

THE *TABULA CONTREBIENSIS*: ROMAN LAW IN SPAIN IN THE EARLY  
FIRST CENTURY B.C.\*

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I

In December 1979, a Latin inscription on bronze came into the hands of Professor Guillermo Fatás of the department of Ancient History in the University of Zaragoza. It had been found by an unauthorized excavator on the site of the excavations on the hill known as Cabezo de las Minas, just outside the village of Botorrita, some 20 kilometres south of Zaragoza, on the banks of the river Huerva. The tablet, 438 mm. from side to side and 208 mm. from top to bottom, had clearly been attached to a wall or some other substantial object by means of six holes, three along the upper and three along the lower edge, and has been preserved in its entirety. However, the bronze is badly warped, and although the back of the tablet is quite smooth, the inscribed face has suffered considerable damage, apparently from fire and corrosion. After preliminary cleaning, Fatás published, with exemplary speed, a notice of the find in the *Boletín de la Real Academia de la Historia* CLXXVI (1979), 421–38, and then, after further treatment by the archaeological laboratory in the Museo Arqueológico de Barcelona, a monograph on the inscription in 1980.<sup>1</sup>

Subsequent treatment has made some letters considerably clearer, while other areas now appear to be if anything less legible. I print here my own reading, made in March 1983 through the kindness of Professor Fatás and the staff of the Barcelona Museum.

1. Senatus Contrebie[n]sis quei tum aderunt iudices sunt. Sei par[ret ag]rum quem Salluienses
2. [ab Sosinest]ane[is] emerunt rivi faciendi aquaive ducendae causa qua de re agitur Sosinestanos
3. [iure suo Sa]lluiensibus vendidisse inviteis Allavonensibus ; tum sei ita [p]arret eei iudices iudicent
4. eum agrum qua de re agitur Sosinestanos Salluiensibus iure suo vendidisse ; sei non [parre]t iudicent
5. iure suo non vendidi[sse.]
6. Eidem quei supra scriptei [sunt] iudices sunt. Sei Sosinestana ceivita[s] [ess]et, [t]um, qua Salluiensis
7. novissime publice depa[laru]nt qua de re agitur, sei [i]ntra eos palos Salluiensis rivom per agrum
8. publicum Sosinestanorum iure suo facere liceret [aut] sei per agrum preivatam Sosinestanorum
9. qua rivom fieri oporteret rivom iure suo Sa[l]luiensibus fac]ere liceret dum quanti is a[ger] aestumat[us]
10. esset, qua rivos duceretur, Salluienses pe[quia]m solverent, tum, sei ita [p]arret, eei iudices iudicen[t]

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‘The *tabula Contrebiensis*: II’, by P. Birks, A. Rodger and J. S. Richardson, will appear in *JRS* 1984.

<sup>1</sup> G. Fatás, *Contrebia Belaisca II: Tabula Contrebiensis* (Zaragoza 1980). Other bibliography on the

inscription includes: A. D’Ors, Las formulas procesales del ‘Bronce de Contrebia’, *Anuario de Historia de Derecho Español* 50 (1980), 1–20; S. Mariner, Il bronzo di Contrebia: studio linguistico, *Cuadernos de trabajos de la Escuela Española de Historia y Arqueología en Roma* 15 (1981), 67–94; A. Torrent, Consideraciones jurídicas sobre el Bronce de Contrebia, *ibid.* 95–104; G. Fatás, Romanos y celtiberos ceteriores en el siglo I antes de Cristo, *Caesaraugusta* 53–4 (1981), 195–234; *id.*, The *tabula Contrebiensis*, *Antiquity* 57 (1983), 12–18. For a report on more recent excavations at the site, and the Celtiberian bronze discovered there in 1970, see A. Beltrán and A. Tovar, *Contrebia Belaisca I: el bronce con alfabeto ‘iberico’ de Botorrita* (Zaragoza 1982).

11. Salluiensibus rivom iure suo facere licere ; [sei] non parret iudicent iure suo facere non licere.
12. Sei iudicarent Salluiensibus rivom facere licere, tum quos magistratus Contrebiensis quinque
13. ex senatu suo dederit eorum arbitrato pro agro privato q[u]a rivom ducetur Salluienses
14. publice pecuniam solvont. Iudicium addeixit C. Valerius C.f. Flaccus imperator.
15. Sentent[ia]m deixerunt : quod iudicium nostrum est qua de re agitur secundum Salluienses iudicamus. Qu[om] ea res
16. iudic[ata]st mag[is]tratus Contrebienses heisce fuerunt : Lubbus Urdinocum Letondonis f. praetor ; Lesso Siriscum
17. [Lubbi f. ma]gistratus ; Babbus Bolgondiscum Ablonis f. magistratus ; Segilus Annicum Lubbi f. mag[is]tratus ;
18. [c. 11 letters] ulovicum Uxe[. .]i f. magistratus ; Ablo Tindilicum Lubbi f. magistratus. Caussam Sallui[ensium]
19. [defendit . . .] assius Eihar f. Salluiensis. Caussam Allavonensium defendit Turibas Teitabas f.
20. [Allavonensis. Ac]tum [C]ontrebiae Balaiscae eidibus Maieis, L. Cornelio Cn. Octavio consulibu[s].

Fatás' most recent text records the following readings : <sup>2</sup>

- l. 2 ab Sosinestaneis
- l. 3 iure suo Salluiensibus ; parret
- l. 4 parret
- l. 5 iur[e] suo non vendidisse
- l. 6 sunt ; Sosinestana civitas esset tum qua Salluienses
- l. 7 depalarunt, qua de re agitur, sei [i]ntra ; rivom per agrum
- l. 8 licere[t] aut
- l. 9 Sallui[en]sibus facere ; aestumatu[s]
- l. 10 pecuniam ; parret ; iudicent (with a *nexum*, thus N)
- l. 11 licer[e] sei
- l. 12 quinque
- l. 13 exsenatu
- l. 15 sentent[ia]m deixerunt ; quom ea res
- l. 16 iudic[ata]st mag[is]tratus
- l. 17 Lubbi f. [ma]gistratus ; Babbus
- l. 18 [ . .]atu[ . . .] ulovicum Uxenti f. (with a *nexum*, as in l. 10)
- l. 19 defendit [ . .] assius
- l. 20 [Allavon]en[sis] Actum

Throughout the text, word divisions are indicated by a point. At lines 1, 6, 12 and 15 a new paragraph is indicated, the beginning of the line being about three letters nearer the left-hand margin than in the case of the other lines. There are no abbreviations, with the exception of the Latin *praenomina* in ll. 14 and 20, of 'f.' for 'filius' in ll. 14, 16, 17, 18 and 19, and possibly the *nexum* read by Fatás at ll. 10 and 18.

### Translation

Let those of the senate of Contrebia who shall be present at the time be the judges. If it appears, with regard to the land which the Salluienses purchased from the Sosinestani for the purpose of making a canal or of channelling water, which matter is the subject of this action, that the Sosinestani were within their rights in selling to the Salluienses against the wishes of the Allavonenses ; then, if it so appears, let those judges adjudge that the Sosinestani were within their rights in selling to the Salluienses that land which is the subject of this action ; if it does not so appear, let them adjudge that they were not within their rights in selling.

<sup>2</sup> *Antiquity* 57 (1983), 13.

Let those same persons who are written above be the judges. If the rules of the Sosinestan *civitas* were to apply, then, in the place where the Salluienses most recently and officially put in stakes, which is the subject of this action, if it would be permissible within their own rights for the Salluienses to make a canal through the public land of the Sosinestani within those stakes; or if it would be permissible for the Salluienses within their own rights to make a canal through the private land of the Sosinestani in the place where it would be proper for the canal to be made, so long as the Salluienses pay the money which is the value which would have been placed on the land where the canal might be brought; then, if it so appears, let those judges adjudge that it is permissible for the Salluienses within their own rights to make the canal; if it does not so appear, let them adjudge that it is not permissible for them to do so within their own rights.

If they were to adjudge that it is permissible for the Salluienses to make the canal, then, on the arbitration of five men, whom a magistrate (*or perhaps* the magistracy) of Contrebia shall have assigned from his (*or their*) senate, let the Salluienses pay money from public funds for the private land where the canal shall be brought. C. Valerius C.f. Flaccus, *imperator*, established the right of judgement.

They pronounced the opinion: 'Whereas the right of judgement in the matter which is the subject of this action is ours, we give judgement in favour of the Salluienses.' When this adjudication was made, these were the magistrates of Contrebia: Lubbus of the Urdini, son of Letondo, praetor; Lesso of the Sirisi, son of Lubbus, magistrate; Babbus of the Bolgondisi, son of Ablo, magistrate; Segilus of the Anni, son of Lubbus, magistrate; . . . . of the . . . . ulovi, son of Uxe . . . us, magistrate; Ablo of the Tindili, son of Lubbus, magistrate. . . . assius, son of Eihar, the Salluiensian, presented the case for the Salluienses; Turibas, son of Teitabas, the Allavonensian, presented the case for the Allavonenses. Transacted at Contrebia Balaisca, on the Ides of May, L. Cornelius and Cn. Octavius being the consuls.

This bronze records the settlement of a dispute, the outlines of which are fairly clear. Of the places mentioned, Contrebia Balaisca (or 'Belaisca', which would probably be a better Latinization of the Celtiberian name) had already been identified with the site at Botorrita before the discovery of this inscription, partly on numismatic and partly on onomastic evidence. This identification is confirmed by the appearance on another (two-sided) bronze inscription, found near the foot of the Cabezo de las Minas towards the river, of personal names which are also found in this text (Ablu, Lubos, Letondu). The two-sided bronze, discovered in 1970, is in 'Iberian' letters, though the language is Celtiberian.<sup>3</sup> The Salluienses are identified with the people who issued Iberian coins with the legend *Saldue*, and with the settlement called Salduba by Pliny, who describes it as the precursor of the colony of Caesaraugusta, the modern Zaragoza. It was this community which gave its name to the *turma Salluitana*, the cavalry squadron to which Cn. Pompeius Strabo had given Roman citizenship under the lex Julia in November 89.<sup>4</sup> The Allavonenses are almost certainly the people who issued coins with the legend *Alaun*, and are believed to have been centred round the modern town of Alagon, 25 kilometres up the Ebro valley from Zaragoza. They may be a branch of the Vascones of the upper reaches of the Ebro, an identification which is supported by the non-Indoeuropean nature of the Allavonensian names on the bronze.<sup>5</sup> Only the Sosinestani are previously unknown.

The case itself, as presented in the inscription, depended on the resolution of two questions. The first (ll. 1-5) was whether the Sosinestani had the right to sell land for the construction of a canal to the Salluienses, despite the opposition of the Allavonenses. The second (ll. 6-11) related to a right claimed by the Salluienses to construct their canal over land other than that which they had bought, and which is described as public and private land of the Sosinestani. Although such land did not belong to them by right of purchase, the Salluienses had already placed stakes to mark out the line of their channel where it would cross public land, and, although they had not yet staked it out, intended that it

<sup>3</sup> Fatás (1980), 46 ff.; id. (1981), 217-19; Tovar, in Beltrán and Tovar (1982), 76-81.

<sup>4</sup> Pliny, *NH* 3. 3. 24; Fatás (1980), 57 ff. For the

inscription recording Pompeius Strabo's grant, *ILLRP* no. 515.

<sup>5</sup> Fatás (1980), 63 ff.

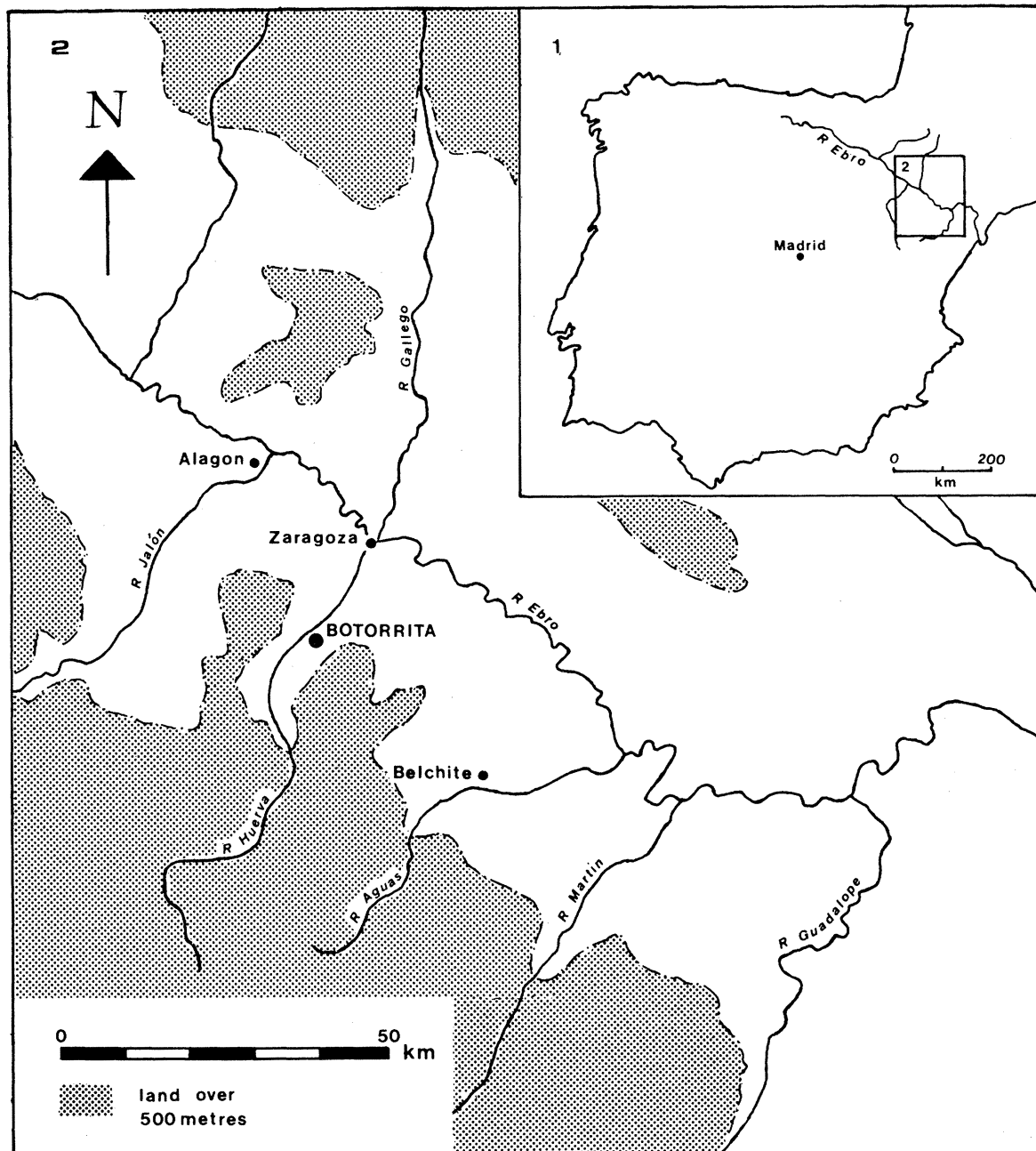


FIG. 1. BOTORRITA AND THE CENTRAL EBRO VALLEY

should also be taken across private land. The claim is conditional on appropriate compensation being paid to such private owners. A final section, which is not an instruction to the judges appointed to decide the two previous questions, orders the Salluenses to pay this appropriate compensation, if their claim is upheld (ll. 12-14).

The most remarkable feature of this case is the use of technical Roman legal language and concepts to present the questions which the Contrebian senators must decide. The distinction between *ager publicus* and *ager privatus* is fundamental to the Roman view of land-ownership, and, although public land was an essential part of the subsistence economy of other areas of Italy and the Mediterranean world, the formulation of the two categories

on this inscription is typically Roman.<sup>6</sup> Even more striking are the similarities to the praetorian *formulae* which by this date (87 B.C., l. 20) were replacing the older and more rigid *legis actio* process as the normal way of conducting cases in Roman civil law.<sup>7</sup> This similarity even extends to the idiosyncratic spelling of 'parret' (for *paret*), which is censured in an entry in Festus as an error occurring specifically in the *formulae*.<sup>8</sup> Other uses, such as the form for naming the judges (ll. 1 and 6), and the repeated phrase 'qua de re agitur' confirm the impression.

It is not only the language of the inscription which reveals the work of a Roman legal mind. Although there are two questions posed for the judges (ll. 1-5 and 6-11), the whole matter is seen as a single judgement, with one *iudicium* being devolved to the judges (l. 14), one *sententia* delivered by them (l. 15) and the entire process being described as 'ea res iudicata' in the singular (ll. 15-16). The first section, about the Sosinestan sale to the Salluienses, is thus treated as a preliminary decision, a *praeiudicium*, on which the right of the Salluienses claimed in the second section depends. The first section does indeed correspond to the *formula praeiudicialis* as described by Gaius, in that although there is an *intentio* (the 'si paret . . .' clause), the apodosis is not a *condemnatio*, specifying the amount to be paid by the unsuccessful party in the action.<sup>9</sup> Lenel has argued that a *praeiudicium* could not begin with 'si paret . . .', since there is no evidence that anything followed the *intentio* in such *formulae*, and 'si paret . . .' could not be left without an apodosis.<sup>10</sup> The inscription shows how such a *formula* could be drafted, following 'si paret . . .' with an instruction to the judges to make a judgement (ll. 3-5). Something very like this also seems to be described in another passage of Gaius, in which he states that *sponsores* and *fidepromissores* can, under the lex Cicereia, ask for a *praeiudicium* to determine whether or not notice has been given publicly of their appointment, and that 'si iudicatum fuerit praedictum non esse', they are freed from their obligation.<sup>11</sup> The language used by Gaius suggests that the *praeiudicium* included some such instruction as the 'si parret, iudices iudicent . . .' found in the inscription.

The second section (ll. 6-11) also lacks a pecuniary *condemnatio*, and this marks a difference between the process reported in this inscription and those used in the praetor's courts of the principate, which only omitted the *condemnatio* in *praeiudicia* and in certain divisory actions.<sup>12</sup> This case is not divisory, and this second section contains the matter for the *iudicium* which Valerius Flaccus established, and thus is not prejudicial. The *formula* employed is like that of an *actio in rem*, which is in fact the form of action which would have been used in Rome in the time of Gaius, as he states explicitly, in a question of *ius aquam ducendi*. The inscription also shares with the process described by Gaius the strange fact that only one of the parties to the matter is named. He notes that in such actions the plaintiff claims that the *res* in dispute is his, rather than that it should be handed over to him by the defendant.<sup>13</sup> In such *formulae* therefore the name of the defendant did not appear in the *intentio*. On the inscription it would seem that the parties are the Salluienses and the Allavonenses, since these are the only people represented at the hearing; but only the Salluienses are mentioned by name in the second section, claiming, if not exactly a *ius aquam ducendi*, then at least that they are permitted *iure suo* to construct their water-course. As there is no *condemnatio* at all in this *formula*, the Allavonenses are not mentioned. This in turn makes it probable that the Salluienses were the plaintiffs.

The opening clause of the second *formula*, immediately after the naming of the judges, also illustrates the 'Romanness' of the drafting of this document. The words 'si Sosinestana civitas esset' have caused considerable difficulty. It has been suggested that the phrase should be taken with the words immediately following, and translated 'if the land where

<sup>6</sup> M. Kaser, *ZSS* 62 (1942), 1-26. On *ager publicus* in Italy, E. Gabba and M. Pasquinucci, *Strutture agrarie e allevamento transumante nell'Italia romana (III-I sec. a.C)* (Pisa 1979), 17-29.

<sup>7</sup> W. W. Buckland, *A textbook of Roman law*<sup>3</sup> (Cambridge 1963), 625-30; M. Kaser, *Das römische Zivilprozessrecht* (München 1966), 107-16.

<sup>8</sup> Festus 262 L, cf. Probus *de notis* 6. 11 (SP—si parret), 6. 12 (SNPA—si non parret, absolvito); S. Mariner (1981), 81-2 and n. 41.

<sup>9</sup> Gaius 4. 41 and 44.

<sup>10</sup> O. Lenel, *Das Edictum Perpetuum*<sup>3</sup> (Leipzig 1927), 311-12.

<sup>11</sup> Gaius 3. 123. I owe this observation to Dr. Rodger.

<sup>12</sup> W. W. Buckland, *op. cit.* 659.

<sup>13</sup> Gaius 4. 3-4; cf. Buckland, *op. cit.* 677.

the Salluienses have driven their stakes was at the time part of (*or* was within the legal competence of) the Sosinestan state'. There are three problems with this translation: firstly, it would require not 'Sosinestana *ceivitas*', but the partitive genitive, 'Sosinestanae *ceivitatis*', which is certainly not on the bronze; secondly, it takes 'tum' in a temporal sense, even though the conditional clause immediately before it would lead the reader to expect that it is used here to introduce an apodosis, as it does in ll. 3, 10 and 12, and regularly in the praetorian *formulae*; <sup>14</sup> and thirdly, such a translation does not give full weight to the subjunctive 'esset', since the land marked out by the Salluienses is known, and either is or is not part of the Sosinestan state. If the 'tum' of l. 6 does begin the next clause, the words 'sei Sosinestana *ceivitas* *esset*' must be taken by themselves as a complete conditional clause, and in that case the function of this clause becomes clearer. The position of the clause in the *intentio* and the use of the subjunctive mood both indicate that this is a *fictio*, of the sort used in praetorian *formulae* to extend rights under the civil law to persons who strictly had no claim to them, such as the fictions 'si *civis* *esset*' or 'si *heres* *esset*'. <sup>15</sup> The Salluienses are thus regarded, for the purpose of this case, as having rights which strictly pertain to the Sosinestan *civitas*.

The third section, which has also been described as a *formula*, <sup>16</sup> looks at first sight like a *litis aestimatio*, the setting up of machinery to assess the amount to be paid at the end of a case. <sup>17</sup> However, it is not a *formula* in the same sense that the first two sections are, for it contains none of the usual features of the *formulae*, no *nominatio iudicum*, no *intentio*, and no instruction to the judges, even to make a judgement. The order to the Salluienses to pay comes directly from the *imperator* who sets up the *iudicium*, even though the assessment is to be made by five men from the senate of Contrebia. Neither is it a *litis aestimatio* in the usual sense, for normally such a procedure follows a condemnation, and the amount assessed must be paid by the unsuccessful party to the dispute. Here the Salluienses will only have to pay if they are successful, and indeed their making the payment is stated as a precondition of their being granted the right they claim (ll. 9–10). This is unlike any procedure known from the courts in Rome, though something like it might well have been used in order to turn a legal decision, reached by a *iudex* or indeed by the old *legis actio* process, into money for the benefit of a successful litigant.

The manner in which this case is set out reveals the hand of a highly sophisticated and very Roman legal expert. C. Valerius Flaccus had served during his praetorship as *praetor urbanus*, <sup>18</sup> in which capacity he would have been responsible for the drafting of many such *formulae*, and it is surely from this source that the legal artistry of the document derives. The language, the use of the *praeiudicium* and of the *fictio*, the carefully drawn distinction between *ager publicus* and *ager privatus*, all these indicate a close familiarity with Roman law, and in particular with a formulary system which seems already to have developed to a surprising degree. The extent of this development makes it difficult to believe, with D'Ors, that the formulary process had its origins in such cases as this, in which Roman governors were called upon to provide courts for non-Romans. <sup>19</sup> The sophistication displayed by this document from the early first century B.C. presupposes the use of *formulae* over a considerable period in a context requiring a large and varied repertoire of legal remedies, and the only place at which a Roman magistrate will have been involved in such a situation at this date is at Rome itself.

The style of presentation of this document must not be allowed to obscure the nature of its contents. For all its use of Roman legal structures, the case is of course not a matter of Roman law at all, as understood by the urban praetor in Rome. <sup>20</sup> None of those involved (with the possible exception of '[. . .]assius Eihar f.', who appeared for the Salluienses, l. 19) is a Roman citizen, and the adjudication is based on local rights and customs. The use of the *fictio* (l. 6) makes this particularly clear, for the status which is attributed to the

<sup>14</sup> *OLD* s.v. *tum* (5b); Gaius 4. 34 ff.

<sup>15</sup> As in Gaius 4. 32–8; I owe this very important point to Professor Birks and Dr. Rodger. Note that on my view the 'tum sei parret' in l. 10 takes up the 'tum' in l. 6, summarizing the long *intentio* of ll. 6–10.

<sup>16</sup> D'Ors (1980), 10; Fatás (1980), 76.

<sup>17</sup> Compare the procedure in *lex rep.* (FIRA 1, no. 7), ll. 58 ff.; also *D.* 6. 1. 46.

<sup>18</sup> *Cic. pro Balb.* 24. 55.

<sup>19</sup> D'Ors (1980), 17–20; Torrent (1981), 99–100 argues against this position.

<sup>20</sup> So already Fatás (1981), 198–9.

Salluienses by this device is that of membership of the Sosinestani, just as, in a *factio civitatis* in a Roman court, the person involved would be regarded, for the purpose of the hearing, as having the rights of a Roman citizen.<sup>21</sup> Further, not only is this not a case in Roman law, it is not a matter of private law either. The Salluienses, the Allavonenses and the Sosinestani all seem to appear as communities rather than as individuals, and this is confirmed by the statement that the Salluienses officially ('publice', l. 7) staked out the line of their canal over Sosinestan *ager publicus*, and that compensation to be paid for the transit of *ager privatus* was also to come from state funds ('publice', l. 14).<sup>22</sup> The case is presented in such a way that it is clear that the issues are to be decided in terms of Sosinestan law, both as to whether the Sosinestani were within their rights in selling to the Salluienses and whether, under Sosinestan custom, the Salluienses were permitted to construct their canal; but the appointment of members of an outside state (in this case the senate of Contrebia) to act as judges indicates that this is an 'international' arbitration, of the type familiar in the Greek world, and provided for in the province of Sicily under the *lex Rupilia*.<sup>23</sup>

The dispute itself appears, as already noted, to be between the Salluienses and the Allavonenses. The former have purchased from the Sosinestani land for the construction of a water-course, but the Allavonenses have objected to the sale. The grounds of their objection are not stated. It may be that the land in question was claimed by them as their own, but in that case it is odd that their position is represented as an objection to the sale of the land rather than as a simple claim of ownership. If the land was recognized as Sosinestan before the sale, the Allavonenses must have claimed that their permission was necessary for some other reason. For instance, it may have been argued that the Sosinestani were a community subject to the Allavonenses, that is, in Roman terminology, that they were not a 'populus in sua potestate', and therefore not able to dispose of their lands and water;<sup>24</sup> or that the sale infringed some right already granted to the Allavonenses, for instance, a prior option to purchase the land, or to draw water from the source which the Salluienses were intending to exploit. The decision about the legality of the sale of the land did not only affect the ownership of that land, but was also the basis of a claim by the Salluienses to a right which belonged properly to the Sosinestani (this is shown by the prejudicial nature of the first section of the inscription (ll. 1-5), and by the *factio* in l. 6). The way in which the *formula* is set out (ll. 6-11) suggests that the Salluienses are the plaintiffs in the case, and thus presumably are seeking a remedy against action taken by the Allavonenses to prevent them implementing the right they claim is theirs. Once again the grounds for the Allavonensian intervention are not clear, though it is fairly certain that they were not that the Salluienses were not Sosinestan citizens, as in such circumstances the matter would not have been dealt with by including an assumption of 'Sosinestana civitas' in a prefatory *factio*. In this case it is more probable that the question was one of water-rights.

In this context, the importance of the dispute and the role of Valerius Flaccus become clearer. The provision of an adequate water-supply is crucial to the survival and prosperity of settled agricultural communities, not least in the arid conditions of the Ebro valley.<sup>25</sup> The economic and political issues which always accompany such disputes were further complicated in this area at this date by the interrelations of the three distinct ethnic groups present there.<sup>26</sup> In this case the Allavonenses emerged from the proceedings without the ratification of the control which, for whatever reason, they claimed to exercise over the Sosinestani, while the Salluienses gained the access to water which the Allavonenses had

<sup>21</sup> As in Gaius 4. 32.

<sup>22</sup> *OLD* s.v. publice (1). The meaning 'publicly, openly' does not occur until the second century A.D., and at this date 'palam' is used for this meaning (e.g. *lex Lat. Bant.* (FIRA 1, no. 6), ll. 17 and 24).

<sup>23</sup> For instance *SIG*<sup>3</sup> 683; and in general, M. N. Tod, *International arbitration amongst the Greeks* (Oxford 1913); id., *Sidelights on Greek History* (Oxford 1932), ch. 2. For the *lex Rupilia*, see Cic. *II Verr.* 2. 13. 32, though these cases are of disputes between an individual and a state.

<sup>24</sup> cf. Livy 1. 38. 2. Fatás (1980), 72-5 argues that this may have been the relationship between the Sosinestani and the Allavonenses.

<sup>25</sup> Fatás (1980), 108-9; id. (1981), 202-3; cf. R. Way and M. Simmons *A Geography of Spain and Portugal* (London 1962), 24-7, 289-95.

<sup>26</sup> See especially Fatás (1980), chs. vi, viii (by Fatás and F. Marco) and x; id. (1981), 205-10, 212-25, 228-34.

sought to deny them. It is not without significance that the approach to the Roman commander seems to have been initiated by the Salluenses, since, as Pompeius Strabo's grant of citizenship to the *turma Salluitiana* demonstrates, some at least of that people were in favour with the Romans.<sup>27</sup>

The prestige which attached to this adjudication, established by a Roman proconsul, is illustrated by the appearance of this Latin document on the wall of a public building in the centre of a community known still to be using Celtiberian for its own official inscriptions at this date.<sup>28</sup> That prestige will not have derived solely from the sophistication of Roman legal practice, nor was Flaccus present in Hispania Citerior primarily to exercise the skills he had acquired during his term as *praetor urbanus*. Indeed it is not clear how far the finesse of the process was appreciated by those involved in it. Certainly the only response directly attributable to the Contrebian senators, their *sententia* 'secundum Salluenses iudicamus', though it told the parties to the case what they needed to know, lacks the subtlety of the earlier parts of the document, and does not report the judgement that they were required by the *formulae* to make. Flaccus' place in this affair depends not upon his legal expertise, but upon his being *imperator*, the holder of military command in the area, and moreover one who had achieved an acknowledged victory. The only such success recorded as having been won by Flaccus before 87 was against the Celtiberians, just after his arrival in Spain, following his consulship in 93. According to Appian, Flaccus killed ten thousand Celtiberians, and when the senators of the town of Belgeda hesitated to join the uprising and were burnt in their own senate-house by the people, he descended upon the town and killed those responsible.<sup>29</sup> Belgeda is probably to be identified with Belchite, some 40 kilometres south-east of Zaragoza.<sup>30</sup> Neither the members of the senate of Contrebia, itself a Celtiberian town, nor the leaders of the other communities involved in the dispute recorded on this inscription, can have had any doubt that Flaccus had the power to enforce any decision of which he approved, and that he would be prepared to use it. He had already spent an unusually long period in Spain, as a result of the disruption of the normal system for allotting provincial commands caused by the war in Italy. He was to remain in the area for another six years, responsible in some way and for some of that time for Transalpine Gaul in addition to his Spanish responsibilities, before returning to Rome to triumph *ex Celtiberia et Gallia* in 81.<sup>31</sup> By May 87 he was already a formidable figure.

Flaccus' involvement in this dispute must be seen in a military context. He is not simply a disinterested official, but a Roman commander dealing with potential adversaries in a matter which directly affects their economic and political strength. In this instance at least the judicial activity of the proconsul is a method of control of the inhabitants of an area in which he is stationed and in which he has already been militarily active. His legal or quasi-legal rôle supplements and depends upon his presence as *imperator*, and this is not less true because his legal intervention is requested by a local community which hopes to benefit from it. There is no reason to believe from this inscription that the governor of Hispania Citerior at this date was in any way restricted in the way he handled such cases. If he has used and modified the procedures of the Roman civil law, he was in no way bound by them, as he would have been in Rome. Nor was this peculiar to Spain. In his ability to assign judges on request, and even to override the decisions of those judges if he saw fit, Verres had similar powers at his disposal, even in the juridically far more organized world of Sicily in the 70s.<sup>32</sup>

It is always tempting and always dangerous to derive general conclusions from specific instances, and there is much more to be gained from the study of this inscription than I have ventured upon here, not only with regard to legal developments at Rome, but also

<sup>27</sup> Above n. 4.

<sup>28</sup> The bronze was found in the vicinity of a remarkable two-storey building with a columned portico (Beltrán and Tovar (1982), 22-33). On the Celtiberian inscription, *ibid.* 33-84.

<sup>29</sup> Appian, *Ib.* 100. 437.

<sup>30</sup> Fatás (1980), 114-16.

<sup>31</sup> Garnius Licinianus 36 (pp. 31-2 F). Cicero describes him when in Gaul four years after the date

of this inscription as 'C. Flaccum, qui tunc erat in provincia' (i.e. Gallia) (*pro Quinct.* 6. 28). On the remarkable career of Flaccus, see E. Badian, *Studies in Greek and Roman History* (Oxford 1963), 88-96; Fatás (1980), 111-23.

<sup>32</sup> Cic. *II Verr.* 2. 13. 32-4; A. J. Marshall, *CQ* 61 (1967), 408-13; L. D. Mellano, *Sui rapporti tra governatore provinciale e giudici locali alla luce delle Verrine* (Milano 1977).



to the progress of the Latin language and to the institutions and relationships of the peoples of the Ebro valley in the early first century B.C. The *tabula Contrebiensis* does, however, remind us once again that to understand the nature of the legal activity of the men who were sent out from Rome to govern her provinces, as with so much else in the administration of the emerging Roman empire, it is essential to take full account both of the life of the city in which their ideas were formed, and of the local contexts, within which decisions were made and patterns established which were to become imperial administrative practice.

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