'Come now, lictor, cut out this root which is liable to trip people'. Papirius' sense of humour and rigorous attention to discipline have here combined to encourage him to 'pull a Manlius', as if he planned to pursue with 'Manlian' severity this unworthy successor of the younger Manlius Torquatus. In fact, the command to 'get the axe' was itself the only punishment Livy's Papirius intended to effect—and thereby to indulge his own acerbic sense of humour.

In Dio, by contrast, Papirius' command to the lictor to cut out the root is a nonsensical afterthought; it is unclear from his narrative why it warrants mention. Dio writes (Book 8, fr. 36.24):

ὅτι ὁ αὐτὸς [*sc.* Papirius] *ἐφοδεύων ποτὲ τὰς φυλακὰς καὶ μὴ εὑρὼν τὸν Πραινεστίνων στρατηγὸν ἐν τῇ τάξει ὄντα ἠγανάκτησεν, εἶτα μεταπεμψάμενος αὐτὸν ἐκέλευσε τῷ ῥαβδούχῳ τὸν πέλεκυν προχειρίσασθαι· ἐκπλαγέντος τε αὐτοῦ πρὸς τοῦτο καὶ καταδείσαντος, τῷ τε φόβῳ αὐτοῦ ἠρκέσθη καὶ οὔδεν ἔτι δεινὸν αὐτὸν ἔδρασεν, ἀλλὰ ῥίζας τινὰς παρὰ τὰ σκηνώματα οὔσας ἐκκόψαι τῷ ῥαβδούχῳ, ἵνα μὴ τοὺς παριόντας λυπῶσι, προσέταξεν.*

Dio's Papirius here is initially actually serious about meting out punishment, even though his praetor's misdemeanour is merely absence from his post, rather than the more serious one of cowardice in battle while at the head of a reserve contingent, as in Livy. In the end, the man's sheer terror is enough to placate this Papirius (*τῷ τε φόβῳ αὐτοῦ ἠρκέσθη καὶ οὐδὲν ἔτι δεινὸν αὐτὸν ἔδρασεν*), and it is only after he has let the man go that he turns his lictor's attention to the roots causing the obstacle. The detail appears entirely extraneous, and the manner of its inclusion shows how completely Dio is missing Papirius' joke in Livy.[18]

The subsequent characterization of Papirius in *haud dubie illa aetate qua nulla virtutum feracior fuit, nemo unus erat vir quo magis innixa res Romana staret*, by pointing back quasi-verbatim to Ennius' Manlius Torquatus and Livy's redrafting of him at 8.7–8, makes plain the nature of Papirius' charade for any in the external audience slow to 'get' his joke. It also expresses Livy's appreciation for this upright character as he, Livy, conceived him, and it allows Papirius the opportunity to take advantage, in a witty if slightly cruel way, of his own typecasting in Livy's text. Thus, the use of the Ennian line points out how Papirius, a wit as well as a disciplinarian, is engaged in a very active manipulation of his own and Manlius' literary past.

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doi:10.1017/S0009838809990292

[18] For their part, Plin. *HN* 17.81 and Amm. Marc. 30.8.5 make clear their understanding of the 'joke'. [Aur. Vict.] *De vir. ill.* 31.4 is unaware.

WHEN DID LIVY WRITE BOOKS 1, 3, 28 AND 59?

The chronology of the genesis of Livy's massive work is largely obscure. The most economical interpretation holds that both Books 1 and 4 were written after January 27 B.C. because two passages in them (1.19.3 and 4.20.7) already refer to Octavian as 'Augustus' and that the first book, which mentions the closure of the Temple of Janus

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in 29 B.C. (1.19.3), was composed after that event but prior to a second closure that took place in 25 B.C.[1] More complex readings that favour a somewhat earlier date of composition of the first book or the entire first pentad envision a variety of later insertions and publication of an updated version between 27 and 25 B.C.[2] We cannot tell if Book 1 was published separately from the next four books or whether the first books were already issued as a pentad, in keeping with the remainder of Livy's work which appears to have been published in units of five.[3] Whichever interpretation one prefers, it is highly likely that the first few books were either written or revised in the early 20s B.C. The only other indication of date of composition is found in Book 28 where Livy refers to the subjugation of the peoples of the Iberian peninsula (28.12.12), a process that had not been completed until 19 B.C. The oldest manuscripts of the *periocha* of Book 121 state that this book was not published until after the death of Augustus in A.D. 14; since Livy is reported to have died only three years later, this seems to imply that he had withheld completed books from publication until after that event, a delay that might be related to the sensitive nature of the events – the Second Triumviral Period – described in Books 121 and following.[4] The alternative assumption that he somehow managed to complete 22 books in the last three years of his life seems far less plausible.

The production (or, perhaps, in the case of the first few books, final redaction) of 142 books in the course of approximately 42 or 43 years from 27 or 26 B.C. to A.D. 17 implies a long-term average of 3.3–3.4 books per year. Needless to say, we have no way of telling how the actual pentads were distributed across his lifetime, and it would be unwise to assume that Livy worked like a metronome at an unchanging pace: the Elder Pliny's comment about Livy that 'satis iam gloriae quaesitum et potuisse se desinere, ni animus inquies pasceretur opere' (*HN* pr. 16) has been taken to suggest that he may have taken breaks, and in any case the average length of the surviving books varied considerably (with a clear trend toward shorter books among the ones that survive), preventing us from dating later pentads in any but the most approximate terms.[5]

I hope to show that Books 1, 3 and 59 contain previously unexplained and otherwise inexplicable statements that make it at least likely that the first two of these books were composed (or, perhaps, revised) in or shortly after the year 28 B.C. and the

[1] e.g. E. Burck, *Das Geschichtswerk des Titus Livius* (Heidelberg, 1992), 5, with earlier literature.

[2] For different permutations, see esp. J. Bayet, *Tite Live, Livre I* (Paris, 1940), XVI–XXII; R. Syme, 'Livy and Augustus', *HSPh* 64 (1959), 27–87 (repr. in R. Syme, *Roman Papers I*, ed. E. Badian [Oxford, 1979], 400–54); T.J. Luce, 'The dating of Livy's first decade', *TAPhA* 96 (1965), 209–40. For a possible earlier dating, see also A.J. Woodman, *Rhetoric in Classical Historiography* (London and Sydney, 1988), 128–34.

[3] See P.G. Walsh, *Livy: His Historical Aims and Methods* (Cambridge, 1961), 6–7. For the pentad as the basic unit of his work, see esp. T.J. Luce, *Livy: The Composition of His History* (Princeton, 1977), as well as the references in J.E. Phillips, 'Current research in Livy's first decade: 1959–1979', *ANRW* II.30.2 (Berlin and New York, 1982), 998–1057, at 1043–4.

[4] Cf. Walsh (n. 3), 8; Burck (n. 1), 1–2, and see also M.D. Reeve, 'The transmission of Florus' *Epitoma de Tito Livio* and the *Periochae*', *CQ* 38 (1988), 477–91, esp. 484, for a discussion of this manuscript tradition. Syme's suggested redating of Livy's birth and death (Syme [n. 2], 40–2) has not widely been accepted.

[5] Pliny and breaks: Burck (n. 1), 6. R. von Haehling's attempt (*Zeitbezüge des Livius in der ersten Dekade seines Geschichtswerks* [Wiesbaden, 1989]) to identify reflections of Livy's own time in his work is limited to the first decade and fails to produce clear dating indicators; in any case, this approach would not work for the compressed summaries of his lost books.

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third one in or shortly after 8 B.C. On 27 occasions, Livy reports the results of censuses undertaken between the sixth century and 70/69 B.C.[6] The Republican tallies, which account for all but the very first one of these 27 cases, are usually reported with the stereotypical phrase 'censa (sunt) civium capita' followed by a number. On only two occasions does Livy specify the coverage of individual census counts: in Book 3, the first Republican census to which he refers (dated to 465 B.C.), he claims that orphans and widows had been excluded from the total (3.3.9: 'censa civium capita centum quattuor milia septingenta quattuordecim dicuntur praeter orbos orbasque'), and the *periocha* of Book 59 (for the census of 131/0 B.C.) reports the same omission (59.7: 'censa sunt civium capita $\overline{\text{CCCXVIII}}$ DCCCXXIII praeter <pupillos>, pupillas et viduas').[7] There is no obvious reason why for the whole of the Republican period, Livy should have qualified the census results on these two – and only on these two – occasions.[8] The reported events were centuries apart and of very different quality: a quite possibly fictitious or at the very least poorly known event in the early days of the Republic,[9] and a regular quinquennial census from the Gracchan period. Chronologically adjacent census figures rule out the possibility that these comments reflect actual anomalies, in the sense that only these two counts omitted certain groups whereas, by implication, none of the others did. Thus, the figure of 117,319 for 459 B.C., reported without further specifications, is very similar to that of 107,714 for 465 B.C. and, more importantly, the tally of 318,823 for 131/0 B.C. is basically the same as the preceding one of 317,933 five years earlier (*Per.* 56) and likewise closely resembles the results for 169/8 B.C.. (312,805: *Per.* 45), 159/8 B.C. (328,316: *Per.* 47) or 154/5 B.C. (324,000: *Per.* 48), to name just a few. Therefore, if the censuses of 465 and 131/0 B.C. had omitted certain elements of the population, so would have the other ones.[10] However, if these omissions had been standard practice, why would Livy have felt motivated to mention them seemingly randomly on these two occasions?[11]

I propose that the answer has to do with the nature of the Roman census and its development over time. As is well known, this is an extremely complex and highly controversial issue that cannot be addressed here even in the barest outlines.[12] Suffice

[6] 1.44; 3.3; 3.24; 9.19; 10.47; *Per.* 11; *Per.* 13; *Per.* 14; *Per.* 18; *Per.* 19; *Per.* 20; 22.36; 29.37; 35.9; 38.36; *Per.* 41; 42.10; *Per.* 45; *Per.* 46; *Per.* 47; *Per.* 48; *Per.* 49; *Per.* 56; *Per.* 59; *Per.* 60; *Per.* 63; *Per.* 98.

[7] The *periocha* of Book 3 repeats the information given in 3.3.9: 'CIIII milia DCCXIIII praeter orbos orbasque'.

[8] The fact that one of these references (59.7) comes from a *periocha* and that the information in 3.3.9 was faithfully repeated in the *periocha* of Book 3 strongly speaks against the possibility that other lost books may have contained similar specifications that were omitted from the later summaries.

[9] The tally of 104,714 capita for 465 B.C. is far too high for this period: see e.g. P.A. Brunt, *Italian Manpower 225 B.C.–A.D. 14* (rev. ed. Oxford, 1987), 27 (who speaks of 'fabrications').

[10] For this reason alone, it is clearly unwarranted to explain the discrepancy between the tallies of 318,823 for 131/0 B.C. and 394,736 for 125/4 (*Per.* 60) as a function of the omission of orphans and widows from the former and their inclusion in the latter, as proposed by F.C. Bourne, 'The Roman Republican census and census statistics', *CW* 45 (1952), 129–35.

[11] Brunt's ([n.9], 22) view that these two references indicate that widows and orphans were entered on a special register but not included in the official tally fails to account for this pattern, as does his dismissive observation that 'these additions are found only twice in reference to Republican census returns; normally the literary sources simply ignore the existence of these separate lists' ([n.9], 114).

[12] For discussion of the issues and the debate, see most notably Brunt (n.9), 15–25, 113–20 and E. Lo Cascio, 'The size of the Roman population: Beloch and the meaning of the Augustan census figures', *JRS* 84 (1994), 23–40.

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it to say that the identity of the *civium capita* of the Republican and early imperial censuses is never unequivocally defined in a surviving ancient source: as a result, a number of rival interpretations have been advanced in modern scholarship. In a new study, Saskia Hin makes a strong argument in favour of the position – once championed by Mommsen but more recently eclipsed by other readings – that the census was in the first instance a means of ascertaining fiscal liabilities and that the recorded tallies therefore represent Roman citizens who were *sui iuris*; that is, men who had lost their fathers or had been emancipated as well as women who had been widowed. More specifically, she argues that whereas in the Republican period, women who were *sui iuris* and orphans may not have been subject to (regular) *tributum* and were consequently omitted from the final tallies, the Second Triumviral period had witnessed an extension of fiscal liabilities to encompass all citizens who were *sui iuris*.[13]

This is not the place to assess the – to my mind considerable – merits of this argument.[14] In the present context, what matters is that this interpretation allows us to make sense of Livy's comments in 3.3.9 and *Per.* 59.7. If Hin's argument is correct, the official results of Augustus' population counts included all citizens who were *sui iuris* whereas the Republican census had not done so. Three censuses took place under his rule, in 28 B.C., 8 B.C., and shortly before his death in A.D. 14 (*RGDA* 8.2–4). I would like to suggest that Livy composed (the final version of) his third book not long after the results of the census of 28 B.C. had become known and his fifty-ninth book soon after the dissemination of the tally of the second census of 8 B.C. It was on these two occasions, and only on these two occasions, that Livy had a straightforward motive for specifying the somewhat different character of the totals of the Republican period: to clarify, in a few words, the difference between the historical event he was just writing about and the event that had just taken place in the present.

This conjecture is compatible with the putative chronology of his work. A publication (or final revision) date of somewhere between 27 and 25 B.C. for Book 1 can readily be reconciled with the assumption that Book 3 was written (or updated) no later than 27 or perhaps 26 B.C. In Book 1, moreover, Livy's very first reference to a historical census, supposedly conducted by King Servius Tullius, may likewise be understood as an indirect comment on the criteria applied in the census of 28 B.C. Instead of simply giving a figure of 'capita censa', he felt the need to elaborate that 'milia octoginta eo lustro civium censa dicuntur; adicit scriptorum antiquissimus Fabius Pictor eorum, qui arma ferre possent, eum numerum fuisse' (1.44.2). This may be taken to suggest that regal census practices differed from those his readers had just encountered in real life. In any case, the alleged focus on men of fighting age in the sixth century B.C. and the reported exclusion of orphans and widows in the fifth leave little doubt that in Livy's view, these two counts had not targeted the same group of people: *orbi* (presumably minors) were not of fighting age, and *orbae* would not fit in at all.[15] In his eyes, Fabius Pictor's claim made the regal census seem qualitatively different and therefore in need of commentary. Thus, the purpose of his asides in both

[13] S. Hin, 'Counting Romans', in L. de Ligt and S. Northwood (edd.), *People, Land and Politics: Demographic Developments and the Transformation of Roman Italy, 300 BC – AD 14* (Leiden, 2008), 187–238.

[14] For my own most recent views on the debate about Roman population figures, see 'Roman population size: the logic of the debate', in de Ligt and Northwood (n. 13), 17–70.

[15] In other words, the census tally of 465 B.C.could not have referred to *qui arma ferre possent* minus *orbi* and *orbae*, which would not make any sense.

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1.44.2 and 3.3.9 may have been to establish difference, not just between these two remote events but also between them and his own time. In this case, the first comment (1.44.2), supplied by a suitably 'ancient' authority, would have distinguished regal institutions from the present, while the second one (3.3.9) noted a discrepancy between Republican and current practice.

If Livy wrote or revised Book 1, or indeed the entire first pentad, around 27–25 B.C., and kept writing until his death, the notion of that he completed Book 59 in 8 or 7 B.C. is consistent with a lifetime average publication rate of 3.3–3.4 books per year: in that case, Book 59 might have been finished approximately 17 or 18 years after the first one, around 10–8 B.C. While this over-schematic statistic is surely ahistorical, it merits attention that if Livy had indeed written Book 59 in 8 or 7 B.C., he would have finished about 41 per cent of his books during the first 44 per cent or so of his writing career. As a consequence, barring massive imbalances in the distribution of his output, a composition date of 8/7 B.C. for Book 59 is at least perfectly plausible.

More importantly, the conjecture that Livy was motivated by contemporary events to comment on earlier census procedures provides the most economical and arguably even the only explanation that accounts *both* for the fact that he did so in only two pentads *and* for the fact that he did so in the first and twelfth pentads, right at the beginning and near the middle of his work. As I have argued above, there is nothing to suggest that the census results for 465 and 131/0 B.C. were different from others that were close in time: hence there was no historical reason for Livy to single them out for explication. My conjecture is readily falsifiable: if Livy had elaborated on census procedures in a third pentad (let alone more frequently) or at different stages of his *œuvre* – say, for example, in Books 20 and 110, which could not possibly have been written in close proximity to any of the Augustan censuses – the proposed explanation would not be viable. But that is not the case. That Livy did so as often as he did and where he did is best explained with reference to a motive that presented itself only twice, at the beginning and near the middle of his career: the censuses of 28 and 8 B.C.[16]

It is true that this interpretation depends on a particular reading of census figures whose meaning has long been – and continues to be – controversial. If it could be conclusively shown that these counts did not focus on particular and changing groups of citizens who were *sui iuris*, the observed peculiarities among Livy's references to different census results would have to be explained in terms of imprecise and varied use of technical terminology or some other factor. At the very least, however, the ambiguous nature of the evidence makes it impossible to rule out Hin's revisionist argument. Future scholarship will judge the plausibility of her thesis relative to that of rival interpretations, and my own conjecture will be strengthened or undermined accordingly. In the academic minefield of Roman census studies, certainty is an unattainable goal.

If correct, my explanation of 3.3.9 and *Per.* 59.7 raises the possibility that Livy's reference to Augustus' completion of the conquest of Hispania in 28.12.12 ('itaque

[16] I say 'twice' because although Livy was still alive in A.D. 14 when the third Augustan census was held, he had probably already written about the year 28 B.C. (see above, on the delayed publication of Books 121–42), and his account breaks off one year before it would have reached the census of 8 B.C. *CQ*'s anonymous reader has suggested the possibility that the extended formulae in Books 3 and 59 might derive from the first mention of a census in a new source. Although this alternative explanation cannot be ruled out with certainty, it fails to account for the position of these references within Livy's work and requires that by an extraordinary coincidence Livy took a relevant cue from a new source on precisely two occasions at the beginning and near the middle of his project.

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ergo prima Romanis inita prouinciarum, quae quidem continentis sint, postrema omnium nostra demum aetate ductu auspicioque Augusti Caesaris perdomita est') provides more than merely a vague *terminus post quem* for the completion of that passage. A crude projection based on his lifetime writing average would place the composition of Book 28 around 19 or 18 B.C., right at the time of final victory in 19 B.C. By itself, this coincidence would not necessarily carry much weight. However, viewed in the context of Livy's putative response to current events in Books 1, 3 and 59, his comment may well have been much more closely linked to current events than previously realized.

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TEXTS AND TOPOGRAPHY

'To *be* a textual critic', Housman famously remarked, 'requires aptitude for thinking and willingness to think; and though it also requires other things, those things are supplements and cannot be substitutes.'[1] One of those things is a map.

At *Fasti* 6.191–2 Ovid appends a brief note to his treatment of the Carnaria, remarking that the same day, the Kalends of June, is also sacred to Mars. In the Teubner text of Alton, Wormell and Courtney (1978), from which the accompanying apparatus is also taken, the location of Mars' temple is described as beside a road within sight of the Porta Capena:

> lux eadem Marti festa est, quem prospicit extra
> adpositum Tectae porta Capena Viae.
>
> 192 tectae $\zeta\omega$: dextrae U_S

The situation of the temple by the Via Appia is known from many sources,[2] but this passage is the only testimony for a Via Tecta in the vicinity. And on the strength of the variant *tectae* the Via Tecta has found a place in the topographical lexica. The name has been taken to refer to an otherwise unattested portico near the temple;[3] or as a reference to its paving, ascribing to *tectus* a sense which is found nowhere else,[4] an interpretation adopted in the most recent commentary.[5] A glance at a map is in order

[1] 'The application of thought to textual criticism', *PCA* 18 (1922), 84 = J. Diggle and F.R.D. Goodyear (edd.), *The Classical Papers of A.E. Housman*, Vol. 3 (Cambridge, 1972), 1069.

[2] Cf. L. Richardson, *A New Topographical Dictionary of Ancient Rome* (Baltimore, 1992), 244–5; L. Haselberger (ed.), *Mapping Augustan Rome. JRA* Suppl. 50 (Portsmouth, RI, 2002), 165; A. La Regina (ed.), *Lexicon Topographicum Urbis Romae – Suburbium* (Rome, 2006), 44–5.

[3] S.B. Platner and T. Ashby, *A Topographical Dictionary of Rome* (Oxford, 1926), 123–4, 568. This interpretation is also adopted in *OLD* s.v. *tectus* 1a.

[4] Richardson (n. 2), 419. Richardson notes that it is more likely that *tecta* would refer to a 'covered' way or a portico, but rightly observes there is no evidence of such a structure and thus is led to impose upon *tecta* a meaning that it cannot bear and that he cannot (and does not) support with evidence. None of the relevant topographical lexica discusses the variant *dextrae*, which was perhaps unknown to them, in which case it might be said that just as textual critics ought to consult maps more often, mapmakers might sometimes profit from consulting an apparatus criticus.

[5] R. Joy Littlewood, *A Commentary on Ovid's* Fasti*, Book 6* (Oxford, 2006), 63.

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