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The Genesis of a Permanent Tribunal: *Quaestio perpetuae de repetundis*

Observing the law and certain moral principles by state magistrates is of fundamental importance for its correct development. If the people see degradation starting at the highest tiers of government, they will succumb to it as well. In the Republic of Rome, whose proper functioning was dependent on the appropriate actions of its magistrates, there was a model of an ideal statesman. In his dialogue *On the Laws,* Cicero wrote:

> Let the senator be a pattern to others. If this is observed, all will go well. For as a whole city is infected by the licentious passions and vices of great men, so it is often reformed by their virtue and moderation[1].

One of the things which prevented many statesmen from attaining Cicero's ideal was succumbing to various forms of corruption.

Rome's rapid territorial expansion involved the administrative subordination of the conquered territories. Roman magistrates were delegated to cities in the provinces and performed certain functions there on behalf of the senate and the Roman people. The long distance from the capital and a lack of the senate's control were an opportunity for magistrates to get rich at the expense of the local population. Delegations from the provinces and municipia delivering complaints about the local magistrates abusing their

1 M. T. Cicero, *The Political Works of Marcus Tullius Cicero*, vol. II, trans. F. Barham, London 1842.

power started to arrive in Rome as early as at the beginning of the 2nd century BC[2].

The case of Gaius Verres shows that extortion was committed not only by governors but by praetors as well; however, the scale of the problem of extortion and corruption was most conspicuous in the provinces most distant from Italy. The degree of the problem must have been significant for the senate to take on the task of creating a permanent tribunal ruling on matters of extortion — the *quaestio perpetuae de repetundis*, which was the first court of this type. It is even more interesting that the court was meant to judge members of the senatorial order who, as governors, committed extortions the most frequently. The aim of this article is to present the genesis of establishing a permanent court, including the political, social and legal background and an outline of the scale of the problem of extortions. I will also touch on issues related to the development of procedures of prosecuting extortions in the times before and after the permanent tribunal was appointed, and — consequently — the development of legislation.

The Romans had a slightly different definition of corruption, from that we have today; the Roman jurist Ulpian cites custom law as the basis for a governor's behaviour when receiving a gift. According to him, refusal to accept a gift is regarded as a sign of rudeness, while at the same time receiving presents should have its limits. Most importantly, a gift could not be a source of wealth for the magistrate. The persons from whom gifts could be accepted, and under what circumstances, were also important. The conviction that they deserved to be given gifts — after all, they came from Rome to a province which belonged to the state and they were sovereigns — had a significant impact on the acceptance of certain presents by Roman magistrates.

The most commonly occurring type of corruption was bribery, i.e. accepting money or various kinds of gifts in return for making favourable political, administrative, judiciary or military decisions. Roman magistrates accepted excessively large gifts from local leaders or communities,

2 Cf. P. Kołodko, *Wybrane przykłady nadużyć urzędników rzymskich w prowincjach przed uchwaleniem lex Calpurnia de repetundis*, in: *O prawie i jego dziejach księgi dwie: studia ofiarowane prof. Adamowi Lityńskiemu w czterdziestopięciolecie pracy naukowej i siedemdziesięciolecie urodzin*, vol. I, ed. M. Mikołajczyk, Białystok 2012.

which was a source of their enormous wealth. The corruptive actions of Roman magistrates were mentioned in the *lex Iulia de petunii repetundis*, long fragments of which have been preserved in title 11 of Book 48 of the Digest.

> The *lex Iulia repetumdarum* has reference to money received by someone who holds the position of magistrate, or who is invested with some degree of power, or administration, or with the office of Deputy, or any other public employment or occupation whatsoever; and also applies to the attendants of the above-mentioned dignitaries[3].

When discussing bribery in the Republic of Rome, it is impossible to disregard the considerable influence of societies of publicans, who were particularly active in the provinces. Their extensive activity was the result of an imperfect tax system, which did not have public institutions e.g. collecting taxes in the provinces. Such tasks, among others, were entrusted to societies, whose activity I will return to later.

The legal and political genesis of establishing a permanent court

The obvious legal reason for establishing a permanent court which would consider cases of extortion and corruption were the offenses which were committed. The scale of corruption was increasing, and with it, public discontent. The clearest examples of misdeeds could be found in the provinces, which Rome treated as territories to be exploited, wanting to use them to its advantage to the greatest extent possible. The mistreated provincials started to arrive in Rome, demanding justice — which must have put pressure on republican statesmen. Another issue was the danger of Rome losing control over the provinces if it failed to take measures to alleviate the problem.

One infamous example of a Roman magistrate committing widescale extortion was Gaius Verres, to whom his accuser, Marcus Tullius Cicero, devoted two speeches, the second of which has five parts. The orator enumerated a number of the magistrate's offenses, including passing unjust verdicts, such as releasing prisoners in return for bribes. Another example of unjust verdicts was convicting — and usually sentencing to death

3 Digesta Iustiniani (D.), 48, 11, 1. trans. S. P. Scott.

— inconvenient people such as the merchant Herennius, even though 100 citizens had testified to his innocence[4]. Verres also allegedly embezzled money from the treasury, private property[5] and public property[6]. He took advantage of artisans whom he commissioned to manufacture goods for which he then failed to pay; he overestimated the amounts of goods owed to him (e.g. grains) and fixed their price. Summing up the first part of the speech, Cicero emphasised that Verres had tampered with the public records, trying to conceal his misdeeds. As Cicero writes:

> In this way has that fellow learnt to take care of himself and of his own safety, by entering both in his own private registers and in the public documents what had never happened; by effacing all mention of what had; and by continually taking away something, changing something (taking care that no erasure was visible), interpolating something[7].

Cicero's speeches against Verres are a veritable well of knowledge about governors' corruption in Roman provinces. It can be concluded with certainty that Gaius Verres used all possible means to gain wealth, but he was not a solitary example among Roman magistrates. Verres' trial began in 70 BC, at a time when a permanent criminal tribunal already existed — Cicero's meticulously prepared charges resulted in the nefarious, to put it mildly, magistrate voluntarily choosing to go into exile to avoid punishment. Not all corruption cases, however, ended so successfully with regards to law and order.

Another example of a corrupt magistrate was the consul Lucius Postumius Albinus[8]. The consul, during a private visit to a temple of Fortuna, demanded to be welcomed by the local authorities, given accommodation and provided with carriage horses for his departure[9]. The account cited by Livy first of all shows Lucius Albinus as an immoral man with no inhibitions

4 Cic., In Verrem (Ver.), 2, 1, 14.
5 Cic., In Verrem (Ver.), 2, 1, 46.
6 Cic., In Verrem (Ver.), 2, 1, 11.
7 Cic., In Verrem (Ver.), 2, 1, 158.
8 Cf. W. S. Ferguson, *The lex Calpurnia of 149 B.C.*, "The Journal of Roman Studies", 11 (1921); P. Kołodko, *Wybrane przykłady...*, op. cit., p. 65.
9 Cf. A. Lintott, *Leges de repetundis and Associate Measures Under the Republic*, "Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Romanistische Abteilung", 98 (1981), p. 172.

abusing his power, and second it demonstrates the existence of a different kind of morality in comparison to contemporary times, as well as the magistrates' conviction that some privileges were due to them. Another example described by Livy took place in the same year of 173 BC, a case of abuse of power by consul, Marcus Popillius Laenas, during the war in Liguria[10]. The consul defeated the Ligurians in the city of Carystum, inflicting great losses. According to Livy, 10,000 Ligurians were killed and 700 were taken prisoner. Popillius plundered and destroyed the city and enslaved the Ligurians. He did not restore the plundered property or free the slaves, despite the senate's intervention[11]. The senate was helpless to do anything about Popillius' actions, first because Popillius was absent from Rome, and second because his brother, Gaius Popillius Laenas, who was a consul in 172 BC, successfully delayed the consequences being imposed against his brother[12]. As a result of the senate's powerlessness and the consuls' tardiness, tribunes of the plebs Marcus Marcius Sermo and Quintus Marcius Sylla took the initiative. The tribunes prepared a draft of a law appointing a *quaestio* — a tribunal which would consider the case of the Ligurians and Marcus Popillius[13]. The senate accepted the tribunes' proposal. The senate entrusted the presidency over the tribunal to the praetor Caius Licinius, who in fact had asked for an inquiry into the matter[14]. The tribunes' further efforts were concentrated on getting Popillius to return to Rome. Despite the involvement of the tribunes of the plebs and the efforts of the tribunal, Marcus Popillius managed to elude punishment. Two hearings before the senate ended without a verdict[15].

Livy recounts that the reason why Marcus Popillius went unpunished was that the third sitting of the tribunal was delayed and ordered on the day when newly elected magistrates took office. This is likely an erroneous opinion, since it was difficult to accuse a magistrate only at the

10 Cf. W. S. Ferguson, *The lex Calpurnia...*, op. cit., p. 91; A. Lintott, *Leges de repetundis...*, op. cit., p. 168, P. Kołodko, *Wybrane przykłady...*, op. cit., p. 66.

11 Liv., XLII, 8.

12 Cf. P. Kołodko, *Wybrane przykłady...*, op. cit., pp. 66–67; W. S. Ferguson, *The lex Calpurnia*, op. cit., p. 91.

13 Cf. A. Lintott, *Leges de repetundis...*, op. cit., p. 168; P. Kołodko, *Wybrane przykłady...*, op. cit., p. 67.

14 Liv., XLII, 21.

15 Cf. A. Lintott, *Leges de repetundis...*, op. cit., p. 168; P. Kołodko, *Wybrane przykłady...*, op. cit., p. 67.

time when he was in office, unless he wanted to testify voluntarily. The fact that the tenure had ended was not an obstacle to implementing criminal responsibility[16]. What is more convincing is Popillius' influence and perhaps the deliberate absence of the praetor presiding over the *quaestio*, which meant that the trial ended successfully for Popillius. However, the trial before the tribunal resulted in some gain for the Ligurians — the wrongfully enslaved were restored to liberty and they received land as compensation[17].

The tribunal's attempt to prosecute M. Popillius Laenas ended in failure not only as a result of his family's influence, as Livy wrote. The background of the accused and of the members of the *quaestio*, all of whom were from the same social class, was not without significance[18]. Judges from the same order were not very keen to condemn and sentence members of the same caste[19].

Examples of corruption involving Roman magistrates vary in scale and type of abuse, but they have one thing in common: none of the accused was ever punished for his deeds. Although there was no legal norm which would be applicable in the cases presented by Livy, the possibility of bringing them to justice was not precluded. The proper method of accusing former magistrates who were guilty of corruption in the provinces were trials before *iudicium populi* — courts of the plebs[20].

The case of corruption in the province of Spain was a turning point. It played an important role in the development of Roman legislation aimed against corruption and extortion committed by *magistratus populi Romani*. It helped to shape the term *crimen repetundarum*, which was becoming clearer and clearer[21].

In 171 BC, an embassy from Spain came to the senate to lodge a complaint about the actions of Roman magistrates, which reflected their greed, avarice and ruthlessness. The scale of violations must have been considerable, since the ambassadors implored the senators not to treat Rome's allies

16 J. Zabłocki, A. Tarwacka, *Publiczne prawo rzymskie*, Warszawa 2011, p. 111.
17 Liv., XLII, 22.
18 W. Litewski, *Rzymski proces karny*, Kraków 2003, p. 38.
19 Cf., P. Kołodko, *Wybrane przykłady...*, op. cit., p. 68.
20 See C. Venturini, *Processo penale a societá politica nella Roma republican*, Pisa 1996, pp. 65—71; P. Kołodko, *Wybrane przykłady...*, op. cit., p. 67—68.
21 See J. M. Coello, *El proceso 'de repetundis' del 171 a. de C.*, Huelva 1981.

worse than its enemies. Livy mentions that the magistrates accused of misdeeds allegedly committed *gravissimis criminibus*[22].

> (...) Then were introduced to the senate ambassadors from the several states of both the Spains; these, after complaining of the avarice and pride of the Roman magistrates, fell on their knees, and implored the senate not to suffer them, who were their allies, to be more cruelly plundered and ill-treated than their enemies. When they complained of other unworthy treatment, and it was also evident that money had been extorted from them (...)[23].

The accusation that the magistrates had taken bribes certainly appalled the senators. In response to the embassy from Spain, Praetor Lucius Canuleius was ordered to handle the matter and to appoint five judges — *recuperatores*[24] — to each magistrate from whom the Spaniards were claiming money, as well as allow the Spaniards to take patrons — *patrones*[25] — of their own choosing[26].

The Spaniards chose four patrons in the trial *de repetundis* against the former praetor M. Titinius in *Hispania citerior*[27]. The participation of the patrons — Roman citizens who supported the prosecutor[28] — was necessary; otherwise the provincials would have been unable to accuse a former praetor due to their lack of Roman citizenship[29]. The procedure of this trial was based on private law. M. I. Henderson assumed that the *senatus consultum* issued in this case appointed the *quaestio* under the presidency of the praetor, specifying the manner in which the *patroni* and the *recuperatores*

22 Cf. J. M. Coello, *El proceso...*, op. cit., pp. 5, 26–28.
23 Liv., *Ab urbe condita*, trans. W. A. McDevitte, XLIII, 2.
24 W. Mossakowski, *Accusator w rzymskich procesach de repetundis w okresie republiki*, Toruń 1994, pp. 17–18; T. Mommsen, *Römisches Strafrecht*, Lepizig 1871, pp. 178–179.
25 W. Mossakowski, *Accusator...*, op. cit., p. 27; T. Mommsen, *Römisches Strafrecht*, op. cit., p. 724.; M. I. Handerson, *The process 'de repetundis'*, "The Journal of Roman Studies", 41 (1951), p. 81.
26 Cf. P. Kołodko, *Wybrane przykłady...*, op. cit., pp. 68–69.
27 F. Serrao, s.v. repetundae, Novissimo Digesto Italiano, XV (1968), p. 456.
28 W. Mossakowski, *Accusator...*, op. cit., p. 27; T. Mommsen, *Römisches Strafrecht*, op. cit., p. 724.; M. I. Handerson, *The process...*, op. cit., p. 81.
29 F. Serrao, *Classi, Partiti e Legge nella Repubblica Romana*, Pisa 1974, p. 235; cf. C. Venturini, *Processo penale...*, op. cit., p. 77.

should be appointed[30]. The trial against Titinius was adjourned (*amplatio*) twice, and ultimately the praetor was acquitted[31].

The trials against the other magistrates ended similarly: against Publius Furius Philus — a praetor of 174 BC, who was brought before the *recuperatores* by the provincials of *Hispania Citerior*, and against Marcus Matienus — a praetor of 173 BC, tried on the initiative of the provincials of *Hispania Ulterior*[32].

As we can read in Livy's account, verdicts of guilty were not passed; the trials against the two praetors were adjourned and ultimately not resumed, because the accused went into voluntary exile: Furius went to Praeneste and Matienus to Tibur[33]. Roman magistrates often took advantage of *exilium voluntarium* (voluntary exile), avoiding punishment in this way[34].

As F. Serrao notes, for the first time in the history of the Republic the provincials accused a former Roman magistrate who had committed misdeeds during his tenure[35]. It was not inconsequential that the senators agreed to charge and put before a tribunal people from the same order as themselves[36]. However, the provincials did not manage to achieve a satisfactory result in the cases *de repetundis* they brought before the court[37].

As for the reason why verdicts of guilty were not passed, Livy points to the patrons' unwillingness to prosecute representatives of influential families[38]. The provincials, who were not citizens, had to find a patron who would help them with the trial, while a patron did not want to go to the effort of going against the accused, because this would negatively impact his relationship with the accused[39]. Both the judges and the accused in the trials were from the same order, which was reflected in the verdicts and in

30 M. I. Handerson, *The process...*, op. cit., p. 80.
31 See F. Serrao, s.v. repetundae, op. cit., p. 456.
32 A. Lintott, *Leges de repetundis...*, p. 170; W. S. Ferguson, *The lex Calpurnia*, op. cit., p. 92;
33 F. Serrao, s.v. repetundae, op. cit., p. 456; W. S. Ferguson, *The lex Calpurnia*, op. cit., p. 92
34 See M. Jońca, *Exilium jako przejaw humanitas w rzymskim prawie karnym okresu republiki*, in: *Humanitas grecka i rzymska*, ed. R. Popowski, Lublin 2005, pp. 191—202.
35 F. Serrao, s.v. repetundae, op. cit., p. 456.
36 F. Serrao, *Classi Patiti e Legge...*, op. cit., p. 238.
37 Cf. A. Lintott, *Leges de repetundis...*, op. cit., p. 170.
38 A. Lintott, *Leges de repetundis...*, op. cit., p. 170; P. Kołodko, *Wybrane przykłady...*, op. cit., p. 69.
39 W. Eder, *Das Vorsullanische Repetundenverfahrem*, München 1969, pp. 38—42, 70; Cf. A. Lintott, *Leges de repetundis...*, op. cit., p. 169.

the manner in which the trial progressed[40]. A trial could be conducted in a negligent manner, with the court deliberately aiming for not passing a verdict of guilty. An informal alliance between the patrons and the accused was evident even to the provincials, which deterred them from trying to apply for compensation for the wrongs they suffered[41]. Livy's accounts lack information about possible punishments which could have been given to the magistrates in the trial. It was intended that the property taken from the Spaniards should be restored. M. Jońca and R. A. Bauman assume that in the case of the misdeeds committed by the magistrates tried in 171 BC the appropriate punishment was a fine[42]. The problem was, however, noted by the senators, who realised that they could not simply send the wronged people away. Praetors were forbidden from fixing the price of grains in Spain and from forcing the inhabitants to sell 1/20 of their grain at the price they set. It was also forbidden to impose tax collectors on Spanish cities — in this regard, the activity of societies of publicans was restricted[43]. The imposed bans, as P. Kołodko notes, were meant to stop the lawlessness of the *magistratus populi Romani* in the provinces with regard to their powers[44].

Livy also gives the example of another trial in which the accused was sentenced to a fine of one million asses[45]. This was the trial of the praetor Gaius Lucretius. Even the arrival of the ambassadors from Chalcis made an impression on the senators. One of the ambassadors, Miction, due to leg paralysis, was carried in before the senators on a litter. He testified that Gaius Lucretius was known in the province for cruelty and avarice, as was Lucius Hortensius. The praetor allegedly robbed temples and enslaved free people[46].

Faced with such serious and convincing accusations, the senate resolved to summon Lucretius to testify. After he arrived in Rome, Lucretius heard even more serious charges against himself — he was accused by the plebeian tribunes Manius Juventius Thalna and Cneius Aufidius. The

40 F. Serrao, s.v. repetundae, op. cit., p. 456.
41 F. Serrao, s.v. repetundae, op. cit., 456.
42 M. Jońca, M. Jońca, *Exilium jako przejaw...*, op. cit., p. 196; R. A. Bauman, *Crime and Punishment in Ancient Rome*, New York 1996, p. 15.
43 Cf. A. Lintott, *Leges de repetundis...*, op. cit., p. 165.
44 P. Kołodko, *Wybrane przykłady...*, op. cit., pp. 64–65.
45 See A. Lintott, *Leges de repetundis...*, op. cit., p. 166.
46 A. Lintott, *Leges de repetundis...*, op. cit., pp. 166–167; F. Serrao, s.v. repetundae, op. cit., pp. 456–458.

tribunes, having made charges before the senate, put the praetor before the plebeian assembly, where he was prosecuted[47].

Put before the plebeian assembly, the praetor was found guilty and sentenced to a fine of one million asses. The senate also resolved to send a letter to Hortensius in which it criticised his treatment of the inhabitants of Chalcis. The senate charged him to find the people he had sold into slavery and restore their liberty. The ambassadors were presented with two thousand asses each, and carriages were hired for the disabled Miction at the public expense[48].

In the case of this trial, one of the accused was fined and the other was ordered to redress the wrongs he had done[49].

The political and social genesis of establishing a permanent tribunal

Analysing the above examples, it should be noted that they were mostly offences committed by the senatorial order, to which the higher magistrates, and therefore future governors, belonged. The senate was unwilling to turn against its "colleagues", which was the main reason why many cases remained unresolved. It turns out, however, that the governors did not act alone.

The governors who committed extortion often cooperated with societies of publicans. Rome and/or governors imposed various types of duties on the provinces — war contributions, ransoms and high taxes. If the duties were not paid, severe sanctions were imposed on the population — for example: they were forced into work, servitude. The situation in which the provincials found themselves oftentimes required obtaining cash quickly. At this point, the equites — frequently gathered in societies — offered their help. They offered loans at very high interest. The provincials had no choice but to accept such loans, which they had to pay off over a long period of time, and then they took out other loans, which then became a vicious circle of debt[50]. One example of this was the contribution imposed on the province of Asia, "courtesy" of Sulla. Initially, the loan was 20,000 talents of silver; when the people, unable to pay off the debt, incurred more loans

47 A. Lintott, *Leges de repetundis...*, op. cit., p. 166; Cf. W. Litewski, *Rzymski proces...*, op. cit., p. 40.

48 See A. Lintott, *Leges de repetundis...*, op. cit., p. 166.

49 A. Lintott, Leges de repetundis..., op. cit., p.166.

50 *Rzymskie prawo publiczne wybrane zagadnienia*, ed. A. Jurewicz, R. Sajkowski, B. Sitek, J. Szczerbowski, A. Świętoń, Olsztyn 2011, pp. 181— 182.

at a high interest rate, the sum increased to 120,000 talents within a short period of time[51]. This example shows how large the sums handled by equestrian societies were and how influential they were in consequence. The establishment of such societies was possible because there was no well-developed fiscal system in the republican administration.

The situation in the other provinces generally resembled that of in Asia. In extreme cases, financially ruined cities refused to pay off the remaining debt and declared bankruptcy. It was at that time that the governor came to the equites' rescue. Summoned by the equites, he arrived in the city with an army to collect the debt. If the city resisted, he did not hesitate to besiege it. As Tadeusz Łoposzko writes, such events took place in Epirus, where Atticus summoned an army for help, as well as Cyprus, where the Roman army was summoned against Salamina, indebted to Brutus[52].

All kinds of financial, banking and usurious operations conducted on a large scale were the equites' main domain of activity. The people who occupied themselves with such operations were called the *argentarii*. They conducted their business mainly in Rome, where the demand for cash was enormous. It was sought after, for instance, by men who intended to pursue a political career and needed the funds for electoral campaigns. The official interest rate ranged between 4 and 12 per cent, but we know from the sources that loans were given at a rate of 24—60 per cent. Considering the fact that the *argentarii* gave loans which exceeded several dozen or several thousand sesterces, it is not difficult to imagine the profit they gained from this procedure. After provinces were created, the *argentarii* expanded their activity to all the Roman provinces[53].

Usurious loans were not the only sphere of the equites' activity, however. The Roman administration during the Republic did not develop its own special state agencies for collecting such fees and duties. Therefore, a system was developed for contracting various rights and benefits of the state to citizens or societies — such as collecting taxes, customs duties and all other kinds of income from various sources. To collect all these financial obligations, an auction was organised for providing services to Rome. The proposal most profitable for the state would win. The winning tenderer was

51 T. Łoposzko, *Historia społeczna starożytnego Rzymu*, Warszawa 1987, p. 84.
52 T. Łoposzko, *Historia społeczna...*, op. cit., p. 85.
53 T. Łoposzko, *Historia społeczna...*, op. cit., pp. 83—85.

obliged to pay a set amount of money in advance and was then authorised to collect the duties leased out to him over a specified period of time. Oftentimes the duty was so high that a single person was not able to pay such an enormous sum in cash. Therefore, citizens gathered in so-called societies of publicans — *sociates publicanorum* or *sociates publicani* — which conducted this sort of business[54].

The citizens who created such societies contributed a certain amount of money (*partes*) which formed the basis of a proportionate share in the profits. Society members were usually patricians or senators, and sometimes wealthier representatives of the plebs. However, this activity was, of course, mainly the domain of the equites. The existence of societies of publicans, as Tadeusz Łopuszko tells us, is attested in the sources as early as the 3rd c. BC. Initially, they were contracted by the state to perform various public works, such as building temples and other public buildings, as well as roads, bridges, and others. Such contracts were supervised by censors, who entered appropriate written agreements with representatives of the societies[55]. G. Alföldy also provides ample information about societies of publicans; according to him, apart from performing various public works, the societies were also contracted by the army, e.g. as suppliers. The persons who created these societies had no boundaries in their pursuit of the highest possible profits. They were immoral blackmailers, who did not hesitate to swindle the Roman state[56].

New opportunities for societies of publicans appeared with Rome's territorial expansion and the establishment of provinces. Rome, by becoming the heir of the rulers of the conquered territories, also became the owner of all sorts of property in the provinces. Such property included arable land, added to the *ager publicus* — for example: woodlands, pastures, mines. This property was leased out to private persons, mainly to the local population. The leaseholders were obliged to pay annual taxes, known as *vectigalia*. The taxes on pastures and breeding lands was, in turn, known as *scriptura*. The collection of these types of taxes was also contracted to societies of publicans[57].

The publicans were allowed to carry out their activity in all of the Roman provinces. In the 1st c. in Sicily they were contracted to collect the tax

54 T. Łoposzko, *Historia społeczna...*, op. cit., pp. 85—86.
55 T. Łoposzko, *Historia społeczna...*, op. cit., p. 86.
56 G. Alföldy, *Historia społeczna starożytnego Rzymu*, Poznań 2003, pp. 78—80.
57 G. Alföldy, *Historia społeczna...*, op. cit., p. 87.

on the production of olive oil, wine, and other fruits, known in this area as the *frugus minutae* — which was a success, as previously the publicans had not been allowed to participate in this type of tax auction. From the 2nd c. onwards they were contracted to collect port customs in Sardinia, Sicily, Corsica and both Spanish provinces. In Africa, the publicans collected rent on the properties confiscated from the Carthaginians and added to the *ager publicus*. They also bought out estates auctioned off by the authorities. One spectacular success of the publicans was a contract to collect taxes in the province of Asia, on the basis of a law passed by Gaius Gracchus in 124, the *lex de provincia Asia*. According to the Roman law, the entire population of the province was obliged to pay a tax in the amount of 10 per cent of the value of all harvested crops. The tax, which was initially the subject of an auction conducted by censors, became a permanent sphere of the publicans' activity. The taxes levied by the societies were enormous, and the cycle mentioned above started to appear: unable to pay the taxes, the population took out usurious loans from other (equestrian) societies. The Roman authorities gradually started to authorise the publicans to collect taxes in almost all of the Roman provinces, which brought the publicans immeasurable wealth[58]. The Roman provinces remained the main area of activity for the publicans and the equites until the end of the Republic.

As soon as the first provinces were created, a rivalry for opportunities to gain profits between the senatorial order and the equites became evident. Province governors were, after all, appointed from the senatorial order; they were the ones who covered the cost of electoral campaigns and, obviously, wanted to gain the highest possible profit from governing the province. The governors would have been unable to collect large sums from a population robbed and impoverished by the dealings of the equites. Some governors attempted to restrict the equites' (especially publicans') activity as much as possible, preventing extortion. Such efforts on the part of the governors displeased the equites[59].

Complaints against the governors were brought to, and were consequently judged by, equestrian judges. The equestrian order became very adept at using this "weapon" — there were numerous cases of convicting honest and conscientious governors who were opposed to the activity of the

58 G. Alföldy, *Historia społeczna...*, op. cit., pp. 87–88.
59 G. Alföldy, *Historia społeczna...*, op. cit., p. 89.

equites in their province. Similarly, in reverse situations, an unscrupulous governor who cooperated with the equites could count on impunity[60].

However, the activity of the equites is very important when analysing extortions and corruption among Roman magistrates. Undoubtedly, there were conflicts of interests and there were occasional cases of convicting governors, but the business conducted in the provinces united the senatorial and equestrian orders more than it divided them. The most important matter to both orders was to ensure for themselves the opportunity to exploit the provinces without limitations. The equites never opposed the excessive exploitation of the provincial populations by the governors — as long as there was something left for them. Societies of publicans frequently needed the governor's help in collecting taxes from insolvent debtors. While the governors levied high taxes on their provinces, the equites gave the inhabitants usurious loans. The governors also contracted societies of publicans to collect some taxes in their provinces and earned a profit from this as well.

The evolution of Roman legislation with regard to the crime *de repetundis*

The *quaestio* was a collegial criminal court. Initially, individual courts were appointed for each separate case, known as *quaestiones extraordinariae vel temporariae.* Over time, they developed into permanent tribunals for specific types of crimes, known as *quaestiones perpetuae*, e.g. *de repetundis* for extortions, or *de ambitu* for political corruption[61].

The *lex Calpurnia de repetundis*, passed in 149 BC, appointed the first permanent tribunal, *quaestio perpetua*, which was supposed to judge public magistrates who had committed extortion in the provinces. This information is confirmed by Cicero[62]. The law was passed as a result of the growing problem of extortion committed by Roman magistrates, whose beginning P. Kołodko dates to the end of the 3rd c. BC, and which became the most visible and dangerous in the 2nd c. BC[63].

60 G. Alföldy, *Historia społeczna...*, op. cit., p. 90.

61 W. Litewski, *Rzymski proces karny*, Kraków 2003, pp. 37—39.

62 Cic., Brut. 106; de off. II, 21, 75; in Verr., II, 3, 195; II, 4, 56; por. T. Mommsen, *Römisches Strafrecht...*, op. cit., p. 190; R. A. Bauman, *Crime and Punishment...*, op. cit., pp. 22—23.

63 P. Kołodko, *Wybrane przykłady...*, op. cit., pp. 63—64. Also see: W. Eder, *Das Vorsullanische...*, op. cit., p. 66; J.S. Richardson, *The Purpose of the 'Lex Calpurnia de repetundis'*, "The Journal of Roman Studies" vol. 77 (1987); G. Gulina, *'Sacramentum' e 'lex Calpurnia'*, "Iura", vol. 51 (2000); W.F. Ferguson, *The lex Calpurnia...*, op. cit.

It should be noted that even before the *lex Calpurnia* was passed, the Romans had a legal apparatus to fight extortionists[64]. As Modestinus records, a province's governor could not accept any gifts, with the exception of beverages and food which could be consumed within a few days[65]. However, we do not know whether this norm was in force in the 2nd c. BC, or whether the *lex Calpurnia* specified such a norm[66]. Modestinus, the source for the ban in question, cites a provision of the *concilium plebis*.

Iudicia publica were defined in Roman law by the *lex Iulia de iudiciis publicus*[67]. The characteristic feature of *iudicia publica* was the visible public interest in prosecuting the criminal on the basis of a criminal *lex, plebiscitium* or by means of *mos maiorum*. The prosecution was brought by a citizen by means of a popular complaint, or the trial was conducted directly by the State[68]. *Iudiucium publicum* has a broad definition and includes all organs and modes of considering public criminal cases, including the activity of both individual magistrates and the *quaestio*. It refers to various state agencies at different stages of the existence and development of the Roman state. Some of the organs of *iudicia publica* from the times of the Roman Kingdom and the beginning of the Republic include the king, later magistrates and *duumviri perduellionis, quaestores parricidii* and *tresviri capitales*. *Comitia* and Roman magistrates, apart from a number of other functions, also had a jurisdictional role[69].

The *queastio* comes from the word *quaerrere*, which in turn derives from the even older word *quaeso*, which means a question. The term *quaestio* referred to the organ which considered a case in the course of a trial. According to W. Mossakowski, only the *quaestio perpetua* can be regarded as a regular criminal court[70].

According to Kunkel, *quaestiones* were established as a result of trials of vital cases and proceedings before the Roman magistracy[71].

64 W.S. Ferguson, *The lex Calpurnia*, op. cit., p. 64.
65 Dig., 1, 18, 18.
66 W. Eder., *Das Vorsullanische...*, op. cit., pp. 72–73.
67 G. Rotondi, *Leges publicae populi Romani*, Milano 1912, p. 389; M. I. Henderson, *The Process 'De Repetundiss'*, "The Journal of Roman Studies" vol. XLI, 1951, p. 75.
68 W. Mossakowski, *Accusator...*, op. cit., p. 13.; W. Kunkel, s.v. Quaestio, RE, col. 724.
69 K. Koranyi, *Powszechna historia państwa i prawa*, vol. 1 *Starożytność*, Warszawa 1961, pp. 126–127, 134–136.
70 W. Mossakowski, *Accusator...*, op. cit., p. 14.
71 W. Kunkel, s.v. Quaestio, in: *Paulys Realencyclopädie der classischen Altertumswissenschaft* (RE), ed. G. Wissow, 47 (1963), col. 728.

Before any sort of *quaestiones* were established, their powers were held by certain Roman magistrates. For instance, the Roman collegial organ of *tresviri capitales*, already known in the early Republic, and extant at the times of the urban prefecture appointed by Octavian Augustus, considered cases of minor offences against slaves and freemen from the lower classes[72]. The *tresviri* also considered cases *de sicariis* and *de veneficiis* before the appropriate *quaestiones* were established[73].

Those cases in which the public interest played an important role, especially political ones, were considered by a *magistratus*. On the basis of subsequent *leges Valeriae*, the right to appeal the magistrate's sentence to the people (*provocatio ad populum*) was allowed. According to Mommsen, the *provocatio* was divided into two levels — the first before magistrates and the second before *comitia*.

The organs which dealt the most efficiently with considering complaints about crimes were the extraordinary criminal courts established individually for each case. They comprised a large *collegium* consisting of senators and were known as *quaestiones temporariae vel extraordinariae.* The process of assembling such courts was diverse. It could have been based on the decision of a dictator[74], with each *quaestio* supervised by a praetor or consul, or on the appointment by a *senatus consultum*[75] or *plebiscitum* — most frequently on the initiative of a plebeian tribune.

According to Mommsen, conducting the trial and presiding over the *quaestio* was entrusted to a magistrate: one or two consuls or one praetor. To Kunkel, the more important fact is the very functioning of the *consilium iudicum (quaestio)*, while the fact that a magistrate was appointed to preside over the judges and pronounce a verdict was of secondary importance[76]. The lack of regulated proceedings for various criminal cases in the discussed period contributed to extraordinary courts being appointed more and more frequently. The model of proceedings before the *magistratus* and plebeian court was gradually replaced by appointing special criminal courts. Some deeds were commonly regarded by the people as forbidden even befo-

72 Cic., div. 50, p. 201.
73 W. Mossakowscki, *Accusator...*, op. cit., p. 15.
74 See K. Koranyi, *Powszechna historia...*, op. cit., p. 137.
75 H. F. Jolowicz, *Historical Introduction to the Study of Roman Law*, Cambridge 1952, p. 313.
76 W. Kunkel, s. Quaestio, RE, col. 733.

re the appropriate *lex* was passed, as W. Mossakowski notes[77]. The diversity of forms of considering specific cases and of the legislators who initiated new legal acts was also caused by the dependence of specific political and social situations on the mood of the Roman people.

Examining the genesis of the *quaestio perpetua* it is difficult to find one line of development. In the period very close to the establishment of the first permanent *quaestio* in 149, the praetor L. Hostilius Tubulus single-handedly considered a case of the crime of *siciarii*.

The role of recuperators (*recuperatores*) was also important; they were collegial organs appointed *ad hoc* by senators to investigate specific cases of extortion or maladministration[78]. Recuperators personally gathered evidence, questioned the parties and presented their opinions to the senate. The senate did not have to treat the recuperators' decision as binding, although it is possible that it could not pass a sentence different than theirs. According to Mossakowski, this situation was a result of the senate appointing a *collegium* of recuperators as a compromise organ, consisting of representatives of Rome and representatives of the town, and later province, in which the crime was committed. The institution of recuperators during the early Republic was a diplomatic service acting on behalf of the senate[79]. There was no numerical restriction for the *collegium* of recuperators. Its composition was formed and defined on a current basis — individually in each case. The *collegium* could have consisted of a few to over a dozen persons. They could investigate cases of extortion in which the injured parties were the *peregrini* and *socii* of the Roman people. The members of this body came both from Rome and from the provinces in which the extortion had been committed[80]. Handerson noted that *recuperatores* were appointed as an organ which proceeded only after the *quaestio* had reached a decision[81]. It was the proceedings before the *recuperatores* that indicated the *quaestio* was modelled on private law[82]. It should also be noted that the main goal of

77 W. Mossakowski, *Accusator...*, op. cit., p. 17.
78 Liv. 43,2.
79 G. Broggini, *Iudex abiterve. Prolegomena zum Officium des römischen Privatrichters*, Köln—Graz 1957, p. 16.
80 W. Mossakowski, *Accusator...*, op. cit., pp. 17—18; T. Mommsen, *Römisches Strafrecht*, op. cit., pp. 178—179.
81 M. I. Handerson, *The process...*, op. cit., p. 80.
82 Cf. Th. Mommsen, *Römisches Strafrecht*, op. cit., p. 708; W. Litewski, *Rzymski proces...*, op. cit., p. 39.

the trial was not to mete out punishment but to recover damages (*pecuniae repetundae*) for the plaintiffs[83].

The first *quaestiones*, which T. Mommsen calls *quaestiones extraordinariae*, were established on the order of the senate by a praetor, who appointed the *iudices* who constituted the tribunal. The praetor usually personally presided over the *quaestio*; however, the praetor or the senate could appoint another president — *quaesitor*[84]. The legal regulations, jurisdiction and scope for action of *quaestiones extraordinariae* corresponded with permanent courts established later.

According to the *lex Sempronia de capite civis*, example of *quaestio* was: the tribunal appointed against Clodius in a case connected to the celebration of Bona Dea in 61 BC and against Milo in 55 BC. Other examples of such *quaestiones* were those appointed in the period between Sulla and Caesar on the basis of the *lex Pompeia de parricidio, lex Licinia de sodalicis* and *lex Plautia de vi*[85].

Quaestiones temporariae were created mainly in the 2nd c. BC. The last of such tribunals was the *quaestio* appointed against Caesar's murderers on the basis of the *lex Pedia de interfectoribus Caesaris* in 43 BC.

According to Theodore Mommsen's theory, criminal proceedings before various types of *quaestiones* originated from the proceedings before the *quaestio de repetundis* — a court which ruled on cases of extortion. The organ which preceded the *quaestio de repetundis* was a *collegium* of recuperators, which belonged to the realm of private law. Mommsen concluded that the broadly defined criminal proceedings were known in Rome from the beginning. Initially, the king had the jurisdiction to investigate criminal cases. In cases of *perduellio*, this jurisdiction belonged to the *duumviri perduellionis*, while in cases of *parricidium* — to *quaestores parricidii*[86]. As a result of further changes of the political system, the jurisdiction to consider cases was taken over by other agencies.

H.F. Hitzieg claims that the institution of *quaestio* had a Greek origin. This is contradicted by Tacitus himself, who derives *quaestiones* from *recuperatores* who had functioned earlier[87]. Kunkel also disagrees with

83 W. Litewski, *Rzymski proces*..., op. cit., p. 39.
84 Liv. 38,35.
85 W. Mossakowski, *Accusator*..., op. cit., p. 23.
86 W. Mossakowski, *Accusator*..., op. cit., p. 19.
87 Tac., Ann, 1, 74.

Hitzieg. Analysing the example of corruption trials in Athens cited by R. Kulesza, we can see that the Greek solutions in cases of extortion were not similar to the Roman ones[88].

Examining the procedures used by *quaestiones repetundarum* according to the subsequent laws, there is some uncertainty whether the *quaestio* belonged to criminal or private law, as noted by Pontenay de Fontette[89]. H. Paalzow noted the similarity of the *quaestio* procedures to procedures of private law[90]. J. M. Kelly, on the other hand, claims that criminal trials had the same procedure as the civil ones[91]. De Fomtette and Edgar Blum believe that the establishment of the *quaestio* is not sufficient to conclude that the *iudicium repetundarum* was public in nature. It was not until the procedure regulated in the *lex Acilia*, replacing the *sacramaentum* with the *nominis delatio*, that these courts became public in nature[92].

W. Mossakowski writes that during the Roman Republic 53 normative acts were issued or put to the vote with regard to criminal law — including *leges, plebiscita* and *rogationes.* Nine of the acts concerned cases of extortion:

- *lex Calpurnia de repetundis* 149 BC;
- *lex Iunia de repetundis* 149—123 BC,
- *lex Acilia repetundarum* 123—122 BC,
- *lex Sevilia repetundarum* 111 BC (*duae leges Serviliae*),
- *lex Cornelia de repetundis* 81 BC,
- *rogatio de repetundis* 61 BC,
- *lex Iulia de pecunis repetundis* 59 BC, issued together with the *lex Ulia de provinciis ordinandis*[93],
- *lex Pompeia de repetundis* 55 BC,
- *plebiscitum de repetundis*, date unknown.

G. Rotondi argues that the *leges Calpurnia, Iunia, Acilia, Servilia,* and *Iulia* were issued as *plebiscita*[94].

88 R. Kulesza, *Procesy o korupcję w Atenach w końcu V w. p.n.e.*, "Meander", vol. 3 (1983), pp. 87—99.
89 F. Pontenay de Fontette, *Leges repetundarum, Essai sur la repression des actes illicites commis par les magistrats romains au detriment de leurs administers*, Paris 1954, p. 25.
90 H. Paalzow, *Zur Lehre von den römischen Popularklagen*, Berlin 1889, p. 15.
91 J. M. Kelly, *Roman Litigation*, Oxford 1966, p. 37.
92 F. Pontenay de Fontette, *Leges repetundarum*, op. cit., pp. 29—30.
93 G. Walter, *Cezar*, Warszawa 1983, p. 119.
94 G. Rotondi, *Leges publicae populi Romani*, Milano 1912, pp. 292, 306, 313, 322, 389.

Among the *leges iudiciariae* which regulated the system of *quaestiones*, the acts written as a result of the Gracchi's activity are important: the *rogatio Sempronia iudiciaria* of 133 BC and the *rogatio Sempronia iudiciaria* of 123 BC and 122 BC. Important changes were also introduced by the judiciary reform of Cornelius Sulla — the *lex Cornelia iudiciaria* of 82 BC. The last reform of the *quaestiones* from the times of the Republic was Caesar's law — the *leges Iuliae iudicariae* of 46 BC[95].

Although the senate never formally performed the jurisdictional function during the Republic, the judiciary was in the hands of the senators. All the curule magistracies were personally connected to the senate because it was appointed from among persons who held these offices. Only some lower offices of jurisdictional nature, such as *tresviri capitals*, were not directly connected to the senate. The new jurisdictional body — *quaestiones extraordinariae* — was also appropriated by the senatorial order. The senate was the unquestionable hegemon in terms of jurisdiction, also in the case of the *quaestio*[96]. First of all, the appointment of a *quaestio temporaria* depended on the senate's decision, so before judges could consider a case, it had to have been "considered" by the senate. Since the cases most frequently involved persons from the senatorial order, it was rather reluctant to appoint a court. Secondly, it was the senate that had the decisive influence on the personal composition of the court and appointed the praetor or the *quaesitora* who presided over it; there were also cases of appointing the entire *quaestio* by name.

G. Rotondi writes that for the period from 413 BC to 43 BC, 21 *quaestiones temporariae* are documented — including 2 *plebiscita*, 3 *rogationes* and 15 *leges*. None of these *quaestiones* was appointed to consider a case of extortion[97]. We know, however, that cases of extortion were heard at that time — considered by the senate or by means of another procedure, e.g. by appointing a *collegium* of recuperators, which explains the lack of recorded information about the appointment of *quaestiones extraordinariae de pecunis repetundis*. It cannot be categorically stated, however, that *quaestiones temporariae* in cases of extortion were not appointed[98].

95 A. Berger., s.v. Praedes, in: *Encylopedic Dictionary of Roman Law*, Philadelphia 1953, p. 641.
96 See W. Mossakowski, *Accusator...*, op. cit., pp. 21—23.
97 G. Rotondi, *Leges publicae populi Romani*, Milano 1912, p. 104.
98 E. S. Gruen, *The Last Generation of the Roman Republic*, Berkeley 1974, p. 239.

Although the senate controlled the appointment of a *quaestio extraordinariae*, by means of consenting to appoint such a court or by directly appointing such a court, it did not consider the case. The senate could refrain from appointing a *quaestio*, which meant that the case would never be considered by a court. This gave the senators enormous power and complete control of the situation[99].

These political and legislative circumstances changed when the permanent court — *quaestio perpetuae* — was established. The senatorial order relinquished its jurisdictional competences, gradually sharing them with the equites; this had taken place step by step, starting with the development of *crimen repetundarum.* Although the proceedings before the *quaestio extraordinariae* and *quaestio perpetuae* were similar, there was a crucial difference between the two. The *quaestio perpetuae* was a court to which the entitled citizen turned personally, demanding that a case be considered and the criminal punished. In this case the court could not refuse the plaintiff to accept the case and had to start the proceedings. On the other hand, *quaestiones temporariae* operated only on behalf of the senate, which could decide whether a case would be considered or not[100]. The senate's decision was guided by its policies and the current political and social atmosphere.

Cornelius Sulla's jurisdictional reforms brought about the merger of *quaestiones*, creating one *quaestio de sicariis et veneficiis*; a new *quaestio — deiniuris* — was added to the existing ones. Mommsen claims that at that time there were seven permanent *quaestiones*; Kunkel believes there were six[101]. The difference stems from the scholars' different views on the permanency and extraordinary nature of *quaestio.* According to Tacitus, the *quaestio perpetua* was established by Caesar as dictator[102].

The emergence and evolution of *quaestiones* appears to be a development of judiciary procedures, an increase in the number of courts, and the creation of courts specialising in certain types of cases, but most importantly it appears to have been a systemic reform of the judiciary. We can observe some political, legal, as well as social influences here. The emerging

99 Cf. W. Litewski, *Rzymski proces...*, op. cit., pp. 37—42.
100 W. Mossakowski, *Accusator...*, op. cit., pp. 22—23.
101 T. Mommsen, *Römisches Strafrecht*, op. cit., p. 804; W. Kunkel, s.v. Quaestio, op. cit., col. 746.
102 Tac., Ann, 6, 16.

criminal law focused mainly on crimes typically committed by magistrates, such as *pecuniae repetundae*, *ambitus, peculatus,* and crime against the state, *crimen maiestatis*, which expanded the previous concept of *perduellio.* The subsequent *quaestiones* also dealt with crimes against an individual — *de adulteriis, de vi, de sicariis et veneficiis*. Initially, the activity of individual *quaestiones* appointed to consider a specific case was regulated by law. In their reforms (the *leges Semproniae*), the Gracchi strove to comprehensively regulate criminal cases. A systemic reform of criminal law was introduced by Cornelius Sulla. The legislation from the times of Pompey and Caesar reflects attempts to systematise and reform criminal law.

Recapitulation

Even before the appointment of the permanent court for cases of extortion, the Romans had at their disposal instruments for combatting offences committed by magistrates, including corruption. Neither *iudices populi*, *collegium* of recuperators nor extraordinary courts were able to meet the expectations of the Roman population, in particular the mistreated provincials, who demanded justice more and more loudly. Out of the three institutions for combating extortion, the *collegium* of recuperators was the most effective one, but its main downside was the fact that the trial could at the most result in restoring the stolen property, not in punishing the offender. The growing public interest in cases of extortion and the scale of this problem, more and more visible and palpable in Rome, forced the senators into action.

Observing the events prior to passing the *lex Calpurnia de repetundis*, the weaknesses of the trials are clear. We can also see that the senators were aware of the need to help Rome's allies, who were victims of praetors' crimes[103]. Although provincials had the ability to accuse Roman magistrates, Livy's account shows that prosecuting them was unsuccessful. The senators and patrons, apart from being reluctant to prosecute persons from the same order, also dealt with inconsistency in prosecuting extortionists. The accused also tried to delay verdicts and to prolong trials as much as possible[104]. The activity of the praetor as the president of the *quaestio* frequently amounted to conducting a trial in such a way that the accused could not be convicted[105].

103 Cf. W. S. Ferguson, *The lex Calpurnia...*, op. cit., p. 93.
104 See F. Serrao, s.v. repetundae, op. cit., p. 456.
105 See W.S. Ferguson, *The lex Calpurnia...*, op. cit., p. 93.

In trials before a permanent court, the leading role was played by the *accusator*, on whose involvement and experience the success of the trial depended. Only collecting the evidence in a conscientious manner and presenting it in court in a skilful way, together with a speech, could secure a conviction of the accused. Extortion trials were also an area of manipulation and political struggle, as well as a way of eliminating rivals.

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Abstract

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The Genesis of a Permanent Tribunal: Quaestio perpetuae de repetundis

The aim of the paper is to present the judiciary in cases *de repetundis* in the period before the permanent court was established, including plebeian tribunals and "occasional" tribunals: *quaestiones estraordinariae / quaestiones temporiae*, as well as the *collegium* of recuperators. An important element is the evolution of the court proceedings and the emergence of new legislative efforts, as well as the influence of the emergence of new court models on the proceedings. The author will discuss the legal, social and political background of the development of legislation with regard to prosecuting the *crimen repetundarum* (crime of extortion) and outline the scale of the problem of extortion in the Roman Republic, as well as the related social conflicts.

Keywords:
Roman Republic, corruption of magistrates, permanent tribunal (*quaestio perpetuae*), extraordinary tribunal, the judiciary in the Roman Republic

Abstrakt

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Geneza utworzenia trybunału: Quaestio perpetuae de repetundis

Celem artykułu jest przedstawienie sądownictwa w sprawach *de repetundis* z czasów sprzed powołania trybunału stałego, wliczając w to sądy ludu, trybunały „okolicznościowe": *quaestiones estraordinariae / quaestiones temporiae*, kolegium rekuperatorów. Istotnym elementem będzie zaprezentowanie ewolucji przewodu procesowego wraz z pojawianiem się kolejnych zabiegów ustawodawczych oraz wpływu pojawiania się nowych modeli procesowych na przebieg procesu. Omówione zostanie tło prawno-społeczno-polityczne rozwoju ustawodawstwa w zakresie zwalczania *crimen repetundarum* (przestępstwa zdzierstwa) z zarysowaniem skali problemu zdzierstw w republice rzymskiej, a także konfliktów społecznych.

Słowa kluczowe: Republika rzymska, korupcja urzędnicza, trybunały stałe (*quaestio perpetuae*), trybunały nadzwyczajne, sądownictwo w republice rzymskiej