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RECONSTRUCTING REPUBLICAN ORATORY IN CASSIUS DIO'S ROMAN HISTORY

CHRISTOPHER BURDEN-STREVENS

It is an under-recognised fact that, where the source material was sufficiently rich or the occasion of a speech particularly renowned, ancient historians often used written testimonies to particular oratorical events in the composition of their own set-piece speeches. There was always room for embellishment, invention, and outright fabrication—prevalent more in the formal orations than in any other aspect of ancient historiography. But some evidently adhered to the Thucydidean principle of having their speakers catch ‘the gist’—the *ξυμπάση γνώμη*—of what was actually said in the historical moment.¹ Tacitus’ speech for the emperor Claudius, which advocates the admission of Gauls to the Senate, is by far the most famous example of this.² We know from a lacunose transcript of the emperor’s speech etched in bronze (the Lyons Tablet) that Claudius did indeed speak on this theme before the Senate in AD 48, and we also know what he said.³ It is clear from the parallels between Tacitus and the Lyons Tablet that the *Annales* preserved the main elements of Claudius’ argument for the enfranchisement of Gauls but packaged these in Tacitus’ own (inauthentic) style.⁴ Half a century or so later, the Greek historian Arrian adopted a similar practice, but on a more impressive scale: the many speeches and dialogues of Alexander and his associates in the *Indica* and *Anabasis* seem to have ultimately derived from the accounts of eyewitness contemporaries of Alexander’s campaigns (Nearchus), or from slightly later writers using reports of these in the contemporary *Royal Journal* (Aristobulus, Ptolemy). Like Tacitus, Arrian appears to have drawn the essential outline of what was said from an eyewitness or contemporary source, and then refashioned this into a new oration with his own rhetorical packaging.⁵

This kind of ‘reconstructed’ oratory, dependent upon hard evidence for an original act of speech, is interesting in its own right in terms of historiographical praxis; but it also possesses great potential for Roman historians in search of new sources of evidence for the public speech of the Late Republic. One such source is Cassius Dio’s eighty-book *Roman*

¹ Thuc. 1.22.1.

² Tac. Ann. 11.23–24

³ CIL 13.1668.

⁴ Cf. Miller 1956 for summaries of the older scholarship, and Griffin 1982 and 1990: 484–5 for discussion of the content.

⁵ For the full discussion, see Hammond 1999. See also Brunt 1983: 529.

History—one of our richest and most important accounts of the period from 69 BC to the end of Augustus’ reign. At first glance it seems an unlikely, if not unreliable witness to the oratory of the Late Republic. By the time of its composition in the third century AD, genuine deliberative oratory had long ceased to exist, replaced by the declamatory *meletē*. Cassius Dio’s speeches, like his history as a whole, were composed in a polished Attic indebted to the style of Demosthenes and Thucydides⁶—a fact which has led scholars, quite wrongly, to assume that the formal orations have more to do with Plato’s Athens than Cicero’s Rome.⁷ Moreover, the Hellenic cultural landscape within which the historian worked, the so-called Second Sophistic, distanced him from the Republic in intellectual as well as temporal terms.⁸ Scholars have consequently been reluctant to accept that Dio used Latin texts of the first century BC as source material for his own speeches.⁹ Even Dio’s hostile handling of Cicero has been called a ‘complete failure’, explained away by his (merely hypothetical) dependence upon anti-Ciceronian Greek rhetors of the Imperial period,¹⁰ rather than by a genuine familiarity with the orator’s work. These assumptions have exerted a paralytic effect upon attempts to revisit the Roman History as a useful source of information on Republican oratory. We have been led to assume that, when a statesman speaks in Dio’s history, his words are pure invention and have little relationship with the actual tenor of public debate in that period. This scepticism persists today.¹¹

In fact, such scepticism is over-conservative and closes off a potentially fruitful source on Late Republican oratory and its reception. Two sets of debates in Dio’s text raise new and important questions not only concerning its usefulness as a source for public speech, but also about the role played by contemporary rhetorical material in historiographical speeches more generally. The first is the tripartite debate between Pompeius, A. Gabinius, and Q. Lutatius Catulus on the *lex Gabinia* of 67 BC (36.25–36a). The second is the ‘Philippic’ and ‘anti-Philippic’ exchange of Cicero and Q. Fufius Calenus, set in the dramatic context of the Senate meeting of 1–3 January 43 BC (45.18–46.28). The similarity of these speeches in Dio to Cicero’s *De imperio Cn. Pompei* and *Philippics* has long been

⁶ Received critically: Melber 1891: 290–7; Litsch 1893; Kyhnitzsch 1894; Vlachos 1905; Millar 1964: 42; Manuwald 1979: 280–4; Aalders 1986: 294; Lintott 1997: 2499–500; Rodgers 2008: 313–18. For Dio’s (self-confessed) cultivation of Attic, cf. Cass. Dio 55.12.4–5; Swain 1996.

⁷ Greenhalgh 1980: 81; McKechnie 1981.

⁸ So Millar 1964: 174; Reardon 1971: 206; Reinhold 1988: 11; Gowing 1992: 290; Sidebottom 2007: 77.

⁹ For a few examples, cf. Heimbach 1878: 29; Haupt 1884: 689–93; Zieliński 1912³: 280–8; Millar 1961: 15; Millar 1964: 81; Fechner 1986: 44 n. 35; Gowing 1992: 227–8, 239; Rodgers 2008: 296.

¹⁰ Millar 1964: 55; initially Haupt 1884: 689–93 and Zieliński 1912³: 280–8.

¹¹ Most recently Rodgers 2008; Fomin 2015; Fomin 2016.

recognised.¹² But a bare list or table of the parallels between these texts will not suffice. Rather, what is lacking is a fuller rhetorical analysis of these discourses in relation to their sources (which the *De imperio* and *Philippics* certainly were) and an assessment of the implications of such an analysis for our potential use of Cassius Dio and later Greek historians as legitimate sources of evidence for public speech in the Late Republic.

The aims of this chapter are threefold. Firstly, it seeks to show that Cassius Dio drew directly from Cicero in these debates, not only constructing the ‘Ciceronian’ case in each instance, but also reconstructing the opposing case from quotations and testimonies found in his sources. We do not need to suppose the use of lost intermediary texts (if so, which?) of Greek rhetors of the Imperial period (if so, who?).¹³ The historian refashioned two Ciceronian *suasoriae*—the *De imperio* and the *Second Philippic*—into two sets of *controversiae*, producing five speeches which were attempts at a faithful reproduction of the arguments used by both sides of the debate. This fact alone would be striking, and would demonstrate more sophistication than we see in Tacitus and Arrian. But a further aim is to demonstrate that Dio’s ‘versions’ of these Ciceronian speeches reflect the overall rhetorical strategy of their models. Cassius Dio preserved the rhetorical figures and turns of phrase used by Cicero to make specific arguments, and retained these *in situ*, underlining the particular point that they emphasised in the original. He also seems to have attempted to mirror the overall structure of his sources by replicating the original sequence of their argumentation, and characterised his speakers in these debates in a manner consonant with testimonies to their oratory found in contemporary sources. This is particularly surprising for an ancient historian, and suggests that Dio endeavoured to capture the genuine character of Republican debate to an extent not hitherto recognised. Third and finally, this chapter will reflect—albeit only speculatively—on the implications of this material for our use of Dio and other Imperial Greek historians as potential sources for otherwise lost oratorical traditions from the Late Republic.

THE INTELLECTUAL CONTEXT

Before comparing these speeches in the *Roman History* with their source material, it will be worthwhile to set out briefly what we know of the resources on which the historian could draw. First and most importantly, it is clear that Dio had the ability and the desire to read

¹² Fischer 1870: 1–28; van Ooteghem 1954: 170 n. 1; Millar 1964: 54; Stekelenburg 1971: 80; Fechner 1986: 64; Gowing 1992: 238 n. 34; Rodgers 2008: 308–12; Kemezis 2014: 113 n. 53; Montecalvo 2014: 25–47; Coudry forthcoming.

¹³ So Haupt 1884: 689–93 and Zieliński 1912³: 280–8.

Cicero and other Latin texts without intermediary assistance. Peculiarly omitted from an otherwise comprehensive list of Greek authors who knew Latin compiled in one study,¹⁴ Dio nevertheless advertises his bilingualism repeatedly: by explaining Latin etymologies,¹⁵ by choosing to use Roman rather than Greek place-names—which probably emerged from his long career in the provincial administration—,¹⁶ and by rationalising Latin terms.¹⁷ Frequently, Dio simply transliterates Latin institutional vocabulary into Greek.¹⁸ Of course he was not the first to do so, but it is hardly sensible to assume that this emerges from Dio’s ignorance of Roman institutional vocabulary or his inability to understand it: the historian was the son of a Roman senator and consul, drawn from a family who may have held the citizenship since Nero’s time,¹⁹ and was himself twice a consul and a senator for forty years.²⁰ Dio belonged to a long tradition of Greek historians of Rome who read and appreciated Latin;²¹ furthermore, he makes reference to Roman literature in terms which suggest familiarity.²²

Secondly, we have reasonable clues that the texts under discussion here were in circulation around Dio’s time. The continuing popularity of the *De imperio* is confirmed by a letter from the rhetorician Fronto to his pupil Marcus Aurelius, which was originally sent with a copy of the oration,²³ and it was read long after the Severan period.²⁴ Equally, other Ciceronian texts, such as the letters, were available and popular in elite circles before and after Dio’s day. There will be more to say on the subject of the survival of such material via historians later. Fundamentally, as curator of the eastern intellectual hubs of Pergamum and Smyrna, and as an imperial *amicus* and comes in Rome and Nicomedia, Dio was naturally

¹⁴ Rochette 1997: 229–248.

¹⁵ Cass. Dio 41.49.3, 46.55.5, 48.12.5, 49.36.4–5.

¹⁶ n. 10 above, with Swain 1996: 403 and Burden-Strevens 2015: 290–6.

¹⁷ Cass. Dio 53.18.1, 55.3.4–5. On Dio’s Latin, see further Millar 2005: 32–3; Burden-Strevens 2016: 39–44.

¹⁸ Vrind 1923: 22f.; also Millar 1964: 40–2. For Dio and Attic equivalents for such terms see Aalders 1986: 295–7; Freyburger-Galland 1997; Jones forthcoming.

¹⁹ Millar 1964: 8–9 with nn. for the discussion.

²⁰ For Dio’s life and career, cf. Millar 1964: 5–27. Dio’s father was governor of Dalmatia (Cass. Dio 69.1.3) as well as legatus of Cilicia (69.1.3, 73[72].7.2); he may also have obtained the consulship (IGRR 3.654). Cassius Dio himself was probably praetor in AD 194 (74[73].12.2) and held his second consulship in AD 229 (80[79].5.1). For a prosopography of both, cf. PIR² C 413 and PIR² C 492. The dates of Dio’s first consulship and other provincial commands are unclear: for this debate cf. Schwartz 1899: 1684–6; Vrind 1923: 163–8; Gabba 1955: 289–301; Eisman 1977: 657–73; Reinhold 1988: 1–4; Swan 2004: 1–3.

²¹ Dion. Hal. Ant. Rom. 1.4.2–3, 1.7.2–3; Plut. Dem. 2.2–4; Diod. Sic. 1.4.4.

²² Cass. Dio 43.9.3 (on Sallust), 44.35.3 (on the *Res Gestae*), 76[75].10.2 (on Virgil). However, translations of Virgil and Sallust were of course available in the first and second centuries AD respectively (cf. Suda Z 73), and the *Res Gestae* had always had a bilingual history.

²³ MacCormack 2013: 252; Montecalvo 2014: 46.

²⁴ MacCormack 2013: 264–5; Montecalvo 2014: 45.

well-placed to capitalise upon the opportunities offered to a bookish historian of Rome by the literary circles of the imperial court.²⁵

The circumstances under which Cassius Dio wrote ideally placed him to acquire and read Latin rhetorical material from the Late Republic. He never states outright that he was aware of the *De imperio*, the *Philippics*, or the letters as published artefacts, but this is implicit. Dio certainly knew that Cicero delivered a speech in support of the *lex Manilia* of 66 BC (the *De imperio*) and says so.²⁶ It is not too speculative to suggest that he was aware of the *Philippics*, since he depicts them in the polemic between Cicero and Calenus in Books 45–46. He also seems to have known of Cicero’s letters, as casual references to them in that polemic show.²⁷ A response of Marcus Aurelius to Fronto confirms that the letters continued to be appreciated in the second century,²⁸ as indeed they had been by Quintilian and Seneca.²⁹ Nor was the appreciation of Cicero’s letters restricted merely to rhetoricians or students of rhetoric as such: Ammianus Marcellinus quotes a letter of Cicero to Nepos in his history which does not survive elsewhere.³⁰ The above instances do not, however, confirm an effective knowledge of these texts, but merely demonstrate its possibility. For evidence of the influence which contemporary Republican sources had upon Cassius Dio’s presentation of oratory in the first century BC, we must turn to the speeches themselves.

RECONSTRUCTING PRAISE AND BLAME: DIO & CICERO’S SPEECHES

We begin with the speeches of Pompeius, the tribune A. Gabinius, and the consular Q. Lutatius Catulus on the *lex Gabinia*—the controversial innovation of 67 BC, which granted Pompeius an extraordinary command over the Mediterranean to combat piracy.³¹ Scholars have long recognised that much of the content of these orations ultimately derives from the *De imperio*, but they have been averse to positing direct use of Cicero on Dio’s part. Older scholarship insisted that since the historian must have ‘followed’ Book 5 of Sallust’s *Historiae* for the narrative of that year, he cannot have used Cicero for the speeches but simply acquired them by way of Sallust’s own refashioning of them.³² This is begging the

²⁵ For Dio and the intellectual life of the court, see most recently Jones (2016).

²⁶ Cass. Dio 36.43.2.

²⁷ Cass. Dio 46.8.1, 46.18.4.

²⁸ Haines 1919: 1.100.

²⁹ Gowing 2013: 239–50.

³⁰ Amm. Marc. 21.16.13.

³¹ For the scope of Pompeius’ imperium, cf. Jameson 1970; Ferrary 2007.

³² So Grasshof 1867: 39–41; Haupt 1882: 143; Gelzer 1943: 34.

question: only twenty short fragments from Sallust's account of 67 BC survive, and we can only guess the precise referents of those which seem to pertain to the lex Gabinia debate (5.20–4M).³³ More recent work has been sceptical of the possibility that Dio used Cicero directly,³⁴ and Montecalvo, who shows that there is a significant burden of proof required to propose a source other than (ultimately) Cicero, avoids positing a direct relationship.³⁵ In general, current scholarship either merely notes that the texts of Dio and Cicero are so similar as to suggest a source relationship (with directness unaddressed),³⁶ or provide only a list of parallels in content.³⁷ What has been left unanswered is the extent to which the historian modelled, rhetorically, this occasion of oratory around his readings in and understanding of the contemporary Republican evidence, and used the *De imperio* as a source not only for the 'Ciceronian' side of the argument, but also for the opposite side, reconstructed from testimonies in his source text. In fact, Dio's method with the lex Gabinia speeches can be paralleled elsewhere in his history and in other historians.

Before comparing the texts, a note on chronology must be dealt with. Cicero delivered the *De imperio* not in 67 BC to advocate the lex Gabinia, but in 66 BC to support the lex Manilia. Dio was probably aware of this, since he mentions that Cicero, as well as Caesar, spoke in support of the latter law.³⁸ The historian thus transposed Cicero's arguments to a different law, date, and speakers. But the situations were analogous. In Dio, Gabinius and Pompeius assume Cicero's role in advocating Pompeius' power, while his Catulus represents the 'historical' opposition. On the one hand, the similarity of the two contexts explains this choice. Both laws were controversial grants of power proposed by Pompeian tribunes: as such, to Dio both Gabinius and Cicero played parallel roles in the same period. On the other, the *De imperio* was probably the only extensive material Dio could find that pertained to either law, and their temporal contiguity (67/66 BC) readily suggested their conflation.

³³ Sall. Hist. 5.20–24M:

[20] quibus de causis Sullam dictatorem uni sibi descendere equo, assurgere sella, caput aperire solitum (uncertain).

[21] [speciem et] celebritatem nominis intellego timentem (= Cass. Dio 36.27.1 or 36.33.3, possibly Gabinius in praise of Pompeius' 'aversion' to further positions of authority, or Catulus on the unpopularity of a dictatorship to resolve the crisis).

[22] video ingentia dona quaesitum properantem (perhaps Catulus describing Pompeius' ambition).

[23] sane bonus ea tempestate contra pericula et ambitionem (= Cass. Dio 36.30.5, describing Catulus?).

[24] nam si in Pompeio quid humani euenisset (= Cass. Dio 36.36a; also Vell. Pat. 2.32.1–3; Val. Max. 8.15.9; Plut. Pomp. 25.10; surely a well-attested admonishment of Catulus against the law).

³⁴ Fechner 1986: 44 n. 35: 'ob man deshalb auf eine direkte Benutzung Ciceros durch Dio für diese Stelle schließen darf, ist fraglich.'

³⁵ Montecalvo 2014: 25–47.

³⁶ Kemezis 2014: 113 n. 53; Coudry forthcoming.

³⁷ van Ooteghem 1954: 170 n. 1; Rodgers 2008: 308–12; Montecalvo 2014: 25–47.

³⁸ Cass. Dio 36.43.2.

Rather than treat both laws at length, Dio thus collapsed two examples of the same problem into a single vignette, and explored this problem when it first arose in the historical narrative. This explains the brevity of Dio's treatment of the *lex Manilia*, which he viewed (reductively) as a simple parallel to the scenario of 67 BC (Cass. Dio 36.42–43).

This kind of distortion seems peculiar, but it can be found throughout ancient historiography. In the *Bellum Catilinae*, to give only one example, Sallust provides Catilina with a single speech in the Senate meeting of 8 November 63 BC, during which Catiline, after Sallust's rendering of Cicero's First Catilinarian, makes his defence to vigorous senatorial opposition (*obstreperare omnes*), and closes with the (in)famous threat, '*incendium meum ruina restinguam*' (Sall. Cat. 31.5–9). In fact, Catilina spoke at two separate Senate meetings. According to the *Pro Murena*, the apology and the hostile reaction (*congemuit senatus*) occurred on 8 November after Cicero's speech; but Catilina threatened *ruina* several days previously, in response to Cato's move to prosecute him (Cic. Mur. 51). Presumably this collapsing of Catilina's two speeches into one was the historian's own work. Dio, as we shall see later, took similar liberties elsewhere in his history, too: his 'Philippic' of Cicero (45.18–47) is set in the context of the Fifth Philippic—the Senate meeting of 1–3 January 43 BC—but with the addressee of the Eighth Philippic, Calenus. Like Sallust, Cassius Dio took certain liberties to compress the maximum amount of information about the debates on an issue into the minimum amount of space.

On to Dio's *lex Gabinia*. Dio begins with Pompeius' short *recusatio imperii* (36.25–26), a calculated attempt to acquire the proposed honour of the *lex Gabinia* by appearing to accept it only under compulsion. Pompeius' oration in the *contio* opens with a short and wholly commonplace *captatio benevolentiae* that has no relation to the *De imperio*. The central argument that follows, however, is much indebted to Cicero's own:

αὐτός τε γὰρ ἐκ παίδων κέκμηκα, καὶ ὑμᾶς δεῖ καὶ περὶ τοὺς ἄλλους σπουδάζειν. ἢ οὐ μέμνησθε ὅσα μὲν ἐν τῷ πρὸς τὸν Κίνναν πολέμῳ ἐταλαιπώρησα, καίτοι κομιδῇ νέος ὢν, ὅσα δὲ ἐν τῇ Σικελίᾳ καὶ ἐν τῇ Ἀφρικῇ ἔκαμον, μηδέπω καθαρῶς ἐς ἐφήβους τελῶν, ὅσα δὲ ἐν τῇ Ἰβηρίᾳ ἐκινδύνευσα, μηδὲ βουλευῶν πω; ἐφ' οἷς ἅπασιν οὐχ ὅτι ἀχάριστοι πρὸς με ἐγένεσθε ἐρῶ. πόθεν; πολλοῦ γε καὶ δεῖ· πρὸς γὰρ τοῖς ἄλλοις ὢν πολλῶν καὶ μεγάλων παρ' ὑμῶν ἠξιώθην, καὶ αὐτὸ τὸ πιστευθῆναί με τὴν ἐπὶ τὸν Σερτώριον στρατηγίαν, μηδενὸς ἄλλου μῆτ' ἐθελήσαντος μῆτε δυνηθέντος αὐτὴν ὑποστῆναι, τό τε ἐπινίκια καὶ ἐπ' ἐκείνῃ παρὰ τὸ νεομισμένον πέμψαι μεγίστην μοι τιμὴν ἤνεγκεν. ἀλλ' ὅτι πολλὰς μὲν φροντίδας πολλοὺς δὲ κινδύνους ὑπέμεινα, κατατέτριμμαι μὲν τὸ σῶμα . . .

Cass. Dio 36.25.1–4

For I have toiled since my infancy, and you ought to be favouring others as well. Or do you not recall how much hardship I endured in the war against Cinna even though I was just a youth? Or how I exerted myself in Sicily and in Africa, even though I had not yet come of age? Or how many risks I ran in Spain, although not yet a senator? I will not say that you have been ungrateful to me for these services. Why would I? Quite the opposite. For in addition to the many and great other benefits of which you have deemed me worthy, the greatest distinction was conferred upon me by your choice to entrust me with the war against Sertorius—when there was no one else willing or able to undertake it—and by your choice to give me a triumph for that campaign, contrary to custom. But as I have endured many anxieties and many hardships, I am worn away in body . . .

quid tam nouum quam adolescentulum priuatum exercitum difficili rei publicae tempore conficere? confecit. huic praeesse? praefuit. rem optime ductu suo gerere? gessit. quid tam praeter consuetudinem quam homini peradulescenti cuius aetas a senatorio gradu longe abesset imperium atque exercitum dari, Siciliam permitti atque Africam bellum que in ea prouincia administrandum? fuit in his prouinciis singulari innocentia, grauitate, uirtute, bellum in Africa maximum confecit, uictorem exercitum deportauit. quid uero tam inauditum quam equitem Romanum . . . triumphare? . . . quid tam inusitatum quam ut, cum duo consules clarissimi fortissimique essent, eques Romanus ad bellum maximum formidolosissimumque pro consule mitteretur? missus est.

Cic. De imp. Cn. Pomp. 61–2

What could be so novel as for a little stripling of a private citizen to enlist an army in a time of difficulty for the Republic? He enlisted it. To command it? He commanded it. To conduct the whole affair excellently under his own leadership? He conducted it. What could be so uncustomary as to give imperium and an army to a mere lad, whose youth still kept him far away from senatorial rank? To have Sicily and Africa entrusted to him and the war to be carried out there, too? In these provinces he conducted himself with singular trustworthiness, distinction, and valour. What, truly, could be so unheard of as for a Roman eques to triumph? . . . What was ever so unusual as a situation in which, when there were already two highly distinguished and brave consuls, a Roman eques should be sent as proconsul to a most important and formidable war? He was sent.

The similarities between these passages require examination in detail.³⁹ It is clear that Dio modelled his Pompeius around the *De imperio* not only in the arguments used—which are successive, proceeding in the Ciceronian order—but in much of the rhetorical strategy

³⁹ Pace van Ooteghem 1954: 170 n. 1; Rodgers 2008: 308–9; Montecalvo 2014: 34–5.

pursued. Both adopt a string of anaphora in ὅσα and quid, particularly emphasised in the first half of their speeches during the parallel exposition of Pompeius' youthful exceptionality. This leads to Pompeius' unprecedented command in Hispania against Sertorius, though not yet of senatorial rank, in the middle of both arguments. The enumeration of Pompeius' youthful commands is also provided chronologically in each. While this is hardly a telling similarity in itself, the additional detail both provide certainly is: assuming that *difficili rei publicae tempore* denotes the Sullan civil wars, both texts move from the early 80s to Sicily, Africa, and then Sertorius, with an identical note in both at this stage on the unprecedented equestrian triumph. Closing with Sertorius, each also refers obliquely to the failure of Metellus Pius in Hispania when Pompeius was awarded proconsular imperium there in 78 BC.⁴⁰ There is a possibility that Dio's version mirrors Cicero's use of brachylogy with the sudden interjection *πόθεν; πολλοῦ γε καὶ δεῖ* in otherwise lengthy clauses (so *confecit, gessit, etc.*), although this is less conclusive. Finally, Pompeius' closing exhortation to the Quirites to elect someone else, 'since surely I am not the only man with military experience . . . not to seem to favour anyone by naming names', mirrors Cicero's phrasing earlier in the *De imperio* (*ego autem nomino neminem; qua re irasci mihi nemo poterit*).⁴¹

Of equal interest for our purposes is the degree to which Dio captures Pompeius' persona as a Republican orator. Whether Pompeius actually spoke in the contio before the vote on the *lex Gabinia* is unclear. Certainly Dio thought so, although Plutarch writes that he only made a public address the day after.⁴² Appian wrongly omits the debate altogether.⁴³ Probably the dynast spoke at some point in connection with the law. Be that as it may, much of what we know about Pompeius' oratory is represented here. The *recusatio imperii* was a favoured Pompeian tactic,⁴⁴ especially in the contio, where he could compensate for his rather average oratorical ability by making direct appeals to the people and advertising his military achievements.⁴⁵ This oratorical profile—the *dissimulatio*, the popular appeal in the contio, the enumeration of military services—are all present in Dio's speech. What we appear to have is a conscious choice on the historian's part to align a speech of his own composition, supporting Pompeius' extraordinary power in the 60s, with the contemporary evidence for the

⁴⁰ Sall. Hist. 1.77.22M; Plut. Pomp. 17. Cf. Cic. Phil. 11.18: *quia consules recusabant*.

⁴¹ Cass. Dio 36.26.4; Cic. De imp. Cn. Pomp. 37; first observed by Montecalvo 2014: 32.

⁴² Plut. Pomp. 26. Dio and Plutarch also differ on the chronology: probably wrongly, Dio collapses the debate and the vote into a single day—in Plutarch they take two—but see earlier for the Sallustian precedent (Sall. Cat. 31.5–9).

⁴³ App. Mith. 94.

⁴⁴ Vervaeke 2010; also Rich 2010.

⁴⁵ On this point Blom 2011 is especially important.

arguments used in a similar historical situation, and with such testimonies of the speaker's oratorical style as he was able to find.⁴⁶ As we shall see, this is not the only occasion on which Dio seems to have aimed to capture a Republican orator's idiolect.

The exhortation of Gabinius that follows this recusatio provides more ample evidence of Dio's direct use of the *De imperio*. The parallels in argumentative and rhetorical strategy are more numerous, and Gabinius' role in 67 BC is clearer: he certainly spoke in contione in support of his own law (Cic. *Red. sen.* 11). The extent to which Cassius Dio captures the tribune's oratorical persona is more complex, since fewer testimonies survive. Cicero is biased, although there may be some truth in his assertion that, like Pompeius, Gabinius was not naturally quick on his feet as a speaker, nor adept in the courts (Cic. *Q Fr.* 3.2.2–3 [SB 22], 3.4.3 [SB 24]). Cicero's account of the tribune's performance in the contio in 58 BC, mocking his attempt to affect *grauitas* to mask his drunkenness, is perhaps more exaggeration than barefaced lie (Cic. *Red. sen.* 13). None of this translates to the rogatio of Dio's Gabinius: it is a composed and artificial piece of eloquence.

What Dio does take from the 'Ciceronian' profile of Gabinius is his character. Cicero describes him as a turbulent tribune, who proposed commands for Pompeius out of partisanship, and as a corrupt demagogue (Cic. *Red. sen.* 10, 12; *Sest.* 18, 28–29; also *Plut. Pomp.* 25.6–7; *Val. Max.* 8.1.abs.3). This is fully replicated in Dio's account: Gabinius is characterised as a reprobate who colluded with Pompeius, advocating the *lex Gabinia* in the pursuit of selfish interests over the public good. In keeping with that persona, Gabinius strikes a falsely patriotic tone after his proemium that is simply too similar to the *De imperio* to be coincidental:

⁴⁶ Pace Millar 1961: 15 n. 46.

βουλοίμην μὲν γὰρ ἂν πολλοὺς ὑμῖν ἀγαθοὺς ἄνδρας εἶναι, καὶ εἶγε καὶ εὐξασθαι δεῖ, εὐξαιίμην ἂν· ἐπεὶ δ' οὐτ' εὐχῆς τὸ πρᾶγμα τοῦτό ἐστιν οὐτ' αὐτόματόν τῳ παραγίγνεται, ἀλλὰ δεῖ καὶ φῦναί τινα πρὸς αὐτὸ ἐπιτηδεῖως, καὶ μαθεῖν τὰ πρόσφορα, καὶ ἀσκῆσαι τὰ προσήκοντα, καὶ παρὰ πάντα ἀγαθῆ τύχῃ χρῆσθαι, ἅπερ πού σπανιώτατα ἂν τῳ αὐτῷ ἀνδρὶ συμβαίῃ, χρῆ πάντας ὑμᾶς ὁμοθυμαδόν, ὅταν τις τοιοῦτος εὔρεθῆ, καὶ σπουδάζειν αὐτὸν καὶ καταχρῆσθαι αὐτῷ, κἂν μὴ βούληται. καλλίστη γὰρ ἡ τοιαύτη βία καὶ τῳ ποιήσαντι καὶ τῳ παθόντι γίγνεται
...

Cass. Dio 36.27.5–6

For I would wish that you had many good men, and if it were necessary to pray for it, then that is what I would do. But since that blessing is not a praying matter and does not come of its own accord to anyone, but rather requires that one be naturally inclined to it, and learn what is relevant, and practice what is required, and above all must enjoy felicitas—all of which I suppose very seldom occur in the same one man—you must, therefore, all cleave to him with one accord, and make use of him, whenever such a man is found—even if he himself does not wish it. For this form of compulsion is the finest that can occur to him who employs it, and to him who suffers it . . .

utinam, Quirites, uirorum fortium atque innocentium copiam tantam haberetis ut haec uobis deliberatio difficilis esset quemnam potissimum tantis rebus ac tanto bello praeficiendum putaretis! nunc uero cum sit unus Cn. Pompeius qui non modo eorum hominum qui nunc sunt gloriam sed etiam antiquitatis memoriam uirtute superarit, quae res est quae cuiusquam animum in hac causa dubium facere possit? ego enim sic existimo, in summo imperatore quattuor has res inesse oportere, scientiam rei militaris, uirtutem, auctoritatem, felicitatem.

Cic. De imp. Cn. Pomp. 27–8

I wish, citizens, that you had such a great abundance of brave and honest men that the choice of who you thought most suitable to set at the head of such momentous affairs and so great a war were a difficult one! But since at this time there is this one Gnaeus Pompeius, who has surpassed not only the glory of those men now living but even the recollection of our history, what is there that can make anyone's mind doubtful in this case? For I think that the greatest general must have the following four qualities: a knowledge of military affairs, valour, authority, and felicitas.

Several points are of interest here. Both advertisements of Pompeius' virtues begin with *aporia*, expressed in βουλοίμην ἂν and *utinam*, and wish that Rome had more men of Pompeius' calibre. It is striking that both arguments open with the same rhetorical figure before moving on to stress the exceptionality of Pompeius alone, in roughly the middle of the thought. Moreover, the point that follows in both Dio and Cicero concludes that no one should hesitate to make use of such a character when he is available to the *res publica*. The argument of Dio's Gabinius, that all of the virtues of the ideal leader are present in τῳ αὐτῷ ἀνδρὶ, is of course the main thrust of De imp. Cn. Pomp. 28–49 as a whole, but it is notable that ἀγαθῆ τύχῃ or *felicitas* features in both passages: Pompeius' *felicitas*, praised throughout Cicero's speech (9, 28, 47, 48), rightly found its way into Dio's oration. It may be a simple coincidence that the qualities of the ideal general in Gabinius' speech number four, in

polysyndeton (δεῖ καὶ φῶναί . . . καὶ μαθεῖν . . . καὶ ἀσκήσαι . . . καὶ χρῆσθαι), mirroring the asyndetic group of four virtues in Cicero (scientiam rei militaris, uirtutem, auctoritatem, felicitatem). What is clear, in any case, is that the arguments adduced by Dio’s Gabinius in 67 BC are a close match for those we recognise from Cicero in the debate of the following year.

After a short bridging sentence, Gabinius’ rogatio proceeds to its next point. As with the previous passage, what Dio produces appears again to be a compression of Ciceronian arguments made in 66 BC, again preserving the rhetorical strategies originally employed:

ἀλλ’ ὃν ἔφηβον ὄντα ἄρχειν εἴλεσθε, τοῦτον ἄνδρα γεγονότα ἀποδοκιμάσετε; καὶ ὧ ἱππεῖ ἔτ’ ὄντι τοὺς πολέμους ἐκείνους ἐνεχειρίσατε, τούτῳ βουλῆς γεγονότι τὴν στρατείαν ταύτην οὐ πιστεύετε; καὶ οὗ καὶ πρὶν ἀκριβῶς πειραθῆναι, μόνου πρὸς τὰ τότε κατεπέιξαντα ὑμᾶς ἐδεήθητε, τούτῳ νῦν, ἰκανώτατα αὐτοῦ πεπειραμένοι, τὰ παρόντα οὐδὲν ἦττον ἐκείνων ἀναγκαῖα ὄντα οὐκ ἐπιτρέψετε; καὶ ὃν οὐδὲ ἄρχειν ἔτι πω καὶ τότε δυνάμενον ἐπὶ τὸν Σερτώριον ἐχειροτονήσατε, τοῦτον ὑπατευκότα ἤδη ἐπὶ τοὺς καταποντιστάς οὐκ ἐκπέμψετε;

Cass. Dio 36.28.2–3

qui e ludo atque e pueritiae disciplinis bello maximo atque acerrimis hostibus ad patris exercitum atque in militiae disciplinam profectus est, qui extrema pueritia miles in exercitu summi fuit imperatoris, ineunte adulescentia maximi ipse exercitus imperator, qui saepius cum hoste conflixit quam quisquam cum inimico concertauit, plura bella gessit quam ceteri legerunt, pluris prouincias confecit quam alii concupiuerunt, cuius adulescentia ad scientiam rei militaris non alienis praeceptis sed suis imperiis, non offensionibus belli sed uictoriis, non stipendiis sed triumphis est erudita.

Cic. De imp. Cn. Pomp. 28

But he, whom you chose to command as a youth, you will reject now that he’s a grown man? He, to whom as an eques you entrusted those wars, you will not entrust this campaign now that he’s a senator? Of him who alone you had need for the emergencies back then before putting him properly to the test, will you not now entrust this, an emergency no smaller than those ones, now that you have more than sufficiently tested him? And he, whom you engaged against Sertorius when not yet able to hold a magistracy, you will not now send against the pirates now that he’s a consular?

Who set out from school and juvenile education for his father’s army and the discipline of the camp in the midst of the greatest war and fiercest foes; who became the soldier of the greatest general when in the height of boyhood, then himself became the general of a great army upon attaining adolescence; who fought with the enemy more often than any other, waged more wars than others have even read about, subdued more provinces than others have dreamed of; whose youth was trained to military matters not by another’s precepts, but by his own commands.

In both excerpts the rhetorical technique deployed is anaphora in the relative pronouns ὃς and qui, in a tetracolon in both instances. The repetition of the pronouns is also matched by some polyptoton (ὄν, ὧ, οὗ, ὄν; qui, cuius). It seems an unusual coincidence that in each case the repetition and case-variation of the pronoun should occur in the same argumentative thought, where Gabinius and Cicero focus on the exceptionality of Pompeius’ career in his youth—a

development of the argument of Pompeius' *recusatio* found also in Cicero. The progression of the argument between these passages and those that preceded it (quoted above) is also broadly consonant: just under half of Dio's rogatio of Gabinius (36.27.5–28.3) is modelled closely on sections 27–28 of Cicero's speech, and adduces specific arguments and rhetorical figures in the order in which they occurred there.

Cicero additionally appealed to Roman self-interest in his advocacy of the *lex Manilia*, an appeal that Dio's speech of Gabinius again repeats. Citing the precedent of Pompeius' earlier successes, Cicero assured the Quirites that none could doubt 'quam facile imperio atque exercitu socios et uectigalia conseruaturus sit.'⁴⁷ Similarly, Dio's Gabinius lauds the general's proven ability 'τὰ ὑμέτερα αὐξεν καὶ τὰ τῶν συμμάχων σώζειν τὰ τε τῶν ἀνθισταμένων προσκτᾶσθαι' in previous commands.⁴⁸ This focus on Pompeius' capacity to preserve and maintain Rome's allies and revenues is the last of five points—including the general's *felicitas*, his uniqueness, the imperative to support him unanimously, and the glory of his career even from youth—advanced in Pompeius' favour by Cicero in 66 BC. All five are reproduced by Cassius Dio in the rogatio of 67 BC.

Of course there is an irony in having Gabinius, of all people, play the part of Cicero: his distaste for the tribune was marked.⁴⁹ Dio's dislike of Cicero himself was equally strong: in a long tirade he describes the orator as 'the greatest boaster of all men alive . . . boorish and hateful, and as such envied and despised even by those he had once pleased'.⁵⁰ Perhaps the historian was playing with Cicero by placing his arguments and language into the mouth of someone he vigorously opposed. Sallust has Catilina harangue his supporters with the phrase 'quae quo usque tandem patiemini, o fortissimi uiri?'—an ironic refashioning of the opening of the First Catilinarian.⁵¹ Possibly Dio was enjoying a similar *jeu d'esprit*. But the lengthy speech of Catulus against the *lex Gabinia* that closes the debate suggests otherwise. It shows that Dio's principal concern was to give a snapshot of the actual character of the debate surrounding the issue of Pompeius' power in the 60s: Gabinius as rogator could not be eclipsed from the discussion, and Cicero simply provided the best evidence for the sort of content that might be appropriate.

⁴⁷ Cic. *De imp. Cn. Pomp.* 45.

⁴⁸ Cass. Dio 36.28.1.

⁴⁹ cf. nn. 51–3.

⁵⁰ Cass. Dio 38.12.4–7.

⁵¹ Sall. *Cat.* 20.9 with Cic. *Cat.* 1.1: quo usque tandem abutere, Catilina, patientia nostra?

Whether the historical Catulus actually spoke is unclear. We know that both Catulus and Hortensius publicly opposed the *lex Manilia*,⁵² and that Hortensius spoke against Gabinius' proposal a year earlier.⁵³ But Barbara Rodgers argues that all historians, including Dio, were wrong in giving Catulus a public role in the debates of 67 BC.⁵⁴ Although Cicero in the *De imperio* mentions Hortensius' activity in the discussion of that year, he seems to make no reference to Catulus, apparently citing only his objections to the *lex Manilia* of the current year, 66 BC. As such, we might assume that he did not speak. Rodgers' view has been rightly challenged (Coudry forthcoming; also Morstein-Marx 2004: 181), based, as it is, upon the questionable assumption that Cicero would have cited Catulus had he also been a member of the opposition to the *lex Gabinia* too. But Cicero's explanation of Hortensius' role in 67 BC extends to no more than two fairly brief comments: clearly he did not intend to give a comprehensive overview of the debate surrounding Gabinius' law. Rodgers' second point, that when Cicero finally quotes Catulus' objections to Pompeius' power he is 'clearly describing a very recent event' (i.e. 66 BC on the *lex Manilia*), is also moot. There is nothing in the quotation to suggest that Catulus had just spoken; if there is, Rodgers does not specify what (Rodgers 2008: 289; Cic. *De imp. Cn. Pomp.* 63–64). His opposition could just as easily have been voiced in 67 BC, as all our sources attest.

Dio uses his Catulus as a catch-all opponent to Pompeius' extraordinary commands, representing through him the points made by Hortensius in 66 BC and probably Q. Lutatius Catulus himself a year earlier. If either published their speeches we have no trace of them: Cicero neither mentions such texts in the *Brutus* nor considered Catulus in *numero oratorum* (Cic. *Brut.* 133, 222). In fact, Cassius Dio did not need them, since the *De imperio* contains ample evidence of the case that they put. According to Cicero, Catulus and Hortensius made four arguments: 1) that great power ought not to be entrusted to one man alone; 2) that this principle ought to apply even to the most exceptional statesman; 3) that such extraordinary commands would contravene the *mores maiorum*; and 4) that it was inappropriate to bestow power upon a *priuat* rather than an existing *promagistrate*.

Dio reconstructs all four for inclusion into the oration he gives to Catulus against the *lex Gabinia*. It is important to note here that in the *Roman History* these arguments are packaged, rhetorically, in a manner entirely of the historian's own devising. Understandably so; Dio did not have access to Catulus' rhetorical strategy in Cicero's text, but merely

⁵² Cic. *De imp. Cn. Pomp.* 51.

⁵³ Cic. *De imp. Cn. Pomp.* 52.

⁵⁴ Rodgers 2008: 289–300. Cf. Cass. Dio 36.36; Plut. *Pomp.* 25.5–6; Val. Max. 8.15.9; Vell. Pat. 2.32.1–3; possibly Sall. *Hist.* 5.22–4M.

testimonies to the specific points he had raised. Of these four points, the first occurs immediately after a short proemium in which Catulus underlines his concern for the public welfare, repeating this later in the speech as well:

ἐγὼ τοίνυν πρῶτον μὲν καὶ μάλιστα φημι δεῖν μηδενὶ ἐνὶ ἀνδρὶ τοσαύτας κατὰ τὸ ἐξῆς ἀρχὰς ἐπιτρέπειν. τοῦτο γὰρ καὶ ἐν τοῖς νόμοις ἀπηγόρευται . . .

quid ait Hortensius? si uni omnia tribuenda sint, dignissimum esse Pompeium, sed ad unum tamen omnia deferri non oportere
Cic. De imp. Cn. Pomp. 52

τίς γὰρ οὐκ οἶδεν ὅτι οὔτ' ἄλλως καλῶς ἔχει οὔτε συμφέρει ἐνὶ τινι τὰ πράγματα προστάσσεσθαι καὶ ἓνα τινὰ πάντων τῶν ὑπαρχόντων ἡμῖν ἀγαθῶν κύριον γίνεσθαι, κἂν τὰ μάλιστα ἄριστός τις ᾖ;

Cass. Dio 36.31.3, 36.35.1

Q. Catuli . . . qui cum dissuadens legem in contione dixisset esse quidem praeclarum uirum Cn. Pompeium, sed nimium iam iberae rei publicae, neque omnia in uno reponenda adiecissetque.

Vell.Pat. 2.32

First and foremost, then—and most importantly—I say that we should never entrust such great commands to a single man, one after another. For this is forbidden under the law . . .

What does Hortensius say? That if all things should be entrusted to one man, Pompey would be the most worthy of all, but nevertheless, these should not be conferred upon a sole individual.

For who does not know that it is neither appropriate nor beneficial to entrust these affairs to one man, and for one person to become master over all our current affairs—even if he be the finest man of all?

When speaking in opposition to the law, Catulus said in the contio that Gnaeus Pompey was indeed a great man, but already too great for a free Republic, and that all powers should not be placed in one man

From Cicero we can be reasonably confident that in 66 BC, Hortensius objected to the lex Manilia on the principle of avoiding concentrations of sole power, and that he made a particular concession: that if this were appropriate, Pompeius would be the most worthy of all, but it should be avoided nevertheless. Strikingly, Dio's Catulus not only reproduces the general principle, but the concession as well: the proposed measure ought to be avoided even if Pompeius were the most worthy to enjoy it. It is entirely possible that the historian drew inspiration from Velleius Paterculus' report of Catulus, who advocates the general principle of power-sharing.⁵⁵ But only Cicero, among several ancient accounts of the debate, cites Hortensius' concessio (*dignissimum esse Pompeium*) as well as his general principle, a pairing that only Dio reproduces.

There was then the problem of ancestral custom. Cicero does not state explicitly that either Catulus or Hortensius objected to Pompeius' commands on the grounds of the mores

⁵⁵ Vell. Pat. 2.32: *neque omnia in uno reponenda adiecissetque.*

maiorum. However, his defensiveness on this point suggests that his opponents had raised precisely that contention. Beginning a final section of his speech to deal with Catulus' arguments, Cicero opens with a defensive call to preserve established traditions (*ne quid noui fiat contra exempla atque instituta maiorum*), and later suggests more clearly that Catulus had objected to any further innovations (*in ipso Cn. Pompeio in quo noui constitui nihil uolt Q. Catulus*).⁵⁶ It seems likely that the *mores maiorum* were, in historical reality, grounds for Catulus' opposition. The problem does not find its way into our other accounts of the Gabinian and Manilian laws—Plutarch, Valerius Maximus, Velleius Paterculus, and Sallust—but is certainly hinted in Cicero's treatment and developed more fully in Dio's *dissuasio*. In the *Roman History*, Catulus is made to argue that lengthy periods of command erode generals' respect for ancestral customs (*τοῖς πατρίοις ἔθουσιν*), and represent a dissolution of traditional systems of office-holding (*τὰς μὲν πατρίους ἀρχὰς καταλύητε*).⁵⁷ One view holds that these sentiments in Dio were 'standard optimate arguments':⁵⁸ implicitly, therefore, it would not be difficult for an Imperial author to fabricate such material without a source. This may be so, but the number of parallels between Dio and the *De imperio* suggests otherwise; and if the historian did elaborate this argument from his own knowledge of the era, then the fact that he got it right invites us to reconsider our Imperial Greek historians' awareness of the arguments to which Late Republican optimates could resort.

A further optimate argument concerned respect for the elected magistrates over *priuati*, and this appears to be a final point of contact between Dio's speech and the *dissuasiones* of 67 BC, as least in Cicero's telling. In the section of his oration devoted specifically to Catulus' objections (59–63), Cicero suggests that Pompeius' position as a private citizen had been a point of controversy at several points throughout his career:

⁵⁶ Cic. *De imp. Cn. Pomp.* 60.

⁵⁷ Cass. Dio 36.31.4, 36.33.3.

⁵⁸ Leach 1978: 68.

quid tam nouum quam adulescentulum priuatum exercitum difficili rei publicae tempore conficere? confecit . . . quid tam inusitatum quam ut, cum duo consules clarissimi fortissimique essent, eques Romanus ad bellum maximum formidolosissimumque pro consule mitteretur? missus est. quo quidem tempore cum esset non nemo in senatu qui diceret 'non oportere mitti hominem priuatum pro consule,' L. Philippus dixisse dicitur non se illum sua sententia pro consule sed pro consulibus mittere.⁵⁹

Cic. De imp. Cn. Pomp. 61–62

If Cicero can be trusted, two points emerge clearly from this passage. The most obvious is that Pompeius' status as a priuatus had concerned the more conservative voices in the Senate during the debate surrounding his command against Sertorius, when L. Philippus made his famous quip around 78 BC. But it further suggests that similar objections had been voiced in 67 BC. Now, no one can possibly have opposed the lex Manilia in 66 BC on the grounds that Pompeius was a private citizen, since he was not one. If the objection was raised by Catulus, it has to have been in the previous year, when the label priuatus did apply. Why else should Cicero labour the point? Not only does he raise it here, in a section of his speech specifically devoted to Catulus' auctoritas et sententia, but he additionally argues earlier that Pompeius would be the ideal commander against Mithridates 'even if he were a priuatus'.⁶⁰ Cicero appears to have been discrediting Catulus' authority—even by refuting arguments he used a year previously—in order to win the case in 66 BC. In other words, 'he was wrong before, and he's wrong now.' We may well take this as evidence that Catulus did speak against the lex Gabinia in 67 BC.⁶¹ In any case, the line of argument against priuati attested by Cicero in the context of 78 and probably 67 BC is again reproduced in Dio's speech of Catulus. After his defence of the mores, the consular goes on to warn against 'entrusting nothing to those elected by law, but instead assigning some strange and to this point unheard-of command to a private individual (ιδιώτην).'⁶² In this, as with anxieties about the mores maiorum and the distribution of power, Dio seems to have attempted to align his own dissuasio with the conservative arguments marshalled against Pompeius' power as reported (or distorted) in Cicero's De imperio.

⁵⁹ 'What could be so novel as for a little stripling of a private citizen to enlist an army in a time of difficulty for the Republic? He enlisted it . . . what was ever so unusual as a situation in which, when there were already two highly distinguished and brave consuls, a Roman eques should be sent as proconsul to a most important and formidable war? He was sent. And indeed, when at that time there was a certain someone in the Senate who said 'we should not send a priuatus as a proconsul', it's said that Lucius Philippus responded that, in his view, Pompeius should be sent not for a proconsul but for both the consuls themselves'.

⁶⁰ Cic. De imp. Cn. Pomp. 50.

⁶¹ Pace Rodgers (2008).

⁶² Cass. Dio 36.33.4.

The essential kernel of Catulus' arguments, then, was faithfully reproduced in Dio's version of the speech. But rhetorical persona and strategy, which we have seen Dio attempt to mimic in the cases of Pompeius and Gabinius, raise further questions. To turn to persona, the conservative position taken by Dio's Catulus is less than surprising given Dio's source material and the wider literary tradition which depicted him as the ideal Republican.⁶³ But it seems that the historian, whether by coincidence or intent, also captured in his *dissuasio* some of what we know about Q. Lutatius Catulus' manner of addressing the people. In the *Pro Sestio*, Cicero praises Catulus' free and open manner of criticising the rashness of the people and the mistakes of the Senate (*libere reprehendere et accusare populi non numquam temeritatem solebat aut errorem senatus*).⁶⁴ This is certainly reflected in the brief introduction to Catulus' oration in Dio: unlike Pompeius and Gabinius, or indeed all of Dio's other Republican orators, Catulus makes no attempt to ingratiate himself, but opens instead with a stern admonishment to the Quirites:

ἐμοὶ μὲν ἀναγκαῖόν ἐστι πάντα ἀπλῶς, ἃ γινώσκω συμφέρειν τῇ πόλει, μετὰ παρρησίας εἰπεῖν, καὶ ὑμῖν προσῆκον ἀκοῦσαί τε μεθ' ἡσυχίας αὐτῶν καὶ μετὰ τοῦτο βουλευσασθαι: θορυβήσαντες μὲν γὰρ ἴσως τι καὶ χρήσιμον δυνηθέντες ἂν μαθεῖν οὐχὶ λήψεσθε . . .⁶⁵

Cass. Dio 36.31.1

This is hardly an ingratiating *captatio benevolentiae*, and indeed it was not supposed to be one. That Dio's Catulus should begin by opposing the *temeritas populi* with his own frank calm puts the finishing touch to Dio's reproduction of the historical situation: Dio replicates not only the arguments used, but the oratorical style of the speaker who delivered them. When Cassius Dio researched the debates surrounding Pompeius' power in 67 and 66 BC, he saw three oratorical personalities: the dissembling beneficiary willing to rehearse his military achievements for popular support, the corrupt tribune happy to play the demagogue, and the staunch Republican willing to tell the people what they did not wish to hear. These seem like stock characterisations, but then these are characterisations of Pompeius, Gabinius, and Catulus which began in Late Republican literature. We are, of course, as reliant upon Cicero for this picture as Dio probably was. But by combining this attention to oratorical persona

⁶³ Cic. Brut. 133, 122, Phil. 2.21, De imp. Cn. Pomp. 51, Red. sen. 9; Vell. Pat. 2.31–32; Plut. Pomp. 17.3; Cass. Dio 36.30.5, 37.46.3.

⁶⁴ Cic. Sest. 122; also Verr. 1.44.

⁶⁵ 'For me it is necessary to say everything plainly and frankly all that which I know to be of benefit to the state; and it is fitting for you to listen calmly to this advice and only then deliberate afterward. For if you raise an uproar, I suspect that you will fail to hear useful information which you could otherwise have learned.'

with the actual arguments for and against Pompeius' commands used in the period, the historian aligns his version of the debate surrounding the *lex Gabinia* closely with the contemporary evidence.

As for rhetorical strategies, the evidence probably was not available. In Pompeius and Gabinius we have seen Dio using particular rhetorical techniques—anaphora, polyptota, aporia, and possibly brachylogy and tetracola—to emphasise the same arguments for which they were deployed by Cicero. The simple reason that this does not occur in Catulus' speech is that the historian did not have access to Catulus' rhetorical strategy: all he had was testimonies of his and Hortensius' arguments, paraphrased by Cicero in the *De imperio*. As such, while the speeches of Pompeius and Gabinius reflect the points raised in support of the Manilian law and some of the rhetorical figures used by Cicero to make those points, the *dissuasio* of Catulus is a reconstruction of Catulus' and Hortensius' case, rhetorically elaborated in its entirety by the historian himself.

The historian's practice elsewhere is strikingly similar. As I have already mentioned, it has long been recognised that the polemic of Dio's Cicero against M. Antonius at the end of Book 45, addressed to Q. Fufius Calenus, ultimately derives—directly or indirectly—from the *Philippics*. In the dramatic context—the Senate meeting of 1–3 January 43—Antonius is away in Gaul, and the historian's version of Cicero's invective sets off a chain of debate: first Calenus' long and acrimonious response, and then a summary of a further *altercatio* between the two which wasted the remainder of the day. It is an exaggeration to suggest that Dio was so faithful to his source that he gives virtually a Greek translation of Cicero,⁶⁶ and scholars may have overestimated the intellectual effort Dio applied to the task by suggesting that he compressed all fourteen of Cicero's speeches against Antonius into a single set-piece.⁶⁷ But what the historian certainly does provide is an elaboration of the arguments used by Cicero in the *Second Philippic*, transposed to the context of the *Fifth Philippic* in his narrative of the beginning of January 43 BC, and with the addressee of the *Eighth Philippic*, Calenus.

As with the speeches of Pompeius and Gabinius on the *lex Gabinia*, Dio clearly paid attention to the argumentative strategy pursued by Cicero, at least in the *Second Philippic*, as well as to some of its rhetorical packaging. To turn to the former, it is remarkable that Dio preserved not only the particular arguments used by Cicero in the *Second Philippic* in his own invective, but also the order in which these were made, indicating close reliance on the text:

⁶⁶ Fischer 1870: 27.

⁶⁷ Fischer 1870: 1–28; Gowing 1992: 238 n. 34

Cassius Dio

Antonius is a πολέμιος (45.20.4)
His banditry: χώραν λυμαινόμενος (45.20.4)
Editing Caesar's documents (45.23.6)
Prostitution in his youth (45.26.2)
Praeteritio of that detail (45.26.2)
Romp in Italy with pimps (45.28.2)
Disgracing the lictors (45.28.2)
Vomiting in the tribunal (45.28.2)
Purchased Pompeius' estate (45.28.3)
Public grief at the auction (45.28.3)
Squandering Pompeius' property (45.28.4)
Antonius as Charybdis (45.28.4)
Paraleipsis to the Civil War (45.29)
Naked harangue at Lupercalia (45.30.1)
His crowning of Caesar (45.31.3)
And without popular consent (45.32.1–2)
Cic. wishes he were a tyrannicide (45.41.1)
Antonius indirectly responsible (45.41.1)
Antonius' cowardice (45.41.1)
Did not inherit from his father (45.47.3)
But from those he barely knew (45.47.3)

Second Philippic

Antonius is a hostis patriae (2.2)
His banditry: beneficium latronum (2.5)
Editing Caesar's documents (2.8)
Prostitution in his youth (2.45)
Praeteritio of that detail (2.47)
Romp in Italy with pimps (2.58)
Disgracing the lictors (2.58)
Vomiting in the tribunal (2.63)
Purchased Pompeius' estate (2.64)
Public grief at the auction (2.64)
Squandering Pompeius' property (2.66)
Antonius as Charybdis (2.66)
Paraleipsis to the Civil War (2.70)
Naked harangue at Lupercalia (2.85)
His crowning of Caesar (2.86)
And without popular consent (2.86)
Cic. wishes he were a tyrannicide (2.25)
Antonius indirectly responsible (2.34)
Antonius' cowardice (2.35)
Did not inherit from his father (2.42)
But from those he barely knew (2.41)

The essential elements of Cicero's polemic and the version created by Dio for his Roman History are identical, and unfold in the same sequence. This is particularly pronounced for the material up to Antonius' coronation of Caesar at the Lupercalia (45.31.3-45.32.2 = 2.86), at which point Dio appears to loop back to an earlier point in the Second Philippic (2.25-42) for the material on Caesar's assassination and the question of inheritances.

Some of Cicero's rhetorical style also found its way into Dio's speech. After mentioning the rumours surrounding Antonius' youthful prostitution, for example, Dio clearly retains Cicero's use of praeteritio (τάς τε ἰδίας ἀσελγείας καὶ πλεονεξίας ἐκὼν παραλείπω = sed iam supra et flagitia omittamus) to move on to Antonius' carouse in the countryside with his fellow debauchees, justifying the omission for reasons of modesty and

shame (ὅτι αἰδοῦμαι νῆ τὸν Ἡρακλέα ἀκριβῶς καθ' ἕκαστον = sunt quaedam quae honeste non possum dicere).⁶⁸ Similarly, both orators use *paraleipsis* to transition from Antonius' personal life to his public infractions during the Civil War (ταῦτα μὲν οὖν ἐάσω = sed omitto ea peccata),⁶⁹ and record with shock that Antonius 'dared' to purchase Pompeius' estate (ἀγοράσαι ἐτόλμησε = auderet accedere), describing the 'groan' of the people at the sight (πάντες ἔτι καὶ τότε ἐθρηνοῦμεν = gemitus tamen populi Romani liber fuit).⁷⁰ For such parallels to be coincidental would be remarkable indeed; Dio clearly modelled his invective of Cicero upon the Second Philippic in argument, structure, and phrasing.

The way in which Dio composed his 'Philippic' is thus broadly comparable to the speeches of Pompeius and Gabinius. Dio took an original Ciceronian oration and used it to refashion the argumentative and rhetorical case put in an analogous historical situation. But for the response of Q. Fufius Calenus to Cicero—Dio's 'Anti-Philippic'—the historian appears to have followed a different course. This was the task of reconstructing from testimonies and paraphrases the opposing case, quoted by Cicero in his text—the method Dio also pursued in the composition of his speech of Catulus, using the *De imperio*. In the Second Philippic, Cicero paraphrases fourteen arguments marshalled against him by Antonius in reply to his First Philippic on 19 September 44 BC: i) that he had violated their friendship;⁷¹ ii) that he had been ungrateful for Antonius' retiring from the augurship contest in his favour;⁷² iii) that he had taken advantage of Antonius' beneficia;⁷³ iv) that he had sent him friendly letters and was now changing face;⁷⁴ v) that he had demonstrated misconduct in his consulship;⁷⁵ vi) that the Capitoline had been full of armed slaves on Cicero's watch;⁷⁶ vii) that he had mistreated Antonius' uncle, Lentulus;⁷⁷ viii) that Clodius was slain by his contrivance;⁷⁸ ix) that he advised and rejoiced at the death of Milo;⁷⁹ x) that the alienation of Pompeius and Caesar was Cicero's fault, and by extension the Civil War, too;⁸⁰ xi) that he had spurred individuals on to Caesar's assassination;⁸¹ xii) that he was an accomplice in the

⁶⁸ Cass. Dio 45.26.2 = Cic. Phil. 2.47.

⁶⁹ Cass. Dio 45.29.1 = Cic. Phil. 2.70.

⁷⁰ Cass. Dio 45.28.3 = Cic. Phil. 2.64.

⁷¹ Cic. Phil. 2.3; not in Dio's speech of Calenus.

⁷² Cic. Phil. 2.4 = Cass. Dio 46.22.5.

⁷³ Cic. Phil. 2.5 = Cass. Dio 46.22.6.

⁷⁴ Cic. Phil. 2.8; not in Dio's speech of Calenus.

⁷⁵ Cic. Phil. 2.11–12 = Cass. Dio 46.2.3, 46.20.1.

⁷⁶ Cic. Phil. 2.16 = Cass. Dio 46.20.1.

⁷⁷ Cic. Phil. 2.17 = Cass. Dio 46.2.3, 46.20.3–5.

⁷⁸ Cic. Phil. 2.21 = Cass. Dio 46.2.3.

⁷⁹ Cic. Phil. 2.21 = Cass. Dio 46.2.3.

⁸⁰ Cic. Phil. 2.23 = Cass. Dio 46.2.2.

⁸¹ Cic. Phil. 2.27 = Cass. Dio 46.2.3, 46.3.3, 46.22.3.

plot;⁸² xiii) that he was disliked and as such received few inheritances;⁸³ xiv) and that Cicero returned from voluntary exile under cover of darkness and in un-Roman dress.⁸⁴ Strikingly, of these fourteen only two do not appear in Dio's invective of Calenus against Cicero.

There were of course gaps in the material. Dio's oration of Calenus, which covers twenty-eight chapters (46.1–28), only corresponds closely with Cicero's paraphrases of Antonius' criticisms in three concentrated clusters.⁸⁵ Elsewhere, the historian appears to fill the speech with general and unsubstantiated criticisms of the orator's character (46.7–10), or a vulgar and graphic excursus on his unexalted background (46.4–7). But such criticisms were hardly alien to the character of Late Republican oratory: some of Asinius Pollio's comments on Cicero were so crude that even he decided not to circulate them,⁸⁶ and Antonius must have derided Cicero's character.⁸⁷ The possible source of the arguments deployed by Dio's Calenus against Cicero have been much debated. Gabba suggested that the historian drew the main body from the lost anti-Ciceronian polemics of Asinius Pollio, or the pseudo-Sallustian *Inuectiua in Ciceronem*.⁸⁸ Older scholarship held that Dio drew from the lost texts of anti-Ciceronian Greek rhetors of the Imperial period; this view is guesswork.⁸⁹ Plutarch indicates that Antonius had published his response to the First Philippic on 19 September 44 BC, and seems to suggest that he had read it: Plutarch cites Antonius' criticism of Cicero's marital life, a detail lost to us elsewhere but for Dio's speech of Calenus, where it also appears.⁹⁰

These are all possibilities, but the richest and most convenient source of evidence for Antonius' arguments against Cicero in the 44/43 BC period was of course the text which Dio had open in front of him for his speech of Cicero: the Second Philippic. As Hartvig Frisch has expertly shown, Antonius' criticisms are plain to see, quoted (or misquoted) as they are in Cicero's text, and the task of reconstructing Antonius' points is less a matter of sophisticated observation than of stating the obvious.⁹¹ If Cassius Dio did read the Second Philippic for his own speech of Cicero—as seems likely from the overlaps in the argumentative and rhetorical strategy—then it will also have served, just as the *De imperio*, as the most convenient source

⁸² Cic. Phil. 2.28 = Cass. Dio 46.22.4.

⁸³ Cic. Phil. 2.40 = Cass. Dio 46.4.2.

⁸⁴ Cic. Phil. 2.76 = Cass. Dio 46.3.2.

⁸⁵ Cass. Dio 46.2.2–46.4.2, 46.20, 46.22.3–5.

⁸⁶ Sen. Suas. 6.17.

⁸⁷ Frisch 1946: 133.

⁸⁸ Gabba 1955: 318–21; Gabba 1957: 167 n. 1.

⁸⁹ Pace Haupt 1884: 689–93 and Zieliński 1912³: 280–8.

⁹⁰ Plut. Cic. 41.4. Compare with Cass. Dio 46.18.3.

⁹¹ Frisch 1946: 133–5.

of information for the line taken by the anti-Ciceronian case. Admittedly, the historian's decision to place the historical Antonius' response to the First Philippic in the mouth of Calenus rather than Antonius himself—who in the depicted context is away in Gaul—or to ascribe arguments for the *lex Manilia* to different speakers in the previous year, suggests that he did not view these speeches as privileged political instruments. He used them to sketch out, rather than strictly define, the character of political oratory in the Late Republic—and for us, that is not without its uses.

CONCLUSION

Where the source material was sufficiently rich, the nature of the arguments deployed in response to a particular issue in the Late Republic appears to have been of greater concern to Cassius Dio than the particular circumstances of their historical delivery. This was as true for the debates surrounding Pompeius' power (and excessive personal power more generally) in the 60s as it was for the problem of *licentia* or unrestrained *παρρησία* on the Senate floor in the 40s.⁹² Dio directly consulted Cicero's *De imperio* and Second Philippic, drawing from these the essential argumentative outline and, where useful or convenient for him, preserving also the structure. He mutilated the precise historical situation of these speeches in a manner that poses peculiar challenges for modern historians. But at the same time, Dio shows a surprising alertness to the need to communicate, faithfully if not verbatim, what was said—not only by exceptional cases such as Cicero, but also by Calenus, Catulus, and Hortensius.

By using contemporary Republican evidence of oratory as a basis for the *ξύμπαση γνώμη* of his speeches on the *lex Gabinia* or 'Philippic' exchange, Dio was not necessarily doing anything radically new; that practice was already being followed by Tacitus and Arrian, and probably much earlier by Sallust. The historiographical practice of finding and re-elaborating arguments is therefore easy to identify long before Cassius Dio, even if the scope and prevalence of that practice in the corpus is opaque. Indeed, it is generally difficult to undertake the mode of *Quellenkritik* pursued here. We of course only know that Tacitus, Arrian, and Sallust re-elaborated contemporary testimonies of oratory into their own speeches because those testimonies have happened to survive. But their method, and Dio's, with speeches was assuredly more widespread than the exiguous evidence permits us to conclude. After all, the exercise in *chreia* or re-elaborated quotation was a fundamental part of

⁹² On which see most recently Mallan (2016).

rhetorical education in the Imperial period (the progymnasmata)—certainly for Tacitus, Arrian, and Dio; probably also for Sallust and pre-Imperial historians.⁹³ The rhetorical ‘curriculum’ of this time thus trained authors to redeploy the words and sayings of great men into different contexts. We should not be surprised if this is what they then went on to do. The forthcoming findings of the Fragments of the Republican Roman Orators project will undoubtedly expand our access to the kinds of contemporary testimony from which Imperial Greek historians could draw, and enable further analysis of the credibility and verisimilitude of their presentation of the world of Republican oratory. But in any case, if Cassius Dio’s decision to incorporate genuine arguments from an actual occasion of speech is not radically new (and indeed, possibly more widespread than thought) in terms of historiographical praxis, then he is more distinctive elsewhere. Particularly striking are his receptiveness to the way in which public oratory was delivered—rhetorical figures, turns of phrase, oratorical persona—and his use of a single text as a source of fragments and testimonia for reconstructing speeches which were inextant or unpublished. Dio was not transcribing *ipsissima uerba*, and indeed no historian aimed to do so. Rather, he developed an image of public speech in the late *res publica* which adapted a conventional use of sources to increasingly necessary methods of reconstructing lost material, and a personal interest in not only what was said, but how it was said.

Cassius Dio may not have been the only Imperial Greek historian of the Republic to ‘reconstruct’ the essential kernel of a speech from documentary evidence in any case. In the *Bellum Ciuile*, Appian’s Tiberius Gracchus is made to give two orations in support of his agrarian law of 133 BC (B Civ. 1.9, 1.11). Of course Gracchus will have spoken on the topic during his tribunate, and some of his speeches were available in Cicero’s time.⁹⁴ But we now have frustratingly little evidence, beyond the speeches which Appian composed for him, of the arguments Gracchus adduced for his law. Appian’s version of the tribune’s performance in the *contio* has Gracchus put forward three central justifications for agrarian reform: the depopulation and poverty of the rural Italian communities;⁹⁵ the increase in the slave population engaged in agricultural production, causing under-employment and urbanisation

⁹³ For a good introduction to the progymnasmata, see Webb 2001; Kennedy 2003; Gibson 2004, 2014. On the *chreia* in ancient rhetorical education see especially Quint. Inst. Or. 1.9.2-4 and Hock and O’Neill 1986, alongside the *chreiai* of Aelius Theon, ps.-Hermogenes, Nicolaus, and Aphthonius in Kennedy 2003. For a fuller discussion of Cassius Dio’s rhetorical education and its influence upon his speeches, see Burden-Stevens (forthcoming, 2018), especially Chapter Two.

⁹⁴ Cic. Brut. 104.

⁹⁵ App. B Civ. 1.9.35; 1.11.46.

among Italians;⁹⁶ and the general principle that citizens, being preferable in all respects to slaves, should share common property among themselves.⁹⁷ As such, Appian's Gracchus sets citizens and slaves at variance, and has as his principal motive 'not wealth, but an increase of efficient population' (οὐκ ἐς εὐπορίαν, ἀλλ' ἐς εὐανδρίαν).⁹⁸ Appian's speech is obviously not a transcript. But the main arguments it puts forward are remarkably similar to clues we see in virtually eyewitness evidence. Plutarch mentions a pamphlet, written by Gaius Gracchus (probably in the form of a letter to M. Pomponius),⁹⁹ which he has read, in which Gaius described the motivations which impelled his older brother to propose agrarian reform. According to Gaius' pamphlet, 'when Tiberius saw the dearth of inhabitants of the countryside, and that those engaged in farming or husbandry were all barbarian slaves, he first conceived of his policy.'¹⁰⁰ Whether Appian took his cue from Plutarch, or even Gaius Gracchus' tract directly, is unclear. But unless we are dealing with a spectacular coincidence, it seems likely that Appian found written testimony of the particular arguments put forward by Tiberius Gracchus for his agrarian reform and used these as the starting-point for his own composition. Further examples of this kind of approximation between Appian's practice and that of Dio could no doubt be found, but cannot be pursued here.

There can be no doubt that Cassius Dio's picture of Late Republican oratory was subject to his own (occasionally grave) distortions. Cicero, given his particular cachet, may have been a special case that called for greater faithfulness. This alone should give us pause, since an oration before the Senate in 44 BC attributed to him by Dio, on an amnesty between the Caesarian and tyrannicide factions, is otherwise wholly lost to us. Excluding the version provided by Dio in the Roman History (44.23–33), an 'amnesty-speech' of Cicero is nowhere to be found.¹⁰¹ That the orator did indeed deliver such an oration, in a meeting of the Senate on 17 March, is clear.¹⁰² We can also be reasonably certain that Cicero elaborated the exemplum of the Athenian amnesty of 403 BC at some length—just as he is found to do in Dio's version.¹⁰³ Furthermore, the oration in Dio imitates a number of genuine Ciceronian

⁹⁶ App. B Civ. 1.9.36.

⁹⁷ App. B Civ. 1.11.44.

⁹⁸ App. B Civ. 1.11.43.

⁹⁹ Cic. Div. 29.62.

¹⁰⁰ Plut. Ti. Gracch. 8.7.

¹⁰¹ The assumption of Sihler 1914: 396 and Stekelenburg 1971: 63 that Livy included such a speech has no supporting evidence whatsoever.

¹⁰² Cic. Att. 14.10.1 (SB 364), 14.14.2 (SB 368).

¹⁰³ Cf. Cic. Phil. 1.1: 'ieci fundamenta pacis Atheniensiumque renouavi uetus exemplum; Graecum etiam uerbum usurpavi quo tum in sedandis discordiis usa erat ciuitas illa.' Also Vell. Pat. 2.58.4; Plut. Cic. 42.3; Cass. Dio 44.26.

concerns, especially the fixation with *concordia*.¹⁰⁴ In view of the historian's use of the *De imperio* and the *Philippics*, examined above, it may be worthwhile to rethink the long-abandoned suggestion of Schwartz that Dio was reproducing, or reconstructing, a now-lost speech of Cicero from some written testimony.¹⁰⁵ If so, this would not be at variance with Dio's general practice with Cicero—and it would exemplify further the uses to which Imperial historians may be put in reconstructing the lost oratorical traditions of the Late Roman Republic.

¹⁰⁴ Fechner 1986: 58f.

¹⁰⁵ Schwartz 1899: 1719.