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NIESE ON THE LICINIAN-SEXTIAN AGRARIAN LAW.

THE last number of *Hermes* (Band xxiii. Heft 3) contains an article by Prof. Niese of Marburg, entitled *das so-genannte licinisch-sextische Ackergesetz*, in which the author undertakes to prove that the alleged agrarian provisions of the Licinian laws do not rest upon genuine and trustworthy tradition, and that this legislation—if there was any such, which he is inclined to doubt—had only the effect of admitting plebeians to the consulship. His reasons are as follows: 1. That the accounts of the early agrarian legislation given by Appian (B. C. i. 7–8), and Plutarch (*Ti. Gracchus*, 8) appear to place it only a short time before the time of the Gracchi. 2. That this legislation was not consistent with the political and economical condition of Italy at the beginning of the fourth century before Christ, but that on the other hand it was naturally called out by the condition of things after the second Punic war. To this he adds that Livy, in his account of the contest upon the laws, makes very little of their agrarian provisions (*in den Verhandlungen über die Gesetzesvorschläge . . . ist von diesem Gesetz keine Rede*), so that they may be regarded almost as an afterthought and a late interpolation. This last assertion is at least exaggerated. In the first promulgation of the laws (vi. 35) the three provisions stand on an equal footing, that in regard to the consulship being mentioned last: during the ten years of the agitation they were constantly spoken of as *leges*; and in the argument of Licinius and Sextius (ch. 36, 11) the agrarian provision is made the most prominent. Niese's remark rests no doubt upon the absence of mention of anything but the consulship in the speech of Appius Claudius (chaps. 40, 41): but this is easily explained by the fact that the other two provisions had been already accepted by the senate (39, 2), so that this was the only thing that remained to discuss.

In regard to the first point he is certainly correct, that Appian and perhaps Plutarch appear to place the legislation not long before the Gracchi: and no doubt Appian's account rests upon an early and authentic tradition. But this view can hardly be considered explicit enough to balance positive evidence on the other side, especially as Appian does not attribute it to any definite person or assign it to any definite time. Plutarch, on the other hand, in another

passage (*Cam.* 39) expressly attributes it to Licinius Stolo, the contemporary of Camillus. Niese says that, with the exception of Varro (*R. R.*, i., 2, 9) no writer before Livy ascribes this law to Licinius Stolo. He overlooks Tullius Tiro, a freedman of Cicero, who speaks of it as *plebiscitum Stolonis* (Gell. vi., 3, 40); and the unanimity with which it is called *law of Stolo* or *Licinian law* (cf. the jurist Sextus Caecilius, in Gell. xx., 1, 23) warrants us in connecting it with some person named Licinius Stolo. Niese admits that the law must have been passed before B.C. 167, and makes light of the failure of Livy to mention it in his very full narration of that period. That we have no information of any person then living of this name is perhaps of little weight as an argument; and yet it is hard to believe that Livy would have said nothing of so important a law and its author. If anything is certain in the early history of the Roman legislation it is that this law—whenever passed—was the work of a Licinius Stolo: and to what other Licinius Stolo than the consul of 364 can we ascribe it?

The other argument, that the circumstances of the republic at this period did not call for or indeed admit such legislation, rests upon the calculation that the territory of the Roman people was not yet extensive enough to allow large estates to be occupied, such as this law assumes. But it appears to us that there was no point of time in Roman history in which these restrictions would be more timely. After a period of depression and defensive wars, Rome had suddenly started forward on her career of conquest, and had already taken long strides towards the annexation of all the lands about her. And, what is very significant, the agrarian agitation, which had slumbered for nearly two generations, was—according to Livy's account—revived at just the time of the first conquests. Fidenae was conquered B.C. 426, and the very next year began the agitation for the agrarian law: in 418 Labicum was conquered, in 415 Bole, in 406 Auxur, in 396 Veii, in 395 Capena, in 386 the Ager Pomptinus. By these acquisitions the *ager Romanus* was at least doubled in extent; and, admitting that a large part of the newly acquired territory was distributed *virutum*, there still remained enough public land open to occupation to give cause for anxiety to the reforming

party. It is evident that, while the power of Rome was not impaired by the Gallic invasion, the social and economical condition of the people was seriously affected, as is shown by the affair of Marcus Manlius: nothing is more natural than that the land question and the question of indebtedness, the burning questions of the hour, should enter into the great settlement of 367 along with the purely political question of the plebeian consulship.

The paper which we have been criticizing is professedly in the line of Mommsen's paper upon 'the three demagogues' (Spurius Cassius, Spurius Maelius, and Marcus Manlius) in the second volume of his *Römische Forschungen*. The controlling idea of these papers is that the economical controversies of the early republic are only the reflection of those of the later republic—not resting upon genuine tradition, but interpolated in the annals by the democratic writers of the last century of the republic

in order to bolster up the cause of their own party. It is hard to reconcile this interpretation with the general tone of Mommsen's history: for he was the first who gave due weight to economical forces in his treatment of early Roman history, and by this he placed in our hands the key to unlock its most difficult problems. Possibly the agrarian laws, the distribution of corn, and the abolition of debts—the issues of the day—coloured unduly the delineation of early events in the writings of the last century of the republic: but that these questions were present in the first century and formed a constant subject of controversy is not only possible in itself, but is what Mommsen more than any other writer has taught us to believe. If we cannot accept this part of Livy's account—that is, in its main features—we might as well give up the attempt to understand these times at all.

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ON THE CONSECUTION OF TENSES IN LATIN AFTER A PRINCIPAL VERB IN THE PERFECT-ABSOLUTE.

It seems to be a common if not universal belief among English scholars that the past tense in Latin has two distinct consecutions; one, when it is used as an aorist, in which case it is to be treated as an historical tense and ought to have the subjoined verb in the imperfect; the other, when it is used as a perfect-absolute, in which case we are told that it is to be treated as a primary tense and ought regularly to have the subjoined verb in the present or perfect.

I have long believed that there is no ground for this distinction. While Professor Kennedy (*P.S.G.* § 229) makes an especial exception of Cicero in the words, 'It is however the prevailing idiom of Cicero to construct the present-past with historic consecution,' I should extend this to Caesar, Sallust, Livy, Tacitus, the younger Pliny and Terence; and I have no doubt the same is true of all other prose and dramatic writers. In the writers I have mentioned the perfect-absolute takes historic consecution in nearly seventy-five per cent. of the cases in which it occurs; and of the remaining twenty-five per cent. a large number are only apparent and not real exceptions.

It is obvious that the perfect-absolute is not likely to occur frequently except in the

works of an author who writes habitually in the first person. It is therefore natural to expect that it will be of rare occurrence in historical writings.

In Caesar, so far as I have noticed, it only occurs four times. In three of these instances the subjoined verb is in the imperfect; in the fourth, for a special reason, it is in the present.

In Sallust I have noticed five instances. In four of these the subjoined verb is in the imperfect; one is, perhaps, a real exception.

In Tacitus I have noticed seventeen instances. In eleven of these the subjoined verb is in the imperfect; in five the subjoined verb is, for special reasons, in the present; one is a real exception.

In Livy, owing to the greater frequency of speeches in the first person, instances are more numerous. In his first decade I have noticed twenty-seven instances. In twenty-two of these the subjoined verb is in the imperfect; in four, for special reasons, it is in the present; one is a real exception.

In Pliny the question is complicated (though not so much as in Cicero's letters) by the difficulty of deciding how far he has adopted the epistolary use of the aorist and imperfect. This is especially the case in his