

TREATIES TRUE AND FALSE: THE ERROR OF PHILINUS OF AGRIGENTUM

Rome and Carthage had established peaceful diplomatic relations before 300 B.C. – as early as the close of the sixth century according to Polybius, whose dating there no longer seems good cause to doubt.¹ A second treaty was struck probably in 348.² Both dealt essentially with traders' and travellers' obligations and entitlements, so any military or political terms sprang from that context. In both, the Carthaginians agreed to hand over any independent town they captured in Latium.³ In the first treaty they were not to establish a fort in Latium either; in the second, the Romans were not to found a city in Carthaginian Africa, Spain or Sardinia.⁴

But independent military considerations are the stuff of a third treaty concluded during Rome's war with Pyrrhus. Rome and Carthage now pledged each other military aid in certain circumstances, as we shall see.⁵ And 'geopolitical' concerns of a very broad kind imbued a treaty which was reported by the third-century historian Philinus of Agrigentum. By this, he stated, 'the Romans must keep out of the whole of Sicily, the Carthaginians out of Italy' (ἔδει 'Ρωμαίους μὲν ἀπέχεσθαι Σικελίας ἀπάσης, Καρχηδονίους δ' Ἰταλίας). This is Polybius' citation of Philinus' allegation; Polybius himself then roundly rejects the very existence of such a pact and declares himself at a loss to understand how his predecessor could record it, but modern scholarship is no longer all that ready to accept his view. A strong majority of historians prefer to follow the Agrigentine, and many see 306 B.C. as the likely year for the agreement because Livy records a 'renewal' then of a *foedus* with Carthage (without giving details).⁶

¹ Polybius 3. 22. 1–3 (with text of treaty at 22. 4–13). On the highly disputed dating of the 'first Polybian' see now, e.g., F. W. Walbank, *Historical Commentary on Polybius*, 1 (Oxford, 1957), 337–45; A. J. Toynbee, *Hannibal's Legacy*, 1 (Oxford, 1965), 519–39 and bibliography at 571–2; K.-E. Petzold in *Aufstieg u. Niedergang der röm. Welt*, 1.1 (Berlin, 1972), 361–411 with bibl. 364 n. 1. All these favour c. 508 B.C. By contrast R. Werner, *Der Beginn der röm. Republik* (München, 1969), 299–340, dates it c. 470; A. Alföldi puts it in 348, with the second in 343 (*Early Rome and the Latins* [Ann Arbor, 1964], 350–5; *Röm. Frühgeschichte* [Heidelberg, 1976], 119–22); cf. D. Musti in *ANRW* i. 2 (1972), 1136–8. The dating c. 508 has been strongly supported by the discovery of the Pyrgi tablets in 1964, on which see J. Ferron, *ANRW* i. 1 (1972), 189–216.

² Pol. 3. 24. 1–13. Argument over the date shifts around the years 348, in which Livy reports a treaty with Carthage (7. 27. 2; cf. Diodorus 16. 69. 1, who terms it the 'first' one), 343, where Livy reports a congratulatory Punic embassy coming to Rome (7. 38. 2), and 306, where he reports 'foedus tertio renovatum' (7. 43. 26). Livy gives no details of these *foedera*. 348 is the most widely accepted date for the 'second Polybian', even apart from the general view (cf. note 6) that the 'Philinus' dates to 306; see e.g. Walbank, i. 337–8, 345–6; Werner, 341–68; C. Marek, *Chiron* 7 (1977), 1–7; and note C. Giannelli's suggestion that the mention of Tyre among Carthage's allies implies the period 350–344, when Tyre was free of Persian control (*Helikon* 2 [1962], 421).

³ Pol. 3. 22. 12, 24. 5.

⁴ 22. 13; 24. 4 and 11.

⁵ 3. 25. 1–5.

⁶ Philinus' treaty: Pol. 3. 26. 3–5. The 'renewal' of 306: Livy 9. 43. 26. Moderns who accept the 'Philinus', dating it 306 unless otherwise noted, include H. Nissen, *Neue Jahrbücher für class. Philol.* 95 (1867), 321–32; O. Meltzer, *Gesch. der Karthager*, 1 (Berlin, 1879), 415–16; Paul Meyer, *Der Ausbruch des Ersten Punischen Krieges* (Diss. Berlin, 1908), 17–23; M. Cary, *JRS* 9 (1919), 67–77; Eduard Meyer, *Kl. Schriften*, II (Halle, 1924), 363 n. 1; F. Schachermeyr, *Rh. Mus.* 69 (1930), 378–9, seeing it as a secret annex to the 'third Polybian' or else as made c. 272; H. H. Scullard, *Hist. of the Rom. World, 753–146 B.C.*³ (London, 1969), 114, 143 n. 2, 434–5; *HRW*³ (London, 1980), 486–8; S. Mazzarino, *Introduzione alle Guerre Puniche* (Catania, 1947),

Both this 'Philinus' treaty and the one in Pyrrhus' time presuppose Roman-Punic relations far more sensitive than at the periods of the earlier two. Central interests of state, military and political, are now involved. Ever since Philinus' and Polybius' day the 'Philinus' treaty has been a crux in the question of responsibility and intent over the outbreak of the First Punic War: if it was in force when the Romans accepted the Mamertine appeal for help in 264, the famous decision to send help will have been made in full knowledge that this violated it. It will have been a flat challenge to Carthage – and that would explain many things, including the Senate's notorious hesitation. Still more seriously, it would convict the Romans of deliberate, nay unscrupulous warmongering and imply much about aggressive Roman imperialism. So momentous consequences hang on the reliability of Philinus.

Polybius dismisses his assertion emphatically: 'how and from what source did he make so bold as to write... that there was a treaty (συνθήκαι) between the Romans and Carthaginians, under which the Romans must keep out of the whole of Sicily, the Carthaginians out of Italy?... There has been and there is no document of this kind at all.'⁷ His proof, or one proof, is that no such text was contained in the 'treasury of the aediles' in the temple of Jupiter on the Capitol alongside the three treaties that

56–98, and cf. his *Il Pensiero storico antico* ii. 1 (Bari, 1966), 148; P. Bung, *Q. Fabius Pictor* (Diss. Köln, 1950), 144 n. 1, following Schachermeyr; J. H. Thiel, *Hist. of Rom. Sea-Power before the First Punic War* (Amsterdam, 1954), 12–20, 129–34; F. Hampl, *Rh. Mus.* 101 (1958), 72–5; G. Nenci, *Historia* 7 (1958), 273–4, 280, 294–5, and *Rivista di Studi Liguri* 24 (1958), 96; E. S. Staveley, *Historia* 8 (1959), 422; F. Càssola, *I Gruppi politici romani nel III Sec. a.C.* (Trieste, 1962, repr. Rome, 1968), 87–8, favouring 306 but uncertain; Giannelli (n. 2), 423; Werner (n. 1), 367 n. 1, on pp. 367–8; Toynbee (n. 1), i. 543–55; V. La Bua, *Filino-Polibio Sileno-Diodoro* (Palermo, 1966), 23; K.-E. Petzold, *Studien zur Methode des Polybios u. ihre historische Auswertung* (München, 1969), 177–8 (implied acceptance); H. H. Schmitt, *Die Staatsverträge des Altertums*, iii (München, 1969), 53–5 no. 438; K. Meister, *Riv. di Filol. e Istruz. Class.* 98 (1970), 408–23, esp. 417–21; idem, *Hist. Kritik bei Polybios* (München, 1975), 135–9; D. Roussel, *Les Siciliens entre les Romains et les Carthaginois...* (Paris, 1970), 74, accepting 306 without discussion; R. E. Mitchell, *Historia* 20 (1971), 633–44, 648, 654; Hampl in *ANRW* i. 1. 422; Musti in *ANRW* i. 2. 1139–40; K.-H. Schwarte, *Historia* 21 (1972), 217–18; J. Heurgon, *The Rise of Rome* (London, 1973), 212, 252; G.-C. Picard, *Life and Death of Carthage* (London, 1968/N.Y. 1969), 173; R. Develin, *Historia* 25 (1976), 484–7.

For disbelief e.g. J. L. Strachan-Davidson, *Selections from Pol.* (Oxford, 1888), 63–5; E. Täubler, *Imperium Rom.*, i (Leipzig, 1913), 273–4; G. De Sanctis, *Stor. dei Romani* iii. 1² (repr. Firenze, 1970), 97 n. 15; T. Frank, *Cambridge Anc. Hist.*, vii (Cambridge, 1928), 672; M. Gelzer in *Rom u. Karthago*, ed. J. Vogt (Leipzig, 1943), 182; A. Heuss, *Hist. Zeitschr.* 169 (1949), 459–60 = *Der Erste Pun. Krieg u. das Problem des röm. Imperialismus*³ (Darmstadt, 1970), 8–9; E. Badian, *Foreign Clientelae, 264–70 B.C.* (Oxford, 1958), 34 n. 3; E. H. Warmington, *Carthage* (Penguin edn.: Harmondsworth, 1960), 179–80; A. Lippold, *Consules* (Bonn, 1963), 113 n. 147; P. Pédech, *La Méthode historique de Polybe* (Paris, 1964), 188–91; R. M. Errington, *The Dawn of Empire* (London, 1971); and now Badian in *Φιλίας χάριν: miscellanea di studi classici in onore di Eugenio Manni* (Roma, 1980), i. 161–9, which came into my hands after this paper was substantially completed.

Some scholars hold that Philinus may have misinterpreted or distorted clauses of the second or third Polybian: thus De Sanctis, Täubler, Frank, Gelzer (art. cit., and also in *Hermes* 68 [1933], 135), Heuss, Warmington and Pédech, as also W. Judeich (*Klio* 20 [1926], 16 and n. 1) and Walbank, *Comm.* i. 354. Like Lenschau in *RE* x (1919), 2229 s.v. 'Karthago', Walbank thinks it possible, though apparently less likely, that the 'Philinus' on the other hand 'may have been an unpublished agreement towards the end of the war with Pyrrhus'; in turn, Schachermeyr's view that it was a secret annex to the third Polybian influenced Cary later (*Hist. of Rome* [London, 1954], 154 n. 12). K.-W. Welwei, *Historia* 27 (1978), 586 n. 33, remains undecided over the 'Philinus'; W. V. Harris, *War and Imperialism in Republ. Rome* (Oxford, 1979), 188 and n. 3, undecided but favouring it.

⁷ 26. 3... καθ' ὥς ἔδει Ῥωμαίους μὲν ἀπέχεσθαι Σικελίας ἀπάσης, Καρχηδονίους δ' Ἰταλίας, ... μήτε γεγονότος μήθ' ὑπάρχοντος παράπαν ἐγγράφου τοιούτου μηδενός.

he himself reproduces.⁸ Logically of course this is slender proof, as a long line of sceptics has stressed.⁹ After all there was little (as J. H. Thiel pointed out in his inimitable style) to stop Roman officials from hiding or destroying the embarrassing document – embarrassing after 264 – and then blandly assuring the inquisitive Megalopolitan that no such thing existed.¹⁰

Other arguments too have been brought to bear on Philinus' behalf, and it will make discussion clearer if they are set out succinctly. There is the 'geopolitical' situation of Rome and Carthage in 306, the favoured date for the Philinus treaty. Rome was in sight of victory over the Samnites and their allies, therefore (arguably) poised to assert hegemony in the Italian peninsula.¹¹ Carthage was concluding peace with Agathocles of Syracuse, a peace that left her Sicilian territories intact but was far from quieting her fears for their future security.¹²

Then there is evidence in Latin writers that appears to confirm Philinus, or at any rate to refer to a Roman-Punic accord not cited by Polybius. Servius, the commentator on Vergil, glosses a passage in Dido's execration of Aeneas' descendants with two alternative explanations: 'aut quia in foedere cautum fuit ut neque Romani ad litora Carthaginiensium accederent neque Carthaginienses ad litora Romanorum, aut potest propter bella navalia accipi inter Romanos et Afros gesta'; he adds, rather irrelevantly to his purpose, 'in foederibus similiter sancitum erat ut Corsica esset media inter Romanos et Carthaginienses'.¹³ There is also the fact that some Roman historians, Livy among them, are suspiciously keen to fix on Carthage the blame for a treaty-violation which would put her in the wrong over the First Punic War. The violation alleged was a Punic naval demonstration outside Tarentum while the city was in the last stages of siege by the Romans, and the Carthaginians' intention was to help the Tarentines: 'quo facto ab his foedus violatum est', remarks the Livian

⁸ 26. 1.

⁹ E.g. Cary, *JRS* (1919), 67–70; Mazzarino, *Introduz.*, 82; Thiel, *Rom. Sea-Power*, 13–14, 130; Hampl, *Rh. Mus.* (1958), 72–3; Nenci, *Historia* (1958), 273–4; Toynbee, i. 551–4... Polybius may well have been the victim of a trick played on him by Roman security officers' (cf. next note); Mitchell, *Historia* (1971), 635; Hampl, *ANRW* i. 1. 422; Meister, *Riv. Fil. Istr. Cl.* (1970), 421, and *Hist. Kr. b. Pol.*, 138. Of course this view does not require that the incriminating bronze was removed just when Polybius was making his inquiries.

¹⁰ 'We may well imagine a couple of Roman worthies simply suppressing the agreement of 306, showing Polybius the three remaining treaties and telling him brazenly that there was nothing else' (pp. 13–14. Why a *couple* of worthies? I suppose because Polybius implies that he needed help in understanding the earliest treaty from 'the most intelligent men' (plural) at Rome: 3. 22. 3 τῶν συνετωτάτων).

¹¹ Walbank rejects this picture (i. 354; cf. Pédech, 189). Arguably, though, it looked that way to the Carthaginians.

¹² Most fully put by Mazzarino, 61–4, cf. 87–90, 97–9; Thiel, 16–20; Mitchell, 636–44; cf. Toynbee, i. 545. Mazzarino and Mitchell also point to the – rather vague – remark of Theophrastus (*Hist. Plant.* 5. 8. 2) that the Romans 'once' (πότε) sent 25 ships to try to colonise Corsica; for them it is further evidence of Roman expansionism that may have roused Punic concern. They also note Diodorus' report (15. 27. 4) of a Roman attempt to colonise Sardinia (and it could be added that Cassola [n. 6], 32, dates the Corsica effort to the later fourth century). Thiel by contrast decides that neither item can be used in the context of the 'Philinus' (*Rom. Sea-Power*, 18–20, 54–6).

¹³ *ad Aen.* 4. 628–9 'litora litoribus contraria, fluctibus undas | imprecor'. On *Aen.* 1. 108 'saxa latentia' Servius comments, 'haec autem saxa inter Africam, Siciliam et Sardiniam et Italiam sunt, quae saxa ab hoc Itali aras vocant, quod ibi Afri et Romani foedus inierunt et fines imperii sui illic voluerunt'. That he independently confirms Philinus is held, e.g. by P. Meyer, *Ausbruch 1. Pun. Kr.*, 18; Cary, 71–2; Scullard, *HRW*³, 435, and *HRW*⁴, 487; Mazzarino, 59 and 72; Thiel, 13; Cassola, 87–9; Giannelli (n. 2), 423; Toynbee, i. 550; Meister (1970), 418–19; Heurgon, 212; Mitchell, 635, cf. 641; Develin, *Historia* (1976), 485.

epitome complacently. Livy himself has the pacific Punic statesman Hanno in 218 remind his people that they had been responsible for the earlier war because 'Tarento, id est Italia, non abstinueramus ex foedere'; so the earlier comment is not just the epitomator's. Dio and Orosius echo this verdict.¹⁴ But none of the treaties reproduced by Polybius lays down a ban on Italy for the Carthaginians. Philinus' does.¹⁵

This is not all. The text of Polybius' third treaty itself has been seen by many as revealing that Philinus' already existed. In certain specified circumstances, the third Polybian states, 'it shall be permitted to render each other aid in the territory of the party under attack'.¹⁶ Why this need to make military aid explicitly permissible, unless under normal circumstances Roman and Punic forces were forbidden to enter each other's territory? If no such prohibition already existed, an open or unconditional agreement to send aid would arguably be more natural – and useful.¹⁷

Philinus was an honest man, in Polybius' own opinion.¹⁸ That is why the latter is at a loss to fathom how he could proffer a treaty that never existed. By contrast it is Polybius whom most modern investigators have viewed as being in error, rejecting a genuine accord on overhasty and flimsy grounds. It would be more natural (Mazzarino remarks) that the Romans would wish to abolish the traces of such an accord than that their antagonists invented it wholesale.¹⁹

But there is no need to suppose a Punic, or Philinian, lie to argue against the genuineness of the alleged treaty. None of the many lines of argument advanced for it is ultimately convincing, while on the other hand there are strong grounds for agreeing with Polybius.

Badian holds that the improbability of the 'Philinus' can be shown by close study of Polybius' working method in quoting and discussing the Roman-Punic treaties (both before and after 264). Essentially Badian's argument is that the Romans would not have suppressed a sacred text, as a treaty was, nor would Polybius have concealed its existence had he seen it in the archive; the third treaty that he quotes probably did set out again at length the terms of the second, which it confirmed, and Polybius' summary reference to this confirmation is his own, not a verbatim reproduction from the text of the third treaty itself. Besides, Polybius more than once stresses that the terms of the first and second treaties, where they touch on Sicily, preclude the existence of a 'Philinus' treaty.²⁰ By themselves the first two points really amount to hunches and will not convince everyone; the other two have a firmer evidential base, and are close to some of the arguments to be presented later in this paper, though Badian does not develop his points in detail. Other and perhaps stronger considerations remain to be treated.

To go back to the military and political situation in 306: this is no guarantee at all of a 'Philinus' treaty. No doubt Rome was looking to Italian hegemony by then (though much of Magna Graecia might not be convinced that they were part of it). And Carthage might well be worried about the future security of her possessions in

¹⁴ *Per.* 14; 21. 10. 8; Dio, frg. 43. 1; Zonaras, 8. 6. 12–13 and 8. 3; Orosius 4. 3. 1–2 and 5. 2 (note 'rupti foederis labem').

¹⁵ Meltzer, *Gesch. d. K.*, ii. 246–8; P. Mayer, 18–21, 22–3; Cary, 73; Mazzarino, 59, 72, 80–1, 170–1 (n. 97); Bung, *Q. Fab. Pictor*, 144 n. 1 (implied); Thiel, 14–15, cf. 130 n. 216; Càssola, 87–8; Werner, 367 n. 1; Toynbee, 549; Schmitt, *Staatsv.*, 54; Meister (1970), 418; Hampl, *ANRW* i. 1. 422; Mitchell, 633–6, 654–5; cf. Meister, *Hist. Krit. b. Pol.*, 135.

¹⁶ 3. 25. 3 ἵνα ἐξῇ βοηθεῖν ἀλλήλοις ἐν τῇ τῶν πολέμουμένων χώρᾳ.

¹⁷ For proponents of this view see n. 63 below.

¹⁸ 1. 14. 2 (speaking of Philinus and Fabius Pictor).

¹⁹ *Introduz.*, 79.

²⁰ *Misc. Mani*, 165–9.

Sicily – though in such circumstances it might seem a better, if more Machiavellian, policy to try to embroil the hegemon of Italy with Syracuse somehow, so as to profit by neutralising any threat from either of them; instead Carthage, on the ‘Philinus’ view, chose that moment to make sure that Rome would avoid any such imbroglio, to make Syracuse a present of security from Italian interference, and to forswear any opportunity of bolstering the already aroused irritation of Tarentum against Rome as a further means of tying down the latter within Italy.²¹

R. E. Mitchell holds that Carthage in fact will have been worried about either co-operation *or* conflict between Rome and Syracuse.²² That is perfectly possible, though it assumes very acute Punic suspicion of Rome as early as 306 – despite which she was not impelled to cultivate anti-Roman friendships in Italy, for one accusation at least which no ancient writer levelled at Carthage (and so far as I know no modern) is that of instigating or encouraging the Lucanians or Tarentines to war with Rome in 282/1. Yet diplomatic contacts with Italian states would not have violated the ‘Philinus’, which plainly dealt with military intervention.²³ In the view of many moderns, Rome had friendly contacts with Syracuse in 270, during the siege of Rhegium, but no supporter of the ‘Philinus’ argues that these were a breach of it.²⁴ So much then for the relevance of such a treaty to conditions in 306; even if these were as postulated by proponents of the ‘Philinus’, its historicity is not advanced.

Probability in fact goes against it. Two severe wars were just ended or ending: Carthage’s Agathoclean and Rome’s Second Samnite. If what took place in 306 was a fresh accord and not simply a renewal of an earlier one, it might have been expected to cover some precise issues of mutual interest – not merely a general negative stipulation relevant only to possible (and in 306 fairly unlikely) future developments. Admittedly Philinus would have been interested only in that particular negative stipulation, and not in other clauses. But even his supposed clause is inappropriate to the time. Carthage had suffered from Etruscan support for the king of Syracuse,²⁵ Rome had been at war with the Etruscans until 308. If a new agreement had now been made, touching for the first time on key military and political interests of either party, we should expect some definition of their future attitudes to such third parties to occur in it: on the lines of, say, allowing the Carthaginians to attack and capture any town in Etruria (or Italy) at war with them, forbidding the Romans to ally with such a town, and laying some equivalent duties in reverse on Carthage; even perhaps providing for

²¹ Cf. also Schachermeyr, *Rh. Mus.* (1930), 378, who in more general terms thinks it unlikely that Carthage in 306 would give up the right to intervene in Southern Italy, which was not yet under Roman dominance. – R. Develin (n. 6) involves the ‘Philinus’ in his effort to identify the man commemorated in the acephalous Brindisi *elogium* (*A É* 1954, no. 216; Broughton, *MRR*, ii Suppl., 2–3) as Ap. Claudius Caecus, *cos.* 307. But his thesis of a small Punic war in 307, fought in South Italy – against a Hannibal! – and concluded by the ‘Philinus’ in 306, is too eccentric. What caused the war? How could the Romans have forgotten it (Livy has Caecus stay at Rome: 9. 42. 4) – while remembering the treaty that ended it? How in turn was it remembered for a local Brundisine inscription three centuries later? The *elogium* is far likelier to commemorate Fabius Cunctator (so Càssola, 438) or, better, a Second Punic War Brundisine hero.

²² *Historia* (1971), 643–4.

²³ Pol. 3. 26. 4: Philinus wrote διότι ὑπερέβαινον Ῥωμαῖοι τὰς συνθήκας καὶ τοὺς ὅρκους, ἐπεὶ ἐποιήσαντο τὴν πρώτην εἰς Σικελίαν διάβασιν.

²⁴ Dio (frg. 43. 1) and his epitomator Zonaras (8. 8. 3) do say that the Carthaginians resented these contacts just as Rome resented the Punic naval effort to help Tarentum. This claim may be influenced by belief in the ‘Philinus’ (see below in text), and could well be an inference of Dio’s – seeking to balance the alleged Roman ground of resentment. But the Tarentum episode is highly improbable as the sources tell it, and in any case there is no actual evidence to support Dio–Zonaras’ assertion about the Carthaginians.

²⁵ Diod. 20. 61. 6; 64; 21. 9. 10; Justin 22. 8. 4–6.

reciprocal military aid during any such conflict (these terms are offered purely *exempli gratia*). What is not at all likely at such a stage, and with such a background, is a blanket (and unrealistic) military exclusion of Carthage from Italy, or conversely of Rome from Sicily.²⁶

Besides that, Schachermeyr and Pédech make the plausible comment that Carthage would hardly sacrifice her freedom to intervene in non-Roman Italy (she had intervened in Southern Italy at times, and she had relations with the Etruscans) in return for a Roman promise not to take an action which, by any calculation, lay far in the future if it was going to happen at all.²⁷

Again, supposing for argument's sake that the Carthaginians of 306 did fear Rome expanding at some date into Sicily, a blanket prohibition against her crossing thither was not a particularly useful counter outside the rarefied air of theory. It might conceivably be enough if the Romans were contemplating following up an alliance with Syracuse, though it remained a clumsy way of meeting that possibility; and would Carthage really expect the prohibition to work if a Roman-Syracusan alliance were formed against her? If on the other hand Rome were prosecuting a war against Syracuse, the ban on crossing to Sicily could turn out to be thoroughly unrealistic. A Roman army or fleet would hardly pull up short at the straits of Messina. One might expect Carthaginian leaders to foresee that, if they were busy foreseeing a distant threat of Roman entry to the island. A more precise, perhaps more flexible, formula to cover such possibilities would make sounder sense. But no ancient evidence, neither Polybius' explicit citation of Philinus nor the items in other writers that are often viewed as confirming him, offers a formula for the alleged treaty beyond the flat and general injunction quoted earlier, a formula with little or no relation to the immediate or immediately foreseeable situation.

To get round this by dating the 'Philinus' later is even less convincing, as several scholars have noted. There was no need for such a pact as a secret annex to the 'third Polybian' of Pyrrhus' time, or as a secret addition *circa* 272, as Schachermeyr proposed. Besides, as Toynbee observes, secrecy would be counter-productive since the point of the agreement would have been to give the two powers confidence in each other.²⁸ In any case Philinus stressed that it was a sworn treaty, meaning it was formally and publicly ratified.²⁹ Indeed, had it been a secret annex, it is rather hard to see how the Agrigentine historian could have learned of it: there was no trace of it at Carthage, for Polybius could not obtain information about it – any more than about the other, extant treaties – even from the oldest and most experienced men of affairs there.³⁰ It would be going rather far to infer that both the Romans *and* Carthaginians, for their separate reasons, had suppressed their copies of the 'Philinus'.

A date around 272 for the 'Philinus' is supported only by the calculation that from then, the close of the Tarentine War, Rome could in truth be seen as the hegemon of all Italy. But Carthage was even then far from lording it over all Sicily – so the 'reciprocal self-denying clause', as Toynbee calls it, would be unequal in reciprocity. There seems little motive for the Romans to conclude this type of agreement at this

²⁶ Mazzarino believes that Carthage was indeed interested in obtaining Roman support against the Etruscans (*Introduz.*, 63–4), but does not see that this makes the stipulation in the 'Philinus' rather inappropriate. Cf. also Meister, *RFIC* (1970), 420.

²⁷ Schachermeyr, 378; Pédech, 190.

²⁸ Toynbee, i. 548–9; Schachermeyr, 378–9.

²⁹ He stressed that the Romans in 264 violated both *ῥρκους* and *συνθήκας*: Pol. 3. 26. 4 (quoted above, n. 23) and 7. On the significance of the oaths see Täubler, *Imp. Rom.*, 266; Meister (1970), 417 n. 1.

³⁰ 3. 26. 2–4 implies this plainly.

date. And, a more crucial point, there is no source-evidence at all to suggest that such a pact was made then.

The fact is that any dating of the 'Philinus' depends on first proving its probability through other arguments. And no other argument succeeds.

The supposed confirmation from Latin tradition does not work. Servius, to start with, does not strengthen the evidence for the 'Philinus' (a point recognised by some historians).³¹ Philinus gives a blanket prohibition of 'the whole of Sicily' to the Romans; thus he could charge them with treaty-violation in 264. Servius' terms are at once narrower and wider. His Corsica proviso, granted, could have been left out by Philinus as irrelevant; but 'litora Carthaginiensium' does not correspond to ἀπάσης Σικελίας.³² The Punic province covered only the western part of the island; conversely it did not provide the sole Punic 'shore' in the Mediterranean. But if Servius' version of the 'Philinus' is the more accurate one, Philinus' case collapses. No serious argument could hold that the Mamertines in 264 dwelt on a Punic shore, even granted that the *litora* of either power were meant to include the lands of subject allies.³³ Certainly the Mamertines will not have thought so.

If Servius is viewed as drawing on an independent source³⁴ (with Roman annalistic tradition the obvious candidate), he can be reconciled with Philinus only by the argument that 'litora Carthaginiensium' and 'litora Romanorum' must be an unwarranted limitation by Servius or his source on the ἅπασα Σικελία and Ἰταλία of the original accord, or Philinus' Σικελία and Ἰταλία an improper blurring of more precise territorial specifications.³⁵ Perhaps this sort of 'interpretation' is correct. But with the very existence of the 'Philinus' at issue, such retouching of the basic evidence is not satisfactory.

In any case a simpler alternative is available. Servius' *foedus* may well be a garbled and oversimplified summary, not of the 'Philinus' but of sections in the first two treaties between Rome and Carthage – those, that is, which forbid the Romans to sail beyond designated points on the shores of Punic territories in Spain, Sardinia and Libya, and ban the Carthaginians in turn from 'doing harm' to various coastal Latin towns, building a fort in Latin territory or spending a night there ὡς πολέμιοι.³⁶ The Corsica proviso might have been arrived at because Servius, or his source, knew that the island lay off Italy and close to Punic Sardinia but saw no mention of it in either of the treaties: so Täubler and Schachermeyr suggested.³⁷ Or, a little more likely, it

³¹ Schachermeyr, 380; Hampl, *Rh. Mus.* (1958), 74; Schmitt, *Staatsv.*, 55; cf. Werner, 367 n. 1 (on 367–8).

³² Pace (e.g.) Cary, 72; Thiel, 13, 18–19; Meister (1970), 418–19; Mitchell, 635.

³³ Like the Latin ὑπήκοοι of the first two treaties (Pol. 3. 22. 11, with Walbank's note; 24. 5). In 264 the Carthaginians may well have liked to think that the Mamertines *had* become subjects by accepting Punic protection, but there is not the slightest evidence that this was recognised in any international agreement (still less by the Mamertines themselves). Thus any such view would have been a unilateral opinion of the Carthaginians, based on a new event.

³⁴ Klaus Meister, who in 1970 saw Servius – and the Livian tradition – as confirming Philinus (*RFIC* [1970], 418–19), more recently has conceded that they *might* all derive from him (*Hist. Kr. b. Pol.*, 136).

³⁵ Scholars who see Servius as confirming Philinus do not pay much attention to the discrepancy between their respective specifications, but Thiel, 13, does remark that the two are in accordance 'in a somewhat vague way'.

³⁶ Pol. 3. 22. 5–6, 11, 13; 24. 4 and 11. Werner argues that Servius' treaty corresponds to neither Polybian, and that Servius is simply drawing an inference from the political situation of 264 and presenting it as a treaty agreement; but concedes that Servius' terms 'zur Not auch aus dem 1. und 2. römisch-punischen Vertrag herausgelesen werden kann' (*Beginn d. r. Rep.*, 367 n. 1, cf. 362).

³⁷ *Imp. Rom.*, 273–4; *Rh. Mus.* (1930), 380.

is an unskilful inference from two later agreements quoted only a page or two further on by Polybius: the treaty of 241 by which *inter alia* the defeated Carthaginians were to evacuate 'all Sicily and all the islands lying between Italy and Sicily', and the *ἐπισύθηται* of 237 by which they were also to give up Sardinia.³⁸ Servius need not be thinking that the stipulations about the *litora* and about Corsica were given in the same, or a single, *foedus*: indeed he says that the Corsica proviso occurred 'in foederibus', while allocating the *litora*-one 'in foedere'.³⁹ With Sicily and 'all the islands' mentioned in the 241 treaty and Sardinia in that of 237, it would be no great feat of misinterpretation to suppose that Corsica was left as no-man's-land.

True, Servius cites no other provisions of the Polybian treaties. But none would be relevant in the context of the verses he is commenting on. Even the items he does adduce are scarcely relevant to Vergil's poetic intent – as he recognises by hastening to give an alternative, and somewhat likelier, explanation ('aut potest propter bella navalia accipi...'). Servius is parading a little abstruse learning. Perhaps he found the details of the treaties in the Roman annalistic tradition, perhaps he himself had happened to read Polybius.

Annalistic tradition itself independently preserved evidence of the 'Philinus' – so runs another part of the pro-Philinus case. Now it does look as though the Roman annalists had heard of the 'Philinus' ban. They keep insisting on a Punic act of treachery in 272 (the authenticity of that act is not the issue here), and Livy's Hanno revealingly and expressly links this to a treaty, as quoted earlier. So far so good; but does this constitute *independent* confirmation?⁴⁰

The annalists may well have taken their information about the 'Philinus' treaty from Philinus (as Badian too suggests) or from writers who accepted his assertion.⁴¹ There is nothing improbable about this. Polybius declares that he is anxious to set the record straight 'in view of the fact that many people, relying on Philinus' work, have false notions on the subject'.⁴² It would be comforting, but it is unwarranted, to assume (with Cary and even Badian) that Polybius' verdict swept the 'Philinus' out of the running for evermore.⁴³ Rather, Polybius' shafts seem to have bounced ineffectually off the Philinian armour.

For one thing, his discussion comes in his third book, at the outset of his account of the *Second Punic War* – not a spot guaranteed to catch the eye of authors compiling material for a narrative of the First. Philinus by contrast made his allegation, as

³⁸ 3. 27. 2 and 8.

³⁹ Cary, 72 n. 3, is at a loss to explain the plural. No one else seems to have offered an explanation either.

⁴⁰ Thiel is particularly emphatic that the annalists' insistence on the incident (which he regards as invented) 'presupposes the terms of Philinus' treaty' (*Rom. Sea-Pow.*, 14–15, 130).

⁴¹ *Misc. Manni*, 169, without elaboration.

⁴² διὰ τὸ καὶ πλείους διεψεῖσθαι τῆς ἀληθείας ἐν τούτοις, πιστεύσαντας τῇ τοῦ Φιλίνου γράφῃ (3. 26. 5, cf. 7; tr. Paton, Loeb edn.).

⁴³ Cary holds that Polybius 'killed' Philinus' version for the future (*JRS* [1919], 72 and 74). But he overlooks the signs that the Roman annalists, or at any rate Livy, may have drawn on it. And that Diodorus mentions that Philinus 'was a historian' (23. 17, as emended; also 23. 8. 1) is no proof of oblivion having practically engulfed the Agrigentine: apart from the lack of context in Diod., Polybius both accords Philinus the same description and simultaneously indicates that many read him (3. 26. 2–3). Badian holds that his influence on Roman historiographical tradition ceased – though with damage already done – once Polybius' researches established the facts (*Misc. Manni*, 168); but that is only an assumption. Livy, whatever his source, certainly did not allow Polybius' arguments to affect his presentation, judging by the passages already cited (note 28).

Polybius tells us, in his second book, the same book that opened his account of the First Punic.⁴⁴ By the time a historian came across the Megalopolitan's criticisms, his own telling of that war might be completed, even published. Livy's history, for instance (in which the First Punic and the interwar period took up five books: XVI–XX), seems to have been composed by stages, as was indeed practically inevitable in ancient conditions.⁴⁵ Not only that. It would be rash to presume that an ancient historian who did read Polybius as well as Philinus at the right time would follow the former against the latter. After all, many moderns do not.⁴⁶ And T. J. Luce, indeed, suggests that Polybius was largely ignored in Roman historiography until Livy 'discovered' him.⁴⁷

Again, Philinus' history was a good deal lengthier than Polybius' on the period they both covered. The latter's is designedly only an introduction (*προκατασκευή*) to the era from 219 on; the former, as just noted, reached the actual outbreak of fighting in 264 only at the start of his second book.⁴⁸ Diodorus, though prepared to use Polybius for the Mercenary War of 240–237 in Africa, seems to have drawn mainly on Philinus for the First Punic.⁴⁹ So it is possible enough, to put it no more strongly,

⁴⁴ Pol. 3. 26. 5; cf. 1. 15. 1.

⁴⁵ On Livy's methods of composition see P. G. Walsh, *Livy: his Historical Aims and Methods* (Cambridge, 1963), 5–8, 114–28, 133–5, 139–51; and 'Livy' in *Latin Historians*, ed. Dorey (London, 1966), 121–3; also T. J. Luce, *Livy: the Composition of his History* (Princeton, 1977), 185–229, esp. 188–205, whose views – though different from Walsh's on many details (cf. also 92–104) – support my contention. Nor was Livy much inclined, or perhaps able, to go back and rewrite an earlier passage in the light of later reading. His convolutions à propos of the Scipionic trials and the date of Africanus' death show this particularly clearly (38. 50. 4–60. 10; 39. 52. 1–6). Cf. Walsh, *Livy*, 149–50; and on the practical difficulties in making such corrections (not always appreciated), Luce, 102. Luce does not believe that Livy made such a mess of these matters as is usually thought (92–104). But the passage in Book 39 certainly shows that he had not read too far ahead in all his sources – and shows him rejecting details from Antias which he had accepted for Bk. 38, but had now found disproved by more recent reading (and cf. Luce, 104).

⁴⁶ For an interesting analogy cf. Livy 22. 7. 4, where, faced with the usual discrepancies over battle losses – this time at Lake Trasimene –, he decides to accept the statistics of Fabius, as being 'aequalem temporibus huiusce belli'. Admittedly Polybius gives the same number of Roman dead (3. 84. 7; Livy, *ibid.* 2).

⁴⁷ Luce, 69–70, 129 n. 34, and esp. 188 n. 5.

⁴⁸ On Philinus see, e.g. De Sanctis, *Stor. d. Rom.* iii. 1². 218–30; R. Laqueur, *RE* xix (1938), 2180–93, s.v. 'Philinos (8)' – often controversial; Walbank, *CQ* 34 (1945), 1–15, and *Comm.*, i. 65; La Bua, *Filino-Polibio*..., an ambitious example of hyper-*Quellenforschung*, with Walbank's review in *CR* 17 (1967), 299–302, and discussion in *Kokalos* 14–15 (1968–9), 485–6, 493–8. La Bua credits Philinus with four books of histories altogether, covering the period 289 to 237.

⁴⁹ As generally agreed: cf. De Sanctis, 225–9; Gelzer, *Hermes* (1933), 133; A. von Stauffenberg, *König Hieron der Zweite v. Syrakus* (Stuttgart, 1933), 97; Laqueur, 2180; Bung, *Q. Fab. Pic.*, 57, 64–5; Pédech, *REA* 1952, 246–66, esp. 247–8, 252–64, although his view that Philinus was not one of Polybius' main authorities does not convince; Thiel, 150–1, 224 n. 523, etc.; H. Berve, *König Hieron II.* (München, 1958), 23; F. Altheim, in *Untersuchungen zur röm. Geschichte*, ed. Altheim and D. Felber, I (Frankfurt-am-Main, 1961), 131–5, 138; etc.; Lippold, *Consules* (n. 6), 4 (and cf. his n. 18), 41–2; Petzold (n. 6), 149–51, 162–4, 173–4; Meister, *Hist. Kr. b. Pol.*, 139–40; J. P. V. D. Balsdon, *Romans and Aliens* (London, 1979), 200. La Bua holds that Diodorus on the First Punic War derives from Philinus through Silenus of Cale Acte, the Sicilian companion and historian of Hannibal (*Filino-Polibio*, 35–7, 100, 112, 277–9, etc.); but his arguments are based on complex and rigid criteria of source-criticism (cf. Walbank, *loc. cit.* n. 48) and I am not persuaded. F. P. Rizzo has recently argued for Diodorus' source being Timaeus down to the year 263 (in *Misc. Mani* [1980], vi. 1899–1920) – about which I feel doubts again – but does not go into the question of whom Diod. then switched to. On Pol. as Diod.'s source for the Mercenary War see Walbank, *Comm.*, i. 130–1, citing earlier discussions. La Bua does not think Diod. draws directly on him (*op. cit.*, 233–52) and D. Musti is inclined to agree (*ANRW* i. 2. 1129), but see Walbank's comments in *Kokalos* (1968–9), 493–5.

that some historians – including Roman ones – did the same; and the tendency might of course have begun before Polybius started his own work.⁵⁰

There is no evidence that Cato was a source for the latter's texts of the extant treaties, but he did have the impression that a *foedus* of some sort had linked Rome and Carthage: by 219, he declared, the Carthaginians had broken it six times ('deinde duovicesimo anno post dimissum bellum, quod quattuor et viginti annos fuit, Carthaginienses sextum de foedere decessere').⁵¹ Just what Cato supposed it to have stipulated is unknown – not necessarily Philinus' terms, since the 'violation' of 219 must have concerned Saguntum or the River Ebro in Spain, and in any case the *foedus* then in force will have been the peace of 241. The phrase 'de foedere decessere' may not refer to one specific treaty: Cato could conceivably mean 'a treaty' or more generally 'their treaty obligations', and if so he might have envisaged one of the five earlier violations being against the 'Philinus'. Possibly of course he knew of Roman-Punic treaty relations independently of Philinus, for instance from the *tabulae pontificum* or other chronicles (which probably gave few or no details of the stipulations).⁵² But in any case his concern to stress *Punica fides* suggests he was aware of charges of Roman faithlessness in dealings with Carthage.⁵³

So it is quite possible that Philinus' allegation was known to, and believed by, a number of writers down the generations. This in itself would make it hard for a still later author to rebel against the consensus, even supposing he knew he had the backing of Polybius.⁵⁴

There is yet another consideration worth noting. Even supposing that Polybius' emphatic refutation of Philinus did carry the day (at least with some historians), the impulse to convict Carthage of faithlessness before 264 would remain, as there was no obvious item of *Punica fides* towards Rome in 264 itself. So a historian might hold that the Tarentum episode of 272 violated one of the Polybian treaties, on the ground that it (the third, for example) implicitly forbade Carthage to act with hostility towards Rome.

I think it likelier that Polybius' views were not known, or not heeded, by most later writers. A much better means of putting the Carthaginians in the wrong before 264 would have been available had they taken into account the terms of the third treaty. Under this, any *συμμαχία* with regard to Pyrrhus should be made by both powers.⁵⁵

⁵⁰ Cf. Mazzarino, *Introduz.*, 80–1; Badian, *Misc. Manni*, 168 (see n. 44 above). That would be one reason why Pol. decided to discuss the extant treaties at length: note his repeated stress that the only area of Sicily specified in them is the Punic province (3. 23. 5, 24. 14) – cf. Pédech, *Méth. hist.*, 188.

⁵¹ Frg. 84 Peter; on the form of the second word (= *duovicesimo*) see Peter *ad loc.* That Polybius found the texts in Cato was a suggestion of Mommsen (*Röm. Chronologie*², 1859, 322–3; *Hist. of Rome*, Engl. tr., London, 1901, ii. 523–5). Täubler cast doubt on this (*Imp. Rom.*, 256–7), and cf. Walbank, i. 336; Nenci, *Historia* (1958), 264–73; Werner, 307–9; Petzold, *ANRW* i. 1. 368–70.

⁵² Livy's references to the treaties of 348 and 306 (refs. in n. 2 above) give no details. On the *Tabulae Pontificum/Annales Maximi* see, e.g., E. Badian in *Latin Historians* (n. 46), 1–2, 15; Elizabeth Rawson, *CQ* 21 (1971), 158–9; I have not yet been able to see B. W. Frier, *Libri Annales Pontificum Maximorum* (Rome, 1979).

⁵³ For the currency of such accusations (even apart from Philinus') in Cato's, and Fabius Pictor's, time, and Roman anxiety to combat them, see Gelzer, *Hermes* (1933), 133–6; and cf. Bung, 135–6.

⁵⁴ Note Luce's illuminating remarks about Livy's methods of composition (*Livy*, 143–53, esp. 144–5, 149–50).

⁵⁵ Though *πρός* can mean 'with' or 'against' in context, there is no other instance of *συμμαχία* *πρός* meaning 'alliance against'; and cf. Pol. 3. 24. 6 and 8, *εἰρήνη* (*ἐγγραπτός*) *πρός* meaning '(written) peace with'. The problems of the 'third Polybian' – content, date and purpose – are manifold; I hope I may be able to discuss them at another time [forthcoming in *Historia*].

with Pyrrhus on peace and friendship and, according to Plutarch, offered him ships as well as money.⁵⁶ This may have been a breach of their recent accord with Rome.⁵⁷ Arguably the Carthaginians were in consultation with Rome, or at least meant to insist on including her in any resulting treaty as the accord required (though one may be permitted a little scepticism).⁵⁸ Even so it would obviously have been easy for a pro-Roman writer to represent them as faithless. No writer did so. Was it because Polybius does not mention the Sicilian pourparlers? But he does not mention the Tarentum incident either.

I do not seek to prove the unprovable, that Livy and other Latin authors must have read of the 'Philinus' in Philinus. It is enough to show that any view of them providing independent confirmation of it is hazardous.⁵⁹ Besides, how would an independent report have originated? Conceivably through a Roman author himself discovering and citing the 'Philinus', or at least its gist, earlier than when Polybius carried out his own researches (for by then it had vanished from the archives). If so, we have to envisage a Roman author who went to the trouble of investigating the archives and then chose to publish details only of the treaty which put Rome in the worst possible light for 264: this even though the third Polybian, as just remarked, could offer passable grounds for accusing Carthage in her turn of a breach of faith well before 264. Did our pre-Polybian inquirer then publish all the treaties? Unlikely, for by the mid-second century 'the Romans and Carthaginians oldest and of best repute in public affairs were unaware' of the details – and perhaps even the existence – of the earlier treaties.⁶⁰

Was the gist, at least, of the 'Philinus' in the *tabulae pontificum* or the like? If so, we must suppose, first that Polybius ignored or was ignorant of this (admittedly a possibility), second that these records did give the gist of treaties (possible but

⁵⁶ Diod. 22. 10. 5–6; Plut. *Pyrrh.* 23. 2 (ships presumably to take him home – or back to Italy and his war with Rome). P. Lévêque discusses the talks in *Pyrrhos* (Paris, 1957), 481–4; as does P. Garoufalas, *Pyrrhus* (rev. edn., London, 1979), 98–9 and notes 6–12 on pp. 381–6, but his treatment is almost entirely derivative.

⁵⁷ So (e.g.) K. J. Beloch, *Griech. Geschichte*, iv. 1² (Berlin/Leipzig, 1925, repr. 1967), 554; P. Meyer, *Ausbr.*, 24; De Sanctis, *Stor. d. R.*, II (Torino, 1907), 409; Lévêque, *Pyrrhos*, 418, 482–3.

⁵⁸ Schmitt, *Staatsv.*, 105–6, suggests that they may have been in consultation: 'voraufgegangene Verhandlungen zwischen Karthagern und Römern verloren gegangen sein können'. It cannot, of course, be taken for granted that Roman annalists must have known of Pyrrhus' campaigns in Sicily; but, if they *had* known of the 'third Polybian' and were eager to find instances of 'Punic faith' before 264, it is not inconceivable that one or more of them might have done a little basic research into the Sicilian side of the Pyrrhic Wars (that would in any case help to place his return to Italy in proper context). I might add that, if La Bua is correct in making Philinus cover the period 289–264 in his first book (and it seems plausible enough, since Philinus reached the events of 264 only with Book II: above, n. 45; La Bua, 177–87), then any Roman writer who read him and who also knew details of the 'third Polybian' – from Polybius or some other source – could have found excellent material in the Agrigentine himself for an accusation of *Punica fides*. Unless that historian suppressed mention of the Punic overtures to Pyrrhus in 277!

⁵⁹ Viewed with strict logic, Livy's own surviving reference to a *foedus*-violation over Tarentum (21. 10. 8: n. 14 above) should carry little weight: for he explicitly parallels it with the alleged violation of the 'Hasdrubal treaty' of 226 by Hannibal's sack of Saguntum ('...sicut nunc Sagunto non abstinemus', he makes Hanno continue). That the 'Hasdrubal treaty' did guarantee Saguntum (as L. asserts at 21. 2. 7) is rightly disbelieved by most scholars: cf. Walbank, *Comm.*, i. 170–2, and iii (Oxford, 1979), 760; P. G. Walsh, *T. Livi AVC XXI* (London, 1973), 124–5.

⁶⁰ (ταῦτα) ἡγνόουν, says Pol. (3. 26. 2), having given the texts followed by details of the oaths sworn to the treaties. This assertion must be accepted: we can hardly pick and choose among his statements on this topic. If his report of what Philinus claimed is believed, and it is the only evidence, then his report of his contemporaries' ignorance of the extant treaties – resting on the same basis – is also to be believed.

dubious⁶¹ – especially as the second-century ignorance becomes even harder to understand), and, third, that the Romans were sedulous in suppressing the actual document from the archives but happy to allow incrimination to stand in the pontifical annals for senators and chroniclers to find. Polybius' language implies that those who had heard of the 'Philinus' owed their knowledge to *τῇ τοῦ Φιλίνου γραφῇ*, a rash assertion if readers could call his bluff by mentioning their own inspection of the Roman annals, or inspection by Fabius Pictor or Cato or Postumius Albinus.⁶²

In sum, Roman historical tradition is most unlikely to have had independent knowledge of the 'Philinus'. That it knew of Philinus' allegation is by contrast thoroughly probable: witness its effort at building the Tarentum incident up as a Punic treaty-violation. I infer this was due to anxiety to turn Philinus' weapon against Carthage.

The firmest evidence for his treaty, in some scholars' view, is its apparent reflection in the 'third Polybian' of Pyrrhus' time. There are two arguments. One: 'the existing agreement' (*τὰς ὑπαρχούσας ὁμολογίας*) to which the third Polybian was adjoined was not the second Polybian, as Polybius obviously supposes; the terms of that earlier treaty were too outdated to be renewed *circa* 279/8. Second: the proviso by which either party may assist the other, if need arise, 'in the territory of the party under attack' (*ἐν τῇ τῶν πολεμουμένων χώρᾳ*) makes sense only if a previous agreement forbade each to approach the other's territory in normal times.⁶³

These arguments are in no way decisive. First of all, the supposed inappropriateness of the 'second Polybian' to conditions seventy years on does not apply to the bulk of it. Badian has briefly implied the same point in his recent paper, but it requires some detailed scrutiny.⁶⁴ By the time of the war with Pyrrhus, Rome had indeed extended control or dominance across the length and breadth of peninsular Italy. But there is no reason why that should render outdated such stipulations as that the Romans should not 'maraud, trade or found a city' beyond the specified points in Punic territories, or misuse provisioning rights to wrong an ally of Carthage; that the Carthaginians should not bring into Roman harbours a captive from any town with which Rome had 'a written peace' or misuse provisioning rights in their turn; or that a Roman in Punic Sicily or at Carthage, and a Carthaginian at Rome, 'may do and sell anything that is permitted to a citizen'.⁶⁵

The sole inappropriate clause would be the second:

ἐὰν δὲ Καρχηδόνιοι λάβωσιν ἐν τῇ Λατίνῃ πόλιν τινὰ μὴ οὖσαν ὑπήκοον Ῥωμαίοις, τὰ χρήματα καὶ τοὺς ἄνδρας ἐχέτωσαν, τὴν δὲ πόλιν ἀποδιδότωσαν

– 'if the Carthaginians capture any city in Latium not subject to the Romans, they shall keep the goods and the men, but hand over the city'. Even so the principle behind it will not have lost its relevance in Pyrrhus' time – unless it be assumed that the clause had been rendered inapplicable by the intervening 'Philinus' treaty, but this is to argue in a circle.

In this clause, and in the entire 'second Polybian', the one stumbling-block is the Now in 277 the Carthaginians, with only Lilybaeum left to them in Sicily, opened talks

⁶¹ Cf. n. 52, and text at n. 63 below.

⁶² 3. 26. 5 (quoted, n. 42).

⁶³ The arguments (the second one with particular vehemence) of Mazzarino, *Introduz.*, 68–72, 77–8 ('nessun dubbio è possibile', p. 69); also of Cary, 73; Scullard, *HRW*³, 487 = *HRW*³, 435; Thiel, 131; Toynbee, i. 543, 544–7; Schmitt, *Staatsv.*, 54, cf. 104; Meister, *RFIC* (1970), 417–18, 420–1, and *Hist. Kr. b. Pol.*, 136, 138; Mitchell, 636, 648, 652; Musti, *ANRW* i. 2. 1139.

⁶⁴ *Misc. Manni*, 167–8.

⁶⁵ *Pol.* 3. 24. 4, 6, 8, 12–13.

phrase ἐν τῇ Λατίνῃ, as Badian too has seen.⁶⁶ Objections to this treaty being the one renewed in 279/8 are really objections to ἐν τῇ Λατίνῃ. In turn, defenders of the 'second Polybian' seek to interpret the phrase or clause to fit Pyrrhus' day: 'Latium' covers the category of towns of Latin right all over Italy, or the phrase 'the Romans and their allies' at the head of the treaty shows that this really applied to Rome's entire area of control and was designed to be flexible (with the Latium-clause by implication being only a special case or an antique survival), or Polybius 'may have ignored new clauses [in the 279/8 renewal] designed to safeguard' Rome's widened Italian interests.⁶⁷

None of these suggestions is convincing. That the *nomen Latinum* is meant and not Latium is virtually impossible to infer from the phrase – which moreover echoes a definite reference to Latium in the 'first Polybian'.⁶⁸ For Polybius to ignore obvious new clauses in the renewed version would be inexplicable seeing that his intent is to give a thorough survey of the Roman-Carthaginian treaties to prove that the 'Philinus' was not lurking about somewhere among them.⁶⁹ The theory that a more flexible formula was being sought in the 'second Polybian' leaves the stumbling-block in place, as Walbank notes,⁷⁰ although it is just conceivable that ἐν τῇ Λατίνῃ might have been kept in 279/8 as a merely ceremonial holdover or because the Romans continued to feel more strongly about Latium than other regions of Italy.

Walbank offers the suggestion that in the urgency of the situation 'the negotiations after Ausculum were restricted to what mattered most to both sides – Pyrrhus':⁷¹ in other words the Romans did not bother with (or perhaps notice) a single, now anomalously narrow phrase in the existing treaty. But according to Justin, the main source for details of the Roman-Punic contacts, the Senate was cool to Mago the Punic admiral (and he even went off to see Pyrrhus); Justin does not mention any accord being concluded between Rome and Carthage, but on his showing the Romans were not exactly desperate.⁷² Walbank's suggestion would be the preferable one if nothing better can be offered; but I believe a better can. The treaty, on renewal, could have

⁶⁶ Cf. Toynbee, i. 544–5 'it is impossible to believe that in 278 B.C. Rome herself will have conceded gratuitously, in a new treaty with Carthage, that her sphere in Italy was, in fact, Latium only, and not even the whole of that'; cf. 543 n. 5 (on 544); Mitchell, 648 'by the time of the Pyrrhic War, Roman interests extended far beyond those recognized by the Carthaginians in 348'; Meister, *Hist. Kr.*, 138. – Badian speaks of 'references to Latium', in the plural, but there is only one.

⁶⁷ The proposals, respectively, of Täubler, 275; Schachermeyr, 375–7 (but on both see Toynbee, 543 n. 5); Walbank, i. 349.

⁶⁸ 22. 11–12 (Carthage not to wrong specified Latin towns, and if she capture any other must hand it over to Rome), 12 (no fort to be built by C. ἐν τῇ Λατίνῃ).

⁶⁹ 3. 21. 10 (ἵνα) . . . ἥ τις ὁμολογουμένη θεωρία τῶν ἀπὸ τῆς ἀρχῆς ὑπαρξάντων δικαίων 'Ρωμαίοις καὶ Καρχηδονίοις. Walbank himself does not think the third suggestion to be likeliest (349–50).

⁷⁰ Toynbee, 543 n. 5, argues against it because the same phrase ('the Romans and [their] allies') appears in the 'first Polybian', yet that text proceeds to spell out the names of the cities on the Latin coast then under Roman control (cf. n. 68 above); similarly, he holds, the second should spell out the same names plus those of Rome's later coastal acquisitions, especially as both Täubler and Schachermeyr dated the second to 306 (not 348). But this seems to be an unwarranted assumption, all the more as Schachermeyr's point is that the new treaty sought greater flexibility. For Walbank's comment, see *Comm.*, i. 346.

⁷¹ i. 349–50; cf. Strachan-Davidson, *Sel. from Pol.* (n. 6), 62 'the Romans . . . had too much on their minds to insist on a substantially fresh Treaty'. The date of the 'third Polybian', like practically everything else about it, is much debated and cannot be touched on here, but whether 279, 278 or 280, the essential point here will stand.

⁷² Justin 18. 2. 1–6; Diod. 22. 7. 5; Livy *per.* 13; these and other source-materials collected in Schmitt, *Staatsv.*, 101–3.

been slightly amended, so slightly that Polybius overlooked it or did not bother to mention it.

Thus to ἐν τῇ Λατίνῃ other place-names might have been added (e.g. *Τυρρηνία*). Or the original phrase might have been altered to something like ἐν τῇ Ἰταλίᾳ; or simply struck out. Any alteration would merely be a recognition of Rome's peninsula-wide interests (in 279/8 or even in 306). Simple omission of the phrase is not inconceivable either. True, it might seem unthinkable slovenly at first glance: would the proviso apply thereafter if the Carthaginians captured 'any city not subject to the Romans' in Greek Sicily or in Spain? But the proviso follows shortly after the mention of the Romans and their allies on the one hand and the Carthaginians and theirs on the other: the context would make it clear that it applied to areas under Roman dominance, just as the next proviso must ('if any Carthaginians capture any who enjoy a written peace with Rome'). Rather similarly, context makes it fairly clear that the treaty bans the Romans from founding a town in Punic Sicily, though explicitly the ban mentions only Sardinia and Libya and the Romans, as we saw, enjoy the same rights in Punic Sicily as Carthaginian citizens do.

All this, of course, is to suppose that the text of the 'second Polybian' was re-inscribed on its renewal in 306 or c. 279. Some scholars hold that it was not. Polybius prefaces the third treaty with the words 'in this they renew everything in the existing agreement [*τὰς ὑπαρχούσας ὁμολογίας*], and add the following', words normally taken as meaning that the treaty itself carried only such a summary reference to the earlier one.⁷³ Certainly this has to be the view of believers in the 'Philinus' who hold that it was the 'existing agreement' thus renewed; had that agreement been re-inscribed Polybius could not have avoided, and could scarcely have denied, seeing the genuineness of Philinus' accusation. But three items point to a fully reinscribed text – and if so that text will have been the 'second Polybian' for the same reason.

To start with, Polybius uses the term *ὁμολογαί* here. It might be expected that a formal document would use the more technical *συνθήκαι* in referring to its predecessor; but if Polybius is giving a more or less verbatim citation of the preamble, why alter a word? Again, he describes the new agreement itself as *συνθήκαι*, putting it on a par with the two earlier treaties he has quoted. Granted, it may have had its own bronze tablet; but if it was set out, even so, as an annex to an earlier accord, his rather formal introduction of it would hardly be called for:

ἔτι τοιγαροῦν τελευταίας συνθήκας ποιοῦνται Ῥωμαῖοι...πρὸ τοῦ συστήσασθαι τοὺς Καρχηδονίους τὸν περὶ Σικελίας πόλεμον.

Polybius (I might add) does not lack a term for an agreement later appended to an existing treaty: he uses *ἐπισύνθηκαι* for the agreement of 237 that became an annex to the peace of 241⁷⁴ – but not for the 'third Polybian'. And finally, he does not go on to quote the oath-formula for this new treaty (just as he omitted it from the second) but simply gives the names of the gods sworn by.⁷⁵ If he can summarise the closing formalities thus, he could with still more reason subsume the greater part (the reinscribed 'second Polybian' part) of the text with the reference back to the second treaty.

There might have been an earlier re-inscription in 306, of the 348 treaty alone but incorporating the change from ἐν τῇ Λατίνῃ hypothesised above, though it seems less likely to me. All that Livy says for 306 is 'foedus tertio renovatum'.⁷⁶ Polybius does

⁷³ 3, 25, 1.

⁷⁴ 3, 27, 7.

⁷⁵ 25, 6; cf. Walbank, i, 351.

⁷⁶ 9, 43, 26.

not mention any renewals between his second and third treaties, but if there was a separate bronze of the 306 accord he might well pass over it as seemingly identical to the 348 original. More likely, the 306 renewal was pro forma, did not involve any textual changes, and was not inscribed but merely reported in the *tabulae pontificum*, whence Roman annalists will have got it: Livy simply mentions the fact without details (as he does the 348 treaty), which could suggest a chronicle entry.⁷⁷ In 306 it was Carthage that sent the embassy to Rome, and she had just ended her exacting war with Agathocles; she will have been renewing her established friendly contact with Rome as a diplomatic gesture. So it seems rather likelier that any amendment was made, and the modestly revised text of the 'second Polybian' re-inscribed, at the time (and on the bronze) of the new accord in Pyrrhus' day. As Badian too suggests, Polybius in his hunt for anything resembling a 'Philinus' proviso may quite possibly have overlooked such a revision.

It should be emphasised that even if all the above is wrong and the 'third Polybian' did stand as generally supposed – with only a summary statement renewing 'the existing agreement' – this by itself would not make it more probable that the agreement involved was the 'Philinus'.

But (it is argued) the text of the new accord itself lets Philinus' cat out of Polybius' bag. This is another unwarranted conclusion.

For one thing, it could be maintained with some reason that the whole clause about the right to render each other aid 'in the territory of the party under attack' (ἵνα ἐξῆν βοηθεῖν ἀλλήλοις ἐν τῇ τῶν πολεμουμένων χώρᾳ) implies merely that in non-treaty circumstances the Romans or the Carthaginians would look without enthusiasm on the other state's military forces turning up on their soil. This is worth bearing in mind, even though I shall argue that rather more should be read into the phrase.

Further, ἐν τῇ τῶν πολεμουμένων χώρᾳ strictly recalls not Philinus but Servius' *litora Carthaginiensium et Romanorum*, and as argued earlier the two are not complementary. In any case it is not to be assumed that so plain a mention of the two parties' χώραι presupposes that these were defined in an earlier accord, in other words in the 'Philinus'.⁷⁸ Pédech notes that the Roman and Carthaginian ἐπαρχίαι are not defined either in the peace of 241.⁷⁹ For that matter the 'second Polybian' does not specify where the cities enjoying 'written peace' with Rome are to be found, and it would be a mistake to suppose – from the clause preceding – that they were only in Latium, even as early as 348.⁸⁰ Nor is it explicit about the χώραι of Carthage from which a Roman could obtain supplies; here again the sense must be filled out by implication (areas of Spain, Sicily, Sardinia and Libya). In the 'third Polybian', the aid would be given in practice only when sought – as we shall see – and thus a precise definition of the χώραι would be unnecessary. To define them might not be appealing either, if there was any risk of ruffling the susceptibilities of some 'allies' by listing them as subjects.

The words preceding this debated phrase do not by themselves define the potential situation fully enough (any συμμαχία is to be made by both parties ἵνα ἐξῆν βοηθεῖν ἀλλήλοις), so a qualifying phrase or clause is certainly called for. Why not, then, an open qualification like ἀν πολέμωνται, 'if they are attacked', without territorial specification?⁸¹

⁷⁷ For this type of renewal cf. Täubler, 122–5.

⁷⁸ So assumed by Mazzarino, 69–71; Toynbee, 543; Meister, *RFIC* (1970), 417; cf. Mitchell, 652.

⁷⁹ Pol. 3. 27. 4; Pédech, *Méth. hist.*, 189–90.

⁸⁰ Cf. Walbank, i. 348.

⁸¹ Cf. Toynbee, 547 'why tie the strategists' hands – perhaps awkwardly, as it might turn out – by adding a qualifying phrase?'

The qualification actually applied, 'in the territory of the party under attack', carries a logical implication – though one seldom noted: one signatory is not expected to aid the other if that other is drawn into war with Pyrrhus outside her own territory.⁸² At the time they made the accord, the Romans may well have felt the need of some proviso as a reserve towards the last-ditch defence of Campania and Latium. After the battle of Heraclea in 280 Pyrrhus had marched north into Latium, as far as Anagnia or even Praeneste.⁸³ He then retired; but no one could feel sure he would not repeat the advance after any new victory – or, more ominously, what would happen if he did. A guarantee of outside aid in such circumstances was as much to Rome's interest as it was to Carthage's in the event of Pyrrhus at some stage invading Punic Sicily – or Africa.

At the same time the whole accord breathes no great eagerness from either side for close and constant co-operation with the other. Even the proviso under scrutiny carried the implication, as Thiel points out, that aid shall be rendered only when asked for.⁸⁴ This caution is visible in the other stipulations too. By the introductory clause either party must be associated in any *συμμαχίαν πρὸς Πύρρον ἐγγραπτον* made by the other.⁸⁵ Crews in Punic ships sent to co-operate with Roman forces must not be forced to disembark if they do not wish to, and the ships are not only to take the co-operating forces to the scene of operations but to take them back again.⁸⁶

This makes sense only if either power felt confident of waging war against Pyrrhus on her own, short of dire emergency. Plainly both felt so: they did wage their wars separately.⁸⁷ In fact even when the king had Lilybaeum, the last Punic foothold in Sicily, under siege there is no evidence that the Carthaginians called for Roman aid. None the less it was sound policy to have a claim on outside help usable in extreme crisis (what if the fall of Lilybaeum had been followed by an Agathocles-like invasion of Africa?).

Altogether the arguments used to confute Polybius and confirm Philinus rely on unnecessary or even flawed assumptions. Their improbabilities outweigh any on the pro-Polybian side. This may not yet be enough to tilt the balance decisively against Philinus, but two further considerations complete the upset.

The first is obvious and has been stressed often; it will bear stressing again. From the Punic, or even merely anti-Roman, standpoint in the debate over 264 the 'Philinus' is just about too good to be true: a solemn and sworn public pact that put the Romans squarely in the wrong.⁸⁸ At a stroke it removed any need to scrutinise other and more complex agreements or understandings for debatable infractions, let alone to labour over the intricate events of 264 itself, in which Carthage did not emerge uncontestedly

⁸² Noted only by A. Passerini, *Athenaeum* 21 (1943), 103 n. 1 ('l'obbligo' [sic] of assistance may have applied only when warfare took place in Latium, Campania or Africa).

⁸³ Cf. Lévêque, *Pyrrhos*, 334–40, favouring Praeneste. Nenci argues for 280 as the date of the 'third Polybian'; his arguments in fact constitute plausible proof that that is the date Polybius envisaged – not quite the same thing (*Historia* [1958], 263–99). Even if he were right, the other points made in my text would hold; cf. n. 71.

⁸⁴ Thiel, 29 and n. 80; cf. Walbank, i. 351 ('the clause is merely permissive' and the two remaining clauses include 'the normal proviso [Walbank cites Täubler, 55, 266–7] that help shall be sent only as required by the party attacked'), ii. 55 (*ad Pol.* 7. 9. 11); Nenci, 292.

⁸⁵ I take this to mean 'written alliance with P.', but cannot discuss that here.

⁸⁶ On the emendation *ἀφοδος* ('return journey') for MSS. *ἐφοδος* at *Pol.* 3. 25. 4, see e.g. Walbank, i. 351; D. Flach, *Historia* 27 (1978), 615–16.

⁸⁷ Diod. 22. 7. 5 has often been thought to record one co-operative venture, against Rhegium or some other South Italian town. I prefer the view that he is reporting a purely Carthaginian mission (Mitchell, 650, though inadequately argued there).

⁸⁸ Cf. Walbank, i. 354.

superior to Rome in morality or innocence. Philinus' assertion must therefore *prima facie* bear a weight of suspicion, not lightened by Polybius' plain implication that the best-informed Carthaginians of his day had not heard of it (unless through reading Philinus himself).

The second consideration has not been stressed by moderns but should be. It is in fact Polybius' other reason for disbelieving Philinus. When it came to the other treaties, the Agrigentine *ταῦτ' ἡγνόμεναι*. Polybius does not hold this against him, since in his own day nobody knew of them either. But the implication is sound: a historian who had no knowledge of three important and extant accords between Rome and Carthage – the latest of them struck less than two decades before the outbreak of the war he was narrating⁸⁹ – but who insisted that there was one which, as it happened, proved the Romans to be treaty-breakers over Messana, is a historian to be (at the least) sceptically scrutinised.

It might be urged that Philinus had no reason to mention the other three. We could grant this about the first two, leaving aside the fact that Punic Sicily is prominent in both (as Polybius stresses), but it is not convincing for the third. That was struck after the date of the 'Philinus' (306 according to most of his supporters), it confirmed (again according to most) the vital stipulation of his – so no Roman had a right to protest that the original had lapsed or been forgotten – and it showed the Carthaginians co-operating with Rome a few years before the latter's act of 'faithlessness' over Messana.⁹⁰

Polybius does not believe that Philinus would deliberately lie. The best that can be done for him then is to infer that he knew there had been at least one accord, but without precise details; and that he construed it as enacting a reciprocal territorial ban which put Rome flagrantly in the wrong over Messana. This does not contradict Polybius' statement that Philinus *ταῦτ' ἡγνόμεναι*: the latter's biased construction cannot have looked like a clause in any of the three or have used a quotation or close paraphrase from any.⁹¹

Finding a genuine treaty-proviso which could give rise to such an interpretation is not exactly difficult. For instance there are the stipulations at the beginning and end of the 'second Polybian' that the Romans are to steer well clear of most Carthaginian territory, that only civilian and trading rights may be exercised in Sicily, that the Carthaginians are not to keep any Latin towns they capture, and neither side is to wrong the other's allies. The third treaty too, again if only vaguely known, could have inspired a 'Philinus' with its cautious and restricting provisos – above all, perhaps, its implication that normally neither signatory expects to have the other's military forces operating on its soil. Since the 'second Polybian' was (as argued above) the agreement renewed when the 'third' was struck, an imprecise awareness that they placed restrictions on both powers could well have led to the impression that Rome and Carthage had agreed to keep clear of each other's areas of interest – at least in a historian concerned to fix on Rome clear responsibility for the outbreak of the First

⁸⁹ And if La Bua is right that Philinus began his work with the death of Agathocles (*Filino-Polibio*, 199–232), it was struck within the period he himself covered and was highly relevant to Pyrrhus' subsequent war in Sicily.

⁹⁰ Was the Tarentum incident of 272 narrated by Philinus as an example of friendly aid offered by Carthage to Rome, only to provide welcome ammunition to Roman annalists later on for combating his treaty? One wonders.

⁹¹ This second point also in Täubler, 274. Pol. is concerned as much with the details as with the existence of the treaties, as his emphasis on the references to Sicily shows (3. 23. 5, 26. 14) – and the fact that he writes *ταῦτ(α) ἡγνόμεναι*, not *ταύτας ἡ*. (26. 2), even though *τῶν συνθηκῶν* precedes at 26. 1.

Punic War.⁹² Philinus may well have been aware that an accord had been struck some years before 264: the war with Pyrrhus had been fought only forty years or so before he wrote his history, perhaps in his own boyhood or youth (Walbank suggests he may have been a mercenary officer in Punic service during the First Punic War) – a time moreover when all Greek Sicily must have been interested in the actions and attitudes of the three embroiled powers, Pyrrhus, Rome and Carthage.⁹³

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⁹² That Philinus misconstrued the second or third Polybian is naturally the view of those who agree with Pol.'s refutation. Cf. n. 6 above.

⁹³ On the date of Philinus' work, and thus life, see Laqueur, *RE* xix. 2191–2; Walbank, *CQ* (1945), 4–5, 11–12, and *Comm.*, i. 65; La Bua, 233–79 – but, following Laqueur, 2190, he also wants Philinus to have covered the Mercenary War of 240–237 (see Walbank's comments cited above, n. 48).

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