

The 'Piracy Law' from Delphi and the Law of the Cnidos Inscription

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IN A MAJOR ARTICLE which appeared in 1974¹ Mark Hassall, Michael Crawford and Joyce Reynolds (hereafter "H-C-R") published the text of a recently discovered inscription from Cnidos² together with a revision of the related Delphic inscription commonly known as the 'Piracy Law'.³ In discussing these texts they worked from the hypothesis that the Roman law inscribed in Greek translation on the monument of Aemilius Paullus at Delphi (Law D) and the Roman law inscribed in Greek translation on the Cnidos inscription (Law K) are identical. They conceded that there are important differences between the two inscriptions. In order to maintain the view that what is inscribed at each place represents one and the same law, they were forced to assume that "we have two different translations."⁴ They did not mention, but no doubt had in mind, a well-known feature of Roman lawmaking summed up in the word *tralaticius*: Roman legislators in framing their drafts of laws were in the habit of repeating whole sections from previous enactments.⁵ The close resemblance, then, of parts of Law D to parts of Law K is not, *ipso facto*, conclusive proof that Laws D and K are identical. It is necessary to decide whether the admitted differences between the two inscriptions are compatible with the proposition that Laws D and K can be identified as a single law.

There are two major obstacles to the identification, and these are to some extent recognized by H-C-R.⁶ (1) "There are large areas of text at Cnidos to which nothing corresponds at Delphi and *vice versa*."

¹ "Rome and the Eastern Provinces at the End of the Second Century B.C.," *JRS* 64 (1974) 195-220.

² *AJA* 76 (1972) 64f.

³ *Fouilles de Delphes* III.iv no.37 (G. Colin); S. Riccobono, *FIRA*² I no.9 (*lex de piratis persequendis*).

⁴ *Art.cit.* (*supra* n.1) 199.

⁵ Cf. Cic. *Att.* 3.23.2ff; *Rab.Post.* 4 (on the *lex Iulia de repetundis*) *sin hoc totidem verbis translatum caput est, quot fuit non modo in Cornelia sed etiam ante in lege Servilia* . . .

⁶ *Art.cit.* (*supra* n.1) 198-200.

They correctly point out that not all of these non-correspondences are significant, but they are left facing the difficulty of the third block of the Delphi inscription, block C. This begins with a fragmentary clause apparently corresponding to the end of Cnidos column IV and the lost upper part of Cnidos column V. Then follows "the notorious *iusiurandum in legem*." There is no trace of this at Cnidos, "but we reckon that almost all of what appears on Delphi block C could have been inscribed on the lost area of Cnidos column V." Delphi block C ends with "arrangements for the prosecution of those who break the provisions of the *iusiurandum in legem*; the content of Cnidos column V is not absolutely clear, but it is certainly concerned with trial procedure, and it is therefore a reasonable conjecture that its content may have followed what we have at Delphi." This perhaps does not bring out sharply enough the essential problem of Delphi block C, which is that it does not have the concluding clauses of Law K. The economy of the inscription at Delphi is that it was wholly contained within the three blocks A, B and C.⁷ So the concluding part of Law K cannot have been inscribed at Delphi. H-C-R's defence to this difficulty is tucked away in a footnote⁸ and hardly stands up to repetition, let alone examination: "the part omitted relates to details of procedure for trials: Delphi had much more experience in inscribing Roman documents and doubtless saw little point in inscribing all this." Clearly, unless a reasonable explanation can be found for the omission of the concluding clauses as they appear in Cnidos column V, we have here a formidable obstacle to identification of Law D with Law K.

A comparable problem, which H-C-R do not discuss, arises over the beginning of Delphi block A. In their reconstruction (which there is no reason to dispute) Cnidos column I and the upper half (missing) of Column II cannot have been inscribed at Delphi. Nothing legible survives of Cnidos column I, but it is clear that the inscribed text did not occupy the whole column: "the text is not continuous with that on columns II-V, though it may be related to it."⁹ In my opinion it is probable that Cnidos column I carried the letter which the senior

⁷ There were inscribed blocks immediately above A, and one inscribed block immediately below C: thus no space for the inscription of Law D to extend before or after what appeared on blocks A-C (cf. *Fouilles de Delphes* III.iv 35, 70, 86f; H. Stuart Jones, *JRS* 16 (1926) 155-58; H-C-R, *art.cit.* [*supra* n.1] 198 n.5).

⁸ *Art.cit.* (*supra* n.1) 200 n.11.

⁹ *Ibid.* 195.

consul was instructed to send to *demoi* and *politeiai* “. . . so that the citizens of Rome and the Allies and Latins and those of the external nations who are in the friendship of the Roman People may be able to sail the seas in safety; and that Cilicia has for this reason been made a praetorian province in accordance with this law” (Cnidos III 28–37, cf. Delphi B 5–8).¹⁰ The missing upper half of Cnidos column II (which H–C–R estimate, perhaps over-generously, at about 60 lines) must have contained the preamble of the law,¹¹ but should also have carried the letter which the governor of Asia was instructed to send to the communities (*sc.* of his province) along with the text of the law (Delphi B 20ff, cf. Cnidos II 1–4). If this reconstruction is correct, we can see an explanation for the absence of the letter of the governor of Asia from the Delphi inscription: Delphi was no concern of that governor’s. The absence of the consul’s letter, which is certainly referred to at Delphi (B 5–8), is not so easy to explain away. Moreover, the assumption that all that is missing from Delphi is the preamble of the law and the letters from the consul and the governor is the most favourable hypothesis for the identification of Delphi and Cnidos. If the missing part of Cnidos column II really contained additional parts of the law besides the preamble, the difference between Cnidos and Delphi would become so great that the identification of Law D and Law K would be harder to sustain.

(2) The second major obstacle to identification lies in the phenomenon of two independent translations: “where the documents overlap the language is different in many respects.”¹² H–C–R are unable to produce any examples, let alone any Republican examples, to confute the usual opinion¹³ that such a document would be translated in Rome by public officials in the state archive when it was to be published in Greek for the information of provincials in the East. They are compelled to resort to a desperate sort of special pleading. “If a governor’s letter could be composed in Greek, why could not the law from Cnidos be translated in Asia?” “Some evidence suggests that

¹⁰ I am grateful to the editor, Professor Willis, and to Professor J. H. Oliver for alerting me to the fact that H–C–R’s reading in III 30–31, τὸν δῆ|μον τὸν Ῥωμαίων κ.τ.λ., is incorrect. Examining again H–C–R’s photograph (pl. XIII), I believe that one might read a reference to νόμων Μαίων instead of τὸν Ῥωμαίων. However, we must await Professor Oliver’s publication of his own reading.

¹¹ This was already deduced by Stuart Jones, without benefit of knowing the Cnidos text (*art.cit.* [*supra* n.7] 158).

¹² *Art.cit.* (*supra* n.1) 199.

¹³ Cf. R. K. Sherck, *Roman Documents from the Greek East* (Baltimore 1969) 13, 18f.

both the Delphi and the Cnidos texts were prepared by Greeks (see p.210 on the misunderstanding by both translators of *sc. dolo malo*) though it is a paradox that the Greek seems sometimes so inept."¹⁴ Expressed differently—the translators, whether Latin or Greek was their first language, encountered difficulty in rendering certain expressions from lawmaker's Latin into Greek idiom. Nothing here tells us who they were, or whether they did or did not do the work of translation in Rome.¹⁵

There is a curious aspect of the translation of the law inscribed at Delphi. The law contained provision for the sending-out of copies of itself. But the sending was required to be done only by the governor of Asia, and the distribution was presumably to be only to the cities and communities of his province (B 20–23). There is absolutely no provision in the law for the setting-up of a copy at Delphi. We seem to need a special reason for the existence of the Delphi version. At the same time we need explanations for the independence of the Delphi translation and for the absence of the preliminaries and the concluding section of the law from the Delphi version. Only then might we be justified in assuming the identity of the Delphic and Cnidian laws.

At this stage it becomes imperative to look into the question of the dating of the law or laws. The two inscriptions have, on the one hand, material that is common to both and, on the other, material that is unique to one of them. I shall discuss first the

¹⁴ *Art.cit.* (*supra* n.1) 200. Their discussion of the translation of *sc(iens) dolo malo* (*ibid.* 210) leaves something to be desired. H–C–R suppose that the Delphi translation misunderstood the Latin phrase at C 10, 15 and 16 but understood it correctly at C 21, and that the Cnidos translation misunderstood it at III 15 but understood it correctly at III 8–9 and possibly at II 6 (if a negative can be supplied). They suppose that the translators sometimes took *sc.* in the Latin phrase as *s(in)e* instead of *sciens*. This of course leaves us wondering why the translators sometimes took it the right way. The Delphi translation gives *ἀνευ δόλου πονηροῦ* three times (C 10, 15, 16) and *δόλωι πονηρῶι* once (C 21). The simple explanation for this variation is that it is due to the presence or absence of a negative in the surrounding expression. The Cnidos translation gives *ἀνευ δόλου πονηροῦ* at II 6, *εἰδῶς δόλωι πονηρῶι* at III 8–9, and *εἰδῶς ἀνευ δόλου πονηροῦ* at III 15. The presence or absence of a negative in the context again is probably sufficient explanation of the variations. (At III 15 the negative idea in *κωλυέτω* [= *ne sinat?*] is continued from *μὴ προαγέτω* in III 13. H–C–R resort to the extraordinary notion that “he has apparently had a marginal note to say that *sc.* is to be read as *sciens*, but has translated both *sciens* and *s(in)e*.”)

¹⁵ Since Cnidos appears to give a complete version while Delphi does not, we should not discount the possibility that the Delphi translation was made locally; whereas the Cnidos version ought to be the official translation sent out from Rome.

common material, then the unique material.

(1) Delphi B 5 and Cnidus III 28f:

ὑ]πατος, ὃς ἂν πρῶτος γένη[ται, γράμμ]ατα πρὸς τοὺς δήμους π[ολιτείας τε]

and

ὑπατος ὁ πρῶτος γενόμενος γράμματα | πρὸς τοὺς δήμους πολιτείας τε (etc.)

The Delphi version shows clearly that the Latin original read something like *consul qui prior factus sit*.¹⁶ The reference is to a consul not yet elected, not yet known. Therefore not the prior (*maior*) consul of 100, C. Marius, who is known in B 20 (to be discussed below). It must refer to the man who will be prior consul in 99 (M. Antonius, as it happens¹⁷). This is especially apt in that the consular elections for 99 were interrupted on or about 9 December 100 by the murder of one of the candidates, C. Memmius, and on 10 December another candidate, C. Servilius Glaucia, was killed.¹⁸ It is a reasonable assumption that the final elections were delayed at least till late December. It would have been absurd for the law to give the responsibility for taking required action, not to one of the consuls in office in 100 but to his successor, if the law had been passed in the early or middle part of the year. It does make ample sense, however, if the law was proposed not far from year's end, that the prior consul of 99, holding the *fasces* in January, should be the one to take the action prescribed by the law. In a normal year it would have been known before late December who the future consuls were. But not in the year 100.¹⁹

These texts show that the law was (or the laws were) not earlier than late 100, nor later than early 99. The narrowness of the period in question is in fact a potent argument for regarding Law D and Law K as identical, since it is difficult to imagine any reason why two similar

¹⁶ Cf. Festus 154 L. The Latin translation printed in *FIRA*² I p.122 is *consul qui primus electus sit*. I see no way the Greek can be regarded as a translation of *consul qui fasces habebit*. H-C-R's note on this (*art.cit.* [*supra* n.1] 211) is confused and hard to follow.

¹⁷ This is inferred from his being named before his colleague in consular lists (T. R. S. Broughton, *Magistrates of the Roman Republic* II [New York 1952] 1); see T. R. S. Broughton and L. R. Taylor, *Historia* 17 (1968) 167.

¹⁸ App. *BCiv.* 1.32.142–45; see R. Seager, *CR* 17 (1967) 9f, for a sufficient defence of Appian's chronology.

¹⁹ It is true that it was already clear as a result of the interrupted election on or about 9 December that M. Antonius would head the poll (App. *BCiv.* 1.32.142), but this obviously was not something that the lawmaker could include in his law.

laws would have been passed within the space of a couple of months.

(2) Delphi B 6 and Cnidos III 31–33:

]ΣΕΙ ὅπως πολῖται Ῥωμαίων ε[ύμμαχοί] τε ἐκ τῆς Ἰταλίας Λατῖνοι τά τε ἔθνη
and

ᾧστε τοὺς | πολίτας Ῥωμαίων καὶ τοὺς συμμάχους Λα|τίνους τε τῶν τε ἐκτὸς
ἔθνων (etc.)

The Cnidos text shows that the reference here is to the formula *socii et nominis Latini*, the Italian Allies and the Latins.²⁰ Such a reference would be inappropriate after 91 B.C. The way the formula is handled at Delphi is somewhat odd. ἐκ τῆς Ἰταλίας is a gloss to explain the particular sense of *socii* as the Italian Allies, and the Latins are not distinguished from them by τε. The suspicion is that at the time when the Delphi translation was made the phrase *socii nominis Latini* (or *socii et nominis Latini*) was no longer thoroughly familiar: i.e., this translation was made a long time after the phrase was rendered obsolete by the settlement of the Bellum Italicum, though the text itself predated that war by a decade.

(3) Delphi B 7 and Cnidos III 35–37:

τήν τε Κιλικίαν διὰ ταύτας τὰς αἰτίας [

and

τήν τε Κιλι|κίαν διὰ τοῦτο τὸ πρᾶγμα κατὰ τοῦτον τὸν νό|μον ἐπαρχεῖαν
στρατηγικὴν πεποιηκέναι (etc.)

Cilicia was certainly a praetorian *provincia* by the time of Sulla's praetorship (*De Vir. Ill.* 75), for which 93 is the latest acceptable date; I believe a case can be made for 95.²¹ It should be added that Cilicia had already come into view as a potential praetorian province through the command of M. Antonius against the pirates, 102–100.²² The first praetor of Cilicia under the terms of our law would most likely be a praetor of 100 going out either in that year or as promagistrate in 99.

²⁰ H–C–R (*art. cit.* [*supra* n.1] 207) mistranslate τοὺς συμμάχους Λατίνους τε (III 32f) as “the Latin allies.” It is probable that in II 7f [οἱ] τε εὔ[μ]μαχοι ὀνόματ[ο]ς Λατίνου represents the formula *socii nominis Latini*, with the same meaning as *socii et nominis Latini* (*cf.* Livy 21.55.4, 38.35.9).

²¹ “Sulla's Career in the Nineties,” forthcoming in *Athenaeum*. See also A. N. Sherwin-White, *CQ* 27 (1977) 182.

²² Cic. *De Or.* 1.82; Liv. *Per.* 68; Jul. *Obseq.* 44, a. 652/102; *cf.* *ILLRP* I³ p.342: MRR I 568ff.

This is a passage which again makes it difficult to believe that there are two laws, since they would have to be extremely close together in time.

(4) Delphi B 8f and Cnidos III 38–41:

καὶ π[ρ]ὸς τὸν βασιλέα τὸν ἐν [τῇ ν]ήσῳ Κύπρῳ βασιλεύοντα καὶ πρὸς τὸν βασιλ[έα τὸν ἐν Ἀλε]ξάνδρεια καὶ Αἰγύπτῳ βασιλεύοντα καὶ πρὸς τὸν βασιλέα τὸν ἐν Κυρήνῃ βασιλεύοντα καὶ πρ[ὸς] τοὺς βασιλεῖς τοὺς ἐν Συρίᾳ βασιλεύον[τας, οἷς πᾶσι] (etc.)

and

ὁμοίως τε πρὸς τὸν βασιλέα τὸν ἐν Κύπρ[ωι] διακατέχοντα καὶ βασιλέα τὸν ἐν Ἀλεξανδρί[αι] καὶ Αἰγύπτῳ βασιλεύοντα καὶ πρὸς [β]ασιλέ[α τὸν ἐπὶ Κυρήνη] βασιλεύοντα καὶ πρὸς βασι -

The mention of the king ruling in Cyrene produces a *terminus ante quem* of 96 B.C.²³ H-C-R claim that Cnidos “in describing the King of Cyprus as διακατέχων displays a precise awareness (unlike Delphi) of an abnormal situation in Cyprus, which fits only, within this general period, 104/3 to 101/0 B.C.”²⁴ They do not explain what Latin phrase they suppose Cnidos to be translating. Elsewhere in these texts διακατέχειν (with ἐπαρχείαν) represents *obtinere provinciam*.²⁵ If the original Latin read something like *ad regem qui insulam Cyprum obtinet* (or *tenet*), it is not inconceivable that this might be rendered by the two different phrases found at Cnidos and Delphi, especially if the Delphic version was translated at a later time when the reason for avoiding the natural *ad regem qui in Cypro regnat* was no longer apparent. In that case it would not be necessary to assume that special local knowledge influenced the translation in the Cnidos text—an awkward assumption to have to make since it would imply that the translation was either done in Asia or interfered with in Asia. The situation in Cyprus is somewhat confused during this period. Ptolemy IX (Soter II) was chased from Alexandria in autumn of 107 and fled to Cyprus but passed straight to Syria. Later he returned to conquer Cyprus, which he again left in 103 in an attempt to take over Coele-Syria followed by an abortive effort in 102 to take back Egypt from his younger brother Ptolemy X (Alexander I). From then on he remained

²³ Liv. *Per.* 70; Jul. *Obseq.* 49, a. 658/96.

²⁴ *Art.cit.* (*supra* n.1) 198.

²⁵ II 15, τὴν Μ[ακε]δονίας ἐπαρχείαν διακατέχοντα: III 22f, τὴν Ἀσίαν ἐπαρχείαν διακατέχων: III 24 and B 4 (restored).

ensconced in Cyprus, and the separation of the Cypriot and Egyptian kingdoms lasted until 88.²⁶ H-C-R (following information from O. Mørkholm) believe that it was not until 100/99 that coinage began to be struck for Ptolemy IX by Cypriot mints.²⁷ This might suggest that up to then Ptolemy IX did not accept that he was just king of the “kingdom” of Cyprus. Thus “the king who holds Cyprus” would be a fitting and diplomatic way for the Romans to describe the situation about 100 B.C. The fact that the translation found in the Delphi inscription fails to respect this subtlety seems best explained by the assumption that the translation was done much later.²⁸

Finally, the reference to “the kings ruling in Syria” corresponds well to the situation in the period of some twenty years up to the murder of Antiochus VIII Grypos in 96 and of his rival Antiochus IX in 95.²⁹

(5) Delphi B 27–29 and Cnidos IV 6–11:

Στρ[ατηγὸς ἀντιστράτηγος ἢ ἀνθύ]πατος, οἵτινες κατὰ τοῦτο[ν] | τὸν νόμον, εἴτε
δήμου γνώμη εἴη{ι} [εἴτε νόμος, ἢ κατὰ (?)] συγκλήτου δόγμα ἐν Μα]κεδονίαι
ἐπαρχείαν ἔξει, εὐ[θὺς πρὸς Χερσόνησον Καινε]ικὴν, ἥς Τίτος Δεΐδιος ἡγούμενο[ς]
| ἐκράτησεν, πορευθήτω·

and

Στρατ[η]γὸς ἀντιστρά]τηγος ἀνθύπατος ὃς τε ἄ[ν] | κατὰ [τοῦτον τὸν ν]όμον ἢ
ψήφισμα ἢ συγκλήτου δό[γμα Μα]κεδονί]αν ἐπαρχείαν διακατέχει διακαθέ[ξι]
εὐθ[ύς] [εἰς] Χερσόνησον Καινεικὴν τε ἦν Τί[το]ς [Δεΐδιος] πολεμῶν δορίκτητον
ἔλαβεν πο[ρ]ευέσθ]ω·

T. Didius (or Deidius) was tribune of the plebs in 103,³⁰ and after holding the praetorship and propraetorship or proconsulship of Macedonia, attained the consulship of 98.³¹ It is virtually certain that he was praetor in 101, propraetor or proconsul of Macedonia in 100.³² It is noticeable that Didius is not given his title (*ἀντιστράτηγος* or

²⁶ E. Will, *Histoire politique du monde hellénistique* II (Nancy 1967) 370, cf. 376f.

²⁷ *Art.cit.* (*supra* n.1) 198 n.4.

²⁸ We have already seen from B 5 that the law of the Delphi inscription cannot be later than early 99. Hence it could only be the translation that was later.

²⁹ Cf. Stuart Jones, *art.cit.* (*supra* n.7) 162f, 164; E. Will, *op.cit.* (*supra* n.26) II 374f.

³⁰ Cic. *De Or.* 2.197; MRR I 563.

³¹ MRR I 571ff, II 3, 4.

³² Broughton (MRR II 3, 4 n.11) thinks that he may have continued as governor into 99 (citing the Delphi inscription). The subsequent discussion, however, will show that Didius probably ended his governorship in 100.

ἀνθύπατος)³³ in either inscription. We can surely infer from this that he was no longer governor of Macedonia. It is consequently unreasonable to date these references to him to the year 101 or even early 100.³⁴ A date in the later months of 100 (or even early in 99) is indicated.

It should also be noted that the “praetor or propraetor or proconsul” of Macedonia here referred to is probably the first person to have the province following Didius’ conquest of the Caineic Chersonese in eastern Thrace; he is to go directly to the Chersonese. Delphi seems to put his tenure in the future (ἐξεί = *obtinebit*³⁵). But Cnidos is not so clear—ὅς τε ἂν . . . διακατέχη διακαθέξει. This probably represents *quicumque . . . obtinet obtinebit*, and has to cover both the first and the subsequent successors (in IV 11ff). The Delphi translation may have simplified the formula. At any rate the date to which these phrases first apply is after the end of Didius’ tenure in Macedonia and either before or after the beginning of his successor’s.

As in the case of Cilicia—see (3) above, on B 7 and III 35–37—the fact that both inscriptions imply reference to Didius’ immediate successor is a strong point in favour of the identity of Law D and Law K.

(6) Cnidos III 4–6:

Μάρκος Πρόρκιος | Κάτων στρατηγὸς ἐκύρωσε πρὸ ἡμερῶν γ’ νών|ων Φεβραίων
ἐκτὸς τῆς [ἐ]παρχείας (etc.)

H–C–R think that the date 3 February perhaps “relates to action by M. Porcius Cato.”³⁶ That is difficult to decide because of the unintelligibility of the context.³⁷ Certainly ἐκύρωσε could not refer to legislative action by the praetor (as in III 17, ὁ δῆμος κυρώσει), because *a.d. iii non. Febr.* is a *dies nefastus* in the Roman calendar.³⁸

³³ It is impossible to tell from our inscriptions which title the governor of Macedonia would have borne at this time: II 14f, B 27 (restored), IV 6, show the two titles as alternatives, but IV 26 gives only ἀνθύπατος (cf. C 8 [restored]).

³⁴ As H–C–R, *art.cit.* (*supra* n.1) 218, in the wake of G. Colin, *BCH* 48 (1924) 63, and *Fouilles de Delphes* III.iv 47–50. They make the riddling statement that the Cnidos text falls between the conquests of T. Didius and 101/0.

³⁵ So translated in *FIRA*² I p.126.

³⁶ *Art.cit.* (*supra* n.1) 210.

³⁷ ἐκτὸς τῆς [ἐ]παρχείας in line 6 makes no sense and must be considered a dubious reading.

³⁸ Cf. *ILLRP* I² p.26.

The praetor M. Porcius³⁹ Cato is to be identified with the son of the person known to Gellius as M. Cato Nepos, who was consul in 118: *is satis vehemens orator fuit multasque orationes ad exemplum avi scriptas reliquit et consul cum Q. Marcio Rege fuit inque eo consulatu in Africam profectus in ea provincia mortem obit.*⁴⁰ Of the son, our Cato here, Gellius writes: *cum aedilis curulis et praetor fuisset, in Galliam Narbonensem profectus ibi vita functus est.*⁴¹ As Gellius notes, he must be distinguished from his namesake and contemporary the father of Cato Uticensis, who did not reach the praetorship: *tribunus plebis fuit et praeturam petens mortem obiit.*⁴² The latter's tribunate is dated to 99.⁴³ The date of his cousin's praetorship, previously put about 92,⁴⁴ can now be moved to *ca* 100.

(7) Delphi B 20–22:

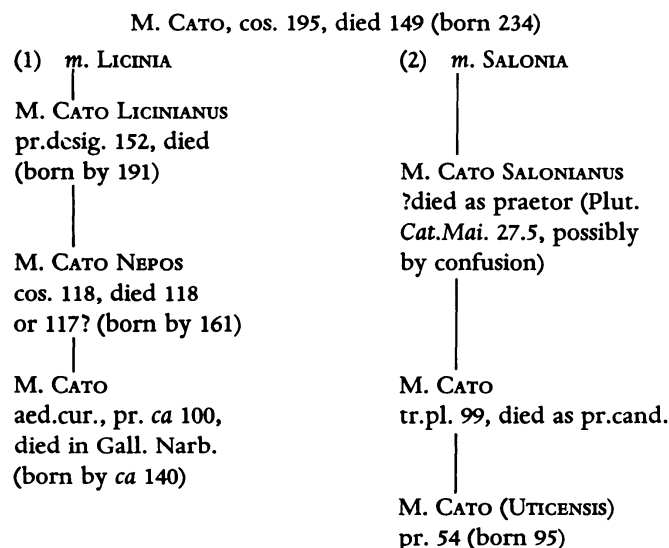
Στρατ[ηγός ἀνθύπατος τε (?) ε]ἰς Ἀσίαν ἐπαρχείαν, Γαίῳ Μαρίῳ καὶ Λευκίῳ Οὐαλερίῳ ὑ[πάτοις], ἐπα[ρχ]εία ἐ[γέ]νετο, γράμματα

³⁹ H–C–R print the *nomen* as || (. . . c. 6. .) in their edition of the text. ΠΟ (. . . c. 5. .) seems readable on the photograph (*art.cit.* [*supra* n.1] pl.xiii). In any case the *praenomen* 'Markos' and the *cognomen* 'Katon' make 'Porkios' the only conceivable reading ('Οστίλιος is impossible).

⁴⁰ Gell. NA 13.20.10.

⁴¹ *Ibid.* 12. This is RE Porcius no.11.

⁴² *Ibid.* 14. This is RE Porcius no. 12. The relevant part of the stemma is as follows:



⁴³ MRR II 2; R. Seager, *loc.cit.* (*supra* n.18), has refuted E. Gabba's attempt to redate the tribunes Furius, Pompeius and Cato to 100 (in his commentary on App. *BCiv.* I [ed. 2, Firenze 1967] 32.142–33.147).

⁴⁴ MRR II 18. The curule aedileship will go from *ca* 94 (*ibid.* 13) to *ca* 103.

πρὸς τοὺς δῆμο[υς πολιτείας τε(?) εὐθύς(?) ἀποστειλάτω καὶ πρὸς] τοὺς βασιλεῖς τοὺς ἐπάνω γεγραμμένους, ὁμοίω[ς δὲ πρὸς οὖς κ]αὶ ὁ ὑπατος κατ[ὰ] | τοῦτον τὸν νόμον γράφειν κα[θὼς ἂν αὐτῷ δοκῆ] καλῶς ἔχειν ἀξιῶσει.

H-C-R's restoration here in B 20, στρατ[ηγὸς ἀντιστράτηγος ἢ ἀνθύπατος, ᾧτινι ε]ῖς, is uncertain. It is not supported by Cnidos III 22, where the governor of Asia is styled στρατηγὸς ἀνθύπατος τε, nor by Delphi C 8, where there is no room for ἀντιστράτηγος (see below on this text). It does have the merit of filling the space available almost exactly, and the oddity of expression in the relative clause introduced by ᾧτινι would not be abnormal for these texts. However, it may be more prudent to restore στρατ[ηγὸς ἀνθύπατος τε]εῖς and abstain from guessing about the missing letters, except that it should be legitimate to insert some form of relative pronoun (e.g. ᾧ or ᾧτινι).

H-C-R think the beginning of the sentence represents the following Latin:⁴⁵ *praetor prove praetore prove consule qui in Asiam provinciam C. Mario L. Valerio coss. designatus est.* They believe that the text points to a date in "late 101, after the elections of the Consuls for 100."⁴⁶ But the idea that the dating by *C. Mario L. Valerio consulibus* could have been set down in 101, the year preceding their consulship, seems most strange. H-C-R offer no parallel to this anticipatory use of a consular date. We surely have to take the date-reference at face value. The text is talking about the person who was allotted the province of Asia in 100.⁴⁷

(8) Delphi C 8–9

Στρατ[ηγὸς ἢ ἀνθύπατος, ᾧτινι] ἢ Ἀσία ἢ Μακεδονία ἐπαρχία ἐστίν, | [ὄδ' ἐ]ν ἡμέραις δέκα ταῖς ἔγγιστα, αἷς ἂν γν[ωρίσῃ τοῦτον τ]ὸν νόμον τ[ῶι δῆμωι κεκυρῶσθαι ἐ]ν τῇ ἐκκλησίαι, ὀμνύτω ὅτι ὄς' | (etc.)

With regard to the opening phrase, the missing letters are only some eighteen. The restoration στρατ[ηγὸς ἢ ἀνθύπατος, ᾧτινι] suffices,

⁴⁵ See the discussion by H-C-R, *art.cit.* (*supra* n.1) 210 *ad loc.* Note that Stuart Jones (*art.cit.* [*supra* n.7] 160) was able to read ὑ[πάτοις] after the consuls' names in B 20.

⁴⁶ *Art.cit.* (*supra* n.1) 218.

⁴⁷ Cf. F. T. Hinrichs, *Hermes* 98 (1970) 488 n.1. Theoretically ἐγένετο could represent a future perfect (*fuert*), so that at the time of drafting the law the allocation of praetorian provinces would still lie in the future. But the person who in the text under discussion is to take the specified action surely must be the incumbent governor of Asia, a praetor of 100, shortly to become a proconsul of 99.

and it is a mistake to rectify the “accidental omission” of *ἀντιστράτηγος* as H–C–R do.⁴⁸

“The praetor or proconsul who has either Asia or Macedonia as province” is to swear the oath of obedience within ten days of *learning* of the passage of the law. At first sight this suggests that not only is there a governor of Asia in Asia at the time of promulgation of the law (see above on B 20) but there is a governor of Macedonia in Macedonia. If so, we should be able to settle the point left open in the discussion of B 27–29 and IV 6–11 on whether Didius’ successor had already taken possession of the province. But to have a province is not necessarily to be in occupation of it, so that the inference could not be pressed.

(9) C 10–13:

Ἄρχοντες, οἷτινες | [νῦ]ν εἰσιν ἐκτὸς τῶν δημάρχων καὶ ἐπάρχων, οὔτοι ἐν
 ἡμέραις πέντε [ταῖς ἔγγιστα αἰς ἂν] ὁ δῆμος τοῦτον τὸν νόμον κυρώσει, ὅσοι
 μετὰ | [ταῦτ]α ἀρχὴν ἔξουσιν ἐκτὸς ἐπάρχων, οὔτοι ἐν ἡμέραις πέντε ταῖς ἔγγιστα
 [ὁμοσάτω, αἰς ἂ]ν εἰς τὴν ἀρχὴν εἴσεται, οἷτινές τε αὐτῶν ἐν ‘Ρώμ[η] | εἰσίν.’

It is striking, and deserves to be emphasized, that this law, in imposing an oath, does not impose it on Senators, as did the Lex Appuleia Agraria of Saturninus⁴⁹ and the Lex Latina of the Tabula Bantina.⁵⁰ This is surely a very significant difference, which renders dubious the common assumption that our present law is the work of Saturninus or one of his political allies (Servilius Glaucia, according to H–C–R⁵¹). “‘Popularis’ the law undoubtedly is,” declare H–C–R. Their reasons for thinking so are flimsy.⁵² *Per contra*, the position and authority

⁴⁸ *Art.cit.* (*supra* n.1) 215 *ad loc.*

⁴⁹ App. BCiv 1.29–31.

⁵⁰ FIRA² I no.6, p.84.

⁵¹ *Art.cit.* (*supra* n.1) 219. The Fragmentum Tarentinum (*Epigraphica* 9 [1947] 3ff, revised by G. Tibiletti, *Athenaeum* 31 [1953] 38ff), has an oath for magistrates but apparently not for Senators (lines 20–23), so that in this respect it resembles our present law. Unfortunately, there is no consensus, and probably no chance of reaching one, about the character and authorship of the Tarentum fragment (identified with the *Lex Servilia Caepionis* by Tibiletti [*art.cit.*], the *Lex Servilia Glauciae* by H. B. Mattingly, the Gracchan *Lex Repetundarum* by Sherwin-White [see *JRS* 59 (1969) 129ff, 60 (1970) 154ff, 62 (1972) 83ff]).

⁵² *Art.cit.* (*supra* n.1) 219: “the absence of any trace of senatorial legates in the settlement of the area conquered by T. Didius” (why should such legates be expected?); “the imposition of specific functions on a provincial governor”; “the existence of governors ‘according to this law’”; “the definition of the main powers and duties of a governor or quaestor”; “there is also the *iusiurandum in legem*, and the law undoubtedly smacks of *satura*, despite an overall concern with Rome’s eastern provinces.” It is difficult to see anything in this

of the Senate are fully recognised in the law, which probably grew out of a *senatus consultum*.⁵³

The exemption of tribunes of the plebs (the current ones, but not their successors) from taking the oath to the law cannot be satisfactorily explained on the assumption that “all tribunes of the year were in its favour.”⁵⁴ It reflects a constitutional point, which is somewhat fortuitously known to us: *viz.*, the colleagues of the proposer of a law could not be bound to observe it.⁵⁵ This conforms with an assumption that would probably be made universally, *i.e.*, the author or authors of the law were tribunes. If my inference that the law implies a December date is correct, we should assume that it was promulgated after 10 December when new tribunes took office, to be passed in January of the next year.

To sum up, if, as appears likely, the laws of the Delphi and Cnidos inscriptions are versions of the same law, this law was promulgated shortly before the interrupted consular election was resumed in December 100. It was probably proposed by a member or members of the tribunician college of 99 (in office from 10 December 100 to 9 December 99).⁵⁶

list that could not have formed part of a *senatus consultum* before being transmuted into a *plebiscitum* (see next note). The *iusiurandum in legem* imposed on *magistrates* was probably a traditional requirement, not a recent or radical innovation (Sherwin-White, *JRS* 62 [1972] 92).

⁵³ III 12 (someone “is not to go except in accordance with a decree of the Senate”); B 14f (the consul is to make a *relatio* to the Senate, and the Senate is to decide as it thinks best according to the public interest and its own *fides*); B 15f (every magistrate and promagistrate is to see to the putting-into-effect of whatever the Senate decrees); IV 7f (*κατὰ [τοῦτον τὸν νόμον ἢ ψήφισμα ἢ συγκλήτου δόγμα*, surely demonstrating that the present law emerged out of a *senatus consultum*); IV 28 (confirming a *senatus consultum*).

⁵⁴ *Art.cit.* (*supra* n.1) 215 n.16.

⁵⁵ *Cic. Att.* 3.23.4, *Tac. Ann.* 13.11; T. Mommsen, *Römisches Staatsrecht I*³ (Leipzig 1887, repr. Graz 1952) 291 n.3.

⁵⁶ A plausible candidate for authorship (or co-authorship) of the law is M. Porcius Cato, pro-Metellan tribune in 99 (*MRR* II 2: G. V. Sumner, *The Orators in Cicero's Brutus* [Toronto 1973] 23, R-160), cousin of the M. Porcius Cato, praetor *ca* 100, mentioned in the Cnidian text. (See n.42 above). The text of the law of course presents the text of the promulgated version. If the law was passed in January 99, the name of the prior consul could now have been supplied in B 5 and III 28, for example, but no change was made, nor would one expect it. Conversely, the magistrates “who now are,” who were to take the oath within five days of the passing of the law (C 10f), would not be the same people when the law was passed in January as those who were in office when the law was promulgated in December (except for quaestors). But this is immaterial. There would be no ambiguity and no difficulty in applying the phrase “who now are” when the law was passed.

To the questions about the differences between the Cnidian and Delphic versions of the law, an answer has emerged in the course of the discussion. The law itself prescribes that copies of it should be set up in Asian cities (such as Cnidos), but does not order this for any others (such as Delphi). The Delphic version was made independently, as a fresh translation from the original Latin text, with certain omissions. Why would a separate translation be done, when there was in existence the official translation exemplified at Cnidos? There is only one sensible answer. It was done much later for the Delphi inscription, when the official version was no longer easy of access. Evidently it was less trouble to translate the text anew than to send someone to Asia to copy the translation from some monument there (if one could be found). The Latin text may have been got from the archives at Rome (which would presume that the original translation was not preserved with it). Or a copy may even have been in the private possession of a Roman noble.

The hypothesis of a later inscription at Delphi helps to explain the omission of the final part of the law from the Delphi text. The section in question contained detailed arrangements for the composition of a court to try cases of non-payment of the fines imposed by the *sanctio* of the oath. In the post-Sullan period such provisions would certainly have been obsolete, and in these circumstances their omission presented no problem. Other obsolete material could not be easily weeded out.

In default of clear knowledge of what was said in the abbreviated preamble to the Delphic document, speculation on the reason for republishing the law of 100/99 is rather hamstrung. The law is likely to have given some space to M. Antonius' triumph-earning activities in Cilicia and against the pirates (102–100), as it did to those of T. Didius in Macedonia–Thrace. It certainly gave M. Antonius a good deal to do as prior consul in 99. One might conjecture (purely *exempli gratia*) that the law was inscribed at Delphi at the time when his son M. Antonius Creticus was busy against the Mediterranean pirates a generation later (74–72/1).⁵⁷ But there may be other no less plausible occasions for the inscription.

What is the significance of the law? The date is obviously important. If it is true that the law was promulgated by conservative tribunes

⁵⁷ MRR II 101f, 108 n.2, 111, 117, 123. His presence in and around Greece in 73 is confirmed by SIG³ 748 (Gytheum).

after the fall of Glaucia and Saturninus, we can at least agree with H-C-R⁵⁸ that it had nothing to do with the provision of a great command for C. Marius. The essential purpose is clearly stated in the new text (Cnidos II 10f) as it was in the old (Delphi B 10ff): to secure the safety of the seas against the menace of the pirates. To this end Rome has, by this very law, created a new praetorian *provincia*, Cilicia (III 35-37). The arrangements about Macedonia are surely related. The troops that are not to be sent back to Macedonia (II 12ff) are probably needed for Cilicia. The bulk of the law is devoted to mobilizing resources and opinion in Roman Anatolia and the Levant to deal with the piracy problem. The new Thracian conquest of T. Didius in the Caeneic Chersonese (IV 5ff) is not unrelated, for it must surely be relevant to control of the approaches to the Thracian Bosphorus from the Black Sea coast. The whole tone of the document suggests an intent to reassure friends and subjects in the East that Rome regarded their protection and the security of the area as a primary concern. "The law itself both presupposes Roman recovery and is intended to aid it," as H-C-R⁵⁹ justly observe.

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June, 1978

⁵⁸ *Art.cit.* (*supra* n.1) 218.

⁵⁹ *Ibid.* 219. Much of what they write on this theme is to the point but is far better suited to the end of 100 than to their date, the end of 101. I am heavily indebted to Professor C. P. Jones for frequent interchange of views on the subject of this paper. (See now also A. Giovannini and E. Grzybek, *MusHelv* 35 [1978] 33ff, dating the law in 99.)