

THE SENATE, MARK ANTONY, AND CAESAR'S LEGISLATIVE LEGACY¹

This paper seeks to dispel the notion that Mark Antony and the Senate indulged in a cat-and-mouse game over the control of Caesar's archives (his *commentarii*) in the weeks immediately following the Ides of March. At stake was whether unpublished documents drawn up by Caesar before his death should be ratified and put into force. The belief that the Senate and Antony contended over this issue and that Antony got the upper hand rests primarily on what I hope to show is a misinterpretation of two key passages in the *Philippics*. Moreover, since the standard interpretation of these two passages appears to be supported by Dio's account of how Antony cajoled the Senate into permitting him a freer hand to review and publish documents found in Caesar's archives, it will be necessary to have a closer look at Dio's probable sources for this particular section of his history.

The investigation undertaken in this paper will be twofold. First it will re-examine the extent to which the Senate attempted to curtail, or was willing to permit, documents contained in Caesar's archives to be published. It will take as its starting point the above mentioned two passages in the *Philippics* and offer a new interpretation of the decree described in these passages that better fits the balance of our evidence for this period. Then in part two, the discussion will turn to consider what is known about the publication of documents found in Caesar's archives in the spring of 44 when the authority of the consuls to issue such documents rested on decisions taken by the Senate. The result of this investigation will be to reveal that Antony behaved more moderately in the months immediately following the assassination of Caesar than is commonly believed. This revised assessment of Antony's conduct is a useful corrective to the distorted picture that is presented by the *Philippics*, written later in the year and in the year following.² It permits us to see more clearly the political course that Antony adopted upon assuming the leadership of the Caesarians before he was forced in May and June increasingly to abandon moderation in order to compete with his rival Octavian for the loyalty of Caesar's followers.

¹ I presented an earlier draft of this paper at a faculty seminar at the University of Illinois at Chicago in November 1992 and at the annual meeting of the American Philological Association in December. I want to thank my colleagues Michael Alexander, James Dee, and Alexander MacGregor in particular for helpful comments on the former occasion and Ernst Badian for the same on the latter occasion. I also gratefully acknowledge the helpful advice of D. R. Shackleton Bailey, who read the earlier draft. All dates are B.C., unless otherwise indicated; references to a particular day or month without specification of the year, are to 44. English translations offered for some of the Greek and Latin passages cited are my own.

² As a matter of fact, in *Phil.* 1.2–5 Cicero praises Antony's moderation in the first few months after Caesar's death and contrasts this restraint with a sudden adoption of radical measures in June (§6 'Ecce enim Kalendis Iuniis... mutata omnia'). Modern critics are justified in asserting that Cicero overstates his approval of Antony's conduct in April and May; certainly in the letters Cicero harshly criticizes many of Antony's measures during those months. On the other hand, the decidedly negative picture of Antony that emerges from the *Philippics* taken as a whole—and particularly the *Second Philippic*—should not be allowed to colour the facts when they tell a different story.

THE VARIOUS *SENATUS CONSULTA* CONCERNING CAESAR'S *ACTA*

Cicero twice refers to a decree that was passed soon after Ides of March and was intended to regulate the publication of documents found in Caesar's archives:

Adsentiri etiam nos Ser. Sulpicio, clarissimo uiro, uoluit, ne qua tabula post Idus Martias ullius decreti Caesaris aut benefici figeretur. (trans. 'He [sc. Mark Antony] desired us to adopt the proposal of the distinguished Servius Sulpicius that "no tablet containing any decree of Caesar after the Ides of March, or any grant, was to be posted".') (Phil. 1.3)

Idem [sc. Antonius]... in Capitolio praeclara senatus consulta fecisti, ne qua post Idus Martias immunitatis tabula neuē cuius benefici figeretur. (trans. 'Yet you brought about at the meetings of the Senate on the Capitoline splendid decrees [such as the one] that "no tablet containing any grant of exemption from taxes after the Ides of March, or any grant, was to be posted".') (Phil. 2.91)

The prevailing view of the *senatus consultum* referred to in these passages is that under its terms no decree of Caesar's was to be posted on a tablet (*figeretur*)—that is published and put into force—after March 15th.³ Possibly the Senate was concerned with restricting chiefly *decreta* that granted *beneficia* and exemptions from taxation, but we cannot be certain that the SC covered only these two categories.⁴ Obviously the way in which the Senate was prepared to treat decrees and grants by Caesar that were *not* already in force at the time of his death had an enormous bearing on the amount of power put into Antony's hands, since he had secured sole possession of Caesar's papers from the dictator's widow Calpurnia within approximately twenty-four hours of the assassination.⁵

This paper will seek to demonstrate that the Senate never attempted to impose an outright ban on publication. Instead, the two passages quoted above convey the false

³ Among those who interpret Phil. 1.3 and 2.91 as describing an attempt by the Senate to ban the posthumous publication of *decreta Caesaris* are the following (in order of publication, henceforth referred to by author's last name):

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| Schmidt: | Otto Schmidt, 'Die letzten Kämpfe der römischen Republik', <i>Jahrbücher für classische Philologie</i> suppl. 13 (1884), 687–99, esp. 698–99. |
| Drumann–Groebe: | W. Drumann and P. Groebe, <i>Geschichte Roms</i> (Berlin, 1899) I ² pp. 422–4. |
| Ferrero: | Guglielmo Ferrero, <i>Greatness and Decline of Rome</i> (New York, 1909) III p. 44. |
| Becht: | Erich Becht, 'Regeste über die Zeit von Caesars Ermordung bis zum Umschwung in der Politik des Antonius', diss. Freiburg (1911), pp. 39–40, 89. |
| v. Premerstein: | A. v. Premerstein, 'Die Tafel von Heraclea und die Acta Caesaris', <i>ZGR</i> 42 (1922), 132–8. |
| Denniston: | J. D. Denniston, <i>Cicero, Philippics I and II</i> (Oxford, 1926), pp. 67–8. |
| Holmes: | T. Rice Holmes, <i>The Architect of the Roman Empire</i> (Oxford, 1928) I p. 16. |
| Gelzer: | M. Gelzer, <i>Cicero: Ein biographischer Versuch</i> (Wiesbaden, 1969), p. 328. |

⁴ Gelzer (p. 328), for instance, is representative of those who interpret the SC as narrowly limited to *beneficia* and grants of *immunitas*: 'Senatsbeschluss... wonach keine Erlasse über Tributbefreiung und Vergünstigung, die ein Datum nach dem 15. März trugen, mehr ausgehändigt werden sollten'. Certainly the wording of Phil. 2.91 and the context of Phil. 1.3 imply that grants of *immunitas* and the recall of exiles (representing *beneficia*) were two of the chief areas of the Senate's concern over possible abuse of Caesar's papers. Since, however, two of the most notorious alleged forgeries of Antony in April can only be described as conferring *beneficia*—on King Deiotarus and Cloelius—we must explain how Antony circumvented Sulpicius' motion, even if it is interpreted narrowly as banning only *beneficia* and grants of *immunitas*.

⁵ Either on the night of 15/16 March (so C. B. R. Pelling, *Plutarch, Life of Antony* [Cambridge, 1988], p. 155) or on the following night (so Becht pp. 78–9, cf. p. 20 for a collection of the sources).

impression that there was such a ban because Cicero deliberately chose to quote a single clause from this decree in order to suggest that Antony agreed to surrender more power than he in fact did under the terms of the decree. In at least one other passage having to do with action taken by the Senate on Caesar's *acta*, we can observe the technique of selective reporting with probable intent to deceive,⁶ thereby increasing the plausibility that the same rhetorical device has shaped the description of Sulpicius' motion. Furthermore this paper will argue that what Dio tells us about Antony's success in talking the Senate into reversing a *senatus consultum* that banned the publication of documents in Caesar's archives amounts to nothing more than a red herring. It is a well-known fact that Dio drew upon the *Philippics* as one of his sources for this period.⁷ What has been overlooked, however, is the distinct possibility that in describing the Senate's decrees regulating the publication of Caesar's *acta*, Dio's only source is likely to have been Cicero, supplemented by his own intuition. If this can be demonstrated, then Dio ceases to have any value as an independent witness, much like a *codex descriptus*. In this particular instance, Dio can have nothing new to add to what we can discover for ourselves by studying his source—the very passages in Cicero that Dio's evidence is commonly used to explicate.⁸

To turn now to the decree *ne qua tabula*, we learn from *Phil.* 1.3 quoted above that the motion was made by the learned jurist Servius Sulpicius and that it had the wholehearted backing of Antony. From the context in which it is introduced in *Phil.* 2.91, just after the mention of Antony's role in the riots that attended Caesar's funeral, we gather that the decree was passed soon after March 20th, the likely date of Caesar's funeral.⁹ This decree is commonly regarded as the second in a series of three that concerned Caesar's *acta* and were passed in March or April of 44. On 17 March, Antony convened the Senate in the Temple of Tellus, and at this first meeting after the assassination of Caesar the Senate voted to ratify *en bloc* Caesar's *acta*.¹⁰ For ease of reference, the earlier decree of 17 March will henceforth be styled SC1, and the later, *tabula* decree reported in the two passages of the *Philippics* will be referred to as SC2. SC1 certainly covered Caesar's *acta* in the narrower sense of his official acts that were already in force at the time of his death, and possibly left open the

⁶ Although a straightforward account in one of the letters (*Att.* 16.16C.2) makes it possible to establish the abridgment of the narration in the oration (*Phil.* 2.100), the way the facts are presented in the oration has commonly misled modern scholars (see below, n. 13).

⁷ See most conveniently E. Schwartz, *RE* 3.1719, citing specialized studies and discussing Dio's use of the *Philippics* in composing speeches that he attributes to Cicero in 44 and 43 and to the consular Fufius Calenus in 43.

⁸ More than thirty years ago, J. P. Balsdon ('The Ides of March', *Historia* 7 [1958], 80–94) pointed out the danger of interpreting the Ides of March by combining later sources, such as Dio, Plutarch and Appian, with the contemporary evidence of Cicero—what Collingwood aptly called 'scissors-and-paste history'. We must observe the same caution in reconstructing the events that followed the Ides. Nowhere is the danger posed by combining these two classes of evidence (Dio and Cicero) into what appears to be a seamless whole more striking than in the present instance once we realize that Dio has nothing new to add except his imagination.

⁹ Becht, pp. 84–5.

¹⁰ Suetonius (*Iul.* 82.4) reports that the conspirators had intended to hurl Caesar's corpse into the Tiber, confiscate his property and annul the measures of his regime (*acta rescindere*), but they abandoned their plans out of fear of Antony and M. Lepidus, Caesar's Master of Horse. The ratification is commonly assumed to have been included in (or to have been a consequence of) the SC passed on Cicero's motion to declare a general amnesty (*Phil.* 1.1) and so break the deadlock over how to treat both Caesar's regime and the act of the conspirators on the Ides (so Becht, p. 25, citing sources). The clearest statement in Cicero that Caesar's *acta* were ratified in consequence of action taken by the Senate on 17 March is found in the gloomy prediction that if Octavian gets power 'multo firmitus acta tyranni comprobatur iri quam in Telluris' (*Att.* 16.14.1).

question of how to treat decisions of Caesar that had not already been published.¹¹ SC2, passed probably less than a week later, will have addressed this issue of whether recognition should be given to the unpublished documents (some comprising *decreta* in full draft, others in outline form). Finally, both in the *Second Philippic* and in the letters to Atticus, Cicero mentions the terms of a decree that authorized the consuls to review Caesar's papers under the supervision of a *consilium*.¹² He furthermore asserts that Antony went ahead to issue decrees illegally in the name of Caesar without waiting for the formation of this *consilium*, which had been put off until June

¹¹ Schmidt, pp. 688–9, attempts to distinguish Caesar's *acta*—the official acts of his office—from various intentions and jottings (*chirographa*) concerning matters such as the recall of exiles that would have to be brought before the Senate or Assembly. Schmidt argues that in addition to *decreta* that were already published, Caesar's *acta* would include notations in his archives (*commentarii*) that concerned matters over which he had authority, such as the right to fill offices and assign provinces without having recourse to allotment. Accordingly he hypothetically reconstructed the wording of SC1 as follows (p. 691): 'C. Iulii Caesaris acta ualent; si quae acta in commentariis exstant, ea quoque ualent.' v. Premerstein (p. 132 n. 1) with greater plausibility suggests 'ut quaecumque C. Iulius Caesar...egit decreuit, rata sint.' Whatever the exact language was, it is reasonable to suppose that the unpublished documents belonged to a potentially grey area in need of careful definition by the best legal minds available—hence the role of the jurist Sulpicius.

¹² 'Cum consules oporteret ex senatus consulto de actis Caesaris cognoscere, res ab iis in Kal. Iun. dilata est.' (*Att.* 16.16C.2); 'quibus (sc. consulibus) et lege et senatus consulto permissum erat ut de Caesaris actis "cognoscerent, statuerent, iudicarent"' (*Att.* 16.16B.1); 'At sic placuerat ut ex Kalendis Iuniis de Caesaris actis cum consilio cognosceretis' (*Phil.* 2.100).

A possible *terminus post quem non* for the passage of this decree is provided by the statement in a letter to C. Cassius (*Fam.* 12.1.2 of 3 May) that 'we voted' (*decreuimus*) to uphold not only Caesar's published *acta*—the various *leges* and *decreta* inscribed on bronze tablets, *aera*—but also documents that had not yet been issued, *chirographa*: 'cuius [sc. Caesaris] aera refigere debebamus, eius etiam chirographa defendimus? at enim ita decreuimus.' If this remark concerns the *consilium* decree, and not the earlier decree ratifying Caesar's *acta* on 17 March, then the *consilium* decree was passed prior to 7 April, the date on which Cicero left Rome (see Shackleton Bailey on *Att.* 14.1) for an extended absence that lasted until 31 August.

Most modern scholars, however, since Schmidt (pp. 692–4; followed by v. Premerstein, p. 132; cf. Tyrrell and Purser, and Shackleton Bailey ad loc.; *contra* Drumann–Groebe, p. 424) assign *decreuimus* to SC1 rather than to the *consilium* decree. They do so, no doubt, chiefly because the *consilium* decree is commonly misdated to mid-April on the grounds of the 'postponement clause' (see below, n. 13) and so, in their view, could not have been voted on by Cicero since he was not in Rome after 7 April. They may also be thinking of *Att.* 14.10.1 and 14.14.2 where Cicero speaks of the meeting on 17 March almost directly after complaining about the undue sway being enjoyed by Caesar's *promissa*, *cogitata*, and *libelli*. Closer inspection of these two passages reveals, however, that Cicero's point is that the Liberators failed to take the initiative immediately after removing Caesar and so were undone by the meeting on the 17th. That meeting represented for Cicero the turning point from which all else followed, including presumably the slightly later vote to arrange for the publication of Caesar's *chirographa*—a vote in which both Cicero and Cassius could have participated, whereas on the 17th Cassius and his fellow conspirators did not come down from the Capitoline until the evening after the Senate adjourned (Becht, p. 27). We must not, however, read too much into the 'we' of *decreuimus*. Cicero may be asserting merely that he and his fellow senators (i.e., 'the senatorial order' and without reference to a meeting attended by Cassius) went along with this proposal.

1st.¹³ For convenience, this decree calling for a *consilium* will henceforth be designated SC3.

Dio is the only other source to mention what appear to be SC2 (the *tabula* decree) and SC3 (the *consilium* decree). He states that the Senate had imposed a ban on the publication of documents found in Caesar's archives (apparently SC2)¹⁴ but that Antony talked the Senate into lifting this ban by arguing that many important and worthwhile projects were contained in Caesar's papers.¹⁵ Accordingly the Senate authorized Antony to carry out a review, with the assistance of leading citizens, (undoubtedly the *consilium* of SC3),¹⁶ but Antony went ahead and published numerous forgeries without submitting his decisions to anyone.¹⁷ Most scholars adopt Dio's version of these decrees¹⁸ without taking into account the serious problems posed by interpreting SC2 as a ban on publication and by assuming that this ban was lifted by SC3, which provided for a review of Caesar's papers.

¹³ The decree itself did not contain the provision for the postponement until 1 June, nor did the Senate pass a separate decree providing for the postponement, although quite a few scholars have jumped to this false conclusion (Drumann–Groebe p. 424, Ferrero p. 44, v. Premerstein p. 135, Mommsen, *StR* III.2 p. x n. 2, P. Stein, 'Die Senatssitzungen der Ciceronischen Zeit (68–43)' diss. Münster [1930] pp. 76–7 n. 434). Based upon this false conclusion is the frequent assumption that the *consilium* decree must have been passed close to the Senate's traditional spring recess (*discessus*) in mid-April (see Stein, op. cit., pp. 110–11) since otherwise it is impossible to explain why the Senate voted to postpone the urgent matter of reviewing Caesar's papers. Cicero, however, makes it clear in *Att.* 16.16C.2 (quoted above, n. 12) that the formation of the *consilium* was postponed by the consuls (*ab iis*), not by the Senate, although the wording of *Phil.* 2.100 would allow either interpretation—another instance of selective reporting in the *Philippics* of the type that we shall observe in the way Cicero presents Sulpicius' motion.

¹⁴ τῆς βουλῆς...ψηφισαμένης μηδεμίαν στήλην, ὡς καὶ τοῦ Καίσαρος συγγεγραφότος τι, ἀνατεθῆναι ('yet the Senate had previously voted that no tablet was to be posted as containing some document drafted by Caesar') Dio 44.53.4; ὑμεῖς...ἐψηφίσασθε μηδεμίαν στήλην μετὰ τὸν τοῦ Καίσαρος θάνατον, ὡς καὶ παρ' ἐκείνου τῷ δεδομένῳ τι ἔχουσιν, στήναι ('you voted that no tablet that supposedly contained a grant from Caesar to anyone was to be set up after Caesar's death') Dio 45.23.7.

¹⁵ ἐκείνος ἐνέκειτο λέγων πολλὰ καὶ ἀναγκαῖα ὑπ' αὐτοῦ [sc. Caesar] προβεβουλευῆσθαι ('he [sc. Antony] insisted that many necessary matters had been provided for by him' [sc. in his *commentarii*]) Dio 44.53.4.

¹⁶ βουλῆς...κελευσάσης πάντας τοὺς πρώτους κοινῇ αὐτὰ διαρῖναι ('the Senate voted that all the foremost citizens were to take part in deciding these matters') Dio ibid.

¹⁷ This assertion stands in close agreement with *Phil.* 2.100. Dio, in fact, seems to distinguish two periods of abuse by Antony, one before the passage of SC3 and one following its passage, since he prefaces his remarks on SC2 and SC3 by stating that Antony had been entrusted with reviewing Caesar's regime (44.53.2 τὸ...ἐξετάσαι τὰ διοικηθέντα ὑπὸ τοῦ Καίσαρος) and carrying out his decisions (τὸ πάντα τὰ δόξαντα αὐτῷ ποιῆσαι; cf. 45.23.5 τούτων [sc. Caesar's *acta*] ἐξεταστῆς), but he abused this power. He then takes up SC2 and SC3, noting Antony's failure to form and consult the *consilium*. It is difficult to say precisely how Dio pictured the sequence of events. The most plausible reconstruction is that of v. Premerstein (pp. 139–40) who argues on the basis of the historical context of chapter 53 that Dio took as his starting point the law of June (see below, n. 36) which gave Antony broad powers to issue decrees in the name of Caesar. Dio then went on to take into account the previous decrees of the Senate on the same subject—hence the earlier and later abuses of authority granted by the Senate and Assembly respectively, but presented out of order since Dio referred first to the more egregious abuses that were made possible by the greater freedom granted to Antony by the law passed in June.

¹⁸ Although there is general agreement that SC3 superseded SC2, opinion is divided as to whether SC3 should be viewed as the response to Antony's request to lift the ban on publication (Drumann–Groebe pp. 422–4; Becht p. 39; Holmes p. 16; and v. Premerstein pp. 132–8) or as an attempt by the Senate to impose stricter controls on Antony after he had already begun to publish forgeries in the name of Caesar despite the ban imposed by SC2 (Schmidt pp. 692–3; Ferrero p. 44; and Denniston p. 161).

J. D. Denniston in his commentary on *Phil.* 1.3, deserves the credit for raising many of these issues, without however, offering a solution. He writes: 'That Antony should have surrendered [sc. by endorsing the adoption of SC2] so powerful a weapon as the Acta, after once getting it into his hands is remarkable. If he did surrender it, he regained it within a month, at any rate to a considerable extent, for as early as 18th April he was making free use of the Acta. If he regained it, that was a serious blow to the constitutionalists, of which our authorities tell us nothing.' By 'authorities', Denniston must be thinking of Cicero since, as we have noted, Dio *does* report the Senate's surrender of its earlier control, while Cicero *never* criticizes Antony for violating a ban on publication, nor does he ever accuse him of cajoling the Senate into removing such a ban along the lines described by Dio. This silence of Cicero should certainly arouse our suspicions, since Cicero, a contemporary observer, was more intimately acquainted with the events of this period than Dio was, and Cicero repeatedly vented his bitter hatred of Antony both in the private correspondence and in the *Philippics*. Yet Cicero never once accuses Antony of the deviousness that we find described in Dio, even though many of the extant letters were written in the spring of 44 and quite a few criticize Antony's practice of publishing forged documents in the name of Caesar.¹⁹

Not long ago D. R. Shackleton Bailey proposed a novel solution to meet these difficulties.²⁰ Noting the failure of SC2 to curb Antony's activities and also the retroactive nature of the ban if the decree was passed after 20 March but specified the date 15 March, he writes: 'Is it not the date that is wrong? Sulpicius could have proposed that a term be fixed to the issuing of grants as Caesar's acta.' Shackleton Bailey tentatively suggests substituting the Ides of September for the Ides of March, thereby giving an interval of 6 months, and so daggers *Martias* both times in his 1986 Chapel Hill edition of the *Philippics*.²¹ Yet the weaknesses of this theory are apparent and readily admitted by its author. First of all, such a decree would be largely meaningless and of a symbolic nature. Second, if the 'portentous Ides of March' (Shackleton Bailey's phrase) displaced some other date, it has affected the paradoxos of not one but two separate passages. Furthermore, the corruption must have been introduced in antiquity, at least by the late 2nd cent. A.D., since the text as known apparently to Dio already contained the date of March 15th (as evidenced by *μετὰ τὸν τοῦ Καίσαρος θάνατον*, 45.23.7).

Actually there is a third obstacle to this interpretation, which Denniston, as well as Shackleton Bailey, note in passing but fail to take very seriously. As Denniston observed, the placement of *post Idus Martias* favours taking this phrase with the substantives, rather than with *figeretur*, as it would have to be if Shackleton Bailey's emendation is to win approval. Denniston finds this objectionable Latin, while Shackleton Bailey asks rhetorically 'How could any (genuine) *actum* of Caesar's have originated after his murder?'

The objection to the Latinity is not a very serious one. First of all, we are dealing in this instance with what appears to be a fairly close quotation or paraphrase of a legal text—and so it should not be judged by literary standards. Second, the use of

¹⁹ The more general complaints in early April (12–19) that Caesar's *facta* (*Att.* 14.6.2, 9.2) and *promissa* (14.10.1) were being given undue weight are replaced from 22 April onward with specific complaints concerning forgeries and/or Antony's role in producing these bogus documents (*Att.* 14.12.1, 13.6, 14.2, 5, *Fam.* 12.1.1, *Att.* 14.19.2). On the total number of letters extant for this period, see below, n. 39.

²⁰ 'Notes on Cicero's *Philippics*', *Philologus* 126 (1982), 217–18.

²¹ *Cicero, Philippics*, edited and translated by D. R. Shackleton Bailey (Chapel Hill, 1986).

a prepositional phrase to qualify a substantive is not as uncommon as it is sometimes assumed to be.²² The selection of examples given in footnote 22 should establish that Cicero does indeed use such prepositional modifiers and that he commonly adopts the interlocking word order that is found in the text of the decree, especially in the version reported in the *Second Philippic* (perhaps a slightly more polished paraphrase).

As for decrees that might be styled *post Idus Martias*,²³ several examples can be given. First there is the *decretum* that Caesar drew up in his lifetime, cancelling the planned settlements in Buthrotum in exchange for payment of the region's war indemnity by Cicero's friend Atticus.²⁴ This decree had not yet been published at the time of Caesar's death, and many of the letters to Atticus discuss the efforts made to secure its recognition, including its adjudication by the consuls in June.

A second example is provided by Antony's claim that Caesar had granted him permission to recall from exile the infamous Sextus Cloelius, right-hand man of Publius Clodius in the 50's. In a well-known letter to Cicero (*Att.* 14.13A), Antony

²² For its relative frequency, even with nouns not having a verbal quality, see R. Kühner and C. Stegmann, *Ausführliche Grammatik der lateinischen Sprache: Satzlehre* (Hannover, 1976) I p. 213 §58. As K. Nägelsbach, *Lateinische Stilistik*⁹ (Nürnberg, 1905), pp. 306–7 points out, these adverbial modifiers often occupy the attributive position, resembling their placement in Greek. Add to the examples collected by K.-S. pp. 214–15 the following instances of *post* + acc. in these three different positions characterized by interlocking word order, the first two recalling Greek usage:

1. (ADJ. *post* + acc. SUBSTANTIVE): 'illam post reditum eius caedem' (Cic. *De or.* 3.8), 'quaedam post mortem formidines' (Cic. *Fin.* 5.31), 'serum post male gestam rem auxilium' (Livy 27.20.3).
2. (ADJ. SUBSTANTIVE ADJ. *post* + acc.): 'hoc tempus omne post consulatum' (Cic. *De or.* 1.7).
3. (GEN. *post* + acc. SUBSTANTIVE): 'clarorum uirorum post mortem honores' (Cic. *Cat. M.* 80), cf. 'eius usque ad Idus Martias consulatum' (Cic. *Phil.* 2.82).

²³ As E. Badian pointed out to me, we cannot imagine that these *decreta* themselves bore a date *post Idus Martias*. Rather, we must understand in this instance, as often with these prepositional modifiers, an appropriate verbal adjective. One can suggest (*prolatus* (= 'brought to light', sc. from Caesar's *commentarii*) on the model of the expression *leges prolatae* (*Phil.* 1.23) describing the laws that Antony claimed to have found in Caesar's archives.

²⁴ See most recently (with citation of modern bibliography) Jean Beaujeu, 'L'Affaire de Buthrote', in *Cicéron Correspondance* IX (Paris, 1988), pp. 289–94. Cicero gives quite a detailed description of the salient facts especially in *Att.* 16.16A.2–3. In summary the circumstances were these: Caesar imposed a hefty war indemnity on the territory of Buthrotum in Epirus (NW Greece); when payment was not forthcoming, he scheduled this region for confiscation to provide land for settlers. With Cicero's help, Atticus, who had property nearby, intervened on behalf of his neighbours in negotiations with Caesar that were conducted in 46 (*Att.* 12.6a.2 of Oct. 46). Caesar was persuaded to cancel the planned settlements if the money owed was paid promptly. Atticus himself put up the cash to avoid any further threat to the region. Caesar's *decretum* (so styled by Cicero §3, cf. *ep.* 16C.2 'decretum Caesaris recitatum est') covering this case was committed to writing and witnessed by prominent Romans (Cicero among them, *ep.* 16E.1 'nobis testibus et obsignatoribus'). The decree itself, however, was not announced publicly, and this worried Atticus and Cicero. Plans for the settlements in Buthrotum went ahead as if no understanding had been reached. When questioned about these preparations, Caesar assured Cicero and Atticus that once the settlers had set sail he would send written instructions to divert them to colonies elsewhere; he explained that he did not want to ruffle feathers by announcing the cancellation of the settlements in advance. This is where the matter stood when Caesar was struck down on 15 March (*ep.* 16A.4). Atticus had paid the fines out of his own pocket, but the only proof that this money had been received by Caesar, and that the land in Greece was no longer subject to confiscation, resided in a sealed document in Caesar's archives, which were in the hands of Mark Antony.

asserted that he had not availed himself of this *beneficium* (Antony's word, recalling one of the terms that shows up in both versions of SC2) because he did not want to recall Cicero's old enemy without first asking for Cicero's blessing.²⁵

One final example is quite revealing. Cicero states that a *decretum Caesaris* was produced—probably in the summer of 44—that allegedly granted freedom to the province of Crete after governorship of Marcus Brutus in 43.²⁶ The forger apparently overlooked the blunder that Caesar could not have referred to this governorship since the province was not assigned to Brutus until June or July of 44,²⁷ but for our purposes the point to notice is that *some* genuine decrees undoubtedly did include language providing for conditions specifically falling in the period after the Ides of March. It will have been these, and the various other as yet unpublished decrees, that will have concerned the Senate as we can see from Cicero's description (*Phil.* 1.2) of meetings soon after 17 March that led up to the passage of SC2.

To return now to the presumed linkage of SC2 and SC3, as we observed, this commonly held view rests entirely on Dio's account and raises a number of serious problems. It is time to question Dio's reliability on this point. Denniston takes a tentative step in this direction when he remarks 'Dio's words [sc. 44.53.4 & 45.23.7] look like a puzzled attempt to translate the passages in Cicero [sc. *Phil.* 1.3 & 2.91].' This observation can be taken a step farther by noting that in at least two other instances Dio appears to be borrowing directly from the *Second Philippic* in the vicinity of the reference to SC2—hence demonstrating his intimate acquaintance with this portion of the speech. Specifically Dio mentions (a) the forgery of the decree granting freedom to Crete and (b) the criticism of Antony for not working for his uncle's recall from exile—items from sections 97 and 98 respectively of the *Second Philippic*.²⁸ Dio and Cicero are our only sources for these two bits of information, just as they are the sole sources to recount SC2 and SC3. Finally, as an instance of what may be an analogous false conclusion drawn by Dio from his reading of the *Philippics*, attention may be drawn to Dio's assertion that Antony included parcels of land in the Pontine Marshes that had supposedly been drained, for distribution to settlers under his *lex agraria*. This mistake may well rest upon a careless reading of

²⁵ Cicero was convinced that this *beneficium* was a forgery (*Att.* 14.13.6 'quae enim Caesar numquam neque fecit neque fecisset neque passus esset, ea nunc ex falsis eius commentariis proferuntur'), but he also remarks that Antony had the *potestas* to carry it out, even without the courtesy of consulting him (*Att.* 14.13B.5 'hoc a me sic petis ut, quae tua potestas est, ea neges te me inuito usurum'). Antony describes himself as feeling obliged to uphold this *beneficium* as part of his duty to respect the contents of Caesar's *commentarii* (*Att.* 14.13A.2 'uideor debere tueri commentarium Caesaris').

²⁶ 'An Caesaris decreto Creta post M. Bruti decessum potuit liberari, cum Creta nihil ad Brutum Caesare uiuo pertineret?' (*Phil.* 2.97). The reference to Brutus' governorship, which was not assigned until June or later in the summer (see below, n. 27), establishes a *terminus post quem* for the publication—and drafting—of this decree.

²⁷ A *terminus post quem* for the assignment of Crete to Brutus is furnished by the statement in *Att.* 15.9.1 that the Senate was expected to take up the assignment of the praetorian provinces for 43 on 5 June.

²⁸ The bogus decree concerning Crete is mentioned twice: once in a speech attributed to Cicero (45.32.4, the same speech that contains one of the two allusions to SC2 at 45.23.7) and once in the reply to this speech put into the mouth of the consular Fufius Calenus (46.23.3). The speech of Calenus (46.15.2) also contains a reply to the criticism in *Phil.* 2.98 that Antony did not include his uncle among those recalled from banishment in 49 but caused him to wait another year or two for restoration. F. G. Sturz, who provides the fullest collection of parallels and sources in his *variorum* edition of Dio (Leipzig, 1824), correctly identifies *Phil.* 2.97 as Dio's source concerning the Cretan decree (vol. 5 p. 465) but fails to note the borrowing concerning the recall of Antony's uncle.

Cicero's observation in the *Fifth Philippic* that while Caesar *planned* to drain the Marshes, Antony turned the whole of Italy over to his brother for distribution.²⁹ Since there is nothing in Dio's account of SC2 and SC3 that he could not have learned from the *Second Philippic*, *except* the presumed linkage, it may well be that this linkage is merely Dio's inference based in part upon the fact that the one decree (SC2) is mentioned in §91 and the other (SC3) later in §100.

Since this commonly assumed linkage produces a host of problems and it has been shown that it may be no more than a false inference on Dio's part, let us start afresh. By a judicious application of Occam's Razor, it is possible to discard the notion that what we have been calling SC2 and SC3 were two separate and conflicting decrees. Rather, they may more satisfactorily be regarded as parts of the same document, quoted selectively by Cicero. What we have been calling SC2 can be interpreted as the clause defining the specific *acta* of Caesar that were not to receive immediate recognition until a thorough review had been carried out, while what we have been calling SC3 will have defined the mechanism for performing this review. The texts when combined may have run along these lines:³⁰

(senatus decreuit) *ne qua tabula post Idus Martias ullius decreti Caesaris aut benefici figeretur* <prius quam consules> de Caesaris actis <cum consilio> cognoscent, statuissent, iudicassent. (trans. 'The Senate decreed that no tablet containing any decree of Caesar after the Ides of March, or any grant, was to be posted before the consuls, with their *consilium*, had reviewed, decided and passed judgment on Caesar's *acta*.')

The advantages of this reconstruction should be readily apparent. SC1 ratifying Caesar's *acta en bloc* was passed in haste within two days of the murder on the 17th; it was a necessary expedient, adopted under duress.³¹ When conditions returned to

²⁹ 'Ille [sc. Caesar] paludes siccare uoluit; hic [sc. Antonius] omnem Italiam moderato homini, L. Antonio, diuidendam dedit', *Phil.* 5.7; καὶ χώραν ἄλλην τε πολλήν καὶ τὴν ἐν τοῖς ἔλεσι τοῖς Πομπηίοις, ὡς κεχωσμένοις ἤδη καὶ γεωργεῖσθαι δυναμένοις, κληρουχῆθηναι διὰ Λουκίου Ἀντωνίου ἀδελφοῦ δημαρχοῦντος ἐσηγήσατο. ('Antony proposed that both a great deal of other land and land in the Pontine Marshes—since supposedly the marshes had already been filled in and were capable of being farmed—be divided in allotments by his brother Lucius, who was a tribune.') Dio 45.9.1.

Of course, it is a commonplace of invective that agrarian laws try to fob off undesirable land on settlers ('paludes et silvas', Sall. *Or. Lep.* 24 on the Sullan settlements; cf. Cic. *De leg. agr.* 2.71 'harenam...paludes' of land to be purchased under Rullus' bill in 63; Tac. *Ann.* 1.17 'uligines paludum uel inculta montium' to describe land discharged veterans could look forward to in A.D. 14). However, the reference to the draining of these swamps in both Cicero's and Dio's account of *lex Antonia agraria* make it likely that the one passage lies behind the other (a possibility overlooked by Sturz [above, n. 28]). To my knowledge, Ferrero, p. 70, is the only modern scholar who takes Dio at face value and concludes that Antony's law provided for the draining of the Pontine Marshes!

³⁰ This reconstruction combines, with supplements, *Phil.* 1.3 and *Att.* 16.16B.1 (quoted above, n. 12).

³¹ In a particularly bitter letter of 24 May (*Att.* 15.4.3) Cicero remarks that if Caesar had lived to go on the Parthian campaign he never would have returned and so fear would not have compelled the senators to ratify his *acta*: 'nos timor confirmare eius acta non coegisset.' Elsewhere Cicero specifically states that the Senate was forced to act as it did on 17 March when it ratified Caesar's *acta* because it could not go against the wishes of Caesar's armed veterans who ringed the temple of Tellus (*Att.* 14.14.2 'nonne omni ratione ueterani qui armati aderant, cum praesidi nos nihil haberemus, defendendi fuerunt?', cf. *Phil.* 2.89 'cum omnis aditus armati obsiderent'). These veterans had already received, or been promised, parcels of land as rewards for their service, and the Senate and Liberators were quick to ratify this portion of Caesar's enactments (*Phil.* 1.6 'ueterani...quibus hic ordo diligentissime cauerat'; cf. App. *BCiv.* 2.135; Dio 44.34.1).

greater calm, Servius Sulpicius—a logical choice, given his reputation as a learned juriconsult—was called upon to draft a motion covering documents in Caesar's archives—those not already in force. Many important figures such as Atticus must have had a stake in the timely conclusion of projects begun when Caesar was alive, and it is difficult to imagine that the Senate would pass a blanket decree shutting off recognition of the relevant documents soon after 20 March. The interpretation offered by this paper explains first why Antony was an active supporter of the motion, as Cicero asserts he was, and second why Cicero never criticizes Antony for violating an outright ban on publication, or for that matter, for talking the Senate into granting him broader powers by lifting such a prior ban. Under the view presented here, the Senate never attempted to block the publication of *all* the documents in Caesar's archives—the private papers in Antony's hands—and the Senate trusted Antony sooner, and with broader powers to review and publish selectively these *decreta*, than the language in *Phil.* 1.3 and 2.91 taken in isolation would lead us to believe—doubtless a deliberate device on Cicero's part.

On top of this, Cicero's description of the debate that preceded the passage of the decree favours the interpretation offered here. Antony, we are told, assured the Senate of the innocent nature of the contents of Caesar's *commentarii* and the Senate trusted him.³² It would be a *non sequitur* for this to have led to an outright ban on publication. Instead Antony appears to have enjoyed a reasonably good working relationship with the Senate. He had drafted and worked for the adoption of several decrees that were bound to have soothed any uneasiness that the Senate may have felt. In particular he had proposed the abolition of the office of dictator.³³ In the opinion of Cicero writing to Atticus on 9 April, Antony gave the impression of being more concerned with planning menus for dinner parties than getting up to political mischief.³⁴ In this atmosphere, it is perfectly understandable for the Senate and Antony to have reached an understanding of the sort we find in the decree drafted by Sulpicius, as it is interpreted by this paper. Antony had in his possession the archives in which many genuine, unpublished *decreta Caesaris* were to be found; Atticus and other important Romans will have desired *some* of these documents to be registered. On the other hand, the Senate could take comfort in the expectation that Antony's colleague

In addition, current officeholders and magistrates for the following year, as well as consuls and tribunes-designate for 42 (*Att.* 14.6.2; Dio 43.51.5; cf. *Phil.* 13.26) stood to forfeit their appointments if Caesar's *acta* were cancelled at one fell swoop. Therefore, Appian (*BCiv.* 2.128–9; cf. Dio 44.33.3–4) is probably correct to draw attention to the concern felt by officeholders when the Senate debated on 17 March whether it should declare Caesar a tyrant and so rescind all his acts. Schmidt (p. 697) rightly stresses the fact that in the absence of SC1 the Liberators would have forfeited their appointments to offices and provinces. Among the leading conspirators, M. Brutus and C. Cassius owed their praetorships to Caesar, while Caesar had named D. Brutus, L. Cimber and C. Trebonius to be the governors of Cisalpine Gaul, Bithynia-Pontus, and Asia respectively. This consideration, taken with the sheer mass of Caesarian legislation during the previous five and a half years, made outright cancellation on 17 March impracticable. However, the Senate may well have kept its options open for reviewing matters on a case by case basis in the near future, particularly any matters that had not been completely settled prior to Caesar's death—hence the decree passed on Sulpicius' motion.

³² 'Nihil tum nisi quod erat notum omnibus in C. Caesaris commentariis reperiebatur. Summa constantia ad ea quae quaesita erant [sc. Antonius] respondebat. Num qui exules restituti? Unum aiebat, praeterea neminem. Num immunitates datae? "Nullae" respondebat.' (*Phil.* 1.2–3) The very next sentence is the one quoted at the beginning of this paper, describing Antony's wish that the Senate adopt Sulpicius' motion. ³³ *Phil.* 1.3 and 2.91.

³⁴ 'Quem [sc. Antonium] quidem ego epularum magis arbitror rationem habere quam quicquam mali cogitare' (*Att.* 14.3.2).

Dolabella and the *consilium* would serve as a watchdog on Antony's activities. As late as the end of April, Dolabella gave the impression of being his own man and a possible champion of the Liberators and their friends.³⁵

THE PUBLICATION OF CAESAR'S *ACTA* IN APRIL AND MAY 44

The view that SC2 and SC3 were not two separate, conflicting decrees, as is universally assumed, but rather individual clauses of a single *senatus consultum*, passed on Sulpicius' motion, can be further supported by reviewing what is known about Antony's role in publishing documents in Caesar's name during the spring of 44. The period that needs to be looked at is approximately 20 March to 3 June when a *lex* passed in the Assembly granted the consuls the power to review Caesar's archives and so superseded the earlier SC on this matter.³⁶

The Jewish writer Flavius Josephus reports the earliest attested action taken by Antony to put in force a document that had allegedly been drawn up before Caesar's assassination but had not been officially recorded. In the *Jewish Antiquities* (14.221) Josephus relates that on 11 April the Senate voted to record a *senatus consultum* that had been passed earlier on 9 February at a meeting presided over by Caesar. This SC *de Iudaeis* had not, however, been filed in the *aerarium*, and if it can be accepted as genuine,³⁷ the draft of this decree must have been found in Caesar's archives (his

³⁵ Two or three days after Antony's departure from Rome ca. 25 April for an extended tour of Campania, Dolabella suppressed the growing movement in Rome to accord divine honours to Caesar. He did so by causing a pillar and altar to be removed from the spot in the Forum where Caesar's body had been cremated and by punishing the ringleaders of the movement. Slaves were crucified; freemen hurled from the Tarpeian Rock (*Phil.* 1.5, 2.107). The date of this deed (ca. 27/28 April) can be calculated on the basis of the first reference to it in *Att.* 14.15.1, written at Puteoli on 1 May. Both in his letters to Atticus (loc.cit. and *ep.* 16.2) and to Dolabella himself (*Att.* 14.17A = *Fam.* 9.14) Cicero hailed this deed as truly heroic. In a letter written in early May to Cassius (*Fam.* 12.1.1) Cicero professed hope in a brighter future, when thanks to Dolabella's deed the Liberators might return safely to Rome. Elsewhere (*Phil.* 2.107) Cicero implies that Dolabella remained a counterbalance to Antony until late May when he was won over by Antony after his return to Rome from the tour of Southern Italy, but there are signs in the letters that Dolabella may have already been in Antony's camp as early as April (e.g., *Att.* 14.14.4 of 28–29 April reveals that Antony was going to request an extended provincial command for both himself and Dolabella, and *Att.* 14.18.1 of 9 May accuses Dolabella of having embezzled money from the treasury of Ops [cf. below, n. 47] with the help of Caesar's secretary Faberius, activity which must have occurred in March/April with Antony's blessing).

³⁶ 'Accessit ad senatus consultum lex quae lata est a.d. iiii [iiii *Cratander marg.*] Non. Iun., quae lex earum rerum quas Caesar "statuisset, decreuisset, egisset" consulibus cognitionem dedit' (*Att.* 16.16C.2); cf. 16B.1 quoted above, n. 12 and 16A.4 'senatus consultum et lex'. This law is convincingly identified by v. Premerstein (pp. 137–9) with the consular *lex de actis Caesaris confirmandis* attested by *Phil.* 5.10. As evidence that Antony may have promulgated this law in April before his departure from Rome ca. 25 April, v. Premerstein cites the statement of Balbus (in *Att.* 14.21.2) that Antony intended to rally support among Caesar's veterans for the ratification of his *acta* ('illum [sc. Antonium] circumire ueteranos ut acta Caesaris sancirent'). This would in part explain why veterans flocked to Rome in great numbers towards the end of May (*Fam.* 11.2.1 'scribitur nobis [Brutus and Cassius] magnam ueteranorum multitudinem Romam conuenisse iam et ad Kal. Iun. futuram multo maiorem'; cf. *Phil.* 1.6 'ueterani...non ad conseruationem earum rerum quas habebant, sed ad spem nouarum praedarum incitabantur').

³⁷ The possibilities of forgery are twofold. On the one hand, it is debatable whether the documents quoted by Josephus can be accepted as genuine. (For a review of the evidence against their authenticity, see H. Moehring, 'The *Acta pro Iudaeis* in the *Antiquities* of Flavius Josephus', in *Studies for Morton Smith*, ed. Jacob Neusner (Leiden, 1975), pp. 124–58, esp. p. 142 n. 57 on this particular document. For a contrasting view, see T. Rajak, 'A Roman Charter

commentarii). Therefore, it was brought before the meeting on 11 April with a view to publication. According to the text quoted by Josephus, the Senate voted to adopt the recommendation presented to it by the consuls.³⁸ Presumably this recommendation resulted from a review into the merits of the case and so suggests that the consuls were already in late March or early April carrying out a formal examination (*cognitio*) of Caesar's unpublished *acta*.

The balance of our best evidence for this period comes from the correspondence of Cicero and, to a lesser extent, from the *Philippics*. The letters are a particularly valuable source because so many survive from the months that interest us,³⁹ and we can frequently date events related in them to almost the precise day on which they occurred. The *Philippics* sometimes provide valuable supplementary details, but since the earliest of them were written in the autumn of 44 they inevitably take into account some actions of Antony that are likely to have followed the passage of the law in June when he received greater freedom to review and publish documents in Caesar's archives. These later actions must not be allowed to colour our reconstruction of how Antony used the power that had been granted to him earlier by the *senatus consultum*.

The earliest allegation of abuse that we find in the letters is a general lament that Caesar's *dicta* and *promissa* were enjoying greater weight than they had in his lifetime.⁴⁰ By 22 April Cicero, residing at the time on his estates in the vicinity of Naples, had learned of two specific and striking examples of Antony's abuses: a *lex* by which full Roman citizenship was extended to the Sicilians and a *decretum* by which king Deiotarus regained territory that had been taken from him by Caesar (*Att.* 14.12.1). It was also at about this same time that Antony sent his request to Cicero, asking him to agree to the recall of Sex. Cloelius (*Att.* 14.13A of ca. 22 April). Finally, writing to Cassius in early May, C. complained that *tabulae* were being set up, *immunitates* were being granted, money embezzled, exiles (pl.) recalled, and forged decrees of the Senate filed.⁴¹

If we scrutinize these charges, only two need concern us in the discussion of the *tabula* decree that is the subject of this paper. We can set aside the grant of citizenship to the Sicilians since this was based on what was alleged to have been a *lex* 'duly passed by the dictator Caesar in the Assembly',⁴² and as such did not fall under Sulpicius' motion covering *decreta Caesaris*. Forgery of both decrees and laws of

for the Jews?' *JRS* 74 [1984], 110–11. I wish to thank Erich Gruen for directing me to these two articles.) On the other hand, even if we can trust Josephus, we must allow for the possibility that this SC represented one of the forgeries that Cicero (*Phil.* 5.12) charged Antony with producing. It may not be without significance that the decree granted certain privileges to the Jews that were requested by envoys of Hyrcanus, High-Priest of the Jews. Antony had seen service in Judea where, as an officer on Gabinius' staff in 57, he played a role in crushing the Jewish revolt instigated by Aristobulus, Hyrcanus' brother (Joseph. *AJ* 14.82–97, *BJ* 1.160–74; Plut. *Ant.* 3.1–3), and Antony had doubtless become acquainted with Hyrcanus on that occasion. Therefore, this decree may be one in which Antony took a personal interest.

³⁸ *περὶ τούτων* [sc. matters decided earlier by Caesar and the Senate] ἀρέσκει ἡμῖν γενέσθαι, ὡς καὶ Ποπλίῳ Δολαβέλλῃ καὶ Μάρκῳ Ἀντωνίῳ τοῖς ὑπάτοις ἔδοξεν, Joseph. *AJ* 14.221.

³⁹ For the period of 61 days represented by the months of April and May, 41 letters are preserved, 34 in the collection *Ad Atticum* and 7 in the collection *Ad familiares*. This works out to an average of one letter for every day and a half, and there is perhaps no other period in Roman history when we are in a better position to follow events so closely as they unfolded.

⁴⁰ 'Omnia facta, scripta, dicta, promissa, cogitata Caesaris plus valerent quam si ipse viveret,' *Att.* 14.10.1 of 19 April; cf. ep. 6.2 of 12 April criticizing the defence of the 'tyrant's' *facta*.

⁴¹ 'Tabulae figuntur, immunitates dantur, pecuniae maximae discribuntur, exsules reducuntur, senatus consulta falsa referuntur,' *Fam.* 12.1.1 of 3 May.

⁴² 'Ecce autem Antonius accepta grandi pecunia fixit legem "a dictatore comitiis latam" qua Siculi ciues Romani; cuius rei uiuo illo mentio nulla,' *Att.* 14.12.1.

Caesar is claimed to have occurred,⁴³ and in connection with the latter Cicero laments that these 'laws', brought to light after Caesar's death, had not been subject to the usual review that ordinary legislation undergoes when it is presented to the people and a vote is taken.⁴⁴ However, he does not hesitate to say that he is in favour of upholding not only the laws passed in Caesar's lifetime but also 'those which you see have been produced and posted after his death'.⁴⁵ At least one more bogus *lex Iulia* is attested by which exiles were recalled (*Phil.* 1.24, 2.98), but this appears to have been brought to light in June or July after the consuls had been freed of the Senate's control in the review of Caesar's *acta* by the law passed in June and so falls outside the scope of this discussion.⁴⁶

If we set aside general charges for which we have no specific, corroborating evidence,⁴⁷ the only two instances in which Antony is known to have taken action on *decreta Caesaris* in the spring of 44 are those affecting Deiotarus and Cloelius. Significantly these are the two actions of Antony that are said to have infuriated the consul-designate Gaius Pansa.⁴⁸ It is important to bear in mind that the review envisaged by Sulpicius' motion had, strictly speaking, been postponed by the consuls until 1 June since they put off forming their *consilium*.⁴⁹ Yet as we can see from the

⁴³ 'Falsas leges C. Caesaris nomine et falsa decreta,' *Phil.* 3.30.

⁴⁴ 'Ac de his tamen legibus [sc. the laws passed by Caesar in his lifetime] quae promulgatae sunt saltem queri possumus; de eis quae iam latae dicuntur [sc. those produced by Antony] ne illud quidem licuit. Illae enim sine ulla promulgatione latae sunt ante quam scriptae,' *Phil.* 1.24.

⁴⁵ 'Illas quidem quas post mortem Caesaris prolatas esse et fixas uidetis,' *Phil.* 1.23.

⁴⁶ Significantly the *lex de exsilibus* is not mentioned in the letters of April and May. Apart from criticizing the proposed recall of Cloelius, Cicero can only speculate that others are bound to follow. He gives us the names of only two others, the disreputable C. Sempronius Rufus and an otherwise unknown Victor, as representatives of a sizeable group whose recall he expected would follow closely on the heels of Cloelius' return (*Att.* 14.14.2 of ca. 28/29 April). Ironically Cicero's name was attached to a forged SC *Sempronianum* (*Fam.* 12.29.1) which may have been the instrument that authorized the recall of this Sempronius (see E. Badian, 'The Sempronii Aselliones', *PACA* 11 [1968], 4 n. 18).

⁴⁷ One such general charge concerns unauthorized drafts from the treasury in the temple of Ops (allegedly begun by Antony even before Cicero left Rome on 7 April, *Att.* 14.14.5, cf. above, n. 35 on alleged embezzlement by Dolabella); another concerned forged decrees of the Senate (see below, n. 53). When Cicero uses such general terms as *sescenta similia* (*Att.* 14.12.1) in asserting that the grants to Sicily and Deiotarus were just the 'tip of the iceberg', the historian must allow for rhetorical exaggeration; cf. *exsules reducuntur* (*Fam.* 12.1.1), when we can be pretty certain that the *proposed* recall of Sex. Cloelius was the only specific example that could be given when *Fam.* 12.1 was written (see above, n. 46, and below, n. 51). As R. Syme, *Roman Revolution* (Oxford, 1939; corr. repr. 1960), p. 107 remarked, 'Rumours [sc. concerning Antony's abuse of Caesar's papers and treasury] circulated before long, to be reinforced by monstrous allegations when proof or disproof was out of the question.'

⁴⁸ 'Sed Pansa furere uidetur de Cloelio itemque Deiotaro et loquitur seuere, si uelis credere,' *Att.* 14.19.2 of 8 May. Cicero distrusted Pansa's hostile pose toward Antony (*Att.* 15.22 of 22/23 June).

⁴⁹ We must trust Cicero on this point since the claim is made not only in the *Second Philippic*, where misrepresentation might be suspected, but also in one of the letters (*Att.* 16.16C.2, quoted above, n. 12) where Cicero had no motive to distort the truth. Possibly the consuls agreed on the postponement because Antony did not want to be bound by the supervision of the *consilium* (so Becht, p. 40). However, since the consuls apparently formed and were guided by the advice of a *consilium* in settling the Buthrotian affair in June (*Att.* 16.16C.2 'consules de consili sententia decreuerunt...') even after they were granted power to review Caesar's archives under the terms of a *lex* passed on 3 June (see above, n. 36), the chief difference between the prior SC and *lex* may have been that the *lex* freed the consuls from the need to seek the Senate's ratification of their decisions (so Mommsen, *StR* III.2 p. x n. 2, cf. p. 1001 noting that typically the Senate reserved the right to ratify decisions reached by magistrates with the advice of a *consilium*).

previously mentioned SC *de Iudaeis* registered on 11 April, the consuls appear to have been engaged in a *cognitio* of Caesar's papers in April under the close supervision of the Senate. In the absence of a formally constituted *consilium* under the terms of Sulpicius' motion, the consuls could and apparently did refer matters to the Senate for ratification on a case by case basis. This will explain why in the letters of April and May that allude to the Buthrotian affair, Cicero anticipated bringing the matter to a successful conclusion by a combination of winning Antony's support and of achieving a favourable vote in the Senate when it reconvened on 1 June.⁵⁰ To judge from the role Cicero expected the Senate to play in the Buthrotian affair and from the procedure followed on 11 April *de Iudaeis*, the recall of Cloelius and the recognition of Deiotarus' title to Lesser Armenia should also have been presented to the Senate for ratification.

In fact, there is no evidence that Antony failed to consult the Senate in either instance. Antony's letter to Cicero of ca. 22 April implies that no formal action had been taken on Cloelius as of that date. If the decree had already been acted on, there would have been no point to Antony's letter, which was written ostensibly to obtain Cicero's permission to allow the decree recalling Cloelius to be put in force. Furthermore, since the Senate had adjourned for its spring recess about the middle of April, and Antony was absent from Rome for the latter part of April and first half of May, it is probably best to regard the recall of Cloelius as merely contemplated at that time. Therefore, Antony may have presented the alleged *decretum Caesaris* recalling Cloelius to the Senate when it reconvened in June, or he may have been freed of the necessity to do so under the terms of the *lex* passed early in June that authorized the review of Caesar's papers.⁵¹

By contrast, the *decretum* in favour of Deiotarus seems to have been a *fait accompli* when Cicero reports it on 22 April. If so, one of two things must have happened: either (1) the grant to Deiotarus had undergone a *pro forma* review in the Senate before its adjournment about the middle of April, or (2) taking a leaf out of Caesar's book⁵² Antony may have forged a decree of the Senate ratifying his decision in favour of the king.⁵³ Cicero asserts that a huge bribe purchased the forged *decretum Caesaris* in favour of Deiotarus and that the money borrowed for this bribe was secured by a promissory note (a *syngrapha*) on which Antony would never collect.⁵⁴ Significantly, perhaps, elsewhere Cicero links these borrowed sums of bribe money secured by

⁵⁰ *Att.* 14.14.6; 15.2.2, 4.1, the last written ca. 24 May.

⁵¹ See above, n. 49, for the suggestion that the *lex de actis Caesaris confirmandis* of 3 June may have freed the consuls from the Senate's control. It is also possible that Antony chose to carry out the recall of Sex. Cloelius by lumping him with the large group of exiles recalled later when he produced Caesar's *lex* (see above, n. 46). However, *Phil.* 7.15 ('*exsules sine lege restituit*') seems to point in the opposite direction if the plural *exsules* is correctly to be interpreted as a rhetorical plural masking the single case of Cloelius (cf. the alleged grants of Roman citizenship to 'entire provinces' [*provinciis totis*, *Phil.* 2.92] for which Sicily provides the sole example).

⁵² In a well-known letter written in 46 to Papirius Paetus (*Fam.* 9.15.4) Cicero remarks that his name was sometimes attached to decrees as being one of those present at the drafting or as being the proposer of the motion. These decrees, however, merely reflected decisions Caesar had taken on his own and were drawn up by a member of his staff (prob. the reference is to Cornelius Balbus, see Shackleton Bailey ad loc.). Sometimes the first Cicero heard of these decrees was when he received expressions of thanks from foreign princes who had benefited under *senatus consulta* supposedly passed on his motion.

⁵³ Antony is repeatedly charged with filing forged decrees of the Senate (*Fam.* 12.1.1 [quoted n. 41]; *Phil.* 5.12 [quoted below, n. 55 below], 12.12 nullified by the Senate in 43; cf. *Att.* 15.26.1; *Fam.* 12.29.2).

⁵⁴ 'Syngrapha sesterti centiens per legatos...facta in gynaeccio est...' *Phil.* 2.95.

means of *syngraphae* with the production of forged *senatus consulta*.⁵⁵ These two passages from the *Philippics* taken in combination provide the best insight into how in April Antony *may* have secured recognition for this particular *decretum* that he claimed to have found in Caesar's archives.

CONCLUSIONS

As a careful re-examination of the evidence has revealed, Sulpicius' motion, which was presented soon after 20 March, does not make sense as an attempt to impose a ban on the publication of documents contained in Caesar's archives. Such an outright ban is unlikely to have been enacted in view of the existence of legitimate promises and commitments that were registered in these documents in which important Romans, such as Atticus, had a stake. Furthermore if, as most scholars assume, the decree passed on Sulpicius' motion imposed an outright ban, which was later rescinded along the lines described by Dio, it is remarkable that Cicero never alludes to the Senate's loss of control over the publication of Caesar's papers. When in both the private letters and speeches Cicero criticizes the *beneficia* that were allegedly granted by Caesar to Deiotarus and Cloelius, he might be expected to lament the repeal of a *senatus consultum* banning such publications, if one had existed (particularly if it had been repealed at Antony's request, as Dio reports). Cicero could reasonably have charged Antony with flouting the spirit, if not the letter, of a prior ban on the publication of such decrees, if Sulpicius' motion had established such a restriction.

The intent, however, of Sulpicius' motion seems rather to have been to arrange for the orderly review and selective publication of Caesar's *commentarii*. As we have seen in our scrutiny of Antony's activities in April and May, although the systematic review of Caesar's archives never got under way until June at the earliest, the consuls seem to have presented a few documents to the Senate for ratification before its adjournment in mid-April. Perhaps other documents, such as the one concerning Cloelius, were being made ready for a vote when the Senate reconvened, and so Antony wrote his letter of request on this matter to Cicero. The consuls must have been well within their rights to adopt this course of action. The only ground on which they could be faulted was that they failed to take the customary step of forming a *consilium* and began what amounted to a selective review of Caesar's archives after first delaying the formation of the advisory board that had been called for by the SC. This is the only complaint of substance that we find in *Phil.* 2.100. It must have been obvious to all that so long as Caesar's *commentarii* remained exclusively in Antony's possession, without the oversight of an advisory body, the possibilities for forgery were limitless. The Senate was obliged under these circumstances to take Antony's word for the assertion that a particular document had been found in Caesar's papers (*Phil.* 1.16).

Finally, it is not surprising that Dio—and consequently modern scholars under his influence—jumped to a false conclusion about the intent of Sulpicius' motion. Cicero quoted it twice in a way calculated to suggest that in supporting it Antony agreed to make it impossible to put into force unpublished *decreta Caesaris* that were in his possession. This was not, however, the only sense in which these words could be understood. The passages were carefully crafted so as to be capable of being read on two different levels. Those who knew the precise nature of Sulpicius' motion would

⁵⁵ 'Senatus etiam consulta pecunia accepta falsa referebat; syngraphae obsignabantur; senatus consulta numquam facta ad aerarium deferbantur,' *Phil.* 5.12.

recall the terms of the decree as a whole when they heard Cicero's allusion to the single clause.⁵⁶ On this level, the audience will have interpreted Cicero's praise of Antony's restraint in the context of the provision for a joint review of Caesar's papers by the consuls under the supervision of a *consilium*. To accept such a sharing of power could indeed be regarded as a conciliatory act on Antony's part. At the same time, by presenting just the one clause *ne qua tabula* as he did, Cicero sought to mislead his readers who did not know the precise terms of the decree as a whole. He artfully plants the notion that Antony went so far as to agree to a total ban on the publication of documents in his possession. This is the second level on which both passages can be read, and it is how Dio must have understood them. He was then faced with the inevitable crux of explaining how Antony succeeded in publishing *decreta Caesaris* in spite of the supposed ban. The chances are that Dio thought he found the solution to this conundrum in the reference to an apparently separate decree (*Phil.* 2.100) that provided for a review under the supervision of a *consilium*. Dio's inference was a false one, however, and it is time to reunite these two clauses into a single decree.

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⁵⁶ Perhaps a brief modern-day analogy will make the point crystal clear. Let us suppose that a university has introduced a new statute that reads: 'Undergraduates will not be permitted to enrol in classes intended for graduate students unless they petition the instructor and receive written permission to take the class'. If a member of the senior common room remarks, 'now that undergraduates will no longer be allowed to take classes intended for graduate students, we can expect fewer, but better-prepared, students to enrol in these classes', his colleagues will understand his remark in terms of the new regulation taken as a whole (including the waiver that undergraduates can secure in deserving cases). By contrast, a person who is unfamiliar with the statute is likely to draw the false conclusion that an undergraduate is barred absolutely from taking such a class. It was just this sort of a *double entendre* that Cicero deliberately exploited in the two passages of the *Philippics*.