

# History of Livy on the Bacchanalia

## VI. Livy and consular edict of October 7

### Preamble

Livio concludes the eighteenth chapter of the thirty-ninth book of his Stories citing an important provision probably approved in the third *senatus consultum* on the Bacchanalia<sup>1</sup> and an extract of the legislative norms approved by the senate in the session of October 7 of 186 BC. These rules were later rendered executive with an edict of the consuls of which we possess an original copy found on a bronze tablet in Tiriolo (Catanzaro).

Livy makes no reference to this edict of the consuls, but simply reproduces a concise summary of the provisions approved by the Senate, probably made from its source. In fact, he did not have the habit of going to consult the documents in their original, but he accepted those he found reported by the analysts<sup>2</sup>.

Paillet, to explain the differences between the text of Livy and the document of Tiriolo hypothesizes that two re-

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<sup>1</sup> The first *senatus consultum* (39, 14, 5 - 10) sets in motion the persecution of the followers of Bacchus and fixes the concrete modalities of the inquiry. It is specified by the rules of application, rendered executive by the consuls with an edict. A second (18, 1) is quickly quoted by Livy, as a consequence of the repression and the panic that arouses among the people. The senate authorizes the magistrates to postpone the trials that cannot take place due to the absence of one of the two parts.

<sup>2</sup> G. DE SANCTIS, *Livio e la storiografia romana*, in *Problemi di storia antica*, Bari, 1932.

dactions had been made, one for the Romans (reported by Livy) and the other for the Italics (that of Tiriolo)<sup>3</sup>.

Such a hypothesis is unlikely for at least two reasons. First of all the Tiriolo document is a normative edict of the consuls<sup>4</sup>, in short, a real Roman law<sup>5</sup>. Therefore its addressees were only all the Roman citizens, the Latin ones and the allies, who lived in Rome and in the Roman territories outside Rome and were obliged to respect the rules of the edict. Secondly, the scholar, while admitting that Tiriolo was a *council*, that is a territory of Roman citizens, believes that the so-called *Senatus Consultum* was addressed to the Italics allies. Yet it is enough to read carefully the preamble of what is certainly a consular edict to understand that the addressees were exclusively "those who had made agreements between them within the Bacchanals"<sup>6</sup>, that is, the followers of Bacchus.

It is, instead, plausible another hypothesis which is certainly more realistic and which explains the differences between the two texts much better. The author of the summary reported by Livy was based not on the text of the edict of the consuls, erroneously considered the text of the *senatus consultum*, but on the verbal of the consultation of the senate. If we carefully analyze Livy's text, the hypothesis becomes cer-

<sup>3</sup> PAILLER 1988, p. 188.

<sup>4</sup> DE MARTINO 1962, p. 174: "The *senatus consultum* is of evident normative nature, it indicates in a precise way the forbidden facts and after them it imposes the capital sanction."

<sup>5</sup> Lintott, *Nova Roma*, 13 August 2008: "The letter might well have seemed equivalent to *lex*, especially as it included a sanction against transgressors."

<sup>6</sup> CIL, X, 104, l. 2-3: *de bacanalibus quei foederatei esent*. The sentence in fact must be interpreted in its syntactic unit and not divided into two sections.

tainty. Livy first affirms that "then the consuls were instructed to ..."<sup>7</sup>. Certainly the consuls were appointed by the Senate. Immediately after, in an even more explicit way, he tells us that "later, with a consultation of the Senate, it was decided that ..."<sup>8</sup>

Thus both the author of the summary reported by Livy and the consuls in formulating their edict had as their basis the same source.

The edict of the consuls reproduces the various senatorial provisions from the verbal of the session of the Senate of October 7, sometimes literally, sometimes summarizing them, to make them simpler and more understandable by the people. Livy's text is very concise and contains only the provisions considered most important by the author of the summary. However, it omits some rules considered important by us and of course the provisions concerning the publication of the edict are not reported, as the author of the summary reported by the historian did not use this document. We can add that also the lack of the rules concerning the publication of the edict in the text of Livy shows that its source did not take this document into account.

The problem that arises is whether all the rules present in the edict, but not in the summary of Livy, have been reproduced from the verbal of the senatus consultation or the consuls in some cases have modified it. It is known, in fact, that for many subjects the magistrates were obliged, before making a decision, to consult the Senate, but the relative consultum was never conceived as binding. It was always subject to the clause "if it seems appropriate to the

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<sup>7</sup> LIVY, XXXIX, 18, 7: *Datum deinde consulibus negotium est ut ...*

<sup>8</sup> LIVY 18, 8: *In reliquum deinde senatus consulto cautum est ne ...*

magistrates"<sup>9</sup>. In short, the magistrates could not respect the prescriptions of the consultation, respect them in whole or even only in part. It is possible that the consuls in our case have deemed it appropriate, for reasons we do not know, to make any changes or additions to the provisions recommended by the Senate. The word "key" ITA (so) that the consuls use in the preamble, however, suggests that they have followed quite faithfully the minutes of the senatorial consultum.

Now we think it useful to reproduce a table used by the Pailler (1988, p. 179). It allows having, with a glance, a complete view and a quick comparison of the parts of the inscription present also in the text of Livy, although with some significant differences.

### Comparison table: Edict of the consuls - Livy

| Livy, 18, 7  | Edict of the Consuls  |
|--|---|
| First senatus consultum  | Second part (ll. 22- 30)  |
| Datum deinde consulibus negotium est ut omnia Bacchanalia Romae primum deinde per <b>totam Italianam</b> Diruerent extra quam si qua ibi <b>uetusta ara aut signum</b> consecratum esset | Utei <b>ea</b> Bacchanalia (l.28)<br><b>in diebus X</b> ... faciatis utei dismota<br>sient (l. 29 – 30)<br><b>sei qua sunt</b> exstrad quam sei<br>quid ibei <b>sacri</b> est |
| Livy, 18, 8  | Edict of the Consuls  |
| Second senatus consultum   | First part (ll. 1-22)   |
| In reliquum deinde senatus consulto cautum est ne qua Bacchanalia Romae neue <b>in Italia</b> essent.<br>si quis tale sacrum <b>sollemne</b> et  | Cos. senatum consoluerunt (l. 1)<br>... censuere (l. 3, 9, 18)<br>neiquis <b>eorum</b> Bacanal habuise  |

<sup>9</sup> GUARINO, 1963, p. 204.

|  |   |
|--|---|
| <p>necessarium duceret, <b><i>nec sine religione et piaculo</i></b> se id omittere posse apud praetorem urbanum profiteretur praetor senatum consuleret.</p> | <p>uelet (l.3)<br/>sei <i>ques esent</i> quei sibei deicerent necesus ese Bacanal habere (r. 4) eeis utei ad praetorem urbanum <i>Romam</i> uenirent (l. 4 – 5)</p>                 |
| <p>si ei <b><i>permissum esset</i></b>,<br/>cum in senatu centum non minus essent, <b><i>ita</i></b> id sacrum <b><i>faceret, dum</i></b></p>                | <p>deque eeis rebus ... utei senatus <i>noster</i> decerneret (r. 5 – 6) dum ne minus senatoribus C adesent (r. 6, 9, 18) sacra <i>ne quisquam</i> fecise uelet (r. 15, 16, 19)</p> |
| <p>(1) ne plus quinque sacrificio interesset</p>   | <p>(4) hominaes plous V oinuouersei <i>uirei atque mulieres</i> neue inter ibei <i>uirei plous duobus mulieribus plous tribus</i></p>   |
| <p>(2) neu qua pecunia communis</p>  | <p>(3) neue pecuniam eorum co moinem habuise uelet</p>  |
| <p>(3) neu magister sacrorum</p>   | <p>(2) magister neque uir neque mulier eset</p>   |
| <p>(4) aut sacerdos esset</p>  | <p>(1) sacerdos nequis uir eset</p>   |

The comparison shows that some provisions of the edict are not reported by Livy; they will be examined later. It is also clear that the provisions reported in the two texts are placed in reverse order. Opinions do not agree on the reasons for this inversion.

ACCAME<sup>10</sup> believes that Livy, or rather his source, intentionally wants to underline the dangers for the State by the followers of Bacchus. Therefore he first highlights the limitation of the right to meet and then the abolition of all financial administration. From the very disposition of the prohibitions and from the development of the logical link it would appear, in his opinion, that Livy considers the *senatus consultum*

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<sup>10</sup> ACCAME, 1938, p. 228.

more under the political aspect than under the religious one, on the basis of the danger that the Bacchic organizations represented for the State.

VAN SON<sup>11</sup> has critically analyzed this hypothesis and demonstrated its improbability, then reconstructed the logical thread of the Livy's presentation. For those who have obtained permission to hold a *Bacchanal*, are enumerated the restrictive measures in which the whole comes before the parties. First of all, the conditions under which the ritual can be celebrated are highlighted: the participants cannot be more than five and there cannot be a common fund. With these provisions, the establishment of a stable organizational structure was avoided. The specialized staff came later: first the *magister sacrorum*, which was to administer the common fund and then the sacerdos. This analysis is also interesting because it allows us to understand by contrast the order followed in the letter of the consuls to the Teurani. The composition of this text leaves no doubt about the basically legal and practical destination. The order followed is that of the legal paths that all those who want to request an authorization to maintain a Bacchanal must follow<sup>12</sup>.

## The Senate Consultations

Now we will analyze in detail the part of the senatorial consultations reported in the text of Livy. The historian begins with the news that:

(18,7) *Datum deinde consulibus negotium est ut omnia Bacchanalia Romae primum, deinde per totam Italiam diruerent, extra quam si ibi uetusta ara aut signum consecratum esset.*

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<sup>11</sup> VAN SON, 1960, p. 86.

<sup>12</sup> PAILLER, 1988, p.191.

(18,7) «The consuls were then commissioned to have all the places of worship of Bacchus demolished, first in Rome and then throughout Italy, except for those in which there was an ancient altar or statue of the god».

The commission to the consuls to have the Bacchanalia demolished had been approved by the Senate in a session prior to that of October 7 and precisely in that in which they also ordered to severely prosecute the followers of Bacchus. Livy confirms this when consul Postumius, in his speech to the people immediately after this session, among other things says: "I thought it best to put you first aware of the situation so that your minds are not surprised by some religious disturbance when you saw break down the Bacchanals and disperse those nefarious congregations."<sup>13</sup>

This provision instead concludes the edict of the consuls to the Teurani and is directed to the competent authorities by territory.<sup>14</sup> It is part of the requirements for the execution of the edict. The coexistence of this provision in both texts does not mean that the author of the summary reported by Livy used the edict of the consuls. We can only affirm that both the consuls in their edict and the author of the summary are based on a previous senatus consultation on the Bacchanalia, the one that had started the persecution of the followers of Bacchus. Logically the consuls do not reproduce the specification *Romae primum, deinde per totam Italiam*, as it did not affect the Teurani.

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<sup>13</sup> Livy, XXXIX, 16, 9: *Haec vobis praedicenda ratus sum ne qua supersticio agitaret animos uestros, cum demolientes nos Bacchanalia discutientesque nefarios coetus cerneretis.*

<sup>14</sup> CIL, X, 104, l. 28 –30: *atque utei Bacanalia sei qua sunt, exstrad quam sei quid ibei sacri est ita utei suprad scriptum est, in diebus X quibus uobeis tabelai datai erunt faciatis utei dismota sient.*

Altogether the expression of the inscription corresponds quite to that used by Livy. In both, instructions to demolish the places of worship of Bacchus but with an exception are ordered.

The formulation of the exception, however, is longer in Livy who seems to want to clarify the original text: *quid sacri* of edict becomes *uetusta ara aut signum dei consecratum*. The terms indicating the altar and the statue are not necessary for understanding, but the verb *consecrare* and the adjective *uetustus* are more explicit than the simple *sacrum* of the inscription which could be confused with the *sacra* that it wants to eliminate<sup>15</sup>. We can add that, for the sense, this clarification on antiquity is linked exactly to the value of *sollemne* that appears immediately after in the main text<sup>16</sup>. Of course we do not know how the exception was formulated in the text of the consultum.

## Ban on places of worship

Livy's text goes on to state:

(18,7) *In reliquum deinde senatus consulto cautum est ne qua Bacchanalia Romae neue in Italia essent.*

(18,7) « Later, with a Senate consultum, it was provided that for the future the Bacchanals did not exist in Rome and Italy ».

The phrase, in an antithetical position with the previous one, certainly refers to a senatus consultation distinct from the one that ordered the destruction of the Bacchanals and after it as indicated by the *deinde*<sup>17</sup>. It is certainly the Senate

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<sup>15</sup> PAILLER, 1988, p. 186.

<sup>16</sup> LIVY, XXXIX, 18, 8: *si quis tale sacrum sollemne et necessarium duceret.*

<sup>17</sup> ACCAME, 1938, p. 227.

consultation on 7 October that Livy cites in a generic way and without the date on which it was deliberated.

In the edict it is the first and most important ordinance. It established: "None of them (the followers of Bacchus) wanted to maintain a Bacchanal (a meeting place for Bacchante)".<sup>18</sup> With this prohibition the consuls aimed to obtain their main objective: the drastic limitation of the places of worship of the Bacchantes. The consuls reproduce the prohibition as it was expressed in the verbal of the consultation of the senate: the stereotyped formula is used, proper of the decrees of the senate and the edicts of the magistrates. The verb *uolo*, at the volitional subjunctive, is followed by the perfect infinitive without perfectum value. The use of the verb *uolo* wants, in my opinion, to underline that the eventual offenders of the rules of law committed a crime aggravated by the voluntariness and the premeditation. The theme of places of worship returns in the final part of the edict, when local authorities are ordered to demolish all existing sanctuaries except those characterized by a long and consolidated sacredness and venerability<sup>19</sup>.

The presence of places of worship of Bacchus at the beginning and at the end of the document in a singular circular structure contributes to underline the importance of this prohibition. These places symbols, for the activities that take place in them, are the particular target of the senate<sup>20</sup>. If

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<sup>18</sup> CIL, X, 105, l. 3: *nei quis eorum bacanal habuise uelet*. The term *Bacchanal* does not derive from *Bacchus*, the god, but from *baccha* "the bacchant". It indicates the place where the bacchantes gathered for their ceremonies (SCHWYZER KZ, 37, 1904, p. 149. THESAURUS, II, 166, 68).

<sup>19</sup> C.I.L., X, n. 104 , l. 28: *extrad quam sei quid ibei sacri est*; Livy, XXXIV, 18, 8: *extra quam si qua ibi uetusta ara aut signum consecratum esset*.

<sup>20</sup> FLOWER 2002, p. 84.

many of the existing places of worship were eliminated and the possibility of creating others was excluded, at the same time the associates could not participate numerous at their night meetings.

Livy tells us that the Senate had decided that there could no longer be places of worship for Bacchus in Rome and Italy.

### Derogation from the prohibition

Immediately afterwards, in contrast to what was stated earlier, he adds that a derogation is possible:

(18, 8) *Si quis tale sacrum sollempne et necessarium duceret, nec sine religione et piaculo se id omittere posse, apud praetorem urbanum profit-eretur, praetor senatum consuleret.*

(18, 8) «If there were someone who considered this cult consecrated by use and necessary and it could not be abandoned without committing a profanation and impiety, he had to request a derogation from the urban magistrate and the magistrate had to submit the case to the senate».

This derogation is also taken up by the consuls in their edict (ll. 4 – 5): *sei ques esent quei sibei deicerent necesus esse bacanal habere eeis utei ad praetorem urbanum Romam veni-rent.* This means that for the senators and the consuls of 186 the relations between man and divinity were consecrated by a contract, which could not be violated with impunity. Now, if, in general, the Bacchanals were a danger to the State and had to be demolished, there was also a god called Bacchus or Liber who had to be respected and honored. There could therefore have been cases in which the abandonment of the cult of Bacchus could represent a serious offense to the divinity. The words used by Livy to explain this situation (*sa-*

*crum sollempne et necessarium ... nec sine religione et piaculo)* are undoubtedly more precise and punctual. *Sollemnis* is an adjective of the religious language and applies to ceremonies, rites, costumes solemnly performed and celebrated on a fixed date <sup>21</sup>. The first meaning, that of regularity, is noted with precision by Festo: *stata sacrificia sunt, quae certis diebus fieri debent ... Sollemnia sacra dicuntur, quae certis temporibus annisque fieri solent* <sup>22</sup>. The word also has the meaning of "mandatory" <sup>23</sup>. As Fugier points out, the fundamental sense of periodic has two derivatives: habitual and obligatory, which are closely connected to each other. <sup>24</sup> This almost organic connection of the two senses explains that in almost all the texts *sollemnis* is associated with *necessarium* <sup>25</sup>. On the basis of these elements the term also contains the third meaning of "conforming to the customs of a people, national" <sup>26</sup>. So with the expression *sacrum sollempne et necessarium* Livy means a religious ceremony that took place annually on fixed dates and that had become mandatory as it became an integral part of the uses of the Roman people, i.e. national. The other words (*religio and piaculum*) both contain the notion of obligation, of a moral bond. *Religio*, a very complex term for us, represents the religious scruple of not being able to interrupt a long-practiced cult: *sine religione* means

<sup>21</sup> ERNOUT-MEILLET, s.u. *sollemnis*.

<sup>22</sup> FESTO, p. 466, 24 LINDSAY; cfr. CICERONE, *Tusculanae*, I, 47, 113: *Ad sollempne et statu[tu]m sacrificium*.

<sup>23</sup> Cfr. FESTO, 304, 36 Lindsay : *Sollempne quod omnibus annis sacrari debet*.

<sup>24</sup> FUGIER, 1963, pp. 310 – 311.

<sup>25</sup> PAILLER, 1988, p. 216 ; cfr. Livy, XXXIX, 15, 2 : *non solum apta, sed etiam necessaria haec sollemnis deorum comprecatio fuit*.

<sup>26</sup> FUGIER, 1963, pp. 316 – 317. For a complete examination of the term *sollemnis*, see: PAILLER, 1988, p. 214 ss.

"without profanation, without betraying an obligation taken towards the divinity". *Piaculum* corresponds to an act of impiety for which it is necessary to make atonement for an offense made against the *ius sacrum*<sup>27</sup>.

## Conditions of the derogation

Livy's text ends by stating:

(18,9) *Si ei permissum esset, cum in senatu centum non minus essent, ita id sacrum faceret dum ne plus quinque sacrificio interessent neu qua pecunia communis neu quis magister aut sacerdos esse.*

(18,9) «If the senate had granted him the exemption in a session made up of at least one hundred senators, he could also make his sacrifice, but on condition that more than five people did not take part in it, there was not a common fund, nor a master of ceremonies, nor a priest».

In the text of the edict of the consuls, these provisions are part of the third ordinance and present significant innovations. They specify that:

There cannot be a male priest (it is not excluded therefore that there is a priestess), there cannot be a magistrate or a deputy magistrate; there cannot be a common fund.

A ceremony with five present (no more than three women and no more than two men) did not need any authorization.

It is possible that the text in the edict has been reproduced more completely from the minutes of the consultum and the source of Livy has simplified it. It is no wonder, however, if the consuls in formulating their edict were more precise and considered it necessary to make additions by making minimal concessions to the followers of Bacchus<sup>28</sup>.

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<sup>27</sup> BRUHL, 1952, p. 104.

<sup>28</sup> See Preamble.

They realized that it was not logical to perform a sacred ceremony without a priest and thus confirmed the exclusion of a male priest (too dangerous), but implicitly considered that a priestess could be admitted. Livy tells us that more than five people should not participate in the authorized ceremonies. The consuls point out that three of the five participants had to be women and two men. So if one of the women performed the necessary role of priestess, the other participants came to find themselves in perfect gender equality. Under these conditions, the ceremony for the consuls did not need authorization. One can assume that below these figures, in the opinion of consuls, you could not even speak of authentic sacred ceremonies but simple acts of veneration for a deity recognized by the State, made by a small number of people, from which negative consequences could not derive.

The text of Livy bluntly states that more than five people could not participate in the authorized ceremonies. The consuls in their edict admit that more than five people and with a different percentage between men and women could participate in the ceremony with the appropriate authorization of the praetor and the senate. It was certainly not a great concession if we take into account the long and complicated procedure to obtain an exemption.

Naturally, in the text of Livy the prescriptions that the local authorities had to carry out for the publication of the edict are missing. In fact, they were not and could not be reported in the minutes of the Senate session.

In the account of Livy also some provisions that appear in the central part of the edict are missing:

*Bacas uir nequis adiese uelet ceiuis Romanus neue nomi-nus latini neue socium quisquam*<sup>29</sup>.

*Sacra in oqultod ne quisquam fecise uelet neue in pop-licod neue in preiuatod neue exstrad urbem sacra quisquam fecise uelet*<sup>30</sup>.

The first provision is, in the edict, the second prohibition and concerns the entry of men into the meeting places of the Bacchantes (ll. 7–9). The consuls order that:

No man wanted to approach the Bacchantes, nor a Roman citizen, nor a Latin citizen nor an ally<sup>31</sup>.

It is natural to wonder who the Bacchantes are to whom men should not want to approach. If we consider that in the fourth prohibition two men can perform a sacred rite together with three women without any authorization, we must think that men should be authorized only when they attended meetings of more women who acted as Bacchae.

Since later in the edict the Bacchantes are no longer named, it is clear that their rites are not touched by the rules at all; to them no limitation is placed. The consuls implicitly acknowledge that there are women followers of Bacchus and that they cannot be forbidden to meet and celebrate their rituals as they had always done. They cannot ignore the fact that behind these women there is always the god Bacchus, in Rome called Liber, even if they dare not even name him. They therefore consider it dangerous to prevent the meetings of the Bacchantes; it could have seemed an action against Bacchus, a divinity that had always severely punished the opponents of his cult. The only limitation that is

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<sup>29</sup> CIL, X, 104, l. 7.

<sup>30</sup> CIL, X, 104, l. 15.

<sup>31</sup> That is, all categories of free men (excluding slaves and foreigners) who lived in the Roman territories.

imposed on the Bacchantes is only indirect: the drastic reduction of the Bacchanals makes their meetings more difficult, but in authorized places of worship they can perform their rituals whenever they want and without any limitation.

Also in this second prohibition the senators are aware of the diffusion and deep roots of the Bacchic cult and grant an implicit freedom of participation in the rites of the Bacchae and a possibility of derogation for men.

The second prescription not reported by Livy, in the edict constitutes the last paragraph of the third ordinance (ll. 15–18) and concerns the secrecy of the Bacchic ceremonies. It prescribes:

“no one wanted to secretly celebrate (*in oquoltod*) rites of Bacchus, no one wanted to celebrate sacred ceremonies in public, privately or outside the city of Rome.”<sup>32</sup>

This arrangement highlights one of the congenital fears of the Roman authorities: they had a sacred terror of all that they could not control. It then takes away from the celebration of the cult of Bacchus one of its main characteristics: secrecy. From the importance of these two norms we can think that they were not an autonomous decision of the consuls. Probably they had been approved by the Senate and were in the verbal of the Senate session. However, they are not reported in the summary of the session reported by Livy. On the whole, we can think that the author wanted to make a concise summary of the minutes of the Senate session, re-

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<sup>32</sup> CIL, X, 104, l. 15 –16: *sacra in [o]quoltod ne quisquam fecise uelet neue in poplicod neue in preiuatod neue exstrad urbem sacra quisquam fecise uelet*. Con *preiuatod* «Consuls do non allude to the secrecy that is radically forbidden, but to the celebration in places not open to everyone, e.g. in private homes ». (ALBANESE 2001, p. 20, n. 19)

porting only the decisions that seemed most important to him. In this case he would have omitted some rules that are, instead, regularly present in the edict.

## Sommario

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