

# FISCUS AND PATRIMONIUM: THE SAEPINUM INSCRIPTION AND TRANSHUMANCE IN THE ABRUZZI

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In any discussion of the relationship between Fiscus and Patrimonium, the inscription from Saepinum dealing with incidents on the *callis* or *tratturo* from the Abruzzi to the Tavoliere which passed through the town must play a part. The inscription comprises three documents: a report from the Imperial freedman Septimianus to his superior, the freedman *a rationibus* Cosmus, on the maltreatment alleged by the *conductores gregum oviaricorum* in the region of Saepinum and Bovianum, at the hands of local magistrates and *stationarii*; a request from the *a rationibus* to the Praetorian Prefects; and a warning letter from these to the magistrates of Saepinum, placed at the head of the dossier.<sup>1</sup>

The standard interpretation of the Saepinum inscription explains the place which it holds in discussions of the Patrimonium; for let us suppose that the *conductores gregum oviaricorum* are the contractors for the Imperial flocks, the *oves dominicae*, and that the intervention of Cosmus is justified on the basis of his position, the flocks being *sub cura mea*; it would follow that at any rate under Marcus (the affair belongs to the years 169–72), the possessions of the Emperor were in the hands of the *a rationibus* and hence of the Fiscus.

But the correctness of this interpretation is not self-evident, and raises more problems than it solves. A careful re-examination of the three texts in the order in which they were written suggests that a different view is more coherent and satisfactory. There is in fact no evidence that all the flocks involved belong to the Emperor; Imperial flocks figure in only one of the texts, the report of Septimianus, and there they are only a part of the whole. This invites the suggestion that the position of the *a rationibus* involved him in looking after the *conductores gregum oviaricorum* in the context of a general responsibility for the processes of transhumance.

Read thus, the inscription at Saepinum tells us nothing about the management of the Patrimonium; but it acquires added value as evidence for the continuity of the practice of transhumance.

## I. THE AFFAIR

The inscription still stands on the outer wall of the north gate of Saepinum, on the road to Bovianum, about four metres above the *tratturo* which passes through the gate. I begin by reproducing the text published by U. Laffi, with the addition of <Cum> and the substitution of habe<b>amus in the letter of Septimianus, hypothetical restorations to facilitate translation.

I Bassaeus Rufus et Macrin<i>us Vindex mag(istratibus) | Saepinat(ibus) salutem. | Exemplum epistulae scriptae nobis a Cosmo Aug(usti) lib(erto) | a rationibus cum his quae iuncta erant subieciimus, et admonem|us abstinence iniuris faciendis conductoribus gregum oviaricorum cum magna fisci iniuria, ne necesse sit [et] cognosci de hoc | et in factum, si ita res fuerit, [ut oportet] vindicari. |

II Cosmi Aug(usti) lib(erti) a rationibus scriptae ad Basseum Rufum et ad | Macrin<i>um Vindic(em) pr(aefectos) pr(aetorio) e(minentissimos) v(iros). Exemplum epistul(ae) scriptae mih(i) | a Septimiano colliberto et adiutore meo subieci, et peto tanti | faciatis sc<r>ibere mag(istratibus) Saepin(atibus) et Bovian(ensibus), uti desinant iniuriam | conductoribus gregum oviaricorum qui sunt {sunt} sub cura mea facere, | ut be<ne>ficio vestro ratio fisci indemnis sit.

<sup>1</sup> Edited by Mommsen and Dressel on the basis of earlier transcriptions; the text in *CIL* IX, 2438, has been reprinted by Bruns, *Fontes*<sup>2</sup>, 242–3, no. 71, S. Riccobono, *FIRA*<sup>2</sup> 1, 327–9, no. 61, and *Les lois des Romains, Textes de droit romain*<sup>2</sup> II, ed. P. F. Girard and F. Senn, 389–91, chap. VII, no. 10. Re-edited by U. Laffi with photographs, ‘L’iscrizione di Sepino (*CIL*, IX, 2438) relativa ai contrasti fra le autorità municipali e i conductores delle greggi imperiali con l’intervento dei prefetti del pretorio’, *Studi class. e*

*orient.* XIV (1965), 177–200 (text, 180–1). On the system of *calles* see, for example, L. Gasperini, ‘Sedi umane e strade di Abruzzo in età romana’, in *Studi geografici sull’Abruzzo in via di sviluppo* (Pubbl. dell’istituto di geografia dell’Università di Pisa) (1970), with map after p. 122; A. La Regina, in *Hellenismus in Mittelitalien* (1975), 220; and E. Gabba and M. Pasquinucci, *Strutture agrarie e allevamento transumante nell’Italia romana (III–I sec. A.C.)* (1979), tav. 1 and 42.

III Script(ae) a Septimiano ad Co|smum. <Cum> conductores gregum oviaricorum qui sunt sub cura tua, in re presenti | subinde mihi quererentur per itinera callium frequenter iniuria<m> | se accipere a stationaris et mag(istratibus) Saepino et Boviano eo quod in tra<n>situ | iumenta et pastores, quos conductos habent, dicentes fugitivos esse et | iumenta abactia habere, et sub hac specie oves quoque dominicae | [diffu]giant in illo tumultu, necesse habe<b>amus etiam scribere quietius ag|erent ne res dominica detrimentum pateretur ; et cum in eadem contumacia | perseverent, dicentes non curaturos se neque meas litteras neque si tu eis | scrips[isses] litter[a]s, t[e] rogo, domine, si tibi videbitur, indices Basseo Rufo | et Macrin<i>o Vindici pr(aefectis) pr(aetorio) e(minentissimis) v(iris), ut epistulas emittant ad eosdem mag(istratus) et stati|onarios . . . tandiu t[eme]re (?) [ir]ritum (?) factum est.

I Bassaeus Rufus and Macrinus Vindex to the magistrates of Saepinum, greetings. A copy of the letter written to us by Cosmus, freedman of the Emperor *a rationibus*, we have subjoined with that letter which had been added and we admonish you that you abstain from committing outrages on the contractors for the sheep flocks with great hurt to the Fiscus, lest it may be necessary that there should be a judicial investigation about this and that there should be a legal claim on a question of fact, if the matter should be so.

II Written by Cosmus, freedman of the Emperor *a rationibus*, to the most eminent Basseus Rufus and to Macrinus Vindex, praetorian prefects. A copy of a letter written to me by Septimianus, my fellow freedman and aide, I have subjoined, and I ask that you consider it so important to write to the magistrates of Saepinum and Bovianum, that they cease to commit outrages upon the contractors for the sheep flocks that are under my supervision, so that by your help the Fiscus may be unharmed.

III Written by Septimianus to Cosmus. Since the contractors for the sheep flocks that are under your supervision were repeatedly complaining to me on the spot that they along the roads of the *calles* frequently receive outrageous treatment from the *stationarii* and the magistrates at Saepinum and Bovianum on this account, because they (?detain) in transit the pack animals and the shepherds that they have hired, saying that they are runaway slaves and have pack animals that have been stolen, and because under this pretext the Emperor's sheep also have perished in that fracas, we held it necessary also to write that they should act more peacefully, lest the Emperor's affairs suffer loss ; and since they persist in the said obstinate disobedience, saying that they will not be concerned either about my letter or if you yourself should write to them that the situation should not occur at all, I ask, my lord, if it seems best to you, that you inform the most eminent Basseus Rufus and Macrinus Vindex, the praetorian prefects, that they send letters to the said magistrates and *stationarii* . . . it has happened.

Following the custom of the Roman administration, the principal document—the 'letter' of the Praetorian Prefects—is accompanied by the other elements of the dossier. Thus the three texts inscribed one below the other, in progressively smaller letters as the importance of the authors diminishes, were in fact written in the opposite order to that in which they were inscribed. In order to understand the complex, we must consider it in the order in which it was compiled.

Although concise and direct, the letters of the *a rationibus* and the Prefects appear to have been reproduced in their entirety ; but the letter of Septimianus includes a number of anacolutha and grammatical errors, as if passages had been omitted. As Laffi has remarked, a copy of a letter may not alter anything, but need not necessarily be complete. There is no point in trying to reconstruct a grammatically correct text on the basis of what has survived ; but the general sense is not in doubt.

Of those who were called upon to deal with the problem, Cosmus may be the head of the bureau *a rationibus* or he may be the assistant of an Equestrian Procurator ; the standard view of the Praetorian Prefects is that their intervention is to be explained in terms of their responsibility for the maintenance of order in Italy.<sup>2</sup> In the inscription from Saepinum they write only to the magistrates of Saepinum ; other letters perhaps dealt with the magistrates of Bovianum and the *stationarii*. The letters of Cosmus and of the Prefects cover the same ground, requiring an end to the maltreatment of the *conductores*, the result of which

<sup>2</sup> A. Passerini, *Le coorti pretorie* (1939), 251-9 ; L. Howe, *The Praetorian Prefect from Commodus to Diocletian (A.D. 180-305)* (1942), 34 with n. 7 ;

F. Millar, *The Emperor in the Roman World* (1977), 124.

was loss to the Fiscus. The Prefects add the threat of an investigation and eventual punishment. There is no reason to doubt that the Prefects were quite deliberate in citing loss to the Fiscus as the consequence of continuation of the abuses. As far as the letter of Cosmus is concerned, its interest lies in the fact that it explains the reason for his involvement: the *conductores* are *sub cura mea*. But how? And the delinquents were guilty of causing loss to the Fiscus. But how? These are the two problems of the Saepinum inscription.

## II. THE IMPERIAL SHEEP . . . ?

The standard view of the inscription is that the *cura* of the *a rationibus* over the *conductores* arose because the *conductores* were the contractors for the Imperial flocks and that the loss to the Fiscus arose because of loss inflicted on the Imperial possessions, either because some sheep were actually lost<sup>3</sup> or because the contractors were unlikely in the future to be willing to pay as much as they had in the past.<sup>4</sup> The magistrates of Saepinum were of course within their rights in searching for fugitive slaves or stolen sheep: <sup>5</sup> a *generalis epistula* of Marcus and Commodus authorizing the pursuit of fugitive slaves by *praesides*, *magistratus* and *militēs stationarii*<sup>6</sup> is almost contemporaneous with the Saepinum affair; in any case, cattle-rustling, *abigeatus*, was a crime severely punished in second-century legislation.<sup>7</sup>

It follows from the standard view of the Saepinum inscription that the contracts for the Imperial flocks were the responsibility of the *a rationibus*. It also follows that the Patrimonium was no longer an autonomous entity<sup>8</sup> and it may even be argued that the Fiscus included the Patrimonium.<sup>9</sup>

## III. OR ALL THE TRANSHUMANT FLOCKS ?

At the beginning of the century, A. Grenier argued that the *conductores* were contractors for flocks of diverse ownership and that they were under the *cura* of the *a rationibus* because the fees they paid for pasture rights accrued to the Fiscus.<sup>10</sup> The argument deserves serious consideration, although it is true that such fees nowhere figure in the inscription. (Grenier went on to argue that the *stationarii* were responsible for collecting the fees.)

In favour of this view is the fact that in none of the three letters are the *greges oviarici* characterized as *dominici*,<sup>11</sup> although Septimianus is perfectly capable of using the word to describe the (or some) sheep which went astray and in the phrase *res dominica*. If we only had the letters of Cosmus and the Prefects, we should assume that the *conductores gregum oviaricorum* were the contractors for all the transhumant sheep and not simply for those of the Emperor. If only the principal document had been preserved, we should not hesitate to believe that the *conductores gregum oviaricorum*, in whose interest the Praetorian Prefects intervened, were 'all' the transhumants; it is important to observe that it is the *iniuriae* to the *conductores* which are condemned, not the losses to the flocks. And if the only preserved document was the letter of Cosmus, we should argue that the intervention of the *a rationibus* was based in law on his *cura* for the *conductores*, a *cura* which suggests the administrative oversight of the group consisting of the contractors and their flocks.

The same picture emerges from the report of Septimianus, if we read it without preconceptions. The initiative comes from the *conductores* and it is only as a series of after-

<sup>3</sup> Thus U. Laffi, *op. cit.* (n. 1), 192.

<sup>4</sup> A. Passerini, 253-4.

<sup>5</sup> J. Skydsgaard, 'Transhumance in ancient Italy', *Analecta Romana Instituti Danici* VII (1974), 35-6.

<sup>6</sup> See Ulpian, *D* 11, 4, 1-2: 'Is qui fugitivum celavit, fur est . . . Est etiam generalis epistula Divorum Marci et Commodi, qua declaratur et praesides et magistratus et milites stationarios dominum adiuvarē debere inquirendis fugitivis, et ut inventos redderent . . .'

<sup>7</sup> *D* 47, 14: measures taken by Trajan and Hadrian.

<sup>8</sup> E. Lo Cascio, 'Patrimonium, ratio privata, res privata', *Annali dell'Istituto per gli Studi storici* III (1971-2), 84.

<sup>9</sup> F. Millar, *The Emperor*, 188.

<sup>10</sup> A. Grenier, 'La transhumance des troupeaux en Italie et son rôle dans l'histoire romaine', *Mél. d'arch. et d'hist. de l'Ecole Française de Rome* (1905), 307-12.

<sup>11</sup> *CTh* 10, 6 uses for an imperial constitution of 395 the title 'De grege dominico'.

thoughts, introduced by *quoque* and *etiam*, that the *oves dominicae* and the *res dominica* appear. The absence of the adjective *dominici* attached to *conductores* is readily intelligible if the Imperial flocks formed only part of the whole.<sup>12</sup> It is precisely the disappearance of some Imperial sheep which spurred the unfortunate Septimianus, who writes *necesse habe<b>amus*, to take action, in the vain hope that respect for the *res dominica* would instil some sense in the magistrates of Saepinum; *res dominica* here means little more than 'the well-being of the Emperor'.<sup>13</sup>

If, despite everything, the *greges oviarici* of the Saepinum inscription are to be identified with the Imperial flocks, one would have to suppose that the emperor had a monopoly of transhumance, a solution adopted by some scholars; <sup>14</sup> but the unlikelihood of this has often been emphasized.<sup>15</sup> Alternatively, one would have to suppose with F. Millar, the only scholar to pursue the implications of the hypothesis, that 'what distinguished the *conductores* of the imperial flocks was their ability to complain to the *a rationibus*, and have a threatening letter written by the Praetorian Prefects to the local magistrates'; <sup>16</sup> but the argument is deployed only against the standard interpretation, not that of Grenier, and one is surprised to discover that the *conductores* of private flocks, if the victims of *iniuriae*, were unable to appeal to the protection of the state.

In fact, the *conductores* of the Saepinum inscription appealed to their right to freedom of movement without molestation; one may compare an inscription from Sulmona, 'Callian[i]/callibus/iti ni/iniuriam accipiatis.'<sup>17</sup> The *conductores* could pasture their sheep gratis *en route*; <sup>18</sup> on the other hand they were obliged to prevent them straying 'extra designatos et stationales calles'.<sup>19</sup>

At the end of the day, the administration offered limited comfort to the *conductores*, rebuking the magistrates of Saepinum, insisting on free passage on the *tratturi*; but they did not forbid police action against fugitive slaves or stolen sheep, only the manner of its execution; and the magistrates placed the inscription where few were likely to read it. Nonetheless, the administration had intervened on behalf of those who had financial obligations towards it and who therefore had a right to its protection; the problem remains of what precisely these financial obligations were. If all that were involved was the contract for the Imperial sheep, the absence of any reference to the administration of the Patrimonium would be surprising; the *ratio patrimonii* still existed under Marcus Aurelius, with a ducenarian Procurator at its head.<sup>20</sup> But if, as Grenier argued, all *conductores* under Marcus Aurelius paid fees to the state, the *cura* of the administration of the Fiscus, which the inscription seems to show to be a *cura* for all *conductores*, is readily intelligible.

If this is right, it is worth reconsidering the revenues drawn by the state from the

<sup>12</sup> 'Some of the flocks', as F. Millar correctly noted in *The Roman Empire and its Neighbours* (1967), 142, a position later abandoned.

<sup>13</sup> The Saepinum inscription offers one of the first attested examples of *dominicus* in the sense of 'imperial', cf. *TLL* v 1, s.v. *dominicus*, col. 1888.

<sup>14</sup> F. Sirago, *L'Italia agraria sotto Traiano* (1958), 72: 'già a metà del 2° sec. abbiamo visto che solo ai greggi imperiali è riservata la transumanza: cioè i greggi dei grandi proprietari saranno stati assorbiti nel *patrimonium principis*' (see also pp. 147-8 and 154).

<sup>15</sup> E. Trapenard, *L'ager scripturarius. Contribution à l'histoire de la propriété collective* (1908), 220 with n. 2; F. Millar, *The Emperor*, 188: 'It is more than unlikely that private flocks also were not still driven along these trails'. A constitution of 365 (*CTh* 7, 7, 2) proves that there were at that time flocks other than those of the Emperor.

<sup>16</sup> F. Millar, *The Emperor*, 188.

<sup>17</sup> *Eph. epigr.* 8 (1899), no. 139 = V. Cianfarani, L. Franchi Dall'Orto, A. La Regina, *Culture adriatiche di Abruzzo e Molise* (1978), 568, no. 415, tav. 415.

<sup>18</sup> *CIL* 1<sup>2</sup>, 585 = *FIRA*<sup>2</sup> 1, no. 8 = *Les lois des Romains*, chap. III, no. 8; cf. E. Gabba and M. Pasquinucci, op. cit. (n. 1), 50, n. 86 and 102-3.

<sup>19</sup> *CIL* IX, 2826, l. 5 ff.: '[...] quae intimus haventes in pectore nostro sancimus hac opportuna et necessaria costutione sacroque omni tempore per loca praefigendo cancellarii nri auctoritate edicto qui professa pecuaria regali derelicto transitu tramite devio arbitrari directione transferre ausi fuerint vel extra designatos et stationales calles per campum vel silvam pasturam et mansionem facere vel etiam ex lege certum numerum professi augere pecora nisi vel diplomatis annotationem exhibentis iusto auxilio vel inventa ratione defendetur criminali id fraude et dolo factum poenali sciant eosque ex legis tenore puniendos praecipimus...'

C. Wickham, *Studi sulla società degli Apenini nell'alto medioevo. Contadini, signori e insediamento nel territorio di Valva (Sulmona)* (1982), 52-3, correctly interprets this document as evidence for the continuity of transhumance from antiquity to the Gothic period. (He suggests that the decline was connected with the arrival of the Lombards.)

<sup>20</sup> H.-G. Pflaum, *Abrégé des procurateurs équestres* (1974), 26; *Carrières procuratoriennes* III, 1025; M. Corbier, 'Ti. Claudius Marcellinus et la procuratèle du patrimoine', *ZPE* 43 (1981) (*Gedenkschrift für Hans-Georg Pflaum*), 75-87.

practice of transhumance, regarded as important under the Republic,<sup>21</sup> but largely ignored under the Empire.<sup>22</sup>

#### IV. THE SAEPINUM INSCRIPTION AND THE ORGANIZATION OF TRANSHUMANCE

There is no space here for a detailed account of transhumance in Roman Italy, which I hope to discuss elsewhere.<sup>23</sup> The essential facts for our purposes are that the flocks were composed of a number of properties assembled for the journeys to the pastures (the merging of flocks is also attested outside the context of transhumance by Varro, *RR* II 10, 2; 3, 8–10 and by Ulpian at *D* 17, 2, 52, 2), that the flocks were registered and that they paid for pasture rights (Varro, *RR* II 1, 16). The characteristic feature of transhumance in this part of Italy is that it was placed already in the Republican period under the control of the state, as it was also later, in particular from the fifteenth to the nineteenth centuries, after the reorganization of the 'Dogana delle pecore della Puglia'. It is clear from the *Lex agraria* of 111 B.C. (lines 25–6) that transit on the *calles* evoked no charge. In the time of Varro, the collection of pasture dues was contracted out by the censors to *publicani* who recouped their outlay directly from the shepherds by a *per caput* levy.<sup>24</sup> The right of distraint is specifically attested by the jurist Labeo in the age of Augustus (*D* 47, 8, 2, 20: 'Si publicanus pecus meum abduxerit, dum putat contra legem vectigalis aliquid a me factum . . .').<sup>25</sup> The basis is a *lex*, a *lex censoria* for Varro, a *lex vectigalis* for Labeo.<sup>26</sup> It appears that the transhumant flocks were based in Apulia and paid for pasture rights on their way to the Abruzzi; by contrast, in the system operative from the fifteenth century, the flocks were based in the Abruzzi and paid, not for pasture rights, but for passage on the *tratturi*.

What happened to the Republican system under the Empire? We have already seen that Ulpian refers to the practice of assembling flocks composed of a number of properties, and this fits the implication of the Saepinum inscription that *conductores* were responsible for the flocks of private individuals as well as of the Emperor. Against the notion of the maintenance of fees for pasture rights as a significant feature there stands only one testimony of a letter of Cicero to Atticus of 59 B.C. (*ad Att.* II 16, 1): in expressing his hostility to the distribution of the Ager Campanus, Cicero recalls the abolition of harbour dues in the previous year and presents the *vicesima libertatis* as the only tax left in Italy. No historian of the fees for pasture rights, the *scriptura*, has drawn attention to the contradiction between Cicero and Varro; for in fact one has to choose between the two texts. For the passage of the *Res Rusticae* was almost certainly written after the letter of Cicero and describes the payment of fees as a matter of current practice.<sup>27</sup> As between the evidence of a man involved in the activity of transhumance and a polemical remark of Cicero, there is surely no doubt that one should accept the former.

During the period of Gothic rule (A.D. 489–536), the obligation to register flocks on their way to pasture is still clearly attested by the inscription found by a *tratturo* between the Bifernus River and Buca; <sup>28</sup> the authorities propose to prosecute transhumants who have

<sup>21</sup> See especially E. Trapenard, *op. cit.* (n. 15), 33; Cl. Nicolet, *Tributum. Recherches sur la fiscalité directe sous la République romaine* (1976), 81; *Le métier de citoyen dans la Rome républicaine* (1976), 229–38; E. Gabba and M. Pasquinucci, *op. cit.* (n. 1), 49–50.

<sup>22</sup> Either authors do not tackle this subject or they assume, as does U. Laffi, *loc. cit.* (n. 1), 187–8 (after Rostovtzeff), the absorption of public pastures into the Imperial Patrimonium: 'all' epoca di Marco Aurelio anche questi terreni pascolativi erano confluiti, per la più gran parte, nel *patrimonium principis*; essi venivano sfruttati non più mediante l'esazione di un'imposta pubblica appaltata, ma attraverso la diretta concessione in affitto a dei *conductores* privati, quegli stessi, con tutta probabilità, che ricevevano in conduzione anche le greggi.' U. Laffi does not for a moment assume, any more than does Rostovtzeff, that pasturage became free of charge.

<sup>23</sup> E. Gabba and M. Pasquinucci, *op. cit.* (n. 1), 48–50 and 92–4.

<sup>24</sup> E. Trapenard, *op. cit.* (n. 15), 27–98; see also Cl. Nicolet, *Tributum*, 281, and *Métier de citoyen*, 229–33, and E. Gabba and M. Pasquinucci, *op. cit.* (n. 1), 49–50 and 134–40.

<sup>25</sup> cf. E. Trapenard, *op. cit.* (n. 15), 69–83 with commentary on Varro II, 1, 16 and on Ulpian, *D* 47, 8, 2, 20.

<sup>26</sup> On the *lex*, cf. E. Trapenard, 52–60, who recognizes in these specifications a financial and farming regulation all in one.

<sup>27</sup> If the preface of book I was written in 37 B.C. (Varro was then 80), and the date of book II, *De re pecuaria*, is put in 67 B.C., the work as a whole would date from 55–50 B.C.; on these problems of the chronology of Varro, see recently J. Heurgon, *Economie rurale. Livre I* (Collection des Universités de France) (1978), xxi–xxvii.

<sup>28</sup> See n. 19 above.

pastured more than the sheep declared ; although the institutional context has changed, the survival of the practice of *professio* and the vocabulary associated with it, including a reference to a *lex*, is striking. The punishment meted out to the authors of fraudulent declarations leaves no room for doubt : rights of pasture are still a source of revenue to the state. It is wildly unlikely that the practice had been suspended in the second century A.D. ; and in fact we find seizure of a flock as a pledge by a *publicanus* presented as standard practice by Ulpian.<sup>29</sup>

As far as the Saepinum affair is concerned, we should surely see it as involving the Fiscus as the recipient of dues for pasturage ; even if the inscription includes no explicit reference to fees for pasture rights, since the abuses in question do not bear directly on these, these fees are the key to the understanding of the inscription ; for any damage inflicted on the *conductores* reduces their ability to pay and hence the value of their obligations to the Fiscus.<sup>30</sup>

#### V. CONCLUSION

The interpretation of the Saepinum inscription proposed here calls into question the thesis, which is nowadays generally accepted, that the affair is limited to the Imperial flocks ; carried to its logical conclusion, this thesis involves the identification of the *res dominica* with the Fiscus.

The interpretation presented here is based on a re-reading of the text closely related to its three-part structure ; it is in fact a close analysis of the three documents which leads us to recognize the maltreated *conductores gregum oviaricorum* as all the contractors for transhumance and the *a rationibus*, who was obliged to intervene, as responsible for it. This reading is supported by the fact that it was put forward by Albert Grenier, who anticipated the problem at a time when the accepted view had not yet been formed.

The interpretation offered here relates this dossier, dated to the reign of Marcus Aurelius, with all that is known of a practice of transhumance between Apulia and Samnium, which lasted at least 2,000 years. Beyond the immediate context of the legislation of the Antonine period on fugitive slaves and cattle-rustling, the Saepinum inscription directs our attention to the long-standing *iniuriae* between transhumant shepherds and farmers, but especially to the continued regulation of transhumance by the state. It belongs to a chain of documents, which, though incomplete, proves the permanent involvement of state power in this area, always linked to the protection of its revenues.

The isolated link provided by the Saepinum inscription supplements the picture derived from Varro's *Res rusticae* of transhumance between Apulia and Samnium in the Roman period. Two centuries later under Marcus Aurelius, what does the Saepinum inscription tell us about the general organization and actual operation of transhumance ? It shows its management by intermediaries, who re-grouped the flocks of the owners of Apulia and let out for the Fiscus access to the pastures on terms we cannot determine ; and an undoubted desire on the part of the Imperial administration to close their eyes to the possible abuses (fugitive slaves, stolen pack animals), to avoid reducing the profits of the system, without at the same time granting excessive privileges.

But the text tells us nothing about the Imperial Patrimonium except the very natural presence of Imperial sheep among the transhumant flocks.

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<sup>29</sup> D 47, 8, 2, 20 ; cf. E. Trapenard, op. cit. (n. 15), 69, 72, 78.

<sup>30</sup> This commentary on the Saepinum inscription was prepared for a seminar held at Newnham College, Cambridge on 28 November 1979, at the invitation of Miss Joyce Reynolds and Michael Crawford. It was subsequently discussed at the Institut de Droit romain de l'Université de Paris (at the invitation of Professor Levy) and at the Istituto di Diritto

romano dell'Università di Bari (at the invitation of Francesco Grelle). The final version has benefited from the comments of the participants at these various meetings—comments which are too numerous for me to be able to thank their authors individually ; the responsibility remains mine alone.

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