THE LEX LICINIA MUCIA AND THE BELLUM ITALICUM

Fiona C. Tweedie*

1. Introduction

In a fragment of the Pro Cornelio preserved in Asconius, Cicero condemns the Lex Licinia Mucia of 95 as inutilis and perniciosa to the Republic:

‘I see that everyone is agreed that the Licinian-Mucian law concerning the return to one’s own citizenship, although two consuls who were the wisest of all we have seen passed it, was not only useless but very destructive of the public good.’ He means L. Licinius Crassus the orator and the Q. Mucius Scaevola, who was pontifex maximus, orator and jurist. For these two passed the law he is talking about during their consulship for restoring the socii to their own citizenships. For since the Italian peoples were gripped by a great desire for the Roman citizenship and because of this a great part of them were presenting themselves as Roman citizens, the law seemed necessary to return each of them to their own citizenships. The feelings of the leaders of the Italic peoples were so alienated by this law that it was even the main reason for the bellumItalicum that broke out three years later.\(^1\)

This is a strong condemnation, especially given that he has just praised the consuls who passed it as sapientissimi. Asconius elaborates on these lines and explains that a large number of Italici had been seized by such a desire for the Roman citizenship that they were conducting themselves as Romans. The consuls decided that these allies should be returned to their own citizenries and passed a law to this effect. Despite their wisdom, the law had the disastrous effect of alienating the spirits of the Italian principes and was, Asconius says, the main reason for the war that broke out

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* University of Sydney; fiona.tweedie@sydney.edu.au.

1 Asc. 67–8C: Legem Liciniam et Muciam de civibus redigendis video constare inter omnis, quamquam duo consules omnium quos vidimus sapientissimis tulissent, non modo inutilem sed perniciosam rei publicae fuisset.

L. Licinimum Crassum oratorem et Q. Mucium Scaevolam pont. max. eundemque et oratorem et iuris consultum significat. Hic enim legem eam de qua loquentur de redigendis in suas civitates sociis in consulatu tulerunt. Nam cum summa cupiditate civitatis Romanae Italici populi tenerentur et ob id magna pars eorum pro civibus Romanis se gereret, necessaria Lex visa est ut in suae quisque civitatis ius redigeretur. Verum ea lege ita alienati animi sunt principum Italicorum populorum ut ea vel maxima causa belli Italici quod post triennium exortum est fuerit.

All translations are my own unless noted otherwise.
three years later. The nature of this law and the impact it had on Roman relationships with the allied communities in the tense years before the outbreak of the *Bellum Italicum* are of central interest to any study of the integration of the allies into the Roman state.

The law has, however, received relatively little scholarly attention. When it is examined, the law tends to be treated as merely a symptom of Roman attitudes towards the *socii* or as part of internal Roman factional struggles. When we see the tumultuous events of the tribunate of M. Livius Drusus in 91, blaming a law passed several years earlier for the war does seem to be exaggeration on Asconius’ part. This paper will argue, however, that Asconius’ claim has merit. Much has already been written on what the Roman citizenship may have represented to the Italian allies and the extent to which they really desired it. This paper is not going to revisit those debates. Rather, it will re-examine the *Lex Licinia Mucia* in the political context of the 90s BC and restore a widely overlooked element to the discussion: the Roman census. The law was passed in 95, following the closing of the census of 97–6. Tensions with the allies came to a head in 91 as a new census was being conducted. By bringing back the census, as the means by which membership of the Roman citizen body was confirmed or refused, into our consideration of the debate over the status of the *socii* during the 90s, it becomes clear that the *Lex Licinia Mucia* was a critical link in a chain of events that culminated in the outbreak of violence in 91.

2. *Cicero and the Lex Licinia Mucia*

Cicero mentions the *Lex Licinia Mucia* in several different contexts which encompass rhetorical and philosophical works as well as forensic speeches. Although no total picture of the law can be extracted from his comments, the diversity of these references means that they can be weighed against each other and we can be reasonably confident about some aspects of the law. The first of these statements comes in the *Brutus*: “For Lysias is certainly an Athenian, because he both was born and died at Athens and performed all the functions of a citizen, although Timaeus, as if acting under the Licinian-Mucian law, calls him back to Syracuse.”

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