It is gratifying to discover that nevertheless Echard did not deceive them on this crucial matter. Cassius "proposed the Division of some late conquered Lands among the Meaner Sort, together with such *Publick Grounds* which through the Neglect of the Magistrates had been seized upon by the Rich." Gracchus "preferr'd a Law, forbidding any Man to possess above 500 acres of the *Publick Lands* . . . For it was customary for the Romans to divide Lands which were taken from their Enemies among their own Citizens, if arable; if not, they farmed 'em out by the Censors."¹²

The eighteenth century saw a plethora of studies of the Republic. René Aubert, Abbé de Vertot, was best known as Historiographer of the Knights of Malta, but specialized in the histories of "revolutions." That of the Roman Republic appeared in 1719. With Cassius and the first law there was some hesitation: he tried to recover from some individuals land that he claimed was public. The *lex Licinia Sextia* "regardoit le partage des terres conquises." If anyone was in any doubt, however, Gracchus reenacted their law against "usurpations des *terres publiques*."¹³

One of the most extraordinary works of the Enlightenment was the Neapolitan Giambattista Vico's *Nuova scienza* of 1725, now always cited in the 1744 edition. This work was a pioneer in both sociology and the philosophy of history, and abounds in eccentricity. There are various references to the *lex agraria*. The first was that of king Servius Tullius, who granted bonitary ownership (i.e., ownership liable to revocation) to workers. In his discussion of debt laws, Vico notes that whenever the people wished to dispose of the lands of the Roman imperium over which the senate had control, the latter armed the consuls (the *Senatus Consultum Ultimum*). The senate is said further to have resisted the Gracchan law in order not to enrich the plebeians.¹⁴ This seems to be the extent of Vico's comments. The nature of the *lex agraria* was obviously not of concern to him. He derived his criticism of it from Cicero.

The French Jesuit François Catrou, in his Roman history published between 1725 and 1737, described how Cassius divided among poor Romans and

11. S. de la Broe, *The History of the Two Triumvirates*, 2 vols. in 1, trans. Thos. Otway (London, 1686), 1:24. Nothing is known of the life of Broe; he wrote other histories, mostly of the Americas.

It seems that the best-informed authority on the Republic in the seventeenth century, the Dutchman Jacob Perizonius, did not discuss the *leges agrariae* in his voluminous miscellany, *Observationes historicae* (Amsterdam, 1685).

12. L. Echard, *The Roman History from the Building of the City to the Perfect Settlement of the Empire by Caesar Augustus* (London, 1695), 95, 236.

13. Vertot, *Histoire des révolutions de la République romaine*, 3 vols. (Paris, 1719), 1:231, 2:261, 331.

14. G. B. Vico, *Nuova scienza* (Naples, 1744), secs. 107–8, 115, 276. There is no comment on these passages in Vico, *Opere*, ed. F. Nicolini (Verona, 1953) or *Opere*, ed. A. Battistini, 2 vols. (Milan, 1990).

Latins land taken from the Hernici, and “une certaine quantité de terre, que, selon lui, *appartenoient depuis long tems au public* et que les riches patriciens avoient usurpis.” These were “terres envahies” by the rich. Licinius and Sextius reduced “le domaine des fonds de terre” to 500 “measures,” so that the plebeians hoped to gain not only the large part of the land taken from the patricians, but also of Roman conquests in future (“ceux que Rome conqueroit dans la suite”). Finally, by the time of Tiberius Gracchus, the nobility were enjoying the usurpations of their ancestors, paying a tithe of the harvest and a fifth of the fruit. These were, then, obviously rented lands.¹⁵

The general pattern that we have so far observed of the correct understanding of the *leges agrariae* was, however, broken in the middle of the eighteenth century, and by a most influential figure. Charles de Secondat, Baron de la Brède et de Montesquieu, in his *Considérations sur les causes de la grandeur des Romains et de leur décadence* of 1734, like Machiavelli, did not wholly condemn the agrarian laws: “Ce fut le partage égal des terres qui rendit Rome capable de sortir d’abord de son abasement.”¹⁶ Montesquieu shared the Italian’s ideal of equal property. There is, therefore, some change in his views by the time of the *Esprit des lois* of 1748. Here he quoted Cicero on the injustices of the laws because they threatened property. He agreed with the orator that there was no public advantage in doing this.¹⁷ Despite the brilliance of both these works, Montesquieu implied that he thought the *leges agrariae* were concerned with private, not public, land.

Charles Rollin, the one-time Jansenist Rector of the University of Paris, published his Roman history in 1738. He explained the *lex agraria* in simple terms. When the Romans conquered land they either sold it or distributed it to the poor. The patricians obtained control of some of it, which was “unjustly usurped.” One obviously could not write in this way about private property—and this was the land that Cassius wished to distribute. Equally clear is the explanation of the *lex Sempronia*: the rich had taken over almost all of the state land (*domaniales*) by purchase, by rent, or by violence. Tiberius reenacted the *lex Licinia Sextia*, but instead of expelling the usurpers in shame and requiring restitution of their illegal gains, he allowed them to be recompensed.¹⁸

Nathaniel Hooke, of a Jacobite family, friend of Pope, and disciple of Fénelon, began issuing his Roman history in 1738, although its publication was not to be completed until 1771, eight years after his death. He understood the origins of the *ager publicus*:

From the earliest times of Rome it had been the custom of the Romans, when they subdued any of the nations in Italy, to deprive them of a part of their territory. A portion of these lands was sold, and the rest given to the poorer citizens on condition, Appian says, of their paying annually a tenth of the corn and a fifth of the fruit of the trees.

The *lex Licinia* may be given by Hooke in the laconic Livian version, but the point is made perfectly clear: the poor complained that they had no share in

15. F. Catrou, *Histoire romaine*, 20 vols. (Paris, 1725–37), 2:384–85, 389, 4:184.

16. Montesquieu, *Considérations* (Amsterdam, 1734), chap. 3.

17. Montesquieu, *Esprit des lois* (Geneva, 1748), bk. 26, sec. 15.

18. C. Rollin, *Histoire romaine*, 7 vols. (Paris, 1738), 1:552, 5:200.

the public lands, and Gracchus' reenactment therefore concerned those who held more than 500 acres of public land.¹⁹

It was the exiled French Huguenot Louis de Beaufort, however, who in the eighteenth century knew most about the Republic. It is scandalous to those conversant with his enormous labors to see him listed among the ignorant in so fundamental a matter as the *lex agraria*. To the contrary, he could not have made his correct interpretation more clear in his fundamental *La République romaine*, 1766.²⁰ It is striking that he prefaced his lengthy discussion with the statement that to understand the senate's reaction to agrarian laws one has to know what lands are in question! Of conquered lands, what was not distributed to colonists became public land ("domaine de la République"), and was rented. Much of this land had been appropriated by the aristocrats, who transformed their usurpations into immemorial possessions. The *lex Licinia* tried to limit the greed of individuals, but in vain. The "great" went on usurping state land, as well as buying other lots, so that they acquired whole provinces. What de Beaufort meant by purchase he then explained: the originally public land that had been usurped had in some cases then been sold again to others. Some of the rich would in fact suffer by Tiberius' revival of the *lex Licinia*, but that was offset by the benefits for the poor. The history and complexity of the situation by the second century were thus fully understood by Louis de Beaufort.

It was the later eighteenth century that, in fact, muddled the waters. The Irish physician Oliver Goldsmith, in his ambitious history of Rome "from the Foundation of the City to the Destruction of the Western Empire" of 1769, gave a very ambivalent account of Cassius, who, consul for the third time, distributed some conquered lands to the plebeians: "Not content with this, he was resolved to increase his popularity by distributing among the poor some lands which had long been in the possession of the rich, and which *he asserted* to be the property of the publick." Goldsmith then gave no details of the *lex Licinia Sextia*, and its reenactment, the *lex Sempronia*, was given in the laconic Livian terms.²¹

Serran de la Tour's *Histoire du Tribunat de Rome*, 1774, bears the ominous subtitle "Son influence sur la décadence et la corruption des moeurs"! Cassius ordered "un partage des terres." Licinius and Sextius indulged in "artifices incroyables" and solemnly promised land to the poor. It is only with Tiberius Gracchus that de la Tour recognizes that conquered lands had been given to the poor, who had lost them to the "insatiable greed of the rich." Here finally he paints a pitiful picture of agrarian misery.²²

The Scottish historian and philosopher Adam Ferguson was a contemporary of the famous triumvirate of British historians of the late eighteenth

19. N. Hooke, *Roman History From the Building of the City to the Ruin of the Commonwealth*, 3 vols. (London, 1738), 3:586, 589. As we shall see, but not without incredulity, Niebuhr listed Hooke among the misled, while Cornewall Lewis rightly listed him among those who knew the truth.

20. L. de Beaufort, *République romaine*, 2 vols. (The Hague, 1766), 1:240–41. On de Beaufort, see R. T. Ridley, *Gibbon's Complement* (Venice, 1986).

21. O. Goldsmith, *Roman History From the Foundation of the City to the Destruction of the Western Empire*, 2 vols. (London, 1769), 1:109, 189, 314.

22. Seran de la Tour, *Histoire du tribunat de Rome*, 2 vols. (Amsterdam, 1774), 1:96, 2:46, 179–80.

century, Gibbon, Hume, and Robertson. Writing in 1783, he had Cassius complaining, "in particular, of the improper use which had recently been made of the conquered lands, by suffering them to become the property of persons who were already too rich." The *lex Licinia Sextia* was simply "a limitation of property in land." That law was revived by Gracchus "actuated . . . by an idea not uncommon to enthusiastic minds, that *the unequal distribution of property, so favourable to the rich, is an injury to the poor*" [Ferguson's italics]. Ferguson went on to assert that the rich had bought or inherited the land.²³ The wild revolutionary had obviously begun to raise his terrifying head!

The little-known Englishman Charles Hereford, almost certainly a divine, who, in 1792, also published a history of Rome, did not know which way to turn. Cassius proposed "an equal division of property." Conquered land had originally been divided equally, but there had been no conquests for a considerable time, and most had been taken over by a "few overgrown patricians." Cassius' proposal was nevertheless "obnoxious." The *lex Licinia Sextia* "limited the landed property of any person to five hundred acres"—but also placed bounds on senatorial avarice.²⁴

It was at this point that Heyne intervened with his essay of little more than twenty pages, dated March 1793, and published in his *Opuscula academica*. The stimulus to the study is by now obvious: the claims of the French revolutionaries to be following classical models in their confiscation of land—as in almost everything else, notably the overthrowing of tyrants. As Heyne pointed out, equality in property is impossible; preferable is equality before the law. Heyne was one of those Roman scholars—rare for his time—who have been under no illusions about the nature of Roman society: freedom was much talked of, but existed only for the rich and powerful. He painted a vivid picture of the poor, utterly subject to, and dependent on, their betters, offering their votes, living on largesses. The Republic was the "domination of the few," "under the name of freedom."²⁵

The patricians usurped the public land, explained Heyne, and claimed it as private after long occupation. The plebeians were bound by *nexum*. Licinius and Sextius were redistributing the *ager publicus*; their proposal was therefore far from unjust. Then came the *lex Flaminia*, and Heyne relied on Polybius 2.21.7–8 for agrarian conditions in the second century. Gracchus was also clearly dealing with the *ager publicus*, and Heyne noted the uproar of the plebeian senators, who betrayed their own class. The confiscation of private property came with Sulla's "innovations." Those who claimed Roman models for their plans to confiscate land were in fact simply declaring themselves the heirs of such monsters in the Roman civil wars!

23. A. Ferguson, *The History of the Progress and Termination of the Roman Republic*, 3 vols. (London, 1783), 1:32, 66, 300, 302.

24. C. Hereford, *History of Rome*, 2 vols. (London, 1792), 1:166, 169, 2:247.

25. C. Heyne, *Leges agrariae pestiferae et execrabiles*, in *Opuscula academica*, 6 vols. (Göttingen, 1785–1812), 4:350–73. On Heyne, see Ulrich Schindel in *Classical Scholarship: A Bibliographical Encyclopedia*, ed. W. Briggs and W. Calder (New York, 1990), 176–77—but there is nothing on the *leges agrariae*!

What was the effect of Heyne's dissertation, of exemplary conciseness and clarity, indeed, of a challenging directness? An important history of the Republic appeared shortly after, in 1807, by Pierre Charles Levesque. All was again crystal clear. Cassius demanded the division of only the conquered land taken over by the rich. Even the "most cowardly flatterers of the populace" never sought the division of the patrimony of the rich, but only of public land. Licinius and Sextius proposed that no one possess more than 500 "arpens" of conquered land. The Gracchan situation was admittedly most complex: the rich were monopolizing the rented public lands, but both sides had some justice, and Tiberius was involved in "a labyrinth without an exit."²⁶

The founder of the modern study of the Republic was Barthold Georg Niebuhr. His *Römische Geschichte* first appeared in 1811–12. Not far into the second of the three volumes appeared a chapter devoted to the agrarian laws.²⁷ It is striking that Niebuhr followed Machiavelli in attributing the first such law to Servius Tullius. He indulged in irony over the common misunderstanding of the law as applying to confiscations in that those moderns guilty of such rapacity would regard the Gracchi as monsters. His own understanding of the law he attributed directly to Heyne, but he stated that he had long wrestled himself with the contradictory sources. It had been the Indian landowning system that provided the modern parallel that he sought. Most of the chapter was devoted to a Niebuhrian analysis of terms such as *usus*, *fructus*, and *possessio*; he was able to claim the approval of the great Savigny for his ideas. We may be sure that for the many who had missed Heyne's essay the far-famed history of Niebuhr with its much more extended analysis was the authority that again set them straight on the agrarian laws.

Now it was easy for everyone to be wise—but there was a trap. Thomas Arnold in his history of 1838 stated: "If amongst Niebuhr's countless services to Roman history, any single item may claim our gratitude beyond the rest, it is his explanation of the true nature and character of the agrarian laws."²⁸ The first step had been taken in obliterating not only the names of the many historians who had correctly interpreted the laws over the centuries, but of even the man who had shown Niebuhr the way.

It may also be regarded as highly significant that Mommsen's history (1854–56) related the *lex Cassia*, *lex Licinia Sextia*, and *lex Sempronia* without either polemic or acknowledgement.²⁹ On the other hand, one of the most original works ever written on the early history of Rome, George Cornewall Lewis's *Enquiry into the Credibility of the Early Roman History* of 1855, repeatedly stressed the true nature of the *lex agraria*, apparently influenced by the studies of Heyne and Niebuhr.³⁰

26. P. Levesque, *Histoire critique de la République romaine*, 3 vols. (Paris, 1807), 1:156–57, 311, 2:311–12. Levesque was a friend of Diderot, an engraver, professor of history at St. Petersburg, 1773–80, then at the Collège de France, 1791–1812, who turned to antiquities with the Revolution.

27. Niebuhr, *History of Rome* (n. 7 above), 2:130–31.

28. T. Arnold, *History of Rome*, 3 vols. (London, 1838–43), 1:155.

29. T. Mommsen, *History of Rome*, 8th ed., 5 vols. (New York, 1895), 1:361, 387, 3:320–21.

30. Cornewall Lewis, *Enquiry*, 2:137–38, 383–94. R. Dreyfus (*Essai sur les lois agraires sous la République romaine* [Paris, 1898]) also had no historiographical comment, perhaps because his interpretation was radical: the agrarian laws were almost a history of socialism in Rome (he quoted Marx, p. 85). The rich descended to fraud as they rented the land (p. 31). The *lex Licinia Sextia* was simply a sumptuary law (p. 66). Dreyfus could not have failed to understand, however, that these laws were for the distribution of *ager publicus*.

We have traced the true historiography of modern understanding of the agrarian laws, and thus return to our point of departure. Where had Momigliano—and so many others—found their erroneous readings of so many of these eminent historians? In Niebuhr's history occurs the following:

This misconception³¹ is as old as the revival of philology. Neither Sigonius nor Manutius³² doubted that the tribunes had limited landed property to 500 iugera, and had assigned the excess to the poorer citizens: nor had Beaufort any other notion, nor Hooke; though they all had the statement before their eyes, that the measure referred to the conquered lands, which the Greek historians insist on as so essential a point. That there was a kind of landed property to which no limit had been set, they had no conception. Yet every one of them must have been aware that there was a riddle to be solved here: but they tacitly gave it up. Ferguson on the other hand never perceived that there was one: nor did Machiavel, or Montesquieu; the value of whose reflections on Roman history is in no way affected by their mistakes as to the historical facts.³³

The question now is, how could Niebuhr have been so mistaken about his predecessors? Was it simply his usual anxiety to be the seer-like diviner of the truth? In the case of Momigliano, the source of his error is not difficult to identify. There is an even more influential figure than Niebuhr, and not nearly so remote. In *Atene e Roma* in 1921 Gaetano de Sanctis stated: “che la legge agraria di Tiberio mirasse soltanto a limitare il possesso dell'agro pubblico è punto acquisto alla scienza dal Niebuhr in poi.”³⁴

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31. Calling limitations on general landed property *leges agrariae*.

32. Paulo Manuzio (*De legibus romanis*, chap. 13) indeed implied that all land was subject to the 500 iugera limit of the *lex Licinia* (see Graevius, *Thesaurus antiquitatum romanorum*, 12 vols. [Utrecht 1694–99], 2:43). Manuzio died in 1574.

33. Niebuhr, *History of Rome*, 2:131.

34. G. de Sanctis, “Rivoluzione e reazione nell'età dei Gracchi,” *A & R* 2 (1921): 209–37, at 215, reprinted in his *Scritti minori*, 6 vols. (Rome, 1970–72), 4:45.