

## NEPTUNE'S ALTARS: THE TREATIES BETWEEN ROME AND CARTHAGE (509–226 B.C.)<sup>1</sup>

In Book 3.22–7, Polybius surveys the diplomatic history of the relations between Rome and Carthage; here he outlines six treaties, five authentic and one false, which are relevant to his narrative concerning the Punic capture of Saguntum and the outbreak of the Second Punic War. As four of these six pacts come before 264 and the outbreak of the First Punic War, any analysis of Roman imperialism in Sicily during the mid-Republic would be incomplete without taking them into account. It is hoped that this examination will shed new light on the events of 264, and whether the Romans, the Carthaginians, or both, acted in contravention of an existing treaty barring each one from the other's territory.

The five treaties that Polybius claims are authentic were signed in 509, 348, 279 or 278, 241, and 226, while the one he states to have been false was allegedly signed in 306. The treaties of 509 and 348 are virtually identical. Carthage was negotiating with Rome as a stronger power and therefore dictated most of the terms. Both pacts are almost wholly economic and contain few military clauses; Carthage was looking to expand its maritime interests in Italy, and had been dealing with the Etruscans long before the establishment of the Republic, while Rome in 509, as a fledgling state, was looking for recognition and independent access to grain markets controlled by Carthage. In 348 Rome wished to safeguard trade routes from the growing threat of Punic piracy. In 279–8 a defensive pact was signed in the face of a mutual threat from the Epirote general Pyrrhus. This was the only treaty between Rome and Carthage to contain provisos relating to mutual military aid. Polybius claims that the rest of the treaty was merely a renewal of those that came before, but, considering how much their power had grown by 279, it seems unlikely that the Romans would have been willing to renew a seventy-year-old pact that allowed for Punic military intervention in Italy, as did the treaty of 348. This would appear to be where the highly controversial treaty of 306 comes into play. Also known as the Treaty of Philinus, Polybius (3.26.3–7) says that the treaty did not exist and was a fabrication in the pro-Carthaginian history of Philinus. The treaty apparently included the clause that the Romans and Carthaginians should not venture into each other's spheres of influence. As this is the treaty that most relates to the issue of Roman imperialism in the mid-Republic, this article will focus on the claims of Polybius as to the treaty's non-authenticity. As already stated, the treaty of 279–8 does not make sense without the treaty of 306, and much evidence exists that points to the conclusion that there was in fact such an agreement, and that it may have been covered up by the Romans for the purposes of hiding a blatant act of aggression. A further treaty, the Treaty of Lutatius, was signed between the Romans and the Carthaginians to end the First Punic War in 241, but within a decade and a half the political situation had changed again, and Carthaginian imperialism in Spain gave rise to the Ebro Treaty of 226. The

<sup>1</sup> All dates B.C. unless otherwise stated. I am indebted to Dr P. S. Derow, Professor J. D. Harries, Professor G. Rickman, and Professor C. J. Smith for reading this piece at various stages of its development. They made several invaluable suggestions and additions that enriched my final argument. Any errors remain my own.

latter in particular is illustrative of both Roman imperialism concerning Carthage and the attitude of Polybius concerning treaties and the growth of the Roman Empire. Therefore, the paper will conclude with a look at Polybius' writings concerning the Ebro Treaty, the Saguntum affair, and the outbreak of the Second Punic War.

### THE FIRST TREATY

In 524 Etruscan domination in central Italy was smashed in a defeat at the hands of the Cumaeans. Tradition has Rome breaking away from Etruscan control and establishing a republic in 509. Polybius (3.22.3) tells us that the newly independent state now negotiated a treaty of its own with Carthage. His quotation of the treaty is as follows:

*ἐπὶ τοῖσδε φιλίαν εἶναι Ῥωμαίοις καὶ τοῖς Ῥωμαίων συμμάχοις καὶ Καρχηδονίοις καὶ τοῖς Καρχηδονίων συμμάχοις: μὴ πλεῖν <μακαῖς ναυσὶ> Ῥωμαίους μηδὲ τοὺς Ῥωμαίων συμμάχους ἐπέκεινα τοῦ Καλοῦ ἀκρωτηρίου, ἐὰν μὴ ὑπὸ χειμῶνος ἢ πολεμίων ἀναγκασθῶσιν: ἐὰν δὲ τις βία κατενεχθῆ, μὴ ἐξέστω αὐτῷ μηδὲν ἀγοράζειν μηδὲ λαμβάνειν πλὴν ὅσα πρὸς πλοίου ἐπισκευὴν ἢ πρὸς ἱερά, <ἐν πέντε δ' ἡμέραις ἀποτρεχέτω.> τοῖς δὲ κατ' ἐμπορίαν παραγινόμενοις μηδὲν ἔστω τέλος πλὴν ἐπὶ κήρυκι ἢ γραμματεῖ. ὅσα δ' ἂν τούτων παρόντων πραθῆ, δημοσίᾳ πίστει ὀφειλέσθω τῷ ἀποδομένῳ, ὅσα ἂν ἢ ἐν Λιβύῃ ἢ ἐν Σαρδόνι πραθῆ, ἐὰν Ῥωμαίων τις εἰς Σικελίαν παραγίνηται, ἢς Καρχηδόνιοι ἐπάρχουσιν, ἴσα ἔστω τὰ Ῥωμαίων πάντα. Καρχηδόνιοι δὲ μὴ ἀδικεῖτωσαν δῆμον Ἀρδεατῶν, Ἀντιατῶν, Λαρεντίνων, Κιρκαιτῶν, Ταρρακινιτῶν, μηδ' ἄλλον μηδένα Λατίνων, ὅσοι ἂν ὑπήκοοι: ἐὰν δὲ τιτες μὴ ὦσιν ὑπήκοοι, τῶν πόλεων ἀπεχέσθωσαν ἂν δὲ λάβωσι, Ῥωμαίοις ἀποδιδότωσαν ἀκέραιον. φρούριον μὴ ἐνοικοδομεῖτωσαν ἐν τῇ Λατίνῃ. ἐὰν ὡς πολέμοι εἰς τὴν χώραν εἰσέλθωσιν, ἐν τῇ χώρᾳ μὴ ἐννυκτερευέτωσαν.*

There will be friendship between the Romans and their allies and the Carthaginians and their allies under the following conditions: the Romans and their allies are not to sail beyond the Fair Promontory, unless forced to do so by storm or by enemies. If anyone contravenes this for the above reasons, it is forbidden for him to buy or take away anything but what is necessary for repairs to his ship or for sacrifice, <and he must depart within five days>. Those coming to trade may not undertake any business unless in the presence of a herald or a clerk, and everything that is sold in front of these two will be secured to the seller by the state if the transaction takes place in Libya or Sardinia. If any Roman comes to that part of Sicily that is controlled by the Carthaginians, he will have the same rights enjoyed by others. The Carthaginians will do no wrong to the peoples of Ardea, Antium, Laurentum, Circeii, Terracina, or any other of the Latin people who are subject to Rome. As for those who are not subjects, they will keep away from these cities, and if they should seize one, they will hand it over unharmed to the Romans. They will not build any fort within Latium; and, if they come under arms to this territory, they will not remain overnight. (Polybius 3.22.4–13)

This treaty was certainly more beneficial towards Carthage, yet contained advantages for Rome as well. Roman trading was restricted in areas under Punic control, especially Africa. The clause that forbids the Carthaginians from conquering cities in Latium, having to hand them over to Rome immediately if they do, is the earliest example for both Roman and Punic territorial aggression.<sup>2</sup>

The treaty would appear to have been drawn up by Carthage. It was possibly initiated by the Carthaginians as well since much of it was in their favour, yet we

<sup>2</sup> *Contra* C.R. Whitaker, 'Carthaginian imperialism in the fifth and fourth centuries', in P. Garnsey and C.R. Whitaker (edd.), *Imperialism in the Ancient World: The Cambridge University Research Seminar in Ancient History* (Cambridge, 1978), 59–90, who claims that the Carthaginians were not imperialist until they sought a land empire in Spain. On the Sicilian clauses see W. Ameling, *Karthago: Studien du Militär, Staat und Gesellschaft* (Munich, 1993), 151–3.

should not discount the importance that such a treaty with a major power may have held for Rome and its fledgeling Republic, and thus the possibility also exists that the accord may have occurred at the behest of Rome. In style, it matches other Punic treaties for which we possess exact texts, especially that between Hannibal and Philip V of Macedonia in 215.<sup>3</sup> Thus the treaty of 509 was probably set out in a standard Punic style, with specific clauses and provisions to suit the occasion. This set diction for diplomatic documents is likely to have been derived from the Greeks. The signing of treaties was standard practice in Greek diplomacy and much of the Mediterranean took its lead from the Greeks in this field. The Carthaginians signed several treaties with the Greeks over Sicily, and it would seem probable that over time they adopted a set style for these written agreements.<sup>4</sup>

Some scholars have doubted the authenticity of the treaty between Carthage and Rome in 509, asking why the Carthaginian empire would waste its time with a small city-state on the Tiber.<sup>5</sup> They claim that the Romans simply were not important enough for Carthage to wish for a treaty with them. Moreover, it is doubtful that Rome actually controlled the Latin states that are listed in the treaty. Instead, these scholars follow Diodorus (16.69.1) and Livy (7.27.2) who report the first treaty as coming in 348, which according to Polybius (3.24.1) would be the date for the second treaty. The latter, however, these scholars date to a Punic embassy visiting Rome in 343 (Livy 7.38.2; *infra*, 119–20). This would seem unlikely, as five years is a very short span of time within which to renew a treaty and, judging from the wording of the second pact (see next section), it is very doubtful that Roman aims within Italy could have changed so much between 348 and 343.<sup>6</sup>

More recent studies, however, rightly find no reason to discount the pact, and most accept the word of Polybius that he actually saw the treaty and even remarked on its archaic Latin which he required aid to decipher. While sixth-century Latin would have undoubtedly presented third-century readers with a host of problems, the basic meaning and interpretation of the text may not have been as difficult to decipher as was once thought, and in fact some aspects of the language would have been easier to decipher in comparison with later equivalents. Certainly, archaic Latin featured a smaller alphabet and formidable inconsistencies in terms of spelling, declension, and the use of prepositions. Letter forms could also have been inconsistent and radically different from their standard classical versions. Moreover, all of these inconsistencies could even appear within the same document.<sup>7</sup> In short, archaic Latin was not prose in its fully developed form; while documents did have a central theme, they lacked a

<sup>3</sup> Polyb. 7.9. See also App. *Mac.* 1; Livy 23.33.10–12; Zonar. 9.4.

<sup>4</sup> Punic treaties with the Greeks: Diod. Sic. 11.26.2; 13.114.1; 14.96.3–4; 15.17.5; 20.69.3, 79.5. See R. E. A. Palmer, *Rome and Carthage at Peace* (Stuttgart, 1997), 15.

<sup>5</sup> M. Cary, 'A forgotten treaty between Rome and Carthage', *JRS* 9 (1919), 70; G. De Sanctis, *Storia dei Romani*, 4 vols. (Turin, 1907–64), 2.407; A. G. Woodhead, *The Greeks in the West* (London, 1962), 100–1.

<sup>6</sup> T. J. Cornell, 'The conquest of Italy', in F. W. Walbank et al. (edd.), *CAH* 2 7.2 (Cambridge, 1989), 355–7.

<sup>7</sup> The majority of studies concerning archaic Latin are now rather dated: C. E. Bennett, *Syntax of Early Latin*, 2 vols. (Boston, MA, 1910), 1.1–9; A. Ernout, 'Le parler de Préneste d'après les inscriptions', *MSL* 13 (1903–5), 345; W. M. Lindsay, *The Latin Language: An Historical Account of Latin Sounds, Stems, and Flexions* (Oxford, 1894), 1–12; R. Wachter, *Altlateinische Inschriften: Sprachliche und Epigraphische Untersuchungen zu den Dokumenten bis etwa 150 v. Chr.* (Bern, 1987), 1–54; E. H. Warmington, *Remains of Old Latin* (Cambridge, 1935), 4.xv–xxiv; J. Wordsworth, *Fragments and Specimens of Archaic Latin* (Oxford, 1874), 5–10 all stress the difficulties involved in attempting to read pre-classical texts.

logical linkage between sentences and even clauses, and all of this must have left even mid-Republican readers with a certain amount of guesswork. None the less, it would be incorrect to say that pre-classical Latin was impenetrable, and in fact some aspects of its primitive style made it an easier read. For example, sentences tended to be less complex and regarded straightforward meaning as being more important than emphasis, which is what Latin prose tended to concentrate on from the first century onwards. Furthermore, due to the fact that poetry would not develop in Latin until the second half of the third century, archaic Latin featured few if any artistic stylings, and word order tended to be standardized as subject–object–verb.<sup>8</sup> Thus, while the grammatical and syntactical inconsistencies may have given Polybius and his helpers a difficult time in his reading of the 509 treaty, and while his translation probably involves some guesswork, it is nevertheless likely, due to the undeveloped and unsophisticated style, that he was able to grasp the meaning of the entire document and render an accurate translation of it for his readers.

Polybius does not include the date for the treaty in his quotation of the wording, but he does say that he is not quoting the full text (3.22.3–4). He gives the date as the consulship of Brutus and Horatius, 509. This is possibly an error that, if not featured on the treaty, would probably derive from either Fabius Pictor or Cato, as Brutus was slain in battle during his consulship, while Horatius abdicated, yet this does not discount the treaty, as they probably still gave their names to the year.<sup>9</sup> Of course, the exact date and the exact manner of the fall of Rome's last king is a matter open to debate, as the beginning of the Republic is now variously dated from 509–501.<sup>10</sup> Regardless, two important reasons exist for placing the treaty in a late sixth-, or at most early fifth-century context. Primarily, the political situation in south Latium as described by the document must come before the Volscan inroads into the area in the 490s. Additionally, the fact that Tarseon in Spain does not feature in this treaty, while doing so in the second, means the document must be older than the mid-fifth century, when the Carthaginians first began making serious military incursions into Spain.<sup>11</sup> Thus, notwithstanding the exact date for the beginning of the Republic, the late sixth-century context for the first treaty between Rome and Carthage appears secure.

Furthermore, a treaty governing trade, even with a small city such as sixth-century Rome, would have been typical for Carthage at this time, as the organization of Carthage's maritime trading empire relied as heavily upon treaties as it did upon

<sup>8</sup> On the simplicity of some aspects of pre-classical Latin, see E. Courtney, *Archaic Latin Prose* (Atlanta, 1999), 4–7; B. Vine, *Studies in Archaic Latin Inscriptions* (Innsbruck 1993), 28–9.

<sup>9</sup> A. Alföldi, *Early Rome and the Latins* (Ann Arbor, 1964), 351–2; Cary (n. 5), 69; T. J. Cornell, *The Beginnings of Rome: Italy and Rome from the Bronze Age to the Punic Wars (c. 1000–264 B.C.)* (London, 1995), 218–23; R. E. Mitchell, 'Roman–Carthaginian Treaties, 306 and 279/8 BC', *Historia* 20 (1971), 634; A. J. Toynbee, *Hannibal's Legacy: The Hannibalic War's Effect on Roman Life*, 2 vols. (Oxford, 1965), 1.519, n. 4; F. W. Walbank, *A Historical Commentary on Polybius*, 3 vols. (Oxford, 1957), 1.339–45. On the consulship of 509 see Broughton *MRR*, 1.1–3.

<sup>10</sup> See Cornell (n. 9), 218–30; E. Gjerstad, 'The origins of the Roman Republic', in E. Gjerstad (ed.), *Lex origines de la république Romaine: neuf exposés suivis de discussions*, Entretiens du Fondation Hardt 13 (Geneva, 1967), 3–30; A. Momigliano, *Quinto contributo alla storia degli studi classici e del mondo antico* (Rome, 1975), 308–16; Walbank (n. 9), 1.339–40; R. Werner, *Der Beginn der Römischen Republik* (Munich, 1963); T.P. Wiseman, *Remus: A Roman Myth* (Cambridge, 1995), 103–7.

<sup>11</sup> Cornell (n. 9), 210–14; S. S. Mazarino, *Introduzione alle Guerre Puniche* (Catania, 1947), 108–9; S. P. Oakley, *A Commentary on Livy: Books VI–X*, 4 vols. (Oxford, 1998), 2.256.

colonization and military force.<sup>12</sup> And a treaty with Rome at this time also would not have been out of step with Punic policy in Italy. A set of inscriptions found in 1964 at Santa Severa, ancient Pyrgi, port to the Etruscan city of Caere, is highly significant. These three documents, two in Etruscan and one in Phoenician, have been dated to c. 500, and thus they illustrate a Carthaginian interest in the west coast of Italy that is contemporary with the Roman treaty of 509. It has been speculated that Pyrgi may have been a Punic *emporion*, while certainly the fact that Caere had another port named Punicum would seem to indicate a permanent Carthaginian presence in the area.<sup>13</sup> This is bolstered by the attestation of Etruscan-Punic co-operation in Aristotle (*Pol.* 3.5.10) and Herodotus (1.166), who tell us about a military alliance between the two powers, where they combined to defeat a Phocaeen navy near Sardinia in the Battle of Alalia some time between 540 and 535.

With a heavy Punic presence on the west coast of Italy in the sixth century, a treaty with Rome in 509 should not come as a surprise. Although it is obvious from the wording that Carthage is largely dictating the terms as the stronger power, Rome still had something to gain from this agreement. From the text of the treaty, it appears that Carthage was attempting to expand its trading rights in central Italy, dictate navigational limits upon the Romans, and impose restrictions on Rome's activities outside these limits. As we can see by their dealings with the Etruscans, this treaty was probably a standard one that the Carthaginians had with many of the cities of western Italy, thus expanding their trading empire while regulating those who acted within it.

For the Romans, the treaty would have contained a wealth of benefits, and as such, it could equally have been Rome who approached Carthage over concluding the pact. As a new self-governing city-state, Rome in 509 would have been looking for diplomatic recognition from nearby states, and a treaty with a large foreign power demonstrated the independence of the new Republic, and that it was now the master of all territory once administered by the Tarquins, and the leading city of Latium.<sup>14</sup> Rome sought recognition, both internally and externally, that it would remain the pre-eminent city in the region, and a treaty with the western Mediterranean's largest power would have allowed it to flex its economic, military, and political muscle both inside and outside central Italy. As well, treaties involving Rome could have existed between the Carthaginians and the city's Etruscan rulers prior to 509, and when the Romans threw out the last of their Etruscan kings these pacts had to be renegotiated if international trade were to continue.<sup>15</sup> However, evidence of contact between Rome and Carthage remains minimal throughout the sixth century when compared to later periods, and this added to the fact that Rome at this time does not appear to have

<sup>12</sup> S. Gsell, *Histoire ancienne de l'Afrique du Nord*, 8 vols. (Paris, 1921–8), 4.13; S. Lancel, *Carthage: A History* (Oxford, 1995), 120–5.

<sup>13</sup> J. Ferron, 'Un traité d'alliance entre Caere et Carthage contemporain des derniers temps de la royauté Étrusque à Rome ou l'événement commémoré par la quasi bilingue de Pyrgi', in H. Temporini (ed.), *ANRW* 1.1 (Berlin, 1972), 189–216; J. Macintosh-Turfa, 'Evidence for Etruscan-Punic relations', *AJA* 81 (1977), 368–74; A. Momigliano, *Essays in Ancient History and Modern Historiography* (Oxford, 1977), 104. For inscriptions and further evidence of Punic presence, see C. J. Smith, *Early Rome and Latium: Economy and Society, c. 1000 to 500 B.C.* (Oxford, 1996), 145, 160–2.

<sup>14</sup> Oakley (n. 11), 2.256.

<sup>15</sup> M. David, 'The treaties between Rome and Carthage and their significance for our knowledge of international law', in M. David (ed.), *Symbolae ad Jus et Historiam Antiquitatis Pertinentes Julio Christiano Van Oven Dedicatae* (Leiden, 1946), 231–50, argues unconvincingly that the 509 treaty proves that some sort of Roman *ius commercium* or international maritime law existed in the western Mediterranean in the sixth century.

controlled much coastline makes any royal predecessor for the 509 treaty a remote possibility at best.<sup>16</sup>

Of course, the Romans would have benefited from the increased trade that came with access to exclusively Carthaginian controlled ports, but the true reason behind the treaty, for the Romans at least, may have been necessity brought on by famine. Rome desperately needed an agreement with Carthage so that the city could import grain from Sicily to alleviate the famine of 508 (Livy 2.9.6). On this occasion, Livy does not mention any grain imported from Sicily, but he does for the famine of 492 (2.34.2–5) and both he (4.12.8–16.8) and Dionysius of Halicarnassus (5.26.5; 7.20.3–4, 37.3; 12.1–4) explain how the senate was forced to search far and wide for grain to curb the devastating shortage of 440–439. Therefore it is likely that the Senate sought to purchase grain from Sicily in the late sixth century but, before they were permitted to do so, the Carthaginian authorities there demanded a written agreement.

The status quo remained much the same for the next century and a half, as Rome slowly broke out of Latium and began conquering the central peninsula. The Romans themselves were not at this time great maritime traders, and therefore the treaty of 509 was satisfactory to them for quite a lengthy period. By the mid-fourth century, however, the situation had changed. Perhaps because of their new interest in southern Italy, where the majority of cities were situated on the coasts and were home to many an overseas trader, the Romans renewed and slightly redrew their agreement with the Carthaginians in 348.

## THE SECOND TREATY

This treaty took the form of a non-aggression pact that still favoured the Carthaginians, though slightly less so. If Punic forces captured any non-Roman settlements in Latium, they again had to hand the places over to Rome, yet this time they were able to keep any booty and people they managed to take with them. Libya and Sardinia were now closed to Rome, the latter most likely because of a Roman colonizing attempt in 378.<sup>17</sup> Carthage and all of western Sicily were free ports.<sup>18</sup> Polybius' text is as follows:

*Μετὰ δὲ ταύτας ἑτέρας ποιοῦνται συνθήκας, ἐν αἷς προσπεριελήφασι Καρχηδόνιοι Τυρίους καὶ τὸν Ἰτυκαίων δῆμον. πρόσκειται δὲ καὶ τῷ Καλῷ ἀκρωτηρίῳ Μαστία, Ταρσίηον· ὧν ἕκτος οἶονται δεῖν Ῥωμαίους μῆτε λήζεσθαι μῆτε πόλιν κτίζειν. εἰσι δὲ τοιαῖδε τινές· ἐπὶ τοιοσδε φιλίαν εἶναι Ῥωμαίους καὶ τοῖς Ῥωμαίων συμμάχοις καὶ Καρχηδονίων καὶ Τυρίων καὶ Ἰτυκαίων δήμῳ καὶ τοῖς τούτων συμμάχοις. τοῦ Καλοῦ ἀκρωτηρίου, Μαστίας, Ταρσηίου, μὴ λήζεσθαι ἐπέκεινα Ῥωμαίους μῆδ' ἐμπορεύεσθαι μῆδὲ πόλιν κτίζειν. εἰάν δὲ Καρχηδόνιοι λάβωσιν ἐν τῇ Λατίνῃ πόλιν τινὰ μὴ οὖσαν ὑπήκοον Ῥωμαίους, τὰ χρήματα καὶ τοὺς ἀνδρας ἐχέτωσαν, τὴν δὲ πόλιν ἀποδιδώτωσαν. εἰάν δὲ τινες Καρχηδονίων λάβωσι τινας, πρὸς οὓς εἰρήνη μὲν ἔστιν ἔγγραπτος Ῥωμαίους, μὴ ὑποτάττονται δὲ τι αὐτοῖς, μὴ καταγέτωσαν εἰς τοὺς Ῥωμαίων λιμένας· εἰάν δὲ καταχθέντος ἐπιλάβηται ὁ Ῥωμαῖος, ἀφίεσθω. ὡσαύτως δὲ μῆδ' οἱ Ῥωμαῖοι ποιεῖτωσαν. ἂν ἐκ τινος χώρας, ἥς Καρχηδόνιοι ἐπάρχουσιν, ὕδωρ ἢ ἐφόδια λάβῃ ὁ Ῥωμαῖος, μετὰ τούτων τῶν ἐφοδίων μὴ ἀδικεῖτω μῆδένα πρὸς οὓς εἰρήνη καὶ φιλία ἔστι <Καρχηδονίους. ὡσαύτως δὲ μῆδ' ὁ> Καρχηδόνιος ποιεῖτω. εἰ δὲ, μὴ ἰδίᾳ μεταπορευέσθω· εἰάν δὲ τις τοῦτο ποιῆσῃ, δημόσιον γινέσθω τὸ ἀδίκημα. ἐν Σαρδόνι καὶ Λιβύῃ μῆδεις Ῥωμαίων μῆτ' ἐμπορευέσθω μῆτε πόλιν κτίζετω, . . . εἰ μὴ ἕως τοῦ ἐφόδια λαβεῖν ἢ πλοῖον ἐπισκευάσαι. εἰάν δὲ χειμῶν κατενέγκῃ, ἐν πένθ' ἡμέραις ἀποτρεχέτω. ἐν Σικελίᾳ, ἥς*

<sup>16</sup> Cornell (n. 9), 210–14; Smith (n. 13), 161–2.

<sup>17</sup> Diod. Sic. 15.27.4. *Contra* A. Momigliano, 'Due Punti di Storia Arcaica', *SDHI* 2 (1936), 395–6, who questions the authenticity of the Diodorus passage.

<sup>18</sup> See Diod. Sic. 16.69.1; Livy 7.27.2.

*Καρχηδόνοι ἐπάρχουσι, καὶ ἐν Καρχηδόνι πάντα καὶ ποιεῖτω καὶ πωλεῖτω ὅσα καὶ τῷ πολίτῃ ἔξεστω. ὡσαύτως δὲ καὶ ὁ Καρχηδόνιος ποιεῖτω ἐν Ῥώμῃ.*<sup>19</sup>

Later, they made another treaty, in which the Carthaginians included the peoples of Tyre and Utica; to the Fair Promontory was added Mastia and Tarseon as points beyond which the Romans could not sail under arms, found cities, or conduct trade. These were approximately the terms of this treaty: 'There will be friendship between the Romans and their allies and the Carthaginians, the people of Tyre, the people of Utica, and their respective allies under the following conditions: the Romans will not sail under arms, trade, or found a city on the farther side of the Fair Promontory, Mastia, and Tarseon. If the Carthaginians capture any city in Latium not subject to the Romans, they will keep the plunder and the captives, but must give up the city. If the Carthaginians capture any citizen of a city that has a treaty with the Romans but is not subject to them, they will not bring him ashore at any Roman harbour, but if he is brought ashore and a Roman takes hold of him, he will be set free. The Romans will do likewise. If a Roman takes water or supplies from any place subject to Carthage, with these supplies he is not to do harm to any citizen from a city with whom the <Carthaginians> have peace and friendship. <And the Carthaginians will do likewise>. In cases to the contrary, the aggrieved will not take private vengeance, for if he does, it will be a public offence. No Roman will trade or found a city in Sardinia and Libya, . . . nor remain there for longer than it takes for him to resupply or repair his ship; if driven to Sardinia and Libya by storm, he is required to depart within five days. At Carthage and in that part of Sicily that is controlled by the Carthaginians, he may do and sell anything as is permitted to a citizen. The Carthaginians in Rome will do likewise.'

(Polybius 3.24)

Like the first, this treaty is also in typical Punic style and Carthage was certainly still the stronger of the two powers, but the Romans were slowly growing bolder in their demands. Polybius again does not date the treaty, but we know from Diodorus (16.69.1) and Livy (7.27.2) that the year was in fact 348. This is supported by two details: the treaty does not mention Campania, meaning it must have come before 343, as Rome accepted Capua into its *fides* in this year; and the fact that it still contains a clause for cities in Latium not belonging to the Romans places the document before 338, when after a revolt nearly all of Latium fell under Roman control.<sup>19</sup>

The treaty may have been initiated by Rome, if we can judge from the clause dealing with the capture of citizens on the high seas. According to Livy (7.25.4, 12–13; 26.13–15), in 349 a group of Sicilian pirates blockaded the mouth of the Tiber. They were a raiding party looking to loot the coast, and thwarted the Romans' best efforts to get rid of them. The pirates only left after a time due to lack of provisions.<sup>20</sup> The Punic Empire was notoriously pirate infested; many of the brigands were themselves Carthaginian, and the aforementioned Sicilians may have come from the part of western Sicily under Carthaginian control.<sup>21</sup> It would also appear that these pirates often dealt in human spoils, and made a livelihood out of kidnapping people for the slave trade. Thus Plautus in his *Poenulus* contains numerous references to this trade in human cargo and has his main characters kidnapped by Punic slave-traders. It is likely that the clause in the above treaty dealing with captured citizens is in reference to this sort of Carthaginian piracy, and the incident of 349 may have caused the Romans to demand a new treaty with Carthage in an attempt to curb this trade.<sup>22</sup>

As outlined above, a Punic embassy did visit Rome in 343, but this is unlikely to have resulted in a renewal of the treaty as the situation between the two sides had not radically altered in the intervening five years. Furthermore, Livy (7.38.2) says that the

<sup>19</sup> Rome accepts Capua into its *fides*: Livy 7.31.4–10; Latin revolt: Livy 8.13.8. See Eutrop. 2.7.3; Plin. *HN* 34.20; Oakley (n. 11), 2.257.

<sup>20</sup> See Palmer (n. 4), 24, 32, 104.

<sup>21</sup> See P. de Souza, 'Greek piracy', in A. Powell (ed.), *The Greek World* (London, 1995), 187–8.

<sup>22</sup> On Punic piracy see Ameling (n. 2), 127–34.

Carthaginian delegation only came to Rome to offer their congratulations for a Roman victory over the Samnites, and there is nothing in the historian's statement that would lead us to believe that this was a major Punic ambassadorial mission. Nevertheless, the treaty was renewed again at some point, and the renewal came for the first time with the added feature of military provisos. Polybius (3.25.1–5) says that this treaty was signed in 279–8, but there is evidence that points to a treaty coming in between 348 and 279–8, supposedly instituted in 306. This would make sense in terms of timing; in the late fourth century Rome made an attempt to colonize Corsica that scholars have dated to 311.<sup>23</sup> As the first two treaties contain clauses concerning where the Romans may and may not found cities, this act may have irked the Carthaginians enough for them to ask for a new treaty, which would have been signed at Rome in 306.<sup>24</sup> Rome was on the verge of victory in the Second Samnite War and Carthage had defeated Agathocles in Africa and was besieging Syracuse, therefore both sides sought to negotiate from positions of strength.

### THE THIRD TREATY

From what little we know about the treaty, it becomes obvious that Rome was now negotiating with Carthage on an equal basis. It probably contained roughly the same economic guidelines as the concordat of 348, though on this occasion the military provisos were radically altered. Carthage was no longer given the option of conducting military operations on the Italian peninsula; from now on Rome defined all of Italy as being within its sphere of influence, and militarily off limits to Carthage. Similarly, the Punic government closed off Africa, Sardinia, and, most importantly, all of Sicily to Rome, with the independent eastern half of the island now considered part of the Carthaginian sphere.

This of course would place the Romans squarely in the wrong for the outbreak of the First Punic War in 264, crossing into what Carthage defined as its territory. Polybius (3.26.3–7), however, vehemently denies the existence of this treaty, saying that the Romans were not guilty of any violation upon going to war with Carthage. He claims that the whole affair concerning a treaty in 306 is an error of the pro-Carthaginian historian Philinus. This denial has led to a scholarly debate over the issue, with historians positioning themselves either in agreement with Polybius or in defence of the validity of the 306 treaty.<sup>25</sup> There is no doubt that Polybius is on the whole a fair and even-handed historian, yet he is not above suspicion. This should not, of course, imply that he fabricated facts, only that on this occasion there is

<sup>23</sup> Theophr. *Hist. Pl.* 5.8.2. Cary (n. 5), 76, n. 3; T. J. Cornell, 'The recovery of Rome', in F. W. Walbank et al. (edd.), *CAH<sup>2</sup> 7.2* (Cambridge, 1989), 315; Cornell (n. 9), 321–2; J. H. Thiel, *A History of Roman Sea-power before the Second Punic War* (Amsterdam, 1954), 18.

<sup>24</sup> Claudius Quadrigarius, 1. fr. 31P; Livy 9.43.26; 21.10.8; Serv. *A.* 4.628.

<sup>25</sup> For full bibliographic information and a summary of the arguments for the treaty see Mazzarino (n. 11), 86–118; Mitchell (n. 9), 633–55; Palmer (n. 4), 16–17; H. H. Scullard, 'Carthage and Rome', in A. E. Astin et al. (edd.), *CAH<sup>2</sup> 7.2* (Cambridge, 1989), 530–6; J. Serrati, 'Imperial motives and historiography: the origins of the First Punic War', *Bulletin de la Société des Études Anciennes du Québec* 3 (1996), 3–7; against the treaty see A. M. Eckstein, *Senate and General: Individual Decision Making and Roman Foreign Relations, 264–194 BC* (Berkeley, 1987), 77–8; B. D. Hoyos, 'Treaties true and false: the error of Philinos of Agrigentum', *CQ* 35 (1985), 92–109; id., *Unplanned Wars: The Origins of the First and Second Punic Wars* (Berlin, 1998), 9–16. Oakley (n. 11), 2.258–62 argues in favour of a treaty for 306, but denies that this was the pact described by Philinus. Yet if this were the case, and a treaty from 306 did exist, and it did not place the Romans in the wrong for the invasion of Sicily, it is difficult to see why Polybius would have missed such an important point.



evidence to show that he may simply have been wrong. He has been known to be misleading or just plain wrong on several occasions, and these include his descriptions of treaties between Rome and Carthage. Oakley (*Commentary on Livy*, 2.260) is more direct, saying that 'It is not always stressed adequately that this whole section of his narrative is slanted to prove that the Roman invasion of Sicily in 264 violated no treaty with Carthage.' Again Polybius possibly erred in ascribing the first treaty to the consuls Brutus and Horatius, and his writings on the second treaty are both vague and dateless.<sup>26</sup> Moreover, the two main sources for Polybius' history were Philinus and Fabius Pictor: the former was from Agrigentum and was possibly a Punic mercenary, thus his pro-Carthaginian stance, while the latter was a Roman senator from the Second Punic War.<sup>27</sup> Fabius used Philinus and was probably aware of the controversy over the 306 treaty.<sup>28</sup> Polybius (1.14.1–3; 3.9.1–5) himself comments that Fabius is just as pro-Roman as Philinus is pro-Carthaginian, and that there were weaknesses in both histories. And while Polybius may have been attempting fair-mindedness, there is little doubt that he made more use of Pictor than he did Philinus—he was after all, writing a Roman history—and it is clear that the latter was only used as a counter-weight to the former. Therefore we must keep in mind the strong possibility that Polybius simply chose the Fabian version of the events that led up to the First Punic War rather than the Philinian. This is not without parallel in terms of other treaties described within his histories, as he bought into the pro-Roman propaganda of Fabius in describing the Ebro treaty between Rome and Carthage in 226 (*infra*, 130–1) and the treaty between Rome and Queen Teuta of Illyria in 228 (2.12.3).<sup>29</sup> Polybius was writing under the auspices of his Roman patrons, and he saw the Roman Empire as a naturally expanding entity, it being Rome's place to conquer.<sup>30</sup>

Therefore, the view of Polybius on the events of 264 may have been clouded by the fact that the first Roman steps into Sicily in that year were the very beginning of their world empire. He knew that it was to be Sicily that brought Rome on to the world scene and gave the state its first extra-Italian conquest. Moreover, it was also the

<sup>26</sup> Walbank (n. 9), 1.339–45.

<sup>27</sup> On Fabius Pictor and his influences see T. S. Brown, *Timaeus of Tauromenium* (Berkeley, 1958), 15; M. Chassignet, *L'Annalistique Romaine*, 3 vols. (Paris, 1996), 1.liv–lxxiii; Cornell (n. 9), 8; B. W. Frier, *Libri Annales Pontificum Maximorum: The Origins of the Annalistic Tradition* (Rome, 1979), 231; C. P. T. Naudé, 'An aspect of early Roman historiography', *AClass* 4 (1974), 54, 60. On Philinus and his influences see A. Momigliano, 'Atene nel III secolo AC e la scoperta di Roma nella storia di Timeo di Tauromenio', *RSI* 71 (1959), 556–7; P. Pédech, 'Sur les sources de Polybe: Polybe et Philinos', *REA* 54 (1952), 246–66; F. W. Walbank, 'Polybius, Philinus and the First Punic War', *CQ* 39 (1945), 8–12, n. 2; id. (n. 9), 1.65; id., 'The historians of Greek Sicily', *Kokalos* 15 (1968–9), 493. Philinus was not, as V. La Bua, *Filino-Polibio Sileno-Diodoro: il problema della finiti dalla morte di Agatocle alla guerra mercenaria in Africa* (Palermo, 1966), 233–41, would have us believe, the main source for Polybius concerning the First Punic War, with Fabius Pictor only used for occasional supplementary information. This goes directly against the words of Polybius at 1.11.13–12.4, 14.1–3, and 15.2–5, where he clearly gives equal weight to both accounts. Moreover, the fact that Polybius mentions twenty-eight of the forty-six consuls for the war surely points to Fabius as a major source.

<sup>28</sup> Chassignet (n. 27), 1.1–li; Naudé (n. 27), 53–4; Frier (n. 27), 281; Walbank (n. 27, 1945), 1; id. (n. 9), 1.65.

<sup>29</sup> P. S. Derow, 'Kleemporos', *Phoenix* 28 (1973), 123, 128–9; N. G. L. Hammond, 'Illyris, Rome and Macedon in 229–205 BC', *JRS* 58 (1968), 7, n. 24.

<sup>30</sup> J. Davidson, 'The gaze in Polybius' *Histories*', *JRS* 81 (1991), 10–24; P. S. Derow, 'Polybius, Rome and the East', *JRS* 69 (1979), 1–15; M. I. Finley, 'Empire in the Greco-Roman world', *G&R* 25 (1978), 3; A. Momigliano, *Alien Wisdom: The Limits of Hellenization* (Cambridge, 1975), 27–9, 48; J. S. Richardson, 'Polybius' view of the Roman Empire', *PBSR* 34 (1979), 1–11; F. W. Walbank, *Polybius* (Berkeley, 1972), 163.

beginning of the end for the Carthaginian Empire, an end he himself witnessed. In this regard, it is also important to remember that for Polybius the first war between Rome and Carthage served only as an introduction to the more epic Hannibalic war, of which he gave a detailed account. The historian largely blamed Hannibal and Carthage for the outbreak of this war (*infra*, 131–3), and thus his writings concerning the events that led to the commencement of hostilities in 264 had first and foremost to mesh with the themes of his main narrative, specifically the events of 219–218, where Rome, while certainly not blameless, was not portrayed as the aggressor. It was through these blinkers that Polybius looked back at the situation in 264, and for these reasons he was more likely simply to accept the non-existence of the Philinus treaty as fact.

The argument against the treaty rests on a number of points, the most important of which is the statement of Polybius himself that he saw the other three treaties in the Roman archives, and, when he could not find any trace of the Philinus treaty, was firmly convinced that ‘There is, in fact, no such document at all, nor was there ever’ (3.26.5). But we cannot even be sure about where the treaties were kept, and if Polybius himself had full access to the place, or if he had to make a request for the material from one of the aediles. He does say (3.22.3) that he had help reading the first treaty because of its archaic Latin, and it is possible that those who aided him were the same men who gained Polybius access to the documents.<sup>31</sup> As for where the treaties were kept, he says that they were, ‘on bronze tablets beside the temple of Jupiter Capitolinus in the treasury of the aediles (*ἀγορανόμων ταμείω*)’ (3.26.1). The aediles and the quaestors had the care of the records in the *aerarium* that was attached to the temple of Saturn, but Polybius is here referring to a separate building.<sup>32</sup> There are no other references to the treasury of the aediles in Rome, and Polybius may have mistakenly given the incorrect name for a building that was under the charge of the aediles. Yet it is equally possible that such a building existed. Furthermore, it would make sense that the treaties were in the care of the aediles, since their office was in charge of trade at Rome, and as we have seen the first two treaties were basically economic agreements with only occasional military and political provisos.

It was tradition that treaties were displayed on the walls of public buildings, and the area of the Capitol of which Polybius speaks in particular housed many state documents.<sup>33</sup> The treaties may have been stored in a building attached to the temple of Jupiter Optimus Maximus on the Capitol, as this was one of the most prominent public edifices within Rome, and it displayed several treaties. We know that it housed the treaty with Cymbra of 188, the alliance with Pergamon of *c.* 129, the treaty with Astypalaea of 105, and the treaty with Plarasa/Aphrodisias of 39.<sup>34</sup> The temple of Fides, also on the Capitol, is another candidate, as Dio (45.17.3) tells us that it housed bronze tablets, while Valerius Maximus (3.2.17) says that Fides was the goddess of diplomacy, and therefore it would come as no surprise to find treaties there. The

<sup>31</sup> E. Rawson, *Intellectual Life in the Late Roman Republic* (London, 1985), 240.

<sup>32</sup> M. Frederiksen, ‘The Republican municipal laws: errors and drafts’, *JRS* 55 (1965), 186; Walbank (n. 9), 1.353. For the *aerarium* see Dio 54.36. *Contra* F. Coarelli, *Roma: Guide Archeologica Laterza* no. 6 (Rome, 1995), 33–4, who thinks that Polybius was mistaken, and that the treasury of the aediles was somewhere in the Forum. P. Culham, ‘Archives and alternatives in republican Rome’, *CP* 84.2 (1989), 108, n. 38, also thinks that Polybius erred, and that the treaties were housed in the *aerarium* of the temple of Saturn, in the Forum.

<sup>33</sup> Josephus (*AJ* 14.188) says that all of Rome’s treaties with the Jews were kept on the Capitol.

<sup>34</sup> Cymbra: *SEG* 34.1723; Livy 38.14.3; Polyb. 21.34; 30.9.13–15; Strab. 13.4.17; Pergamon: *SEG* 34.1244; Astypalaea: *SEG* 15.506; Plarasa/Aphrodisias: *SEG* 32.1097.

temple of Concordia did house the treaty with Callatis of the late second century, and from its name we can see that it was most likely under the auspices of the aediles, yet the place was not dedicated until 216 so, if this was where Polybius saw the treaties, it could not have been their original resting place.<sup>35</sup> It has been proposed that Polybius was actually referring to the Aedes Thensarum, a building on the Capitol under the control of the aediles and used to store gear for religious and triumphal processions.<sup>36</sup> This building, however, is unattested until the reign of Nero, and is therefore unlikely to date all the way back to the third century.<sup>37</sup> It is possible that the treaties were in one of these buildings, but it is also possible that Polybius misunderstood *aedes*, the inner part of any temple, or *aeditumus/aedituus*, a temple guardian or sacristan, for aediles, yet this seems doubtful. Likewise, these suggestions do not appear adequate as none of them take Polybius at face value and assume he was correct in that there was such a place as the treasury of the aediles that housed the treaties with Carthage.

If his words are accepted, and there is no notable reason that they should not be, we must assume that the treasury of the aediles was somewhat obscure; however, it would not necessarily have been little used, as Walbank suggests (*Commentary on Polybius*, 1.354). Polybius does say that the building was on the Capitol beside the temple of Jupiter, and therefore it is difficult to see how this could not have been a place that was viewed daily by many people, given its highly public location. Consequently it is more likely that the treaties were in the treasury but not on display. This is borne out by Polybius' statement (3.26.2) that the treaties were not known to most of the Romans of his time. The Romans must have accumulated hundreds of state documents by the mid-second century, and so it would not have been uncommon for such inscriptions not to have been on display.<sup>38</sup> This would be especially true if the government was originally trying to cover up a treaty that it had violated. The vocabulary of Polybius would also correspond, as he uses the word *ταμιεῖον* to describe the building that housed the treaties. Usually translated as treasury, this could have the connotation of a storehouse, and thus Polybius could be referring not to a building that had inscriptions on public display, but to an archive, a depository for state documents that were in the care of the aediles.<sup>39</sup> As the treaties were not known to the public but were in a centrally located building, it is therefore more plausible that they were in an archive and not on display.

Thus Polybius would have required assistance in gaining access to the treaties. Even if he did have full access, the 306 treaty incriminated Rome in a blatant act of imperialism, so there was at least a fair chance that it would have been either destroyed or hidden. If the treaty were hidden, there was a very good possibility that it would never again be found, for even nearly a century later the public records in Rome were still in a poor state of organization, as Cicero frustratedly complained in his *De Legibus* (3.46).

The treaty could have also been destroyed in a fire. In 214 the Atrium Publicum on the Capitol was set ablaze by lightning, while another serious fire struck the Capitol in

<sup>35</sup> Treaty: *CIL* 1.2.2676; dedication: Livy 23.21.7

<sup>36</sup> T. Mommsen, *Römische Staatsrecht* (Leipzig, 1887), 2.1.500. See Walbank (n. 11), 1.353–4. For the location of the Aedes Thensarum, see S. B. Platner and T. Ashby, *A Topographical Dictionary of Ancient Rome* (Oxford, 1929), 1; Steinby, *Lexicon*, 1.17.

<sup>37</sup> *CIL* 3.1, 845; 3. sup. 1.1, 1963; Suet. *Vesp.* 5.7.

<sup>38</sup> T. J. Cornell, 'The tyranny of evidence: a discussion of the possible uses of literacy in Etruria and Latium in the archaic age', in J.H. Humphrey (ed.), *Literacy in the Roman World*, *JRA* suppl. 3 (1991), 7–33.

<sup>39</sup> *Ταμιεῖον* meaning storehouse: Arist. *Oec.* 1344b33; Thuc. 7.24; Xen. *Eq.* 4.1.

172.<sup>40</sup> Still, it would be quite fantastical if the only treaty between Rome and Carthage destroyed in a fire was the one that the Romans violated. It is not a strong enough argument to say that, simply because Polybius could not find the treaty, it did not exist.

It has been suggested that in 306 the Romans would never have defined all of Italy as their sphere of influence since their territory did not even border Magna Graecia until they accepted Thurii into their protection in 282, and not even at this point did they consider all of Italy to be their domain.<sup>41</sup> This is contradicted by the existing evidence; hardly more than a decade after the treaty, during the Third Samnite War in 294, we find the Romans referring to all of Italy as if it belonged to them, and this before much of the southern peninsula was firmly in their hands.<sup>42</sup> Again in 280, prior to Rome's capture of such Italian Greek centres as Paestum and Tarentum, and their recapture of Rhegium, they speak of defending all of Italy against Pyrrhus as if they were defending what was already theirs.<sup>43</sup> Finally, that the Romans in the third century were not above defining territory outside their direct control as being within their sphere of influence is illustrated by their conduct that led to the conclusion of the Ebro treaty in 226, where Spain north of the Ebro was defined as being within the Roman sphere, despite the fact that this place was not an area of Roman direct control (*infra*, 130–1). In light of this evidence it is difficult to believe that Rome could not have considered Italy to be within its sphere of influence as early as 306.<sup>44</sup>

The next major objection to the 306 treaty is based on nothing more than a misreading of Polybius. At 3.26.2 he states that '[I]n my time, the eldest among the Romans and Carthaginians and those most knowledgeable in public affairs were ignorant of [the treaties].' He claims to have spoken to elder statesmen from both Rome and Carthage on the matter; the latter probably came as an embassy to Rome while he was a hostage there. The treaty's detractors have been over-zealous in leaping on this phrase as proof of its non-existence.<sup>45</sup> However, if this were the case, this statement would also disprove the existence of all four treaties, since Polybius is saying that people in his time were ignorant of all of the pacts, including the three that he attests. Previously in the same passage, Polybius implies that Philinus himself mentioned no other treaties save the agreement of 306. The fact that the Agrigentine historian began his history with the death of Agathocles in 289 means that not only was he contemporary with the treaty of 279–8, but it fell within the scope of his work. As Polybius does with the years 264–220, Philinus may have began his history with a summary of the events from 289 until the start of his main narrative in 264. Because 279–8 was mostly a direct renewal of 306, save for some military clauses, he may have felt its inclusion to be unnecessary; furthermore, as for the issue of which side was in

<sup>40</sup> 214: Livy 24.10.9; 172: Livy 42.20.1.

<sup>41</sup> E. Badian, *Foreign Clientelae (264–70 BC)* (Oxford, 1958), 31; Oakley (n. 11), 2.259; Walbank (n. 10), 1.354.

<sup>42</sup> App. *Sam.* 10.2.

<sup>43</sup> Polyb. 1.6.6; Plut. *Pyrrh.* 19.3.

<sup>44</sup> Although coming from a somewhat different time in Republican history, it should be noted that Cicero considered the entire world to be within Rome's *imperium*; see *Leg. Agr.* 1.2, 9; 2.35, 45; *Att.* 4.1.7; 14.5.2; *Balb.* 16; *Dom.* 24; *Leg. Man.* 53, 64; *Mur.* 22, 74; *Off.* 2.27; *Orat.* 1.14; 3.131; *Phil.* 8.10; *Sest.* 67, 129; *Rosc. Am.* 131; *Sull.* 33. For this point I am particularly indebted to Professor J. S. Richardson for allowing me to view chapters of his forthcoming work on *imperium*. See also Mazzarino (n. 11), 96–8, 102; E. Täubler, *Imperium Romanum: Studien zur Entwicklungsgeschichte des Römischen Reichs* (Leipzig, 1913), 1.273.

<sup>45</sup> Hoyos (n. 25, 1985), 102, n. 60.

violation of an existing treaty in 264, the treaty of 306 would really be the only agreement that was relevant to his narrative.

In 272 the Punic government sent a fleet to Tarentum with the alleged purpose of aiding the Romans with the siege of the place. The aid mission, from the point of view of the Romans, appears to have been both unexpected and unwanted and the ships promptly sailed away without striking a blow. This incident is recorded in two places by Livy (*Per.* 14; 21.10.8), and according to him the Carthaginians were planning to seize Tarentum for themselves and even had designs on Rome. In his view, this was the original violation of the 306 treaty and therefore Rome's intervention in Sicily eight years later was completely justified. The popularity of this tradition in Rome is illustrated by the fact that it was recorded by four other later historians.<sup>46</sup> Certainly it is unlikely that the Carthaginians sought to invade Italy, though the aid mission itself may be historical. If this is the case, and the treaty of 306 was broken, why did the Romans not go to war then and there? Orosius (4.5.2) records an embassy to Carthage following the affair, and perhaps this averted war. Yet many would like the answer to be that it was because the Philinus treaty never existed. If we look at the treaty of 279–8, it is obvious that the action is perfectly in line with the last clause which allowed for Carthage to offer Rome its naval services. Moreover, the fact that Livy reports the incident proves that he, as well as the annalists, firmly believed in the 306 treaty, and his claim of Punic designs on Rome may also prove that he thought the Romans were the true violators of the agreement. If the Tarentum incident is not historical, then its appearance in the ancient sources must pre-date Livy, and therefore we must ask why previous Roman historians felt the urge to invent an episode in which Carthage violated the 306 treaty if such a treaty never existed. The fact that Polybius so vehemently denies the existence of the Philinus treaty indicates that there was at this time a tradition that the Romans were guilty of violating the accord.<sup>47</sup>

Besides Livy, other literary evidence exists that attests the validity of the 306 treaty. The first is a passage from the grammarian Servius (*A.* 4.628), that expressly mentions a treaty that bars the two parties from approaching each other's shores:

Litora litoribus contraria 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;

Either because it was specified in a treaty that neither should the Romans approach the Carthaginian shores nor should the Carthaginians approach the Roman shores, or it can be interpreted as alluding to naval battles between the Romans and the Africans.

Here, Carthage could easily have included the eastern half of Sicily, and Rome all of Italy in what was designated as their shores. The second piece of evidence also comes to us by way of Servius (*A.* 1.108) as he quotes the Roman historian Claudius Quadrigarius (1. fr. 31P):

Haec autem saxa inter Africam, Siciliam et Sardiniam et Italiam sunt, quae saxa ob hoc Itali aras vocant, quod ibi Afri et Romani foedus inierunt. Quidam insulam fuisse hunc locum tradunt, quae subito pessum erit, cuius reliquias saxa haec exstare, in quibus aiunt Poenorum

<sup>46</sup> Ampel. 46.2; Dio fr. 43.1; Oros. 4.3.1–2; Zonar. 8.8.

<sup>47</sup> Eckstein (n. 25), 78 claims that the Romans invented the Tarentum incident to defend themselves against the lies of Philinus. Yet if the treaty of 306 did not exist, the proof was with the Romans, and therefore it is difficult to believe that they invented an episode to defend themselves for violating a treaty that they knew to be false. Also, this assumes that Philinus was widely read in Rome.

sacerdotes rem divinam facere solitos. Has aras alii Neptunias vocant sicut Claudius Quadrigarius I annalium: Apud aras, quae vocabantur Neptuniae.

However, these rocks are between Africa, Sicily, Sardinia, and Italy; the Italians call them the Altars, because the Africans and the Romans entered into a treaty there. Certain people record this place to have been an island that was suddenly destroyed, as remnants of which there stand these rocks, on which the priests of the Carthaginians used to perform religious ceremonies. Others call them Neptune's Altars, as they are called by Claudius Quadrigarius in Book 1 of his history: 'Before the Altars, which are called Neptune's.'

It is highly unfortunate that these fragments can only be given a vague date at best. Claudius Quadrigarius began his history of Rome with the Gallic sack in 390, and the earliest certain date we have for Book 2 is 294; therefore we may safely assume that this passage refers either to the treaty of 348 or to that of 306.<sup>48</sup> The only case to be made for 306 is the fact that the first three places mentioned—Africa, Sicily, and Sardinia—basically outlined the Punic Empire, while Italy may represent the Roman. Perhaps if he were referring to 348 Quadrigarius might simply have written Rome rather than Italy.

The third piece of literary evidence comes from the *Menaechmi* of Plautus. In lines 233–7 two of his characters set out on a voyage of what they considered to be the entire world. While no treaty is mentioned, what the two travellers understood to be the outside world just happened to be everything that Rome did not describe as its sphere of influence in 306.

Ultimately, it would appear that the man who had the strongest revulsion for the Carthaginians in all of Roman history, Cato, believed in the existence of the 306 treaty. In his *Origines* (4. fr. 9C), he states, *Deinde duoeticesimo anno post dimissum bellum, quod quattuor et viginti annos fuit, Carthaginienses sextum de foedere decessere* ('And so, twenty-two years after the end of the war, that had lasted twenty-four years, the Carthaginians violated a treaty for the sixth time'). The passage, in which 'the war' to which Cato is referring is the First Punic War, is ambiguous and could have one of two meanings. While it is certainly plausible that he may be referring to six separate violations of one treaty, it is equally conceivable that Cato meant that the Carthaginians had broken six treaties.<sup>49</sup> The only way this could make sense is if the 306 treaty existed, because if it did not that would leave only five treaties: 509, 348, 279–8, 241 (which ended the First Punic War; *infra*, 132–3), and the Ebro treaty of 226 (*infra*, 130–1).<sup>50</sup> Therefore, in order for Cato to speak of six treaties, he would have to have considered the 306 treaty as fact.<sup>51</sup>

<sup>48</sup> Claudius Quadrigarius fr. 34P.

<sup>49</sup> M. Chassignet, *Caton: Les Origines (Fragments)* (Paris, 1986), 91 sees it as six separate violations over time of one or more treaties. She does, however, leave room for the passage to be referring to the violation of six treaties.

<sup>50</sup> It should be added here that the settlement over Sardinia in 237 was not a treaty, but an appendix to an existing one (ἐπισύνθηκαι, Polyb. 3.27.7).

<sup>51</sup> Another piece of evidence that should be noted is Ennius' fragment that refers to the Roman declaration of war against Carthage: *Appius indixit Karthaginiensibus bellum* ('Appius declared war against the Carthaginians') (*Ann.* 7. fr. 216Sk). The Appius of the passage is Appius Claudius Caudex, the consul of 264 who invaded Sicily. The words *bellum indicere*, taken together, almost always refer to a declaration of war by ritual ceremony that included the fetial rites, as is illustrated by their use among other authors (Livy 7.12.6, 19.10; Val. Max. 7.5.2; Verg. *Aen.* 7.616–17; see J. Rich, *Declaring War in the Roman Republic in the Period of Transmarine Expansion* [Brussels, 1976], 106–7, 125–6). A. M. Eckstein, 'Perils of poetry: the Roman "poetic tradition" on the outbreak of the First Punic War', *AJAH* 5 (1980), 175–7, and O. Skutsch, *The Annales of Q. Ennius* (Oxford, 1985), 386–7, however, argue that war had not been declared,

Beyond the literary evidence, an examination of the political situation in the late fourth-century western Mediterranean will further illustrate how a Romano-Punic treaty not only makes sense at this time, but was in fact necessary. By 306 the Samnites were hemmed into southern Italy and near defeat, while for their part the Carthaginians in Sicily were close to concluding a favourable peace in their war with Syracuse. Thus the political situation in the area had radically changed since the last treaty between Rome and Carthage in 348, as the Romans were on the cusp of being masters of all Italy and the Carthaginians had solidified their position in western Sicily. These events alone would be enough to set the stage for a new accord; however, an even stronger incentive existed that did not simply make it advisable for Rome and Carthage to renew their treaty, but in fact demanded a new level of co-operation between the two powers. This is the heretofore largely ignored piece of evidence that shows Carthage and Rome having a mutual enemy in the Etruscans. Between 311 and 308, and sporadically down to 304, the Romans fought the Etruscans in what served as a diversionary theatre to the main combat zones of the Second Samnite War (326–304).<sup>52</sup> At the same time the Carthaginians were engaged in their own bitter struggle with Agathocles of Syracuse (311–306). What changed the situation, however, was that in 307 Agathocles and the Etruscans themselves made common cause and the latter even sent a fleet to aid the Syracusan navy in a battle with Carthage.<sup>53</sup> Therefore Rome and Carthage were now fighting a shared enemy, and thus the forging of a new accord in 306 to take account of this situation is completely logical. Furthermore, several Italian peoples, including Campanians, Celts, Etruscans, and Samnites, had served as mercenaries in the army of Agathocles that invaded Africa in 310.<sup>54</sup> By making a new treaty in 306 the Punic government may have hoped that Rome would use the sphere of influence clause to rein in these marauding soldiers.<sup>55</sup> In fact, considering these developments in Sicily and Italy, it would be surprising if Rome and Carthage did not enter into a fresh agreement that included additional military clauses addressing not only the two powers' common enemies, but the entirely new political geography of the western Mediterranean.

It has been argued that the provisos delineating Roman and Punic spheres of

firstly because Frontinus (*Str.* 1.4.11) mentions an undeclared war in reference to 264, secondly because of a lack of evidence in the historical narratives, and finally by the fact that Caudex was denied a triumph (see Gel. 5.6.21 on consuls being denied triumphs for undeclared wars). Skutsch in particular views this as Roman propaganda on the part on Ennius. He claims that the passage, coupled with the later invention of a triumph for Caudex (*Eutrop.* 2.18.3; *Sil.* 6.660–2, *Suet. Tib.* 1), constitutes an attempt by the Roman sources to cover up their violation of the 306 treaty by couching the first year of the war in the traditional language of fetial rites and triumphs. This theory would appear to be invalidated by an allusion to the fetial rite in the *Bellum Poenicum* of Naevius: *Scopas atque verbenas sagmina sumpserunt* ('To make the tufts of holy herbs, they took twigs and sacred branches') (4. fr. 35B) (*sagmina* were carried by the *fetiales* as symbols of their inviolability; see Paul. *Fest.* p. 321L; *Livy* 1.24.4, 30.43.9). Naevius was contemporary to the events in question, and is therefore difficult to dismiss. Besides, an actual ritual declaration of war, or a lack of one, is no proof that the Romans broke the treaty of 306, since any declaration of war would have still contravened the agreement. Therefore, while I maintain that the Romans were in violation of a treaty when they invaded Sicily in 264, I do not consider this passage from Ennius to be proof that this was the case.

<sup>52</sup> *Diod. Sic.* 20.35, 44.9; *Livy* 9.31.1, 32.1–10, 33.2, 35–7, 40.18–41.

<sup>53</sup> *Diod. Sic.* 20.61.6; *Just.* 22.8.4–6.

<sup>54</sup> *Dio fr.* 40.8; *Diod. Sic.* 19.106; 20.11.1; *Dion. Hal.* 20.4.8; *Polyb.* 1.7.2, 8.1; *Strab.* 6.2.3 (268); *Zonar.* 8.8.

<sup>55</sup> Rome was able to rein in a rebellious group of mercenaries at Rhegium in 270; see *Polyb.* 1.7.8–12; *Zonar.* 8.6.

influence invalidate the 306 treaty because such clauses would have been too disruptive to trade between Italy and Africa.<sup>56</sup> Yet an examination of the 279–8 treaty, outlined in the next section, disproves this. Here we have the strongest piece of evidence in favour of the Philinus treaty. Polybius (3.25.2) states that the treaty of 279–8 was an exact renewal of the previous treaty with the exception of the new military clauses; therefore, the concordat must have contained non-military clauses governing trade. It is simply incomprehensible that Rome was content to renew the marginal role it was given in Italian affairs from the treaty of 348. In the seventy years since the second treaty Rome had come to dominate large parts of the peninsula and had acquired new holdings in Etruria, Latium, Samnium, and from the north Italian Gauls; to renew a treaty that allowed for foreign military intervention not only in Italy but in Latium would have been unthinkable to the Romans of the 270s, though the renewal of a treaty that designated Italy as Rome's domain would have made perfect sense at the time.<sup>57</sup> Also in relation to the 279–8 treaty, the new defensive alliance clauses which called for Rome and Carthage to have the right to assist each other if attacked, yet only after permission was granted to the side giving aid to land on the other's territory, can only be intelligible if both sides were prevented from setting foot in each other's holdings by a previous agreement. So only by seeing the treaty of Philinus as authentic can the agreement of 279–8 be fully understood.

Finally, the claim has been made that the treaty of 306 is 'just too good to be true'.<sup>58</sup> An agreement that puts the Romans squarely in the wrong in 264 and leaves no doubt about who was the aggressor puts the entire incident at Messana into far too neat a package. This is very true. Some scholars who defend the treaty are indeed extremely harsh towards the Romans and see them as being wholly in the wrong.<sup>59</sup> A quick examination of some incidents will illustrate that Romano-Carthaginian relations were mostly governed by confusion and misunderstanding in the years leading up to the First Punic War. In 282, the city of Rhegium called upon Rome for protection against Carthage, even though the threat was not immediate.<sup>60</sup> This may have been the first instance where Rome contemplated that part of Italy might fall victim to Punic aggression. Then in 277, when the Carthaginians in Sicily were in their most desperate hour against Pyrrhus, they began peace talks with the Epirote king and even offered him ships and money with which to leave.<sup>61</sup> If the Punic forces had indeed signed an armistice with Pyrrhus, this would have been a blatant violation of the treaty of 279–8 that called for no separate peace to be made either by Rome or by Carthage with Pyrrhus (see next section). In the situation at Tarentum in 272 (*supra*, 125), the Romans may indeed have considered the Punic fleet a breach of the 306 treaty, yet were in no position to act at the time. Also, this may have served to irk the Senate by showing them just how easy it would be for Carthage to land an army in

<sup>56</sup> Hoyos (n. 25, 1998), 10–11, 13, who uses the Pyrgi inscriptions (*supra*, n. 13) as evidence for trade between Italy and Africa in the third century. While there was surely trade between the two places, inscriptions from two centuries earlier prove little. On third century Punic contacts with Rome see Palmer (n. 4), 27, 40, 80–103, 105, 119.

<sup>57</sup> *Contra* Hoyos (n. 25, 1998), 9, who claims that Polybius may not have noticed this significant change to the treaty. Considering that he relays at least part of it verbatim, this seems far fetched.

<sup>58</sup> Hoyos (n. 25, 1985), 107; id. (n. 25, 1998), 10–11, 13.

<sup>59</sup> Mitchell (n. 9), 634–43. While he makes no judgement on the Philinus treaty, W. V. Harris, *War and Imperialism in Republican Rome 327–70 BC* (Oxford, 1979), 185–90, does argue for a scenario that makes the Romans the sole aggressors in 264.

<sup>60</sup> Diod. Sic. 22.1.2–3; Dion. Hal. 20.4–5; Polyb. 1.7.6–7.

<sup>61</sup> Diod. Sic. 22.10.5–6; Plut. *Pyrrh.* 23.2.



Italy. Finally, in 270 Hieron II of Syracuse sent ships to aid Rome with its recapture of Rhegium in accordance with a treaty between the two states.<sup>62</sup> If this were the case, then Rome was dangerously close to a violation of the 306 treaty, which expressly forbade military intervention in each other's sphere of influence, but may not have covered any diplomatic contacts. Still, one can easily see how Carthage would have been concerned at Rome's making an alliance with its oldest and most bitter enemy, Syracuse. All of these incidents, while not violations of the exact letter either of the treaty of 306 or that of 279–8, were certainly violations of their spirit, and would only have served to increase tension and suspicion on both sides. Therefore, as in any war, the build-up to 264 was surrounded by confusion, intrigue, and miscommunication; and the issue at Messana was merely the spark that ignited a simmering conflict. In fact, this was Cassius Dio's (fr. 43.1–4) opinion of the events, writing in the third century A.D.

The above arguments have attempted to illustrate that, despite the denial of such a prominent historian as Polybius, there is strong evidence that attests to the veracity of the treaty of 306 as recorded by Philinus. I believe the strongest objection to Polybius rests on the argument that without a treaty in 306, the treaty of 279–8, as a renewal of that of 348, allowed the Carthaginians to seize cities within Latium, and this is quite simply an impossibility. If anything, a new treaty between 348 and 279–8 was necessary simply to define Rome's new role in the Italian peninsula, which changed rapidly during this time as most of Italy gradually came under the city's direct influence. The arrival of Pyrrhus in the western Mediterranean changed everything. The Romans were now forced on to the defensive in southern Italy, while the Carthaginians, rightly fearing the Epirote king's ambitions, sought to keep him away from Sicily. As the political and military climate had radically altered, so did the relations between Rome and Carthage. They became allies, and a new treaty was signed in 279 or 278.

#### THE FOURTH TREATY

A Punic fleet was dispatched to the mouth of the Tiber in late 279 to renew Carthage's treaty with Rome, though the final version of the pact may not have been drawn up until 278.<sup>63</sup> The terms of the 306 treaty were renewed, and additional clauses, all concerning military co-operation, were added. Each party had the option of providing aid to the other and could set foot with an army in each other's territory only when asked to do so. Carthage was to supply Rome with any transport ships it needed, though each state had to provide its own crews. The Punic navy was also to render assistance to Rome but its crews could not be forced to disembark. Finally, neither state was to sign a peace with Pyrrhus that precluded them from giving aid to one another (Polyb. 3.25.1–5).

*ἐν αἷς τὰ μὲν ἄλλα τηροῦσι πάντα κατὰ τὰς ὑπογεγραμμένα. ἔὰν συμμαχίαν ποιῶνται πρὸς Πύρρον, ἔγγραπτον ποιείσθωσαν ἀμφοτέροι, ἵνα ἐξῆ βοθηεῖν ἀλλήλοις ἐν τῇ τῶν πολεμουμένων χώρᾳ· ὁπότεροι δ' ἂν χρεῖαν ἔχωσι τῆς βοθηείας, τὰ πλοῖα παρεχέτωσαν Καρχηδόνιοι καὶ εἰς τὴν ὁδὸν καὶ εἰς τὴν ἔφοδον, τὰ δὲ ὀψώνια τοῖς αὐτῶν ἑκάτεροι. Καρχηδόνιοι δὲ καὶ κατὰ θάλατταν Ῥωμαίοις βοθηείωσαν, ἂν χρεῖα ᾖ. τὰ δὲ πληρώματα μηδεὶς ἀναγκαζέτω ἐκβαίνειν ἀκουσίως.*

In this [treaty] they upheld all the clauses contained within the previous agreements, and they added the following: 'If they make a treaty of alliance with Pyrrhus, both will make it a condition that they may give aid to each other in the territory belonging to those being attacked;

<sup>62</sup> Dio fr. 43.1; Zonar. 8.8.

<sup>63</sup> Just. 18.2; Val. Max. 3.7.10.

regardless which of the two requires the aid, the Carthaginians will provide the ships for transport and battle; but each party will pay its own troops. The Carthaginians will come to the aid of the Romans by sea as well if necessary, but no one can force the troops to disembark against their will.' (Polybius 3.25.2–5)

There is very little that can be said about this treaty without entering into the debate over the authenticity of the 306 pact, because, depending on which side one takes in the debate, this treaty is either a renewal of the one from 306 or the one from 348. Therefore, the two sides would see the unquoted parts of the treaty as being substantially different. Suffice to say that the treaty was never put into practice; the Romans and the Carthaginians did not co-operate in the fight against Pyrrhus, and the Carthaginians tried, unsuccessfully, to conclude a separate peace with him, perhaps illustrating that they considered war with Pyrrhus less risky than war with Rome over a treaty violation.<sup>64</sup> This did not help the feeling of mutual distrust between the two powers in the years before the First Punic War.

### THE EBRO TREATY AND THE SAGUNTUM AFFAIR

As a final illustration of how Polybius dealt with treaties between Rome and Carthage, the events leading up to the outbreak of the Second Punic War (218–201) will be examined. While Polybius does not exonerate the Romans, again on the accusation of violating a treaty he gives them the benefit of the doubt. Briefly, in 237 Hamilcar Barca began the Punic conquest of Spain. He was followed by his son-in-law Hasdrubal from 228 and his son Hannibal from 221. Their conquests brought them, and Carthage, a fantastic new source of wealth in the Spanish mines and gave them a bountiful supply of well-trained mercenary soldiers from the local tribes. These actions primarily alarmed the Greek city of Massilia in southern Gaul. As argued so lucidly by Gsell in his massive series on ancient North Africa, Carthage highly regulated the rights of foreigners to trade within their waters; this in fact can clearly be seen in the first two treaties between Rome and Carthage (*supra* 114, 118–19). Thus it is highly probable that the conquest of Spain and these restrictive trading policies endangered some Massiliote trades routes.<sup>65</sup> And Massilia in all likelihood lost several *emporion* as Carthage extended its territory along Spain's Mediterranean coast. As the city was an ally of Rome, Massilia constantly badgered the Romans to intervene on its behalf, and to stop the Carthaginian advance. It has been suggested that these Massiliote diplomatic tactics were one of the primary reasons behind the eventual onset of war in 218.<sup>66</sup>

In 231 the Romans responded to the Massilian requests for intervention by sending an embassy to meet Hamilcar. They were rebuffed, however, as the general told them that the conquest of Spain was the only way in which Carthage could pay off the massive indemnity to Rome that it incurred after the First Punic War.<sup>67</sup> In 226, another Roman delegation travelled to Spain and concluded a treaty with Hasdrubal; Polybius (3.29.3) mentions this treaty very briefly, saying only that it contained the clause that 'The Carthaginians will not cross the Ebro River under arms.' It therefore

<sup>64</sup> Diod. Sic. 22.10.5–6; Plut. *Pyrrh.* 23.2.

<sup>65</sup> Gsell (n. 12), 4.13. See Strab. 3.5.11, 17.1.19; W. Hoffman, 'Karthagos Kampf um die Vorherrschaft im Mittelmeer', in H. Temporini (ed.), *ANRW* 1.1, 341–63; Lancel (n. 12), 120–5; Mazzarino (n. 11), 117–18; B. H. Warmington, *Carthage* (London, 1960), 125–7. *Contra* Whitaker, (n. 2), 80–5, who argues for the openness of the Punic trading empire.

<sup>66</sup> F. R. Kramer, 'Massilian diplomacy before the Second Punic War', *AJP* 69 (1948), 1–26.

<sup>67</sup> Dio 12. fr. 48.

appears that the two powers were again defining their own spheres of influence, as Carthage was left with Spain, while Rome was left with everything north of the Ebro. The Romans were too occupied with wars in northern Italy and Illyria over the next several years to pay more than cursory attention to the Massilian pleas over Punic aggression in Spain. That is, with one notable exception, Saguntum, a coastal city of eastern Spain lying south of the Ebro.

At some point in the 220s, the Romans took the Saguntines under their *fides* and claimed their city as a protectorate. Under Roman protection, the Saguntines began to harass their own neighbours, who were allies of the Carthaginians. In late 220 or early 219, another Roman delegation visited Spain, meeting the new commander, Hannibal. They ordered him to keep away from Saguntum in accordance with the Ebro treaty, but he disregarded their words, implying that Saguntum was not a Roman ally, and his decision was later ratified by the assembly at Carthage. He attacked Saguntum the following spring and captured the city after an eight-month siege. In March of 218 a Roman delegation visited Carthage and demanded the surrender of Hannibal; when the Punic assembly refused, war was declared.<sup>68</sup> Herein lies the modern scholarly debate as to who was in the wrong in the Saguntum affair and *ipso facto* the Second Punic War. For Polybius (3.30.1) does not say exactly when Saguntum placed itself under Roman protection, but only says that it was ‘many years’ (πλείοσιν ἔτεσιν) before the accession of Hannibal in 221. Thus it is impossible to tell exactly which side was in violation of the Ebro agreement; if Saguntum was an ally of Rome before 226, then Carthage was guilty of breaking the treaty by its assault in 219, but if the city was not mentioned in the Ebro treaty as a Roman protectorate, then Rome was breaching the agreement by interfering south of the river.<sup>69</sup>

On three separate occasions (3.21.1, 29.1–3, 30.3), Polybius implies that it was the Carthaginians who were guilty of the treaty violation by attacking Saguntum. Yet if he is so sure about the whole affair, why is he so vague about the date on which the city came under Roman protection? Undoubtedly it would have been easier to have mentioned that Saguntum had special status in the treaty rather than to leave the matter open to question. Perhaps he is implying that, while the Carthaginians could not cross the Ebro under arms—after all, this is the only clause that we know from the treaty—the Romans could feel free to meddle all they wanted south of the river. But this would not make sense from a Punic standpoint, and it is doubtful Carthage would have concluded such an unfavourable and dangerous agreement with their enemies. In apparent contradiction to the certainty of Polybius that the Carthaginians were in the wrong, it seems that not even the *fides* Rome had with Saguntum was a cut and dried affair. It would appear that Saguntum made an appeal for protection to Rome based on the method of claiming kinship with either Rome or a nearby Italian city, a technique that had been used successfully in the past by several peoples to win Roman alliance or favour.<sup>70</sup> The Saguntines claimed kinship with the Ardeans, a people less

<sup>68</sup> App. *Hisp.* 10; Livy 21.6.1, 11.2, 12.5; 24.42.11; 25.39.8; Polyb. 3.15.2–8, 17, 33.1–4.

<sup>69</sup> For the most recent account of this debate, with full bibliography, see Hoyos (n. 25, 1998), 154–95. The writings of J. F. Lazenby, *Hannibal's War: A Military History of the Second Punic War* (Warminster, 1978), 22–9, and Walbank (n. 9), 1.355–8, 361, are invaluable concerning this matter.

<sup>70</sup> The Mamertines in 264 (Polyb. 1.10.2; see Strab. 5.4.12; J. A. Krasilnikoff, ‘Mercenary soldiering in the west and the development of the army of Rome’, *Analecta Romana Instituti Danici* 13 [1996], 8–10; Palmer [n. 4], 125; G. Tagliamonte, *I figli di Marte: mobilita, mercenari e mercenariato Italici in Magna Grecia e Sicilia* [Rome, 1994], 62–4, 67), Segesta in 263 (Cic. *Verr.* 2.4.72; Diod. Sic. 23.5; Zonar. 8.9; for Segestan coins that illustrate this alleged kinship see

than forty kilometres southwest of Rome.<sup>71</sup> After making the appeal, however, all does not seem to have gone according to plan, as Polybius reports (3.15.5–8, 30.2) that the Romans put to death some of Saguntum's leaders in the late 220s. This implies that there was a pro-Carthaginian, or at least an anti-Roman, faction in the city, and that it was dealt with harshly by the Romans after some sort of dispute. This might indicate that Saguntum was not as happy under Roman protection as Polybius makes it seem, and perhaps an appeal to Carthage was even made. This could also lead to the conclusion that the Roman alliance was still new in the late 220s, thus making it unlikely that Saguntum had been a protectorate before 226.

For his condemnation of Hannibal in relation to the Ebro treaty, it is likely that Polybius—although he freely discusses the bias of his main source at 3.8.1–9.5—was following only one source for this period, Fabius Pictor. He does cite Pictor for part of the affair at 3.8.1–8, and perhaps used him exclusively for the rest of his account concerning the outbreak of the war. Polybius himself (3.8.1–9.5) admits that Pictor was a very biased and pro-Roman source, and this is reinforced by his description of Hannibal at 3.15.8–13, which appears very un-Polybian. Here he says Hannibal became devoid of reason and was aroused by violent anger; the general lied to the Punic assembly and lied to himself in alleging his quarrel with Rome was over Saguntum, when its true reason lay with the wrath of his family, the Barcids, and his anger over the seizure of Sardinia in 238 and the subsequent unlawful indemnity charged by Rome. While these reasons are in harmony with Polybius' main statement on the matter (3.9.7–9), the description of Hannibal is very negative and is likely to have been prejudiced by Fabius Pictor.<sup>72</sup>

As we have seen, Polybius certainly felt that it was the Carthaginians who were in the wrong concerning the Ebro treaty when they attacked Saguntum. Very significantly, however, he reports (3.21.1–5) that the Punic Senate, speaking to a Roman delegation, claimed that the treaty with Hasdrubal was invalid because it had not been approved at Carthage. This is quite possible, as it seems that the Barcids did in fact exercise a government in Spain that was quite independent of the home assembly in Carthage. Control of Spain had passed between three members of this family and we hear of no interference from Carthage during the years of conquest. The Barcids appear to have been *de facto* monarchs in Spain.<sup>73</sup> Thus invalidating the Ebro treaty,

R. S. Poole [ed.], *Catalogue of Greek Coins in the British Museum: Sicily* [London, 1876], 137; G. F. Hill, *Coins of Ancient Sicily* [Westminster, 1903], 213; see also Cic. *Verr.* 2.5.83; J. Serrati, 'Garrisons and grain: Sicily between the Punic Wars', in C. J. Smith and J. Serrati [edd.], *Sicily from Aeneas to Augustus: New Approaches in History and Archaeology* [Edinburgh, 2000], 120), and Kenturipa in c. 241 (*SEG* 42.837; see *BE* [1965], 499; C. C  beillac Gervasoni, *Epigraphica Juridica Romana* [Pampeluna, 1989], 103–14; Serrati, 'Garrisons and grain', 120; R. J. A. Wilson, 'Towns of Sicily during the Roman Empire', in W. Haase and H. Temporini [edd.], *ANRW* 2.11.1 [Berlin, 1988], 97, n. 24) all cited their joint Italian kinship when they successfully appealed to Rome for alliance or favour. Also of note is the fact that Demetrius Poliorcetes referred to the common Greek ancestry of the Macedonians and the Romans when appealing to the latter to curb Etruscan piracy (Strab. 5.3.5), while Pyrrhus allegedly used the Trojan ancestry of the Romans as an excuse to invade Italy, claiming that he was the descendent of Achilles and thus the natural enemy of Rome (Paus. 1.12.1; see G. K. Galinsky, *Aeneas, Sicily, and Rome* [Princeton, 1969], 170–2).

<sup>71</sup> App. *Hisp.* 7; Livy 21.7.2; Plin. *HN* 16.216; Strab. 3.159.

<sup>72</sup> Walbank (n. 9), 1.323; '[Polybios'] didactic, moralizing tone shows little appreciation of the psychological background to the clash'. See J. Rich, 'The origins of the Second Punic War', in T. J. Cornell, et al. (edd.), *The Second Punic War: A Reappraisal*, (London, 1996), 16–18.

<sup>73</sup> J. S. Richardson, *Hispaniae: Spain and the Development of Roman Imperialism, 218–82 B.C.* (Cambridge, 1986), 18–20.

the Punic assembly instead referred to the treaty of Lutatius that ended the First Punic War in 241, and this stated that all allies of both sides should be left unharmed. They said that Spain was not at all mentioned in this accord, and therefore, as Saguntum was not an ally at the time, they could feel free to attack.

This seems strange reasoning, since Polybius himself admits (3.29.6) that, as he understood the treaty of 241, both sides agreed not to make war on both present and future allies.<sup>74</sup> Perhaps here again Polybius is following Fabius Pictor and we are only getting the pro-Roman side of the story. It would have been far more legitimate for the Carthaginians to say that they were denying the existence of the 226 treaty as the Romans had done with the treaty of 306 when they invaded Sicily four decades earlier. It is possible that the Carthaginians could have considered the Ebro agreement invalid specifically because it was the Romans who broke it by taking Saguntum under their protection in the first instance.<sup>75</sup> In reference to the Lutatius treaty, they could also have claimed that the Romans had violated this pact with their seizure of Sardinia in 238, and thus it was not forbidden to attack a Roman ally as the treaty prohibiting such action was null and void.<sup>76</sup> While Polybius only says that they did not consider their attack on Saguntum to be in breach of the 241 treaty, it seems likely that this was not the whole story, and it is perhaps more probable that they claimed the Lutatius or Ebro treaties already violated by 219.

Various other historians followed Polybius' line that it was Hannibal who broke the treaty of 226 by attacking Saguntum. Livy (21.2.7, 19.4) claimed that the independence of Saguntum was guaranteed by the Ebro treaty, while Appian (*Hann.* 2, *Hisp.* 7, *Pun.* 6) made the outrageous assertion that Saguntum was actually north of the river. More recently, it has been postulated that Dio's Roman embassy of 231 (12. fr. 48) confirmed that Saguntum was a Roman protectorate, and therefore no provision was necessary in the Ebro treaty.<sup>77</sup> Yet if this were so, it is very peculiar that this embassy was not mentioned by Polybius, especially because he is laying the blame at the feet of the Carthaginians for the violation of the Ebro treaty.

Looking at his treatment of Roman treaties as a whole, it seems more likely that Polybius, while he was not a Roman apologist, was ignorant of the facts. He faithfully records the treaties of 509 and 348, even quoting from their texts. These would likely have been initiated by Carthage and the agreements bare witness to the fact that Carthage was the stronger power. The first treaty gave Rome access to the grain markets of Sicily at a time of famine, while the second hoped to curb Punic piracy. By 306 Rome was ready to negotiate a new treaty that would eliminate the clauses that allowed for Carthaginian intervention in Italy and defined the entire peninsula as Rome's sphere of influence. This would make sense considering how much Rome had grown in power since 348. Furthermore, the fourth treaty of 279–8 cannot be understood unless the 306 treaty is seen as authentic, because the Romans quite simply would not have renewed a treaty that allowed Carthage to seize cities in Latium. And yet when Polybius found no evidence of the 306 treaty, he assumed that it had never existed. It seems that with treaties, when he could not find evidence that condemned the Romans, he gave them the benefit of the doubt. As he could not locate

<sup>74</sup> On the treaty of 241 see Serrati, (n. 70), 119–20.

<sup>75</sup> Hoyos (n. 25, 1998), 250.

<sup>76</sup> A. E. Astin, 'Saguntum and the origins of the Second Punic War', *Latomus* 26 (1967), 586–8; T. A. Dorey, 'The treaty with Saguntum', *Humanitas* 8–9 (1959–60), 6; Walbank (n. 9), 1.171–2.

<sup>77</sup> A. M. Eckstein, 'Rome, Saguntum and the Ebro treaty', *Emerita* 52 (1984), 57.

the 306 treaty, it therefore did not exist, and so the Romans were not in the wrong when they invaded Sicily in 264. Likewise, he could not find out exactly when Saguntum came into alliance with Rome, and therefore placed it before 226, thus making Hannibal the treaty breaker. Polybius was writing more than a century after the commencement of the First Punic War and half a century after the outbreak of the Second. This was ample time for documents to be lost or destroyed and pro-Roman traditions to develop through the writings of Fabius Pictor and Cincius Alimentus. These were the sources upon which Polybius drew, and, though not an advocate of Roman imperialism, in many ways he wrote parts of his history as the Romans had intended their actions to be viewed. Buying into at least some Roman propaganda, Polybius was more than a historian of Rome: he was an instrument of Roman imperialism.

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