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FROM SOURCE TO *SERMO*: NARRATIVE TECHNIQUE IN LIVY 34.54.4–8

CYNTHIA DAMON

LIVY'S PREDILECTION for an indirect narrative style is well known. It is most clearly visible when he is adapting a passage from an author who uses a more direct style, Polybius, for example, who frequently pronounces judgment on the events he describes, praising or criticizing military strategies, assessing the importance of political decisions, and so on.¹ Livy occasionally reproduces Polybian analyses in his own voice, as when he states that the force of Carpetani that faced Hannibal at the Tagus River would have won if the location had not favored Hannibal (*inuicta acies, si aequor dimicaretur campo*, 21.5.11; cf. Polybius 3.14.4, εἰ μὲν ἐκ παρατάξεως ἠναγκάσθησαν οἱ Καρχηδόνιοι διακινδυνεύειν, ὁμολογουμένως ἂν ἠττήθησαν). But more often he makes the same point indirectly, by ascribing the analysis to someone present at the time. Thus the μεγαλοψυχία that Polybius himself praises in Scipio Africanus ("Perhaps even at this early stage of his career it would be right to take note of Scipio's greatness of mind," 10.40.6) is present in Livy's version, too, but is acknowledged by Scipio's contemporaries, not by his historian: *sensere etiam barbari magnitudinem animi* ("even foreigners perceived his greatness of mind," 27.19.6). Lambert's book on indirect statement in Livy contains an excellent overview of the subject (1946, 46–65). In this paper I examine a single passage, one that is rendered particularly transparent by the chance survival of parallel accounts. In this passage one can see how Livy uses the indirect technique to create a smooth narrative surface over a historical tradition troubled by contradictions of both fact and interpretation.

Luce (1977, 140–50), in his discussion of Livy's management of conflicting sources, particularly conflicts of fact, argues that Livy was "at the mercy of his sources" (150). The present paper examines Livy's response to what he treats as a conflict of interpretation, and shows him in creative control. In a nutshell, I will argue that Livy presents the divergent

¹ Polybian practice is well documented in Eckstein 1995, *passim*.

analyses of different sources as a contemporary debate, *sermones* pro and con. My aim is to document Livy's independence in constructing both narrative and commentary at 34.54.4–8, and to illustrate one mechanism he uses to control refractory material. In the process we will also learn something about Livy's priorities as a historian.

In chapter 54 of book 34 Livy mentions the institution of special seating for senators at public festivals, specifically at the *ludi Romani* of 194 B.C.: *horum aedilium* [sc. A. Atilius Serranus L. Scribonius Libo *aediles curules*] *ludos Romanos primum senatus a populo secretus spectavit* ("At the *ludi Romani* of these same aediles, senators were seated apart from the populace for the first time," 34.54.4).² He had reported this innovation ten chapters earlier, too, in his catalog of the censors' business for 194:

gratiam quoque ingentem apud eum ordinem [sc. senatorium] pepererunt, quod ludis Romanis aedilibus curulibus imperarunt ut loca senatoria scernerent a populo; nam antea in promiscuo spectarant. (34.44.5)

The censors earned a great deal of gratitude from senators because they instructed the curule aediles to separate senate and populace at the *ludi Romani*. Before this, the audience had been mixed in the stands.

The later notice, 35.54.4, appears amidst the year-end material for 194 (34.54.1–8). Commentators are quick to label the second notice a doublet: between chapters 44 and 54 Livy changed sources, and at 54 he failed to weed out the superfluous information.³

But Livy's second passage is much more than a doublet of the first, and gives plentiful evidence of careful composition. To the notice I have already quoted is appended a report of contemporary *sermones*:

praebuitque sermones, sicut omnis nouitas solet, aliis tandem quod multo ante debuerit tributum existimantibus amplissimo ordini, (5) aliis demptum ex dignitate populi quidquid maiestati patrum adiectum esset interpretantibus, et omnia discrimina talia quibus ordines discernentur et concordiae et libertatis aequae minuendae esse: (6) ad quingentesimum

²On the praenomen of the first aedile listed see Broughton 1986, *ad loc.* The text is Briscoe 1991, vol. 1. All translations are my own.

³Cf., e.g., Briscoe 1981, 118, and von Ungern-Sternberg 1975, 158–59 (with bibliography).

(*quingagesimum*) *octauum annum in prosmiscuo spectatum esse; quid repente factum cur immisceri sibi in cauea patres plebem nollent? (7) cur diues pauperem consessorem fastidiret? nouam superbam libidinem, ab nullius ante gentis senatu neque desideratam neque institutam.* (34.54.4–7)

This got people talking, as innovations tend to do. Some thought it a long overdue honor for Rome's most distinguished rank, others felt that whatever was added to the grandeur of the senate was taken away from the standing of the *populus Romanus*, and that all the marks of honor used to distinguish rank undermined social harmony and equality before the law. Festival audiences had been mixed for 558 years now—why all of a sudden were senators unwilling to have plebeians among them in the stands? Why did the wealthy man scorn having a poor man beside him? This was a strange and arrogant caprice, never before conceived or put into effect by the senate of any country.

The passage (and the year's narrative) then closes with information on the political fallout from the innovation (*postremo ipsum quoque Africanum quod consul auctor eius rei fuisset paenituisse ferunt* "they say that even Africanus came to regret having been behind the motion when he was consul"), followed by a gnomic remark for punctuation (*adeo nihil motum ex antiquo probabile est: ueteribus, nisi quae usus euidenter arguit, stari malunt*, "so difficult is it to approve of change; people prefer to stand by their traditions unless practical considerations clearly rule against them," 34.54.8).

Structurally complex, and in a marked position, this second notice is further enriched by the stylistic elaboration of the *sermones*. The chiasmus of the value-laden phrases *depmptum ex dignitate populi* and *maiestati patrum adiectum* is easy to spot. Further touches include—in section 5—the paronomasia of *discrimina* and *discernerentur*, and a Salustian gerundive *et concordiae et libertatis aequae minuendae*; in sections 6 and 7 an antithesis between the sonorous *ad quingagesimum quingagesimum octauum annum* and tiny *repente*, another in *diues* and *pauperem*, also the indignant questions *quid repente factum* and *cur diues . . . fastidiret*. The heavily formal term *consessorem* adds to the effect, as do the hyperbaton that juxtaposes *nullius* and *ante* so as to emphasize the point "never before," and the leisurely measure of the concluding phrase *neque desideratam neque institutam*. The shaping hand of a careful author is evident.

But it is one thing to see Livy lavishing stylistic flourishes on a pas-

sage and quite another thing to understand how to read them. Are these *sermones* comparable to the famous *sermones* in Tacitus' *Annals* 1, the retrospective on Augustus' reign that is usually taken to contain (in some fashion) Tacitus' own views about the *res gestae* of the first *principes*?⁴ Or is this merely predictable late-republican rhetoric, taken over by Livy from his source because it was there? Or is it a variation on the procedure Livy uses in reshaping Polybian pronouncements into a form suitable for his own history? With the help of Asconius and Valerius Maximus we will be able to evaluate the various possibilities. This pair of passages has of course been scrutinized before, by scholars seeking to identify Livy's sources, for example, or by historians asking at what games the innovation took place and who gave the order.⁵ My purpose is rather to elucidate Livy's procedure when faced with an obviously confused historical record. For the record on the institution of separate seating was certainly confused by the time Asconius was writing, as we shall see, and I will argue that it was already in that state when Livy turned his attention to the year 194.

Let us look more closely at the content of these *sermones*. Several features suggest source reportage. The verb *ferunt* in section 8, for example: "they say that Africanus came to regret having been behind the motion when he was consul."⁶ Less obvious, but still significant, is the fact that Livy introduces the *sermones* as a debate on new versus old (*prae-buitque sermones, sicut omnis nouitas solet*, 34.54.4), and concludes the passage on the same note (*adeo nihil motum ex antiquo probabile est; ueteribus, nisi quae usus euidenter arguit, stari malunt*, 34.54.8), but that the debate itself has a political, not an antiquarian focus: some people thought the honor long overdue, others maintained that whatever marks of honor increased the *maiestas* of the senate decreased the *dignitas* of the *populus Romanus*, and so on. One may usefully contrast here a similar debate at Tacitus *Annals* 14.20–21 concerning the institution of Greek-style games in Rome. Tacitus introduces the debate much as Livy

⁴For discussion of *Ann.* 1.9–10 see, e.g., Classen 1986, Borgo 1986, Martin 1981, 111–12.

⁵Klotz 1940–41, Schlag 1968, von Ungern-Sternberg 1975, Gruen 1992, 202–5.

⁶This report about what "they say" is authorial narrative, not a further thought of *alii* that has emerged into *oratio recta*. Contemporary debate about the innovation at its institution would not already reflect Scipio's regrets, which the latter interpretation would require. Gruen (1992, 204) attributes the report to hearsay, but two centuries is a long time for a rumor to survive.

does, with the phrase *quinquennale ludicrum Romae institutum est . . . uaria fama, ut cuncta ferma noua* (“a quadrennial contest was established in Rome . . . ; public opinion was mixed, as almost always happens when something is new,” 14.20.1), and then gives both sides of the debate in indirect statement, much as Livy does. But the opposing views in Tacitus’ debate keep the issue of innovation and tradition very much to the fore.⁷ Livy, on the other hand, says that the talk was about the novelty of the honor (*nouitas*, 34.54.4) but himself produces talk about its political significance. (In neither case do I think the debate reflects what was actually at issue in the historical context, but that is a separate topic. On the historical situation behind Livy’s passage see below.) One explanation for the discrepancy between the frame and the content might be that Livy found the political commentary in his source; this is what Briscoe (1981, 135) seems to be suggesting when he notes that “the language reflects the ideological debates of the late republic,” and what Gruen, too, proposes: “at best, the account is speculation, perhaps invention by Valerius Antias or another of Livy’s sources” (1992, 204). On this latter view, at least, Livy took the debate ready-made from an annalistic predecessor and reproduced it inside a frame of his own devising.

A quick check shows that Livy was working with a variety of sources in the vicinity of our two chapters. At 34.48.1, for instance, which lies between them, Livy comments on a conflict in his sources: one tradition says that as consul in 194 Africanus contributed to his colleague’s military campaign, another that he accomplished nothing worthy of note in the field. There is also plenty of Polybian material in the vicinity—Flaminius’ proclamation at the Isthmus takes place between the two, and Polybius is cited by name at 34.50.6. But if we turn to Asconius and Valerius Maximus we will see that it is unlikely that the debate is taken whole from any one source. From them we will gain a more precise understanding of what Livy found in his sources about the new seating arrangements and how he reworked it to produce his own account.

Asconius broaches the subject of senatorial seating in a long note on a lemma from Cicero’s 65 B.C. speech on behalf of the reforming tribune C. Cornelius (*Corn.* 69.14–70.25 Clark; full text in Appendix). In his

⁷Ann. 14.20: *antea, uetustiora, antiquitas, abolitos paulatim patrios mores, degeneretque . . . iuuentus*, 21: *maiores, fortuna quae tum erat, possessa Achaia Asiaque, degenerauisse, ducentis iam annis a L. Mummii triumpho qui primus id genus spectaculi . . . prae-buerit*.

comments on the *pro Cornelio* Asconius also mentions a passage from a later speech, the *De haruspicum responso* of 56. There was a discrepancy between the two speeches over the degree to which Scipio Africanus was responsible for the innovation, and Asconius thinks he knows why.

In the later speech, addressed to the senate, Cicero asserts that Scipio ordered the separate seating himself, and implies that Scipio thereby enhanced the sanctity of the festival where it was first employed:

Nam quid ego de illis ludis loquar quos in Palatio nostri maiores ante templum in ipso Matris Magnae conspectu Megalesibus fieri celebrarique uoluerunt? qui sunt more institutisque maxime casti, sollemnes, religiosi: quibus ludis primum ante populi consessum senatui locum P. Africanus iterum consul ille maior dedit, ut eos ludos haec lues impura pollueret!

(*De haruspicum responso* 24)

What am I to say about the Megalesia, which our ancestors wished to be held and celebrated on the Palatine in the forecourt of the temple of the Magna Mater, in sight of the goddess herself, a festival exceedingly pure, solemn, and devout by both nature and tradition? It was at this very festival that Publius Africanus in his second consulship first gave the senators a place to sit apart from the populace, and to what end? That this filthy pestilence might contaminate the celebration (Asconius quotes the italicized words in his note; the last words of his quotation are lost in a lacuna).

In the earlier speech, which was delivered in a *quaestio* where the majority of the jurors were from outside the senate, Cicero says only that Africanus allowed the honor to be given, and adds that he eventually regretted even that (*paenituisse ait Scipionem quod passus esset id fieri*, 70.21–22). Asconius views the discrepancy as an instructive illustration of *oratoriae calliditatis ius*, the speaker's right to present one and the same event in different lights according to the requirements of his case (*eisdem rebus ab utraque parte uel a contrariis utantur*, 70.14–15).

Asconius' discussion is for this reason unusually full. He looks into the historical tradition of the event and records some of his findings. In saying that Africanus merely allowed (*passus esset*) the institution of the special seating, Cicero was following a tradition found in Valerius Antias, says Asconius (*Et uidetur in hac quidem oratione hunc auctorem [sc. Antiatem] secutus Cicero dixisse passum esse Scipionem secerni a cetero consessu spectacula senatorum*, 69.24–70.1; cf. 69.21). But there was another author—his name is unfortunately lost in the lacuna at 70.9—who credited Africanus and his colleague Ti. Sempronius Longus with full re-

sponsibility for the honor, assigning its inception to the votive games they put on as consuls:

... et collega eius Sempronio Longo hoc tributum esse senatui scribit [sc. Ignotus], sed sine mentione Megalesium—aediles enim eos ludos facere soliti erant—uotius ludis factum tradit quos Scipio et Longus coss. fecerint. (70.10–13)

[Ignotus] writes that this honor was accorded to the senate by ... and his colleague Tiberius Sempronius Longus. He says nothing about the Megalesia—which was run by aediles, after all—but reports that it was done at the votive games sponsored by Scipio and Longus during their consulship.

No satisfactory identification has yet been proposed for the author in question here, but for the purposes of this paper it is enough to recognize the existence of a tradition distinct from that in Valerius Antias.⁸

Let us look more closely at these two traditions, taking Asconius' second version first. Neither of Livy's notices sets the innovation at votive games in 194. Of these there was at least one set, possibly two (see Briscoe 1981, 117). They are mentioned briefly by Livy at 34.44.2 and 6. But Livy does use in his *sermones* a phrase very similar to one in Asconius' report about the second tradition (*aliis . . . tributum existimantibus amplissimo ordini*, 34.54.4; cf. *hoc tributum esse senatui*, Asc. Corn. 70.10). The praise for the institution implied in Asconius' phrase is explicit in Livy's *sermo* (*tandem . . . quod multo ante debuerit*). One explanation for the common elements might be that in the first portion of the *sermones* Livy has echoed Asconius' second source in both language (*tributum*) and opinion (the honor was deserved). If so, he pruned from it the data that conflicted with his own basic version of the facts, established in 34.44.5, where he assigned the innovation to the *ludi Romani*. Ignotus' reference to votive games is simply deleted.

⁸Wiseman (1973, 195) proposed Clodius Licinus, but his remark is parenthetical, and does not pretend to answer the objections Cichorius raised à propos of the reference to Clodius Licinus that Wiseman cites in support of his proposal (29.22.10). See Cichorius 1900, col. 78. Marshall (1985, 248) favors Madvig's restoration of Fenestella's name in the lacuna at 70.9 (*Fenestella quoque a Scipione Africano cos II et collega eius Sempronio Longo*, etc.). "This is attractive because of the possibility of parablepsis and because of Asconius' frequent disagreement with Fenestella." (Asconius challenges the information of Fenestella's historical work at 31.14 and 86.16 Clark.) If, however, I am right in seeing a Livian echo of this source at 34.54.4, the source is unlikely to be Livy's contemporary Fenestella.

If we turn to the first tradition mentioned by Asconius, that which he ascribes to Valerius Antias, we will see the same procedure at work (though the demonstration is somewhat more involved). The *pro Cornelio* lemma that started Asconius off on his hunt through histories was this:

P. Africanus ille superior, *ut dicitur*, non solum a sapientissimis hominibus qui tum erant, uerum etiam a se ipso saepe accusatus est quod, cum consul esset cum Ti. Longo, passus esset tum primum a populari consensu senatoria subsellia separari. (69.14–18)

The renowned elder Africanus, so they say, was frequently criticized not only by the wisest men of his day, but also by himself for having allowed senatorial seating to be separated from the area for the populace when he was consul with Tiberius Longus.

The point that Asconius highlights in his discussion of this passage is the expression *passus esset*, Scipio “allowed” the innovation, but it is clear that Cicero himself gives more space to the critical reception of the innovation.⁹ Africanus, according to Cicero, was criticized roundly by the wisest men of his day even for the limited role he played in giving his consent to the new arrangement, and, what is more, he himself came to have regrets (*a se ipso saepe accusatus est*, 69.16, cf. *paenituisse* 70.21).¹⁰

⁹Cf. Tac. *Ann.* 14.20.2, *erant qui Cn. quoque Pompeium incusatum a senioribus ferrent, quod mansuram theatri sedem posuisset*.

¹⁰Asconius, being interested in *passus esset*, not *accusatus est*, does not report the grounds for the criticism, but the *popularis* view in Livy’s *sermo*—“whatever is added to the grandeur of the senate is taken away from the standing of the people,” etc.—would have been appropriately evoked by Cicero in his defense of Cornelius, a *popularis causa*. Cicero’s strategy is described in detail by Asconius in his extensive introduction to the speech. Opposing Cornelius and his advocate was the *auctoritas senatus*. It behooved Cicero, therefore, to lessen this *dignitas* (*dignitatem . . . eleuari*, a remark misunderstood by Marshal [1985, 248–49], who paraphrases *eleuari* with ‘elevate’, although the word, when used figuratively [as here], means ‘lessen, diminish, trivialize’ [*TLL* IB “technice in rhet. et re forensi de infirmandis aut aduersariis aut eorum causis,” with citations from Cicero and Quintilian]). The suggestion that the senate’s new honor was felt to be inappropriate in some way by both the *sapientissimi homines* of the day and by Scipio Africanus himself is consonant with this rhetorical goal. Cicero diminishes the senate still more strongly later in the speech with his references to the *lex Aurelia* of 70 B.C. and the *lex Roscia* of 67, both of which encoded actual reductions in the senate’s power and *dignitas*: *quam diu quidem hoc animo erga uos illa plebs erit quo se ostendet esse cum legem Aureliam cum Rosciam non modo accepit sed etiam efflagitauit?* (78.26–28 Clark).

Asconius says that Cicero seems to follow Antias' version here (*Et uideatur in hac quidem oratione hunc auctorem [sc. Antiatem] secutus Cicero dixisse passum esse Scipionem secerni a cetero consessu spectacula senatorum*, 69.24–70.1), but his subsequent comments show that all this needs mean is that in the *pro Cornelio* Cicero assigned a degree of responsibility to Africanus that was comparable to the one assigned by Antias (*passum esse*). Asconius' whole long note turns on the speaker's cleverness in minimizing the responsibility of the popular Africanus for an unpopular innovation when defending a *popularis* politician to a mixed jury (i.e., in the *pro Cornelio*), while emphasizing Africanus' responsibility for a cherished senatorial honor when addressing the senate (in the *De haruspicum responso*). The rest of the information about what was in Antias—*ludi Romani* as the occasion, involvement of censors and aediles—which Asconius reports because he took the trouble to look it up, is not relevant to Cicero's speech. It is in fact highly unlikely that Cicero, who never mentions Antias as a historian and cannot be shown to have used his work, was actually "following" Antias.¹¹ All one can say securely about the source of Cicero's comment on seating arrangements in the *pro Cornelio* is that it must be a tradition familiar to his audience—there is nothing defensive or expository about his references to the criticism of Africanus (note *<ut> dicitur*, 69.14; the emendation alters the construction of the sentence, but "hearsay" is present in either version).

Further information about the tradition critical of the innovation may, however, be gleaned from Valerius Maximus. Like Livy and Cicero, Valerius adverts to the new arrangement twice. At 4.5.1 he dates its inception to 194 and reports that even before 194 the seating was *de facto* separate, since no member of the populace had ever been so irreverent as to seat himself in front of a senator (Valerius' heading here is *uerecundia*):

¹¹ At 70.16–18 Asconius says that "in Cicero's opinion the aediles gave the senators their new seats," but this follows from his belief that Cicero was following Antias here rather than from anything apparent in what survives of the speech, and neither the role of the aediles and censors nor the identity of the games in which Scipio was so disappointed has any relevance to the argument. Asconius' one other reference to Valerius Antias implies no connection between his account and Cicero's (indeed, they conflict: 13.8 Clark). Syme (1964, 47 and 154) dismisses the notion of Cicero's use of Antias outright; Badian (1966, 20–21) views it as unlikely. See further von Ungern-Sternberg 1975, 162–63. For contrary arguments (though ones that deal with a later date in Cicero's career than the early *pro Cornelio*) see Cloud 1977a and 1977b, and Wiseman 1979, 117–21.

Sed ut a laudibus eius [sc. uerecundiae] ad facta ueniamus, a condita urbe usque ad Africanum et Ti. Longum consules promiscuus senatui et populo spectandorum ludorum locus erat. numquam tamen quisquam ex plebe ante patres conscriptos in theatro spectare sustinuit: adeo circumspecta ciuitatis nostrae uerecundia fuit. (4.5.1)

To turn from praise of modesty to actual instances, let me say that from the foundation of the city to the consulship of Africanus and Tiberius Longus festival seating for senators and populace was mixed. And yet never once was a member of the *plebs* so forward as to place himself in front of a senator in the theatre.

No information here about who was responsible or what *ludi*, only a date, 194 B.C. An earlier notice is more interesting for our purposes. Here Valerius is in the midst of a list of *instituta antiqua*:

Per quingentos autem et quinquaginta et octo annos senatus populo mixtus spectaculo ludorum interfuit. sed hunc morem Atilius Serranus et L. Scribonius aediles ludos Matri deum facientes, posterioris Africani sententiam secuti discretis senatus et populi locis soluerunt, eaque res auertit uulgi animum et fauorem Scipionis magnopere quassauit. (2.4.3)

For 558 years senators attended festivals in the company of the populace. However, this tradition was undone by the aediles Atilius Serranus and Lucius Scribonius when they ran the festival in honor of the Magna Mater. At the behest of the younger Africanus they provided separate areas in the stands for senate and populace. This policy displeased the public and did great damage to Scipio's popularity.¹²

Mixed viewing, he maintains, was the rule for 558 years from the founding of the city, down to the year when aediles named Atilius Serranus and L. Scribonius provided separate areas for senate and populace at the *ludi Megalenses*. They did so, says Valerius, on the advice of Africanus (*Africani sententiam secuti*), and the innovation made Scipio less popular than he had been (*fauorem Scipionis magnopere quassauit*). In Livy's *sermones* we find the same dating formula (*ad quingentesimum <quinquagensimum> octauum annum in promiscuo spectatum esse*, 34.54.6), the same aediles, and the same *popularis* point of view, but different

¹²Gruen (1992, 203 n. 95) suggests that Valerius' source here is Cicero, but his details match the tradition found in Livy much better.

games. Also a different Scipio. Despite Valerius' correct information about AUC year and the aediles' names, he associates the whole complex of events with the younger Scipio, not the consul of 194. This makes it highly likely that he has taken the correct information directly from his source without seeing the difficulty it causes for his identification of the Scipio involved. (He is, of course, notoriously capable of confusing generations.)¹³ Given the placement of the innovation at different games it is unlikely that Valerius is drawing directly on Livy—there is nothing in Valerius' argument that would have moved him to substitute the *Megalesia* for the *ludi Romani* had the innovation been assigned to the latter in his source.¹⁴ But the shared rhetoric and politics of the two accounts suggest a common source. If Livy was working from the same source as Valerius, then once again he has taken language and analysis from a source and fitted them onto his own basic data set. This time the source's reference to the Megalesia has to go.

The rather awkward phrase *horum aedilium ludos Romanos primum* may mark the seam. In the sentence that precedes it—*Megalesia ludos scaenicos A. Atilius Serranus L. Scribonius Libo aediles curules primi fecerunt* (34.54.3)—Livy cannot have been following Valerius Antias, as the notice conflicts with 36.36.4, Antias' idiosyncratic dating of the first scenic Megalesia to 191 (*quos* [sc. *ludos*] *primos scaenicos fuisse Antias Valerius est auctor*, on which see below). But at 34.54.4 Livy returns to the Antian information of 34.44.5 in order to do justice to the complexity of the historical tradition concerning the institution of separate seating. To label the passage a doublet does not do justice to Livy's procedure.

Livy's two notices thus show traces of three mutually inconsistent versions: one that assigns the innovation to the *ludi Romani* (this is Antias' version, found at both 34.44.5 and 34.54.4), one that assigns it to votive games and emphasises the honor accorded the senate (this is Ignotus' version), and one that assigns it to the *ludi Megalenses* and treats it as a move that damaged Africanus' popularity (the tradition followed by

¹³A sampling: confusion among Manlii Torquati at 6.4.1, Porcii Catones at 5.10.3, and several Scipiones at 7.5.2.

¹⁴Livy's report about the *ludi Megalenses* of 194 immediately precedes the *sermones*, so it is just possible that Valerius elided Livy's two statements, attaching the innovation to the *Megalesia* and omitting the *ludi Romani* altogether, but on the whole I think this less likely than the use of a common source (for discussion see von Ungern-Sternberg 1975, 159 and Bloomer 1992, 135–36).

Cicero and, directly or indirectly, Valerius Maximus). Livy's own account, though in two parts, is consistent with itself. His "facts" are those of Valerius Antias: the innovation took place at the *ludi Romani* of 194, the censors ordered the separate seating and the aediles put it into practice, while Scipio Africanus looked benignly on. To this data Livy has fitted the analyses that were attached to the other two sets of data. The identity of the games at which the innovation took place, after all, might seem less worthy of a writer's attention than the political and social meaning of the innovation itself. So Livy gives us via his *sermones* both the pro-senate and the *popularis* points of view. The "speech" form of the *sermones* allows for a rhetorically forceful presentation, particularly of the *popularis* case. The debate over the merits of the innovation was not, therefore, in any one source, but was created by Livy out of items that seemed worth preserving from disparate sources.¹⁵ But the meaning of an event is different to different generations, and the rhetoric that Livy reproduces in his *sermones* was topical in an era not his own (perhaps most topical in the decades between Sulla's last consulship and Caesar's first, the 70s and 60s B.C.). Naturally he subordinates this via the frame to his own reading of the event as a struggle between tradition and innovation, the note, as we saw, on which he both began and ended.

In 34.54.4–8 the source conflict that needed careful handling, as Livy saw it, was one of interpretation, not fact; the discrepancies concerning the identity of the games are simply suppressed. Historians, of course, would like to know the games at which senators first enjoyed their distinctive placement.¹⁶ Gruen accepts Antias' *ludi Romani* ("the

¹⁵His procedure produces a relatively homogenous account here. When he adopts the same procedure for the trials of the Scipios in book 38, however, the results are much less happy, as he himself admits (38.56.1, *cui famae quibus scriptis adsentiar non habeam*; cf. 38.56.8 and 38.57.8 for the plurality of sources). But the beginning of that narrative bears a strong resemblance to our *sermones*. When two men named Petillius set a trial date for Scipio Africanus *id prout cuius ingenium erat interpretabantur* (38.50.5). Some charged Rome with ingratitude to Scipio, others maintained that no one should be above the law (a paraphrase of sections 6–9). "This was the talk of the town—*haec agitata sermonibus*—until the day of the trial came" (38.50.10). As in his account of these trials, so in our passage Livy places material from mutually discordant sources at the end of the narrative, and Valerius Antias (on whom see below) is in both cases the "privileged" source.

¹⁶For Scullard 1970, 194, who treats the innovation as a sample of Scipio's aristocratic arrogance, as well as for Livy, the identity of the games is immaterial.

most ancient of Roman festivals,” “a model for other *ludi*”), and views Scipio’s support for the innovation as symbolic: “The measure made public pronouncement that drama was no mere popular entertainment but a highbrow institution claimed as part of the cultural milieu of the upper classes. The theater would be a visible reminder of the ascendancy of the *nobiles*” (1992, 203 and 205). But Antias’ reliability on this point (as on others) is open to serious question.¹⁷ He seems to have telescoped the institution of plays at the festival of the Magna Mater (194) and the dedication of her temple (10 April 191), placing both in 191 (36.36.4). In so doing he created an obstacle to assigning the new seating arrangement (firmly dated to 194 by Scipio’s second consulship) to the *Megalesia*—in his view they were not yet scenic. Thus for the innovation of 194 he may have plumped for the securely scenic *ludi Romani*, which were run by the same officials. One should therefore probably ignore Antias and follow Cicero in connecting the new seating with the *Megalesia* of 194. It may be argued further that this makes some sense on historical grounds. In 194 Scipio was lobbying hard in the senate for a command against Antiochus (34.43.4–5). If the honorific seating was planned for the April *Megalesia* his support for it may have been something of a sweetener for his peers—the *ludi Romani* were not celebrated until September. In the event, Scipio did not get the command (*consulibus ambobus Italia prouincia esset*, 34.43.3), and had to be content with a not very distinguished campaign in Italy (38.48.1). This failure, combined with his well-attested loss of popular favor, may have something to do with his eventual regret for his role.

Such speculations were not the stuff of history for Livy. But by studying his account of the incident we have learned something about what was important to him. His procedure in writing the *sermones* of 34.54.4–8 was not free composition in the manner of Tacitus in *Annals* 1 or 14, nor was it a slavish following of sources, good, bad, and indifferent. Rather, Livy smoothed out contradictory bumps in the tradition, while preserving something of the chronological depth of that tradition. His procedure may not win him much credit as a historian (particularly when he establishes Valerius Antias as the bedrock of fact), but ulti-

¹⁷“The nadir of historiography,” according to Badian 1966, 21, citing instances of Antias’ falsification of documents. On his telescoping of material see Leidig 1994, 121–23 on 30.21.11–23.8.

mately both praise for his compositional creativity and blame for his historical method are less important than understanding how he arrived at the narrative we have before us.¹⁸

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APPENDIX

The Full Text of Asconius' Note (Asconius Corn. 69.14–70.25 Clark)

P. Africanus ille superior, *ut* dicitur, non solum a sapientissimis hominibus qui tum erant, uerum etiam a se ipso saepe accusatus est quod, cum consul esset cum Ti. Longo, passus esset tum primum a populari consensu senatoria subsellia separari. Hoc factum est secundo consulatu Scipionis post septimum annum quam Carthaginensibus bello secundo data est pax. Factum id esse autem Antias tradidit ludis Romanis quos fecerunt aediles curules C. Atilius Serranus, L. Scribonius Libo, et id eos fecisse iussu censorum Sex. Aeli Paeti, C. Corneli Cethegi. Et uidetur in hac quidem oratione hunc auctorem secutus Cicero dixisse passum esse Scipionem secerni a cetero consensu spectacula senatorum. In ea autem quam post aliquot annos habuit de haruspicum responso, non passum esse Scipionem, sed ipsum auctorem fuisse dandi eum locum senatoribus uidetur significare. Verba eius haec sunt: Nam quid ego de illis ludis loquar quos in Palatio nostri maiores ante templum Matris Magnae fieri celebrarique uoluerunt?—quibus primum ludis ante populi consensum senatui locum P. Africanus II cos. *ille maior dedit*. . . . et collega eius Sempronio Longo hoc tributum esse senatui scribit, sed sine mentione Megalesium—aediles enim eos ludos facere soliti erant—uotiuus ludis factum tradit quos Scipio et Longus coss. fecerint. Non praeterire autem uos uolo esse oratoriae calliditatis ius ut, cum opus est, eisdem rebus ab utraque parte uel a contrariis utantur. Nam cum secundum Ciceronis opinionem auctore Scipione consule aediles secretum ante omnis locum spectandi senatoribus dederint, *de* eodem illo facto Scipionis in hac quidem oratione, quia causa popularis erat premebaturque senatus auctoritate atque ob id dignitatem eius ordinis quam posset maxime eleuari causae expediebat, paenituisset ait Scipionem, quod

¹⁸The material in this paper was first presented in a Livy seminar taught by E. Badian and myself in the spring of 1994 at Harvard University. A later version was given at the APA meeting in San Diego (December 1995). I am grateful to the seminar members for detailed commentary and to the anonymous reader for organizational advice.

passus esset id fieri; in ea uero de haruspicum responso, quia in senatu habebatur cuius auribus erat blandiendum, et magnopere illum laudat et non auctorem fuisse dandi—nam id erat leuius—sed ipsum etiam dedisse dicit.

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