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NOTES AND DISCUSSIONS

L. IUNIUS BRUTUS THE PATRICIAN AND THE POLITICAL ALLEGIANCE OF Q. AELIUS TUBERO

According to Dionysius of Halicarnassus, those writers who have investigated Rome's history most accurately state that L. Iunius Brutus (Rome's liberator and first consul) did not leave any children. They offer, Dionysius says, much evidence in support of this, but one argument in particular is especially compelling: L. Iunius Brutus was, they say, a patrician, while those who claimed descent from him were all plebeian, and so stood only for those magistracies for which plebeians were eligible by law (the offices of aedile and tribune); they did not stand for the consulship, as plebeians were not eligible to hold it. Only later did the Iunii reach that office, after it had been opened up to the *plebs*.¹

The Iunii were plebeian and had always been so. The story that L. Iunius Brutus was patrician, although potentially attractive to those who have confidence in the value of the early consular *fasti* and who consequently find the presence of plebeian names in them an inconvenience,² is simply unhistorical. For a start, L. Iunius Brutus never existed, and the mythical liberator probably only became a Iunius in the fourth century B.C.E.³ The origin and cause of this story are easily found, however, and they may shed some light not just on Dionysius' sources—and on the political allegiances of one of them in particular—but also on the nature and value of the literary tradition of early Rome.

A Roman noble was expected to live up to the achievements of his ancestors, and that often meant that he had, if at all possible, to emulate his ancestors' deeds.⁴ One of the best illustrations of this is found in the career of M. Iunius Brutus, who conspired, along with numerous others, to murder C. Iulius Caesar. M. Iunius Brutus claimed descent from L. Iunius Brutus, the man who had expelled L. Tarquinius Superbus, Rome's seventh and last king. On his mother's side, M. Brutus was also descended from C. Servilius Ahala. Ahala had famously murdered Sp. Maelius when the latter had tried

1. Dion. Hal. *Ant. Rom.* 5.18; for Brutus the patrician, see also 5.48.2.

2. See Broughton 1951, 1 and 4 n. 1; for belief in the existence of patrician Iunii, see also Mommsen 1864, 108; De Sanctis 1956, 412. On plebeian names in the *fasti*, cf., e.g., the approach taken by Gjerstad (1973, 83–97), although Gjerstad himself rejects L. Brutus' consulship (77–78); more recently still, see Drummond 1989, 175–76; Forsythe 2005, 161–62 (although Forsythe includes other hypotheses in his discussion and defends L. Brutus' consulship on different grounds, 154–55).

3. Cf., variously, Alföldi 1965, 77, 82–83, 351–52; Gjerstad 1973, 77–78; Welwei 2000; Wiseman 2008, 293–305.

4. E.g., Cic. *Off.* 1.78, 1.116, 1.121, *Rab. Post.* 2; Val. Max. 5.8.3; cf. also nn. 6 and 11 below. For various approaches to this well-known phenomenon, see Flower 1996, passim, e.g., 22, 221; Treggiari 2003, passim, esp. 155–57 on *imitatio* and *aemulatio*; Walter 2003, 255–75; 2004; Lentano 2007, passim, esp. 113–223; 2008.

to establish himself as king.⁵ If there was anyone at Rome who could be expected to take swift action against an aspiring monarch, it was M. Brutus. Consequently, when Caesar established his autocracy, Marcus came under pressure to act. Messages were left for him on his tribunal, some of which challenged his claim to be descended from L. Brutus.⁶ The natural implication is obviously that, if Marcus was indeed descended from Lucius, he would not have been able to tolerate Caesar's position. True heirs behaved like their ancestors; it was natural that they did, and it was expected that they would.⁷ Not surprisingly, these ideas and expectations could, in turn, be used to justify all manner of behavior.⁸

According to Plutarch, those who did not approve of M. Brutus' role in Caesar's murder denied that Marcus really was descended from L. Brutus. They pointed out that L. Brutus had executed his own sons for conspiring to restore Tarquinius to his throne, and so had left no children. They also argued, Plutarch says, that M. Brutus was descended from a plebeian.⁹ Since the Iunii were plebeian, that argument must logically presuppose that L. Iunius Brutus was patrician, and it is in this context that Dionysius' claim that he was is to be understood. By asserting that L. Iunius was patrician, Marcus' opponents were trying to disparage his claims to be descended from Lucius, and thus, in turn, to deprive Marcus' actions of their legitimacy.¹⁰ Cicero, in contrast, who was more than happy with Caesar's fate, made sure that he insisted on the correctness of M. Brutus' claims. How could Marcus *not* have acted as he had, seeing everyday as he did the *imago* of L. Iunius Brutus, as well as that of Servilius Ahala?¹¹

Dionysius' source appears therefore to have been an opponent and critic of M. Brutus and, it is probably safe to assume, an adherent of Iulius Caesar. The constitutional details that Dionysius includes at this point in his narrative regarding the magistracies that the *plebs* was eligible to hold may be relevant. Dionysius' source was presumably someone who took an interest in legal and constitutional matters, or someone who was at least sufficiently well versed in them to be able to use them in support of his argument;¹² and it may be that his source was perhaps also someone who had reason to be conscious of, or interested in, the disparities that had once existed between patricians and plebeians. Also relevant may be Dionysius' comments about the accuracy of his source.

5. M. Brutus advertised his ancestry on his coins, for which see Crawford 1974, 1: 455–56, on no. 433, 1 and 2. He also commissioned Atticus to research his ancestry; see Nep. *Att.* 18.3; Cic. *Att.* 13.40.1. See also Plut. *Brut.* 1.1–5, *Caes.* 62.1; Cic. *Phil.* 2.26, 10.14, *Brut.* 331, *Orat.* 153.

6. Suet. *Iul.* 80.3; Plut. *Brut.* 9.5–10.6, *Caes.* 62.4; App. *B Civ.* 2.112–13; Dio Cass. 44.12.2–3.

7. On the influence and importance of Brutus' ancestry, see variously MacMullen 1966, 7–10; Flower 1996, 88–89; Welwei 2000, 53–54; Gotter 2000, 330–33; Walter 2003, 272–74; Lentano 2007, 127–34; 2008, 891–95.

8. Cf., e.g., Suet. *Claud.* 24.1, and Ryan 1993; Val. Max. 5.8.3; the idea was parodied by Plaut. *Pers.* 53–61, on which cf. Walter 2003, 262; Lentano 2007, 179.

9. Plut. *Brut.* 1.6; Dio Cass. 44.12.1.

10. Cf. Rawson 1986, 103; Mastrocinque 1988, 95–96; Welwei 2000, 54.

11. Cic. *Phil.* 2.26: *etenim si auctores ad liberandam patriam desiderarentur illis actoribus, Brutus ego impellerem, quorum uterque L. Bruti imaginem cotidie videret, alter etiam Ahalae?* For the *imagines* as stimuli, cf. Polyb. 6.53.9–10; Sall. *Iug.* 4.5–6; Gregory 1994, 91; see also the various works cited in nn. 4 and 7 above.

12. This may not seem like an argument that would require specialist knowledge, but note how unperturbed people in the ancient world generally appear to have been about the presence of plebeian names in the early consular *fasti*; cf. Livy 6.42.9: *L. Sextius de plebe primus consul factus*, 7.1.1–2; and yet Livy has earlier recorded the election to the consulship of numerous men who appear to have been from plebeian families: 1.60.3, 2.17.1, 2.18.1, 2.21.1, 2.33.3, 2.34.1, 2.34.7, 2.40.14, 2.41.1, 2.63.1, 3.10.5, 3.25.1, 3.30.1, 3.31.5, 4.1.1.

Quellenforschung is both an unfashionable and a highly conjectural science, but that does not mean that the approach should be abandoned altogether.¹³ Its current lack of popularity is primarily the result of a reaction to the excesses and overconfidence of certain scholars of previous generations. As for its conjectural nature, it is important merely to realize that any argument about the sources that an ancient writer may have used will usually only ever amount to a hypothesis, a hypothesis that must be tested just like any other. Inevitably it is possible, therefore, to do no more than make a suggestion about the identity of Dionysius' source, and then to explore, with all due caution, some of the implications of that suggestion, to see if it is at all plausible.

Very early on in his work Dionysius provides a list of his sources (*Ant. Rom.* 1.7.3). The list appears to be confined only to those who wrote in Latin, and it is not comprehensive in any case. Other authors not included in the list, some of whom wrote in Latin, are mentioned elsewhere by Dionysius (for instance, C. Sempronius Tuditanus, whom Dionysius cites at *Ant. Rom.* 1.11.1). The field can be narrowed down very easily and quite considerably. Most of the authors Dionysius names in his work simply lived too early to have been able to contribute to debates that took place in the first century B.C.E.¹⁴ Dionysius also claims to have conversed with learned contemporaries, and it is not impossible that the source he refers to at *Ant. Rom.* 5.18 was someone to whom he had spoken. But this is unlikely. Dionysius' vocabulary makes it clear that his source wrote rather than spoke. For the same reason, it is also clear that Dionysius had not simply got hold of a political pamphlet of some kind, or some such document: his vocabulary seems to imply that his source was a general work on Roman affairs, rather than something devoted to a specific political issue.¹⁵

There are several possible sources that Dionysius may have drawn upon for his claim that Brutus was a patrician; but, of those several possibilities, there is one in particular that certainly seems to meet all the various criteria outlined above, and that is the work of Q. Aelius Tubero, Dionysius' patron and the man to whom he dedicated his essay on Thucydides. Dionysius describes Tubero as a clever man and a careful compiler of historical data,¹⁶ and this accords extremely well with the complimentary tone he adopts at *Ant. Rom.* 5.18. The comments on which magistracies plebeians could legally hold are perfectly appropriate too, for Aelius Tubero also wrote about legal and constitutional matters.¹⁷ Finally, there is the issue of Tubero's views regarding Iulius Caesar and M. Brutus.

13. Pace Cornell 1995, 4–5, and more recently, 2005, 64: "[T]here is nothing whatever to be gained by trying to identify the individual writer or writers being followed by Livy or Dionysius at any given point (that is, from *Quellenforschung* as traditionally practiced)." The following discussion, it is hoped, may reveal some of the benefits to be had from "*Quellenforschung* as traditionally practiced."

14. A list of the sources that Dionysius cites by name can be found in the indices for Jacoby's Teubner edition (1925). It may be possible to narrow the field down further: those historians of the first century B.C.E. who dealt only with recent and contemporary events and who did not write *ab urbe condita* (such as Asinius Pollio, who, as it happens, evidently praised Brutus and Cassius, *Tac. Ann.* 4.34.4) may not have been of much interest to Dionysius; naturally that does not mean that he did not consult their works, but it may be less likely. To what extent does Dionysius' choice of words at *Ant. Rom.* 5.18 (see n. 15 below) preclude historical works of a restricted or focused nature?

15. Dion. Hal. *Ant. Rom.* 5.18.1: ὡς οἱ τὰ Ῥωμαίων σαφέστατα ἐξηγακότες γράφουσι. For the circulation of political pamphlets that dealt with Brutus' ancestry, see Dio Cass. 44.12.1.

16. Dion. Hal. *Ant. Rom.* 1.80.1. See Cic. ap. Gell. *NA* 1.22.7 and Pompon. *Dig.* 1.2.2.46 on Tubero's knowledge of legal matters.

17. References in nn. 16 and 18. Note Tubero ap. Gell. *NA* 14.7.13, where the style of argumentation is reminiscent of Dion. Hal. *Ant. Rom.* 5.18.

Although Tubero and his father, Lucius, both fought alongside Pompey during the Civil War, both were later pardoned by Caesar. In 46 B.C.E. Tubero unsuccessfully prosecuted Q. Ligarius—who also fought against Caesar in the Civil War, but who was in the end likewise pardoned, despite Tubero's efforts—and thereafter he retired from public life.¹⁸ It may, then, seem rather unlikely that Tubero would have ever become in any way a supporter of Iulius Caesar, and yet there is good evidence that, despite his former allegiances, that is precisely what must have happened. Furthermore, there exists at least one possible and plausible explanation for this apparent change of heart. The Aelii were plebeian, but at some stage they were evidently granted patrician status. It has been very plausibly argued that it was Iulius Caesar who was responsible for this grant.¹⁹ If it was, then that may well have provided sufficient motive for some expression of support for him, and along with that, the subsequent censure of Brutus. And it is conceivable too that this transition may have made Tubero especially sensitive to, or conscious of, the restrictions that had previously been imposed upon the plebeians, and so on his own ancestors.

Tubero wrote about Iulius Caesar. While there is nothing in those fragments of his work that are directly concerned with Caesar that could safely be taken as evidence for Tubero's opinion of him,²⁰ a fragment of his account of the story of Romulus and Remus is considerably more revealing. In the days before Rome was founded, the herdsmen of Numitor and Amulius grazed their flocks on the site where the city would later stand. On one occasion a dispute arose among the herdsmen; Romulus and Remus became involved, and shortly thereafter, and in circumstances variously reported, Remus was seized by Numitor's men and taken into custody. There were, it would appear, essentially two different versions of the story of Remus' capture. According to one, while Romulus was occupied with religious matters, Remus was taken by Numitor's men; according to the other, while the brothers and their followers were performing the rites of the Lupercalia, and so had separated into two groups and were unarmed, Remus and his *Luperci* were ambushed.²¹ Aelius Tubero evidently told this second version, but he appears to have made one important modification to the story: Tubero appears to have added a third group of *Luperci*.²²

Traditionally there were just two groups of *Luperci*, the *Luperci Fabiani* and the *Luperci Quinctiales*, and these two groups were connected with Remus and Romulus respectively.²³ In 45 B.C.E. a third group was added. This group was called the *Luperci Iuliani*, and it was established in honor of Iulius Caesar.²⁴ Dionysius (who is the source

18. Q. Ligarius was an opponent of Caesar (e.g., Plut. *Cic.* 39.5) and he remained one, but Tubero had his own ax to grind (cf. Cic. *Lig.* 9, 11, 23, 24, 29; Caes. *B. Civ.* 1.31.3; Pompon. *Dig.* 1.2.2.46); on Ligarius' trial, cf. Walser 1959. For Tubero's career, see Klebs 1893, cols. 534–35, 537–38; Chassignet 2004, LXXXI–LXXXI; Beck and Walter 2004, 346–48.

19. Plebeian: cf., e.g., Livy 30.39.8. Pomponius, however (*Dig.* 1.2.2.46), says that Q. Tubero was a patrician. As Wiseman (1979, 138) rightly concludes, the Aelii must have been "granted patrician status either by Caesar, under the *lex Cassia*, or perhaps by Octavian, under the *lex Saenia* in 30 B.C." It makes no significant difference to the current argument if it was instead Octavian who made the Aelii patrician, but Caesar is certainly the likelier candidate.

20. Frag. 12 Chassignet = Suet. *Iul.* 56.9 (where the attribution to Tubero depends upon an emendation of the text) and frag. 13 Chassignet = Suet. *Iul.* 83.1. Neither fragment, at least, betrays any hostility to Caesar.

21. For the first version, see Plut. *Rom.* 7.1–3; Dion. Hal. *Ant. Rom.* 1.79.12–14; for the second, Livy 1.5.3 (with minor variation in the details); Dion. Hal. *Ant. Rom.* 1.80.1–2.

22. Frag. 4 Chassignet = Dion. Hal. *Ant. Rom.* 1.80.1–3.

23. *Ov. Fast.* 2.375–78; Paul. *Fest.* 78L; *Festus* 308L; *CIL* VI 1933, VI 33421, XI 3205.

24. Dio Cass. 44.6.2, 45.30.2; Suet. *Iul.* 76.1.

for Tubero's version of the story of Remus' abduction) does not say how Tubero accounted for the third group that had allegedly existed in Romulus' and Remus' day, who was supposed to have led it, or even what it was called, but it seems safe to assume that Tubero must have incorporated the *Luperci Iuliani* into his narrative.²⁵ There is no other obvious explanation for the existence of a third group of *Luperci*. And there is only one reason why anyone would have wished to do such a thing. By inserting the *Luperci Iuliani* into the traditional story of Romulus and Remus, Tubero must have been attempting to give them a heritage that made them every bit as old and authentic as the *Luperci Fabiani* and the *Luperci Quinctiales*.

Not only, therefore, does this fragment provide good evidence for Tubero's allegiances, it also demonstrates that he was quite prepared to modify his account of Rome's history in order to flatter Caesar. It is perfectly conceivable then that Tubero may have also been the source behind Dionysius' discussion of L. Iunius Brutus' patrician status and the offices for which the plebeian Iunii were eligible; indeed, it is possible that he may have even been responsible for the specific claim that L. Brutus was patrician.²⁶

Tubero's version of the story of Romulus and Remus also provides a useful terminus post quem for the composition of this part of his history. It may provide something of a terminus ante quem too: presumably Tubero wrote his account before, or at least not too long after, the *Luperci Iuliani* disappeared, for once they had ceased to exist, as they soon did,²⁷ there would have been little point in inventing a pedigree for them. If Tubero was writing his account of Romulus and Remus and the foundation of Rome in the late 40s or in the 30s B.C.E., he would, it is reasonable to suppose, have been dealing with the expulsion of the kings and the foundation of the Republic, and so therefore with the career of L. Iunius Brutus, at approximately this same time, perhaps at the most just a few years later—that is, at any rate, right at the very moment when M. Brutus' ancestry really mattered.

It is of course impossible to prove that the source to which Dionysius refers at *Antiquitates Romanae* 5.18 was indeed the work of his patron Aelius Tubero. However, the hypothesis that Dionysius was referring to Tubero's history does seem to accord very nicely with what little else can be inferred about the work. Moreover, where politically contentious issues are concerned, matters of chronology become especially important, and here too, a good case can be made for Tubero's suitability. It hardly needs to be said that considerably more is at stake here than simply tracing the possible source of one small passage of Dionysius' history. If the hypothesis put forward in this paper is correct, then the claim that L. Iunius Brutus was a patrician must inevitably constitute

25. So too Chassignet 2004, LXXIX–LXXX, 239 n. 3; Beck and Walter 2004, 351–52; Walt 1997, 175, although Walt suggests in n. 729 that Tubero, rather than inventing the tradition himself, may have drawn upon “Caesarischen Propaganda.” This may well be the case. Note Weinstock 1971, 332–33, on the possible justification for the creation of the *Luperci Iuliani*.

26. Tubero would not have been the first to deny that the Iunii Bruti were descended from L. Brutus; a fragment of Posidonius (ap. Plut. *Brut.* 1.7–8) shows that the ancestry of the Iunii Bruti had been questioned previously, but only, it would appear, on the grounds that Brutus had executed his children (and thus, in reply to this argument, it was claimed that Brutus had had a third son, who was an infant, and that the later Iunii were descended from this third child).

27. Cic. *Phil.* 13.31 shows that the Senate deprived the *Luperci Iuliani* of their funding; it is, however, quite conceivable that their position was restored by the triumvirs. Any revival was presumably short-lived, and their existence may have been brought to an end by Octavian (cf. Suet. *Aug.* 31.4, which is obviously not to be taken literally). I am very grateful to Peter Wiseman for drawing my attention to this possibility, and also to CP's anonymous readers for several other helpful suggestions.

further evidence of the way in which contemporary politics could affect what and how Roman historians wrote about Rome's early history.

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SYMMACHUS' *EPISTULAE* 1.31 AND AUSONIUS' POETICS OF THE READER

Scott McGill has recently read Symmachus' *Epistle* 1.31 as proving that the right of authorship existed in antiquity.¹ As McGill shows, Symmachus' playful offer to plagiarize Ausonius reveals their culture's assumption that an author's work ought to be acknowledged. Symmachus' humor, however, extends beyond the question of an author's right to his own work; it also engages Ausonius' lively interest in the reception of his poetry. Therefore, while I agree with McGill that Symmachus' letter is evidence that both authors had an idea of plagiarism analogous to our own, I will argue that Symmachus' letter can only be fully understood in light of Ausonius' poetics. In the first half of this note, I will explain my reading of the epistolary exchange between Symmachus and Ausonius. In the second half, I will place Symmachus' letter within the broader context of Ausonius' poetry, a body of poetry significant both on its own account and because Ausonius exemplifies the taste of his age.²

Both Symmachus' letter to Ausonius and the poet's response (Auson. *Ep.* 12 Green = Symmachus *Ep.* 1.32) present the reader as a mediator between the author and his public. While both Symmachus and Ausonius understand authors as possessing conventional rights to their work, in practice they encourage forms of reading that create distance between an author and his audience. Whereas one could think that Symmachus' joking reference to plagiarism derives from a shared interest in a strong author who controls the reception of his words, Ausonius and Symmachus both write about the mediation of poetry and not about its original state. In using the word “mediation,” I mean to represent the middle ground between an author and his audience. I reserve the word “reception” for the point at which an individual reader's meaning is realized.³ The word “mediation” is appropriate for the simple reason that Ausonius and Symmachus

1. McGill 2009. Of course, authors did not possess legal rights as in the modern world, but McGill argues convincingly that authors did have conventional rights. For the bibliography on plagiarism in antiquity, see McGill's article, along with n. 19 below. Besides McGill's article, the only other extended treatment of Symmachus' letter is in Bruggisser 1993, 259–71. Green considers Symmachus' letter in his overview of Ausonius' correspondence, but only to characterize it as “excuses and flatteries” (1980, 200).

2. I adapt, with gentle irony, Gibbon's well-known evaluation of Ausonius' poetry ([1776–78] 1993, vol. 3, chap. 27).

3. I paraphrase Martindale 1993, 3. On reception and the classics, see now Martindale and Thomas 2006.