

THE TRIUMPH, THE PRAETORS AND THE SENATE IN THE EARLY SECOND CENTURY B.C.*

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Rome's decisive defeat of Carthage in the Hannibalic War led inevitably to an immense expansion of the area of Roman activity, both diplomatic and military. The numbers of men under arms for the period down to 167 B.C. obtained from Livy's history show hardly any decline,¹ and this alone is a clear reflection of the new role that Rome had assumed as the major military power of the Mediterranean region. One immediate result of her changed situation was a commensurate expansion in the opportunities of Roman magistrates for military commands, and a more widespread expectation of that reward for military success which the republic valued above all others, the triumph.²

This at once raises two questions: who profited from such increased opportunities, and what was the attitude of the senate as a body to these developments? The classic treatment of the matter is Mommsen's,³ and the debt of any subsequent student of the subject to him will be obvious from what follows. Yet here, as in other instances, Mommsen's very precision and clarity has tended to distort the picture. He sees the relationship between the magistrate or promagistrate requesting a triumph and the senate, to whom the request was invariably directed, as governed by a series of timeless regulations,⁴ which the senate tried, usually with success, to impose on them. It is the purpose of this paper to examine the attempts to gain a triumph and the alteration in the attitude of the senate during the period that followed the Hannibalic War. This may help to elucidate the stages by which the position which Mommsen describes was achieved, and to fix them more firmly in a historical setting. A first section reviews the status and careers of men celebrating or attempting to celebrate a triumph or *ovatio* before, during and after the war, and a second considers the controls exercised by the senate over a potential *triumphator*, and how they were applied through the period.

I

I. THE TRIUMPH DOWN TO 219⁵

From the close of the first Punic War to the outbreak of the second, fifteen triumphs were celebrated, beginning with those of the consuls of 241, A. Torquatus Atticus and Q. Lutatius Cerco, over the Falisci, and ending with those of the consuls of 219, L. Aemilius Paullus and M. Livius Salinator, over the Illyrians; all of these triumphs, with the exception of the last two, are recorded on an extant fragment of the Capitoline Fasti Triumphales. All but one of the triumphs were celebrated during the consulship of the *triumphator*, and the one exception, the naval triumph of Cn. Fulvius Centumalus over the Illyrians in 228, took place in the year following his consulship, in which he held *imperium pro consule*. The triumph, therefore, during this period is clearly the preserve of the consuls, or at most the consulars.

The same conclusion is to be reached from the evidence of earlier triumphs. From the end of the regal period down to the outbreak of the first Punic War, all the men whose triumphs are recorded in the Fasti or in the literary sources are either consuls, proconsuls

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¹ See most recently P. A. Brunt, *Italian Manpower 225 B.C.-A.D. 14* (Oxford 1971), 416-426.

² On the value of the triumph, see the words given by Livy to Scipio Africanus: 'neque magnificentius quicquam triumpho apud Romanos', L. (=Livy) 30, 15, 12. On the prestige of the *triumphator*, amounting almost to divinization, see most recently L. B. Warren, *JRS* 60 (1970), 68 f.; H. S. Versnel, *Triumphus* (Leiden 1970), 67-93.

³ Mommsen, *StR.* (= *Römisches Staatsrecht*, Leipzig 1887-8) 3, 126-135.

⁴ Mommsen, *StR.* i³, 126-134.

⁵ For the triumphs from 241 to 133 B.C. see the list in A. Degrassi, *Inscriptiones Italiae* xiii, 1 (Rome 1947), 549-559. Note that in what follows 'triumphs' includes those celebrated without senatorial sanction *in monte Albano*, while 'celebrations' includes any *ovationes* also. Indeed this seems to be the practice of the Fasti Triumphales, where the entry for Fulvius Nobilior's triumph over the Aetolians in 187 is most plausibly restored '[M.Fu]lvius M.f.Ser.n. Nobil[ior 11]', i.e. his second triumph, although the first was an *ovatio* in 191 (Degrassi, *Inscr. It.* xiii, 1, 80 f., 554).

or dictators.⁶ Whatever may be thought of the reliability of these sources for the earlier periods of the Republic, they show a remarkable consistency in attributing triumphs only to men who were holding, or had just held, the highest magistracies in the state.

Of the sixteen triumphs celebrated during the first Punic War, all but two clearly follow this rule in being celebrated either by consuls or by proconsuls in the year following their consulships.⁷ Of the other two, which at first sight contravene the rule, one, that of A. Atilius Calatinus in 257, is an apparent deviation only. Though his entry in the *Fasti*, which describes him as PR. AN. [CDXCVI] EX SICILIA DE POENEIS must refer to him as praetor, not, as has been thought, as proconsul,⁸ he had nonetheless held the consulship in the previous year, and was following the old practice of being elected to the praetorship immediately after the consulship, as a form of prorogation of *imperium*.⁹ The other case, that of Q. Valerius Falto, who celebrated the last triumph of the war in 241, seems to interrupt the series, in that he was propraetor at the time, having held the praetorship in the previous year.¹⁰ There are, however, several factors in this case which make it an exception to prove the rule. First, his triumph was a naval one, a relatively recent introduction (the earliest being that of C. Duilius, consul of 260, after the battle of Mylae¹¹), and although the naval triumphs celebrated between these two dates, that is those of 257, 256 and 254, were all by consuls, it becomes clear from later examples that such triumphs by non-consulars form a distinct group, as will be shown below. This may be due in part to the fact that the admiral was often felt to be a second-in-command to the land commander (as was, for instance, Cn. Octavius under L. Paullus in 168) and thus held a lesser *imperium* (see below). Secondly and more importantly, Falto himself seems to have been second-in-command to the consul, C. Lutatius Catulus, during the battle of the Aegates Islands, for which he claimed his triumph; indeed, Lutatius had himself triumphed three days before Falto, a practice which seems to have become standard in cases where two *triumphatores* appear, one under the command of the other.¹² Finally, and most significant of all, there is evidence of a dispute before Falto was allowed his triumph. A passage in Valerius Maximus¹³ describes a dispute between Falto and Catulus, in which the former claimed he should also celebrate a triumph for the battle, as at the time the consul was wounded and lying on a litter, and the praetor had undertaken all the responsibilities of the command. The legal action which followed took the form of a judicial wager or *sponsio*, and the *iudex* who was charged with the case was none other than A. Atilius Calatinus, who, as noted above, had been the only man to hold a triumph as praetor before this date. According to Valerius Maximus, Atilius gave judgement in favour of Catulus, on the grounds that the *imperium* and *auspicium* under which the battle was fought were the consul's. The evidence of the *Fasti* seems to falsify the conclusion of Valerius Maximus' story, but it is going too far to describe it, with De Sanctis, as 'invenzioni di annalisti dirette a introdurre una elegante controversia giuridica sul *maius* ed il *minus imperium*'.¹⁴ The *sponsio* procedure described is one that is known to have still been flourishing in the second century, but by the first century it had started to develop into a mere short-cut, and an alternative to more long-winded forms of *legis actio*.¹⁵ By the time of the lawyer Gaius, it had become simply a first-stage procedure in cases of *vindicatio rei*.¹⁶ That Valerius' source should have described the rather archaic legal form correctly argues for the credibility of the whole account. More particularly from the present point of view, if the story of the dispute is correct (apart from its final outcome), then it

⁶ *Inscr. It.* xiii, 1, 535-548.

⁷ *Inscr. It.* xiii, 74-77; 548-9. The sixteen are counted from that of M. Valerius Maximus Messala in 263, to that of Q. Valerius Falto in 241.

⁸ So Klebs, *RE* ii, 2081, contra Degrassi, *Inscr. It.* xiii, 1, 76 f. and 548; Broughton, *MRR* i, 208, n. 2; 'proconsule' is always rendered PROCOS. in the *Fasti*, while, though no other entry for a praetor survives, 'pro praetore' appears as PRO PR.

⁹ Compare, for example, Ap. Claudius Caecus, *cos.* 11 296, M. Atilius Regulus, *cos.* 294, and L. Papirius Cursor, *cos.* 1 293, each praetor in the year following his consulship.

¹⁰ Degrassi, *Inscr. It.* xiii, 1, 549.

¹¹ L., *per.* 18 etc.; Degrassi, *Inscr. It.* xiii, 3, 69.

¹² Mommsen, *StR.* i³, 127-8; for the relationship here, see Zonaras 8, 17.

¹³ Val. Max. 2, 8, 2.

¹⁴ G. De Sanctis, *Storia dei Romani* iii, 1 (Torino 1916), 192, n. 100, cf. E. Pais, *Fasti Triumphales Populi Romani* (Rome 1920), 103.

¹⁵ In the second century—L. 39, 43, 5; Cic., *de off.* 3, 19, 77; Gellius, *NA* 14, 2, 21 and 26; in the first century B.C., Cic., *I Verr.* 45, 115-6; *II Verr.* 5, 54, 140-2.

¹⁶ Gaius 4, 93-5; cf. F. Schulz, *Classical Roman Law* (Oxford 1951), 368 f.; M. Kaser, *Das römische Privatrecht*² (Munich 1971), 435.

turned on who had held the commander's *imperium* and *auspicium*: that is to say, in constitutional and sacral terms, whether Falto was or was not in the position normally held by the consul.¹⁷ Given the events that led to his triumph, it is less significant that he was a praetor, since in effect a warning had been issued that Falto's case was exceptional, and that in normal circumstances triumphs would still only be granted to men who were holding the consulship or the consular *imperium*. The affair thus made explicit, perhaps for the first time, the principle on which earlier practice had rested, the consular nature of the triumph, and served to strengthen it.

Thus it is clear that at the outbreak of the second Punic War the triumph was firmly established in Roman thinking as a consular preserve.

2. THE TRIUMPH 218-201

Counting all celebrations which might have been recorded on the *Fasti Triumphales* (that is triumphs, *ovationes*, and triumphs on the Alban Mount, which were not sanctioned by the senate), we may safely conclude that, for the period of the second Punic War, the *Fasti* contained six entries.^{17a} These cases all confirm the pattern observed hitherto: of the five men who celebrated triumphs and *ovationes*, three were in their consular years (Q. Fabius Maximus in 209, M. Livius Salinator and C. Claudius Nero in 207), whilst the other two (M. Claudius Marcellus twice in 211, and P. Cornelius Scipio Africanus in 201) were holding *imperium* prorogued from that held during their consulships. Furthermore the importance of the connection with the magistracy seems to be reinforced by another event during the war, the refusal of the senate to allow a triumph to Scipio in 206 on his return from Spain, on the grounds that 'neminem ad eam diem triumphasse qui sine magistratu res gessisset'.¹⁸ It is true that both Polybius and Appian seem to report the celebration of a triumph,¹⁹ and unfortunately the *Fasti* have not survived at this point to add their evidence. However Polybius' reference to Scipio as κάλλιστον θρίαμβον καὶ κάλλιστην νίκην τῇ πατρίδι κατὰ γων is a passing one, summing up his achievement in Spain, and seems to be equating θρίαμβον with νίκην; and it is likely that Appian, or his source, in assuming that the triumph was a natural corollary to Scipio's victorious return makes a similar equation. On the whole, a source which says that a triumph was *refused* for what was generally acknowledged to be a splendid victory is less likely to be distorted than a source which represents the triumph as an automatic reward, a view which in any case the continual disputes over triumphs, even for victories as considerable as that of Aemilius Paullus at Pydna, make it hard to credit.²⁰ If, then, Livy's story is accepted, the phrase 'sine magistratu' must mean that there was a direct link between the fact that Scipio had not held a magistracy (in this case, probably the consulship) and the refusal to allow him a triumph.

3. THE TRIUMPH 200-170

After the end of the second Punic War a major change is apparent in the status of those whose celebrations appear, or would have appeared, on the *Fasti*. Indeed Scipio's application for a triumph, though it may have been a case of 'magis temptata triumphi spes quam petita pertinaciter' as Livy records, is nonetheless the first instance in our sources a request made by a non-consular independent commander.²¹ In the year 200, however, the change is clearly established by the celebration of an *ovatio* by L. Cornelius Lentulus on his return from Spain, and of a triumph by the praetor, L. Furius Purpureo, over the Gauls.

¹⁷ On the importance of *imperium* and *auspicium* for the triumph see R. Laqueur, *Hermes* 44 (1909), 215-236; and the important modifications of G. Beseler, *ibid.* 352-361.

^{17a} See Degraffi, *Inscr. It.* xiii, 1, 550-551.

¹⁸ L. 28, 38, 4, cf. Dio fr. 57, 56; Val. Max. 2, 8, 5.

¹⁹ Pol. 11, 33, 7; App., *ib.* 38, 156.

²⁰ L. 45, 35-39; the suggestion of H. H. Scullard, *Roman Politics 220-150* (Oxford 1951), 75, n. 2, that Scipio celebrated 'in monte Albano' has the merit of giving both accounts something to refer to, though

neither of them mentions such a triumph, and it must be regarded purely as guesswork. Broughton's hypothesis (*MRR* i, 299) that he celebrated an *ovatio* is difficult in view of the similar case of L. Cornelius Lentulus (see below), for whom even an *ovatio* was said to be unprecedented (L. 31, 20, 5).

²¹ There had, of course, been triumphs celebrated by dictators in the past, the latest having been that of M. Valerius Corvus in the 'dictator year' 301; however, such men were hardly in a comparable position.

Livy's account of the year makes it obvious that both these celebrations were allowed by the senate in unusual circumstances. Lentulus, who had been one of the two men with *imperium pro consule* elected, probably by the *comitia tributa*,²² to replace Scipio in 206, applied on his return for a triumph.²³ Though the senate admitted that he had achieved 'res triumpho dignas', his request was nonetheless refused, as might be expected, on the grounds that no one 'qui neque dictator neque consul neque praetor res gessisset, triumpharet'. Clearly the intention of this pronouncement was to tie the triumph firmly to the magistracy; and even then, as has been seen, the inclusion of the praetorship seems to be more theoretical than actual. Instead the senate determined on a compromise,²⁴ and allowed Lentulus an *ovatio*. Even this was resisted by the tribune T. Sempronius Longus, who pointed out, quite accurately, that 'nihilo magis id more maiorum aut ullo exemplo futurum'. This constitutional point was overruled, however, by the consensus of the senate, and Lentulus celebrated his *ovatio*. In view of the importance for the following years of this decision on the part of the senate, it is worth noting that, with the exception of the special case of Valerius Falto, both the first known application for a celebration by a non-consular, and the first grant by the senate of permission to a non-consular applicant, concern two commanders returning from Spain.

In a different way L. Furius Purpureo's triumph as praetor is no less extraordinary. After he had taken over his allotted province of Gallia and reduced his forces in accordance with a *senatus consultum*, he found himself faced with a serious revolt, in which the last remnants of the Carthaginian forces in Italy were involved.²⁵ He wrote to the senate asking for assistance, and the consul, C. Aurelius Cotta, was dispatched with troops. While the consular army was still *en route* for the province, Furius met and defeated the enemy forces, leaving little for the consul to do on his arrival but to take over the praetor's troops.²⁶ Furius himself then returned rapidly to Rome, and at a senate meeting, held as usual in such cases in the temple of Bellona, requested a triumph.²⁷ In the light of the recent change of policy on such celebrations, the senatorial debate raised some interesting points. The 'maiores natu' complained not only of the way in which the campaign had been conducted, but also because it had been fought 'alieno exercitu', presumably on the grounds that Aurelius had already been dispatched to the province, and took over the army on his arrival. The *consulares* demanded that no decision should be made in the consul's absence, and predicted a quarrel between the consul and the praetor, a situation reminiscent of the dispute between C. Lutatius Catulus and Q. Valerius Falto mentioned above. Despite their intervention however, the decision went in favour of Furius. Although the need for senatorial permission before celebrating a triumph, or even an *ovatio*, will be discussed at greater length below, it is important here to note that Furius' opponents had apparently appreciated that granting his request meant abandoning the standard practice of awarding triumphs to consulars, and were naturally anxious in view of the previous history of the triumph and the alteration made already in this very year by the example of Lentulus. Significantly, Livy's account makes it plain that the final decision was a political rather than a constitutional one, and that 'apud magnam partem senatus, et magnitudine rerum gestarum valebat *et gratia*'. Thus Furius became the first non-consular praetor with an independent military command to celebrate a triumph; it is tempting to believe that it was in virtue of this that he bore the *cognomen* 'Purpureo'.²⁸

Once this change of attitude had taken place, a large number of men no doubt saw the possibilities of the situation. In the thirty years from 200 onwards there was a total of thirty-six celebrations,^{28a} a notable rise. It was probably this which led to the remark of the slave Chrysalus in Plautus' *Bacchides*²⁹ who, having completed his trick on the elderly Nicobulus,

²² Thus in 204, their *imperium* was extended by the *comitia tributa*, L. 29, 13, 7.

²³ L. 31, 20, 1-7.

²⁴ Thus Pais describes it as 'in certo modo una transazione tra la concessione del pieno trionfo e l'assoluto diniego' (o.c., p. xxiv).

²⁵ L. 31, 10-11, 3.

²⁶ L. 31, 21-22, 3.

²⁷ L. 31, 47, 4 ff.

²⁸ He is the first of his family in *RE* to bear the

cognomen, and it may be that it refers to his extraordinary achievement in assuming the *vestis triumphalis* which was of course purple (Mommsen, *StR.* 1⁸, 411; W. Ehlers, *RE* 7A, 504 f.).

^{28a} See above, n. 5.

²⁹ Plautus, *Bacchides* 1067-1075. On the unusual literary use of so Roman an institution, see E. Fraenkel, *Elementi Plautini in Plauto* (Firenze 1960), 230 f.; on the historical significance, U. Schlag, *Regnum in Senatu* (Stuttgart 1968), 17 ff.

describes himself as 'ovans praeda onustus' and claims that 'domum reduco integrum omnem exercitum'. However he then breaks off and turning to the audience, says:

'sed, spectatores, vos nunc ne miremini
quod non triumpho: pervolgatumst, nihil moror.'

Though there is no firm way of dating this play, it must fall at some time in the post-Hannibalic War period, and certainly seems to reflect the great frequency of celebrations in that period. In the light of the earlier background, it is still more remarkable that half of these, eighteen in all, were celebrated by men of less than consular rank; two—those of L. Lentulus, and of Cn. Cornelius Blasio in 196—by men who had not even attained the praetorship, having been sent to Spain with *imperium pro consule*, and the remainder by praetors or praetorian proconsuls. This in itself would be a noteworthy redistribution, but it becomes more so when it is realised that of these eighteen, fourteen were celebrated for victories in Spain.³⁰

Of the four non-Spanish triumphs, two, those of L. Aemilius Regillus (*pr.* 190) in 189, and of Q. Fabius Labeo (*pr.* 189) in 188, form a pair. Both men celebrated naval triumphs 'ex Asia de rege Antiocho', and so bore a clear resemblance to the case of Falto discussed above. Both held independent commands, but co-operated with, and were presumably to some extent under the control of, the consuls campaigning on land against Antiochus (i.e. L. Scipio Asiaticus and Cn. Manlius Vulso respectively),³¹ each of whom celebrated triumphs of their own on their return. Of the remaining two, the case of L. Furius Purpureo in 200 has already been discussed. The last case is that of C. Cicereius, praetor 173, who on his return from Corsica in 172 requested a triumph from the senate meeting in the temple of Bellona; the request was refused, and he celebrated on the Alban Mount. Thus of the eighteen celebrations, two were naval triumphs, and so might conceivably have been accepted even before 200, though no doubt under protest; the third was not accepted at all, Cicereius being the last of the four known occurrences of a triumph *in monte Albano*. The remainder, which form the core of the new-style celebrations, consisted of that of Purpureo, and the fourteen from Spain.

4. THE OVATIO

A further change in triumphal practice also points to a change in the nature of these celebrations. This concerns the *ovatio*, ὁ ἑλλάττων θρίκαμβος as it is described by Dionysius of Halicarnassus.³² In the period before the second Punic War the *ovatio* seems to have fallen into disuse. In 360, according to the *Fasti* and to Livy, M. Fabius Ambustus celebrated in this way after defeating the Hernici, but this is the last known *ovatio* before 211. It is possible that one was celebrated by M. Curius Dentatus over the Lucani in 290 or 289; although the only mention of this comes from the author of the *de viris illustribus*, the other and more reliable evidence seems to indicate some sort of celebration.³³

Even if we admit the instance of Dentatus, this form of celebration had been used only once in the past one hundred and fifty years when it was revived by Marcellus in his *ovatio* over the Syracusans in 211, and that more than seventy years previously. This revival becomes intelligible in the light of the political atmosphere surrounding his double celebration, of a triumph *in monte Albano* and subsequently an *ovatio*. From the accounts³⁴ of the dispute that resulted when Marcellus requested a triumph, it is clear that the magnitude of his achievement was not in question. The argument which caused Marcellus' case

³⁰ These figures, moreover, exclude one triumph mentioned in the sources by a praetor from Spain, L. Aemilius Paullus, praetor in 191, but which almost certainly was not entered on the *Fasti*, and in all probability was never celebrated—Vell. Pat. 1, 9, 3, cf. Degrassi, *Inscr. It.* xiii, 1, 553.

³¹ On Aemilius' relations with Scipio, see L. 37, 33 and 33, 47, 3-4; on those of Fabius with Vulso see L. 37, 50, 1 and 38, 49, 2.

³² Dion. Hal., *Ant. Rom.* 8, 67, 10.

³³ Cicero, *Cat. mai.* 55, and Apuleius, *Apol.* 17 say

that he celebrated three triumphs, over the Samnites and the Sabines (which two L. *Per.* 11 places in his consulship), and later over Pyrrhus. Plutarch, *Cato Maior* 2, confirms the number three. However, the entry in the *Fasti* for his last triumph reads 'M'. Curius M'. f. M'. n. Dentat. IV . . .'. The required fourth celebration may be supplied by the reference in *de vir. ill.* 33, 4 that 'tertio de Lucanis ovans urbem introiit' (*Inscr. It.* xiii, 1, 77, 545).

³⁴ L. 26, 21, 1-13; Plutarch, *Marcellus* 22; [Victor], *de vir. ill.* 45, 6.

to founder, that he had not brought back his army from the province, has the air of a technicality introduced for the purpose; and there is some evidence, which will be discussed below, to show that this requirement, after having been urged on this occasion, was neglected until it again became useful in the 180's. Furthermore, our two best sources on this matter, Livy and Plutarch, indicate that the debate was a long and acrimonious one, and that Marcellus' political adversaries were successful.³⁵ The award of the *ovatio*, then, seems to be a compromise proposal; and Marcellus made it quite clear that he intended to get the maximum amount of glory from his military success by celebrating a triumph *in monte Albano* as well, an unprecedented case of two celebrations for the one victory. Both types seem to be antiquarian revivals; although according to the *Fasti* a triumph on the Alban Mount had been celebrated for the first time by C. Papirius Maso in 231,³⁶ this seems to have been the resuscitation of an older usage, perhaps, as Goell argued long ago, of a Latin as opposed to Roman triumph.³⁷ The similarly archaic character of the *ovatio* has already been remarked upon; and an antiquarian interest may also be seen in Marcellus' first victory celebration in 222, over the Gauls, Insubres and Germani. Then he had gained not only the triumph, but also the *spolia opima*, an award made only three times in the entire history of Rome before the Empire, the other two grants being, allegedly, that made to Romulus, and the grant to A. Cornelius Cossus at a date which was already a matter of dispute in antiquity, but at any rate was not later than 426.³⁸

The next *ovatio* mentioned in the sources³⁹ (the *Fasti* for the second Punic War not, unfortunately, being extant) is that attributed by the *de viris illustribus* to C. Claudius Nero, the consul of 207, after the battle of the Metaurus. If this was an *ovatio*, it was an extremely odd one. Firstly, both Livy and Valerius Maximus describe it as a triumph, as does the author of the *de viris illustribus* himself in his entry on M. Livius Salinator, who celebrated at the same time; it is only in his entry on Hasdrubal, whom Nero is said to have defeated, that it is called an *ovatio*. It is clear nonetheless that Nero's triumph was in some way inferior to Salinator's, for Livy describes him as following his colleague's triumphal chariot on horse-back, and makes much of his concession in so doing. But this does not mean that Nero celebrated an *ovatio*; indeed, the detail of his entry mounted contrasts with the normal usage of a commander returning *ovans*, who entered on foot.⁴⁰ That he should enjoy a lesser celebration is readily explicable: firstly, the province, and thus the relevant *imperium* and *auspicium* under which the battle was fought, had clearly belonged to Salinator;⁴¹ secondly, it is clear that Nero was making a special effort to honour Salinator. Not only does Livy make the point on the occasion of the triumph, but he later records that Nero took the unusual step of nominating Livius as dictator to hold the elections; and his nomination has been very plausibly interpreted as a recognition of his senior position, despite the fact that, from the order on the *Fasti* at least, Nero appears to have been *consul prior*.⁴² In the circumstances, Nero's entry may well have been a deliberately modified form of triumph, rather than an *ovatio*.

Before the case of Lentulus in 200, then, the only *ovatio* in the recent past was that of Marcellus in 211, which seems to have been the result of a particular political situation, and perhaps of the politico-antiquarian interests of Marcellus himself. In the next thirty years down to 170, there was a sharp increase, a total of seven, six being recorded in the *Fasti*, which resume in 197, confirmed in each case by the literary sources. They are:

200 L. Cornelius Lentulus
196 Cn. Cornelius Blasio

³⁵ cf. F. Cassola, *I gruppi politici romani nel III secolo a. C.* (Trieste 1962), 320 f.

³⁶ Noted as 'primus in monte Albano' in the *Fasti* (Degrassi, o.c. 78).

³⁷ H. A. Goell, *de triumphis Romani origine* etc. (Schleizae 1854), § 1; see now H. S. Versnel, *Triumphus* (Leiden 1970), 281 f.

³⁸ Thus L. 4, 20, 5-11; cf. Broughton *MRR* i, 59.

³⁹ L. 28, 9, 9-11; Val. Max. 4, 1, 9; [Victor], *de vir. ill.* 48, 5 and 50, 2.

⁴⁰ Thus Plutarch, *Marcellus* 22, 2; Dion. Hal. 5, 27, 3; similarly in the *Res Gestae* 4, 1, Augustus'

claim that he had 'ovans triumphavi', is translated πειλιόν θηριόμθεσσα as opposed to [ἐ]φ' ἄριστος of the standard triumph (W. Weber, *Princeps* i (Stuttgart 1936), 108*, n. 459, and 156*, n. 580). Some ancient doubt as to this case may be reflected by Gellius, *NA* 5, 6, 27, who records that some of the 'veteres scriptores' have it that the commander celebrating an *ovatio* entered 'equo vehementem'; but that Sabinius Masurius said that he entered 'pedibus'.

⁴¹ L. 28, 9, 10.

⁴² L. 28, 10, 1; Broughton *MRR* i, 298, n. 1, cf. Degrassi, *Inscr. It.* xiii, 1, 46 f. and 450 f.

- 195 M. Helvius
 191 M. Fulvius Nobilior
 185 L. Manlius Acidinus Fulvianus
 182 A. Terentius Varro
 174 Ap. Claudius Centho.

Four of the *ovationes*, those of 200, 196, 195 and 185, seem to have resulted from disputes in the senate; these will be discussed briefly below, when the senate's hold over the potential *triumphator* is examined. For the moment, one feature of the list must be noted. It can scarcely be a coincidence, especially in view of the nature of the 'non-consular' celebration noted above, that all these seven *ovationes* were those of non-consular commanders returning from Spain, and that they form one half of the total of such celebrations from the province.⁴³ In this case, as with that of the triumphal celebrations as a whole, there was a change in the practice of the senate, centred on the Spanish provinces and their governors.

5. THE TRIUMPH, THE OVATIO AND THE PROVINCES AFTER 170

Assessment of the situation after 170 is complicated by the deterioration of the literary tradition, and in particular by the loss of Livy after 167; but also by a sizeable *lacuna* in the *Fasti Triumphales* for c. 155–129. However, reasonable conjectures can be adduced from those commanders known to have been successful during the period, even where triumphs are not directly attested for them.⁴⁴

It is clear, even in the years before the inscribed *Fasti* break off, that the number of celebrations was in decline. Of the ten triumphs and *ovationes* in the decade 179 to 170, only two took place in the last five years, and one of these was that on the Alban mount celebrated by C. Cicereius. In the next ten years, 169 to 160, only five celebrations took place; and in one further case, we hear that M. Iuventius Thalna, consul in Corsica in 163, had been voted a *supplicatio*, but that he died before returning to Rome.⁴⁵ Moreover of these five, three are connected with one campaign, that which led to the defeat of Perseus at Pydna, and were all celebrated in one year, 167. In the remaining twenty-seven years of the period, down to and including 133, if we accept Degrassi's conjectures as at least numerically correct, only another eighteen celebrations took place.

The pattern observed in the previous period continues here too. Two of the triumphs of 167 after Pydna were celebrated by praetorians: Cn. Octavius, who celebrated a naval triumph over the Macedonians and King Perseus, is in the same class as the naval commanders of 189 and 188, whose triumphs have been mentioned above; in this case not only do the details of the campaign confirm the overall control of L. Aemilius Paullus,⁴⁶ but the fact that Octavius' triumph immediately followed that of Paullus points in the same direction.⁴⁷ The other, that of L. Anicius Gallus over the Illyrians, also seems to result from an extension of Paullus' campaign. Anicius took over from Ap. Claudius Centho, who had gone out to Greece in 170 as a *legatus* to A. Hostilius, *cos.* 170;⁴⁸ Claudius had continued in Epirus when Q. Marcius Philippus became commander in Greece, and though there is no direct evidence as to his position, he probably remained a *legatus*.⁴⁹ Further, the two sets of decemviral commissioners for Paullus and Anicius were sent out at the same time, and both used Octavius' fleet to transport their troops back to Italy.⁵⁰ Lastly, and most relevant to our purpose, Livy, in describing the triumph itself, stresses the superiority of Paullus' *imperium*.⁵¹ Although Anicius may not have been directly subsidiary to Paullus, as Octavius was, both these non-consulars fall into the category of secondary praetorian commanders, themselves successful, but under the overall control of a successful consular triumphator.

⁴³ There was only one consular triumph from the province during the period, celebrated by the only consular to go to Spain, between P. Cornelius Scipio in 217 and Q. Fulvius Nobilior in 152, that is M. Porcius Cato, who triumphed in 194.

⁴⁴ Degrassi, *Inscr. It.* xiii, 1, 558–9.

⁴⁵ Val. Max. 9, 12, 3; Pliny, *NH* 7, 53, 182.

⁴⁶ Thus L. 45, 28, 8.

⁴⁷ Paullus celebrated on IIII, III and prid. Kal.

Dec., and Octavius on Kal. Dec. (*Inscr. It.* xiii, 1, 80, 81). See also above, n. 12.

⁴⁸ L. 43, 9, 6.

⁴⁹ Philippus' secret intrigues against him through Polybius (*Pol.* 28, 13, 7 ff.) seem to say more about Philippus' methods than Claudius' position, *pace* Broughton *MRR* i, 425 and 427, n. 5.

⁵⁰ L. 45, 17, 1 ff; 45, 34, 9 and 35, 4.

⁵¹ L. 45, 43, 2.

The next praetorian triumph again comes under one of the earlier categories: this is that celebrated by L. Mummius from Spain in 152.⁵² Soon after this, however, independent praetors from other provinces also celebrate: thus Q. Metellus triumphed over the Macedonians and the false Philip in 146, and, if Degrassi's conjectures are correct, Licinius Nerva followed him in about 142; finally M. Cosconius, who according to the epitome of Livy was victorious in Thrace in 134 or 133, may also have celebrated a triumph.

More significant, however, than this gradual shift of the award away from a mainly Spanish preserve, with occasional seconds-in-command from consular or proconsular campaigns, are the greatly reduced numbers of praetorian celebrations over all. It will be remembered that one half of the total of thirty-six from 200 to 170 were celebrated by non-consulars; in the period from 169 to 133, consulars celebrated all but five of the twenty-four. This pattern continued into the next period, for from 132 to Sulla's return to Rome (thus counting the triumph of Servilius Vatia from an unknown province, in about 88, as the last), twenty-seven triumphs and one *ovatio* are recorded on the Fasti or elsewhere;⁵³ of these five only were celebrated by praetorians. Once again, the three elements whose simultaneous rise in the early part of the century has been discussed above, the non-consular celebration, the appearance of the *ovatio*, and the preponderant position held by the Spanish provinces, seem to be relevant to the post-170 situation. Between the *ovatio* of Ap. Centho in 174 and the triumph of L. Mummius in 152, there is no trace of either triumph or *ovatio* from Spain, in sharp contrast to the prominence of such celebrations in the Fasti of the early years of the century. In the period from 169 to 133, moreover, all the triumphs which are known or may be conjectured with varying certainty to have been celebrated from Spain, are consular in status and reflect the change in the military activity in the provinces. It is consistent that, after the case of Centho in 174, the *ovatio* disappears entirely for at least forty years, and is used then only for victories in the suppression of the slave-revolts in Sicily, or that of Spartacus in Italy.⁵⁴

6. CONCLUSION

Thus far a clear pattern emerges from this survey of the applications for and awards of triumphs and *ovationes*. In the period down to the end of the Hannibalic War, with a single exception, only men of consular rank were granted the permission to celebrate. The details of the case of Valerius Falto, and the reasons for refusing Scipio's request in 206, indicate that the awards were so confined to consuls and consulars by deliberate policy.

In 200 the situation changes dramatically; an *ovatio* is granted to a proconsul from Spain who had held no previous office, and a full triumph to a praetor from Cisalpine Gaul. In the next thirty years celebrations of all sorts were far more frequent, and half of the triumphs and *ovationes* went to men who had never held the consulship. A remarkably high proportion of non-consular triumphs came from the Spanish provinces, for Roman military activity had expanded throughout the Mediterranean and necessitated that the Spanish provinces, though they were by no means pacified, were entrusted to relatively junior men. I hope to examine elsewhere some of the other effects of this situation.

After 200 B.C. the increased number of celebrations, the new forms they evolved, and the changing status of the celebrants clearly have their origin in Rome's larger rôle in the Mediterranean world; but the later decline in overall numbers and in the proportion of triumphs and *ovationes* celebrated by non-consulars cannot be simply explained by a decline in Rome's activity. The next hundred years saw even more intense fighting in Spain, Greece and Africa, and a further series of wars in Cisalpine and Transalpine Gaul. The explanation for this must be sought, and the most likely place to look for it is in the attitudes of the senate, and its reactions towards the flood of men who had applied to it for permission to celebrate in the earlier years of the century.

⁵² App., *Ib.* 57, 243.

⁵³ Degrassi, *Inscr. It.* xiii, 1, 559-563.

⁵⁴ M. Perpenna, praetor perhaps in 133, and P. Rupilius, consul 132, may have celebrated *ovationes* from Sicily (Degrassi, *Inscr. It.* xiii, 1, 558; Broughton *MRR* 1, 499, n. 2; on Perpenna, see Florus

2, 7, 8); the only other such celebrations under the Republic were by M'. Aquillius from Sicily in 99 (Cic., *de or.* 2, 47, 195), and M. Licinius Crassus in 71 (Cic., *in Pis.* 24, 58). Compare Gellius' statement (*NA* 5, 6, 21) that the fact that a war was against slaves was an 'ovandi ac non triumphandi causa'.

II

The influence of the senate over the pattern of triumphs and *ovationes*, noted above, depended on two factors, which must now be investigated. The first is the nature of the senate's control over the potential *triumphator*, the second its reasons for exercising such control as it had.

I. THE MEANS OF SENATORIAL CONTROL OVER THE TRIUMPH

At first glance the power of the senate appears very great indeed. Not only did the frequent debates on the question of particular triumphs always take place in the senate,⁵⁵ but Cicero specifically remarks, in the course of his correspondence with Cato over the possibility of a triumph following his own Cilician governorship, that the triumph is 'eum honorem, qui a senatu tribui rebus bellicis solet'.⁵⁶ Dionysius of Halicarnassus, writing of both the triumph proper and the *ovatio*, has it that *δὴ δὲ . . . οὗτοι θρίαμβοι δίδονται τοῖς ἡγεμόσιν ὑπὸ τῆς βουλῆς*.⁵⁷ However, despite the unequivocal nature of these statements, the sanction which the senate held needs further investigation, primarily because it is known that some triumphs were celebrated despite senatorial opposition. Sometimes this was done 'populi iussu', as in the somewhat doubtful early cases of L. Valerius and M. Horatius in 449,⁵⁸ and of the dictator C. Marcius Rutilius in 356,⁵⁹ and, in the third century, that of C. Flaminius in 223.⁶⁰ That this was not merely a question of the theoretical (though rarely asserted) primacy of the *populus* over the senate is shown by the example of L. Postumius Megellus, consul 294, who celebrated against the wishes of the senate, and despite opposition by the majority of the tribunes of the plebs.⁶¹ A still more startling demonstration took place in 143 when the consul, Ap. Claudius Pulcher, celebrated a triumph against the wishes of the senate, carrying his daughter, the Vestal Claudia, with him in the triumphal car in order to foil a tribunician veto.⁶²

This comparative impotence of the senate to stop a determined man from triumphing is emphasised by the absence from the sources and, more important still, from the surviving *Fasti Triumphales* of any indication that such celebrations were illegal, or indeed in any way unusual; the same can be said for the triumphs 'in monte Albano', for although records of only three out of the four known cases survive in the fragments of the *Fasti*,⁶³ these are reported as taking place on the Alban mount but they are otherwise entered as though they were legitimate celebrations.

It must be granted, then, that despite the implication of Cicero's and Dionysius' remarks, the permission of the senate was not a *sine qua non* for the celebration of a triumph; the question remains why such permission was so important. There are three areas of senatorial business where the assent or dissent of the senate might make a difference to a celebration: first, through its control of state religion; secondly, through requests to the tribunes to act in the *comitia tributa*, which could extend the *imperium* of the returning general; and finally, through its control of finance and, in particular, of disbursements from the *aerarium*.

The religious nature of the triumph is apparent from almost everything known about it, with its great procession ending in the sacrifices at the temple of Iuppiter Capitolinus;⁶⁴ and it was explicit in the language used in the commander's formal petition to the senate—'ut . . . dis immortalibus honor haberetur, sibique triumphanti urbem inire liceret'.⁶⁵ The notion is summed up by the words of the consular M. Servilius, in urging the

⁵⁵ Thus the cases in 206 and 200 mentioned above. Note also the cases of L. Manlius Acidinus in 199 (L. 32, 7, 4); P. Scipio Nasica in 191 (L. 36, 39, 3-40, 14); Q. Minucius Thermus in 190 (L. 37, 46, 1-2); Cn. Manlius Vulso in 187 (L. 38, 44, 9-50, 3); M. Fulvius Nobilior in 187 (L. 39, 4, 1-5, 17); L. Manlius Acidinus in 185 (L. 39, 29, 4-7); Q. Fulvius Flaccus in 180 (L. 40, 35, 3-36, 12); C. Cicereius in 172 (L. 42, 21, 6-7).

⁵⁶ Cic., *ad fam.* 15, 4, 13.

⁵⁷ Dion. Hal. 9, 71, 4.

⁵⁸ L. 3, 63, 5.

⁵⁹ L. 7, 17, 9.

⁶⁰ L. 21, 63, 2; 23, 14, 4.

⁶¹ L. 10, 37, 6-12.

⁶² Cic., *Cael.* 34; Val. Max. 5, 4, 6; Dio, fr. 74, 2.

⁶³ That is the celebrations of C. Papirius Maso in 231, Q. Minucius Rufus in 197 and C. Cicereius in 172. Marcellus' triumph in 211 was presumably on the lost section that covers the years 219-197 (Degrassi, *Inscr. It.* xiii, 1, 551).

⁶⁴ Thus the descriptions at App., *Lib.* 65, 292-66, 300, and Plutarch, *Aem. Paull.* 32-34.

⁶⁵ For instance L. 28, 9, 7; 38, 44, 9; 39, 4, 2.

people to allow a triumph to Aemilius Paullus: 'dis quoque enim, non solum hominibus, debetur triumphus'.⁶⁶ The precise nature of the religious elements in the triumph and their meaning and origin are a matter of extreme controversy,⁶⁷ but fortunately the solution of these formidable difficulties is not necessary in order to see the area in which the senate could control the performance or non-performance of such a religious ceremony. The main event of this sort which was effected by decree of the senate was the declaration of public days of prayer or thanksgiving for a variety of different causes, including the *supplicationes* voted when news of a victory was announced.⁶⁸ A *supplicatio*, however, was not by itself the same as the decree of a triumph, as Cato pointed out rather acidly to Cicero in 50;⁶⁹ and in an early case recorded in Livy, that of the consuls Valerius and Horatius in 449, the senate refused a triumph, though 'maligne . . . in unum diem supplicationes consulum nomine decrevit'.⁷⁰ When they did triumph, it was, as already noted, 'populi iussu'. Indeed, in view of the religious nature of the triumph, it is unlikely that the senate's refusal to sanction a particular celebration could have impaired its religious validity, since triumphs were celebrated without senatorial approval, and there is nothing to indicate that these were incomplete or marred by something lacking in their performance. While, no doubt, the senate could hinder an aspirant for a triumph by refusing a *supplicatio*, the results of this must have been effective rather as indicating the disapproval of the *patres* than for any more formal reason.

A second, and initially more attractive, suggestion for the means whereby the senate controlled the triumphs, is that the returning general, in order to celebrate, needed *imperium* within the city boundaries or *pomerium*; and this seems to have been achieved through a senatorial instruction to a tribune to bring a *rogatio* to this effect before the people.⁷¹ Moreover, in the case of Marcellus in 211, where objections were raised in the senate, the connection between the type of celebration which he was allowed and the question of his *imperium* being extended is clear; had the senate refused to instruct the tribunes, Marcellus could have celebrated only his triumph on the Alban Mount (i.e. on a site outside the *pomerium*). One other factor, which has been thought to point in the same direction, is that when the senate met to discuss an application for a triumph, it was always outside the *pomerium*, and usually in the temple of Bellona on the Campus Martius.⁷²

This would seem, then, to be an important method of hindering triumphs which the senate considered undesirable. It must be noted, however, that it was not quite as useful as has sometimes been thought. Firstly the senate had to operate through the *comitia tributa*.⁷³ In the case of Aemilius Paullus in 167, the *comitia*, stirred up by disaffected soldiers, refused at first to extend his *imperium*, though requested by the senate, and it was not until they had been harangued by an ex-consul that they gave way.⁷⁴ However, a general would only face this problem after a majority in the senate had voted in his favour; if they opposed him, it would have been possible for them to block his way by refusing to instruct the tribunes. No doubt with the help of the latter such a rebuff could be circumvented; but it would remain a major obstacle, especially as only one of the ten tribunes would be required to veto the proceedings. There is a second weakness in this means of control, as Goell has pointed out,⁷⁵ in discussing the significance of the meeting in the temple of Bellona. Certain magistrates returning to demand a triumph, namely a dictator, consul or

⁶⁶ L. 45, 39, 10.

⁶⁷ Thus recently H. S. Versnel, *Triumphus* (Leiden 1970); L. B. Warren, *JRS* 60 (1970), 49-66.

⁶⁸ Thus prayers at the outbreak of war in 218 (L. 21, 17, 4); thanksgiving for the safe arrival of Scipio's troops in Africa (L. 30, 1, 11); on triumphs Pol. 21, 2, 1-3; cf. Mommsen, *StR.* i³, 1059; P. Willems, *Le sénat de la république romaine* ii (Louvain 1883), 305.

⁶⁹ At Cic., *ad fam.* 15, 5, 2.

⁷⁰ L. 3, 63, 5-11; further, in the case of the 'unauthorized' triumphs where there is no mention of a *supplicatio*, it is most improbable that one was decreed.

⁷¹ Thus L. 26, 21, 5; 45, 35, 4; Cic., *ad Att.* 4, 18, 4.

⁷² Thus L. 31, 47, 6 etc.

⁷³ Goell thought this was done through the *comitia curiata*, o.c. (n. 37), § 2, but the reference to voting in tribes (e.g. L. 45, 36, 7, 10) and the lack of mention of a *lex curiata* makes the procedure seem more like that used to send so-called 'privati cum imperio' to Spain (thus L. 30, 27, 9; 31, 50, 11). This fact also makes it hard to understand the recent insistence on the *lex curiata de imperio* in the understanding of the triumph (thus Versnel, o.c. (n. 67), 319-349).

⁷⁴ L. 45, 35, 1-39, 20.

⁷⁵ Goell, o.c. (n. 37), § 2.

praetor in their years of office, can scarcely have needed an extension of *imperium*, for they already held *imperium domi* in virtue of their magistracy; and yet in these cases too the senate met outside the city, nor did the general cross the *pomerium* before the day of his triumph.⁷⁶ Attempts to conjecture an additional grant of *imperium militiae* to the returning magistrate,⁷⁷ apart from the familiar difficulties that beset the theory of the *imperium militiae* and *imperium domi* as two entirely separate entities,⁷⁸ rather than different aspects of the same thing, cannot explain those examples already noticed: both senate and people might be opposed to a celebration, yet it could take place, and later be accounted a full and legal triumph.⁷⁹ Further, no instance is known in which the tribunes were instructed to move a *rogatio* for a magistrate in office;⁸⁰ in fact, in all the incidents when the *triumphator* actually defied the senate, the general in question was a consul in his year of office. It is better to explain the undoubted desire of a potential *triumphator* to avoid crossing the *pomerium* by some other ceremonial inhibition than the need for an extended *imperium*. Perhaps the most satisfactory is the idea that the triumph was in part an 'entry' ritual, and that once he had crossed the *pomerium*, it was no longer possible for the general to make the formal entry *triumphans* or even *ovans*.⁸¹

Thus control over the *imperium* was a powerful senatorial weapon against unco-operative generals, and although it could probably have been circumvented by an appeal direct to the *comitia tributa*, in practice this rarely happened. Even such a weapon however was of no avail against a man still in his year of office, if he had sufficient determination.

The third method of control, although not an absolute bar, could be used to hamper even a man so determined; although rather neglected in modern discussions, it is mentioned in the ancient sources: this is the senate's control of finance. It is clear that the senate had an overseer's rôle in the question of disbursement from public funds.⁸² Further, in two instances of triumphs celebrated without senatorial approval, the lack of public financial backing is commented on. The triumph celebrated by Q. Minucius Rufus on the Alban Mount in 197 is said by Livy⁸³ to have been 'quod sumptum non erogatum ex aerario omnes sciebant, inhonorator'; again in the case of the notorious triumph of Ap. Claudius in 143, Dio Cassius⁸⁴ explicitly notes that the celebration was at his own expense. Moreover, in his account of the checks and balances of the Roman 'mixed' constitution, Polybius makes precisely this one of the ways in which the consuls were dependent on the senate.⁸⁵ The strength of such a control was that it applied to all men who wished to celebrate, not just promagistrates; its weakness was that it did not touch the essentially religious nature of the triumph, and could thus be circumvented by a *triumphator* with enough money of his own and sufficient assurance to ignore the hostility that a celebration 'suo sumptu' seems to have produced.

2. THE REASONS FOR EXERCISE OF SENATORIAL CONTROL

As has been seen, then, the senate had, through a variety of means, a considerable say in whether a commander obtained a triumph. A further question remains: on what grounds did the senate withhold, or try to withhold a triumph?⁸⁶ It is clear that some later writers, in particular Aulus Gellius⁸⁷ in his remarks on the *ovatio*, and Valerius Maximus in his chapter 'de iure triumphandi',⁸⁸ thought that there were certain requirements that had to

⁷⁶ L. 3, 63, 6; 28, 9, 5; 33, 22, 1; Mommsen, *StR.* i³, 127, n. 2.

⁷⁷ Versnel, o.c. (n. 67), 191 f., contra Mommsen, *StR.* i³, 132, n. 3.

⁷⁸ Mommsen, *StR.* i³, 72.

⁷⁹ Especially the cases of L. Postumius Megellus in 294, and Ap. Claudius Pulcher in 143.

⁸⁰ Mommsen, *StR.* i³, 132, n. 3.

⁸¹ Versnel, o.c. (n. 67), 384-388, who stresses the phrase 'triumphans urbem inire' used in the official request for a triumph; cf. J. E. Phillips, *Class. Phil.* 69 (1974), 54-5.

⁸² Thus the story of Scipio Africanus and his response to the demand for his brother's accounts for the war against Antiochus (Pol. 23, 14).

⁸³ L. 33, 23, 8.

⁸⁴ Dio, fr. 74, 2.

⁸⁵ Pol. 6, 15, 8: the consuls τούς γὰρ προσαγορευομένους παρ' αὐτοῖς θριάμβους... οὐ δύνανται χειρίζειν, ὡς πρέπει, ποτέ δὲ τὸ παράπαν οὐδὲ συντελεῖν ἔαν μὴ τὸ συνέδριον συγκατάδηται καὶ δῶ τὴν εἰς ταῦτα δαπάνην.

⁸⁶ There is only one case known of an *ovatio* being prevented, that of L. Manlius Acidinus in 199 (L. 32, 7, 4), and this was done by the veto of the tribune P. Porcius Laeca. A similar threat had been made against L. Cornelius Lentulus' *ovatio* in the previous year (L. 31, 20, 5-6).

⁸⁷ Gellius, *NA* 5, 6, 20 ff. on the *corona ovalis*.

⁸⁸ Val. Max. 2, 8.

be fulfilled, apart from those already discussed concerning the *imperium auspiciumque* of the *triumphator*. Some, like the necessity for the war to have been a *bellum iustum*, seem to be rooted in ancient pontifical or fetial law;⁸⁹ moreover, the only instance in which such an argument was used in our period, was that of Cn. Manlius Vulso in 187, where the charge that he conducted not a 'publicum populi Romani bellum' but a 'privatum latrocinium' was recognised as valid by the senate, but was outweighed by the considerations of 'pudor' and 'gratia', and the triumph was celebrated.⁹⁰ Other stipulations again, that the enemy should not bear a 'nomen humile et non idoneum' as was the case with slaves or pirates, are mentioned only at the very end of the period, as perhaps in the charges against M. Perperna in 132.⁹¹ Two other factors, however, do bulk large in the disputes of the time, and thus deserve further consideration: the requirement that a commander should withdraw his army, to prove that his province was pacified; and the requirement that he should have been involved in serious fighting, later formalised into having slain 5,000 enemy in one battle.⁹²

The first of these stipulations, that of the *deportatio exercitus*, is first heard of in the affair of Marcellus in 211, when his political enemies objected that he had handed over his forces to his successor, thus implying a continuance of the war, and that he should not triumph 'cum exercitus testis meriti atque immeriti triumphi abesset';⁹³ as a result, only an *ovatio* was allowed. After this, however, although there is some indication that Nero's lesser 'triumph' in 207 was due to a similar consideration,⁹⁴ the stipulation seems to have been dropped. The most notorious instance was that of L. Furius Purpureo in 200, at whose triumph 'neque captivi ulli ante currum ducti, neque spolia praelata, neque milites secuti';⁹⁵ following this the consul, C. Aurelius Cotta, complained to the senate in language very reminiscent of the charges against Marcellus in 211; he ascribed the demand for *deportatio*, which was now all of eleven years old, to the institution of the 'maiores'.⁹⁶ This was not the only occasion on which the provision was neglected; although Q. Minucius Thermus celebrated a triumph in 195, Livy records that his forces were taken over by the praetor P. Manlius, acting as 'adiutor' to the consul M. Porcius Cato.⁹⁷ Again, when M'. Acilius Glabrio triumphed in 190 over Antiochus and the Aetolians, 'milites, qui sequerentur currum, defuerunt'.^{97a} There may well have been other cases which cannot be so readily substantiated.⁹⁸ However, suddenly in 185, the requirement reappears: L. Manlius Acidinus, returning from Spain, was refused a triumph and allowed only an *ovatio* on precisely these grounds.⁹⁹ The following year a 'magna contentio' arose between the supporters of the praetors newly chosen for the two Spains, and supporters of C. Calpurnius Piso and L. Quinctius Crispinus, who, on the point of returning from those provinces, sent envoys ahead to request a *supplicatio* and the senate's permission to bring home their forces.^{99a} A compromise was reached; but the situation recurred in 180, when the request of Q. Fulvius Flaccus to bring back his forces from Citerior was resisted strongly by the newly allotted praetor of the province, Ti. Sempronius Gracchus, on the grounds that he could hardly be expected to govern a warlike province with a newly recruited army.¹⁰⁰ Although a compromise was reached again on this occasion, whereby Flaccus brought back some of his troops, it must have been clear that the *deportatio* provision would mean no more triumphs from Spain at all, for it was most unlikely that any governor would subdue *all* the tribes of the hinterland. The provision does not reappear in later discussions; this might be due to the general falling-off of triumphs from Spain. More important is the fact that *deportatio exercitus*, unlike the other provisions mentioned, does not appear in the lists

⁸⁹ Gellius, *NA* 5, 6, 21.

⁹⁰ L. 38, 45, 1-50, 3; it is clear from 38, 47, 5 that Manlius thought he was being accused of 'bellum iniustum'.

⁹¹ Gellius, *NA* 5, 6, 21; cf. Florus, 2, 7, 8.

⁹² Gellius, *NA* 5, 6, 21; Val. Max. 2, 8, 1.

⁹³ L. 26, 21, 3-4; cf. Plutarch, *Marcellus* 22, 1.

⁹⁴ L. 28, 9, 10.

⁹⁵ L. 31, 49, 3.

⁹⁶ L. 31, 49, 8-11.

⁹⁷ L. 34, 10, 6-7; 17, 1.

^{97a} L. 37, 46, 1-6.

⁹⁸ It should be noted, however, that the complaint against P. Cornelius Scipio Nasica in 191 was not of this type, but rather that he should have left his forces behind (L. 36, 39, 3-40, 11).

⁹⁹ L. 39, 29, 5.

^{99a} L. 39, 38, 4-12.

¹⁰⁰ L. 40, 35, 3-36, 12; the connection is stressed by the language of the request 'ut ob res prospere gestas diis immortalibus honos haberetur, deinde ut Q. Fulvio decedenti de provincia deportare exercitum . . . liceret' (35, 5).

given by Valerius Maximus and Gellius; indeed the former cites the case of Marcellus, the best-known instance of its use, as an example of a triumph claimed by one sent out 'sine ullo . . . magistratu', which is clearly false.¹⁰¹ The history of the *deportatio* provision, then, shows how it developed from what was probably its first use by Marcellus' enemies to refuse him a triumph, through a period in which it seems to have been disregarded if not ignored, and finally its resuscitation, no doubt once again to control men whom the senate thought were getting triumphs too easily.

The second provision, that at least 5,000 enemy should have been slain, may have been introduced, in part at least, to take its place. The first case in which we have reason to believe it was used is, admittedly, as late as 143; according to Orosius, Ap. Claudius Pulcher, although he had killed 5,000 enemy, was refused a triumph because the same number of Romans also fell.¹⁰² This implies that the law, which Valerius Maximus¹⁰³ describes as being reintroduced in 62 by the tribunes L. Marcius and M. Cato, was already in existence. Moreover, an incident of 180 both marks the *terminus post quem*, and provides the most probable cause of the law; this is the remarkable triumphs of P. Cornelius Cethegus and M. Baebius Tamphilus, who, according to Livy, 'omnium primi nullo bello gesto triumpharunt', having achieved their object of moving a large number of Ligurians from their homes without bloodshed. If Rotondi is right to place the law in the period immediately following this travesty of a triumph, then it would follow significantly on the last known use of the *deportatio* provision.¹⁰⁴ Thus, as one of the reasons for refusing to sanction an unsatisfactory request for a triumph was abandoned, the senate apparently introduced another to take its place. As a means of exercising an effective senatorial control over returning provincial governors, the later criterion is obviously superior to the earlier one. Either could equally well be invoked against a request for a triumph that did not have senatorial approval; but if the senators wanted to allow a celebration, insistence on the *deportatio* might also prove a hindrance especially for the governors of provinces like the two Spains, as the disputes of 185, 184 and 180 had suggested.

III

In the years which followed the events of 200, the senate was faced, as we have seen, with a flood of applications for triumphs. Moreover the great expansion in military activity which had begun in the war against Hannibal and continued after it owing to Rome's increased involvement in the affairs of the Mediterranean world, meant that inevitably the way to success in war was opened to a new class of commanders, to men who had never held the consulship, and who in an earlier generation would have had no chance of a triumph.

It is clear enough from the debates which recur in the senate during and after 200 that a substantial proportion of the senators was opposed to making the alterations in triumphal procedure which the new situation was forcing upon them. Had their control over the triumph been greater, and their attitude in particular cases more nearly unanimous, no doubt a complete ban on these new *triumphatores* might have been imposed, just as Augustus, a century and a half later, was to restrict the triumph to members of his own family, to the exclusion of all other senators.¹⁰⁵ But the control of the republican senate over its commanders was never as complete as that of the Princeps was to be; and in any case its members almost invariably included some senators eager to press the claims of a petitioner for a celebration. The result, as so often, was a series of *ad hoc* compromises, the accumulation of which became elevated into a principle. This, then, is the origin of some at least of the regulations which Mommsen set out so precisely.

Torn between protecting the traditionally exclusive prerogative of the consular to celebrate the triumph, and the ambition of the younger magistrates and promagistrates who demanded recognition for their exploits, the senate resorted on the one hand to a combination of its old powers, based less on law than on custom and prestige, and on the

¹⁰¹ Val. Max. 2, 8, 5, where he is linked with Scipio returning from Spain.

¹⁰² Oros. 5, 4, 7.

¹⁰³ Val. Max. 2, 8, 1.

¹⁰⁴ L. 40, 38, 9; G. Rotondi, *Leges publicae populi*

Romani (Milan 1912), 279, places Valerius Maximus' law in 179, because of this event.

¹⁰⁵ Mommsen, *StR.* i³, 136, n. 1; Dio Cassius 54, 24, 8.

other to new criteria which it developed through trial and error in the early years of the second century. It could not hope to halt completely the rush for triumphs that took place in the post-war period; but the methods it adopted, which gradually became formalized into the *ius triumphandi* discussed by Gellius and Valerius Maximus, were sufficient to hinder aspiring triumphal 'candidates'. The sharp reduction in the number of non-consular celebrations after the mid-170's bears witness to their success.

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