



ANNA PIKULSKA-RADOMSKA
ID <https://orcid.org/0000-0003-3691-3824>
Uniwersytet Łódzki

„Quod illicite (...) exactum est”... And what if the duty was wrongly paid? Accountability of tax collectors in classical Roman Law¹

*Portorium*² was, in the Roman world, a levy of a specific character. Broadly speaking, it is usually associated with duty; in reality, however, it was a transport fee, covering both duties paid on commodities transported over a state border, provincial borders or borders between groups of provinces (duty districts that the entire empire was eventually divided into over the course of time), a duty on goods transported into certain cities, or fees incurred by using

¹ The article offers a new insight into a problem discussed in the study *Kontrabanda. Uwagi o poborze portorium w republice i wczesnym cesarstwie*, published in: *Semper Fidelis. Prace dedykowane pamięci Profesora Janusza Sondla legendzie krakowskiego fakultetu prawniczego*. Eds. D. Malec, Ł. Marzec, T. Palmirski. Krakow 2017.

² Latin fiscal terminology is quite complex. *Portorium* is one of the levies falling into the category of *vectigalia*, most generally understood as state income from different types of public levies, including taxes, with the exception of the provincial tribute, treated separately. It is a broadly understood transport fee; here, for purposes of simplification, *portorium* will be used to mean duty; see more e.g. A. Pikulska-Radomska: *Fiscus non erubescit. O niektórych italskich podatkach epoki rzymskiego pryncypatu*. University of Lodz Publishing House, Lodz, 2013, pp. 17—48, in particular pp. 20—32, and most recently *Podmiotowe zwolnienia celne w Rzymie epoki imperialnej*. In: *Noctes iurisprudentiae. Scritti in onore di Jan Zabłocki*. Temida 2, Białystok, 2015, pp. 191—200 and *Species pertinentes ad vectigal, czyli co miało na myśli Aelius Marcianus*. In: *Nil nisi veritas. Księga dedykowana Profesorowi Jackowi Matuszewskiemu*. Eds. M. Głuszak, D. Wiśniewska-Józwiak. University of Lodz Publishing House, Lodz, 2016, pp. 51—60.

certain roads or crossing certain bridges. Each person crossing such a duty collection point (*statio*), whether they were engaged on business or a regular traveler, was obliged to declare all the commodities they were carrying (*professio*), for all goods were, as a general rule, subject to portorium³. While there were certain exemptions, both personal and subject-based, this did not mean that a person crossing a collection point could skip any item in their declaration. Were there any instances of anyone ever trying to evade paying their duty? This is a purely rhetorical question. Sources offer numerous evidence for such practices. They involved, in particular, travelers either trying to conceal the real nature of the goods they were carrying or trying to cross the border without going through the duty collection point⁴. Interestingly, plenty of evidence of such practices comes from rhetoric works, particularly *Declamationes minores* by pseudo-Quintilian. The fact that such conduct could be used as training material to practice rhetoric shows that these practices were common, and that so was the knowledge of them. And by training material, we do not mean pure rhetorical figures, presented to trainees, but rather actual stories based on actual events. Many mentions of such practices can also be found in Talmudic treatises⁵.

Collectors of public duties managing the collection of *portorium* (*publicani*) were, obviously, authorized to verify the correctness of the *professio*. The tools they could use to this end included the right to conduct both a search of the luggage or cargo, and an intimate search of persons crossing the customs border⁶. The latter can be inferred from pseudo-Quintilian's account, namely his statement that matrons enjoyed an exemption from the border control⁷. While

³ Ps.-Quint., *Declam. min.*, 359: *Praeter instrumenta itineris omnes res quadragesimam publicano debeant.* (levy shall be paid on all things, except for means of transport).

⁴ This has been pointed out by S.J. De Laet: *Portorium. Étude sur l'organisation douanière chez les Romains, surtout à l'époque du Haut-Empire.* Bruges 1949, pp. 438, footnote 1.

⁵ See Suet, *Rhetor.*, 1: *Venalici cum Brundusi gregem venalium e navi educerent, formoso et pretioso puero, quod portitores verebantur, bullam et praetextam togam imposuerunt; facile fallaciam celarunt. Romam venitur, res cognita est, petitur puer, quod domini voluntate fuerit liber, in libertatem.* Ps.-Quint., *Declam. min.*, 340: *mango novicium puerum per publicanos traiecit pretextum, dicitur ille liber;* Bab. Baba Batra 127b; Bab. Baba Kama 113a; Miszna, Kil'ajim, IX, 2c; mention of the same practice in Bab. Baba Kama 113a; Miszna, Kil'ajim, IX, 2c; mention of the same practice in Bab. Baba Kama 113a; Ps.-Quint. *Declam. min.*, 359: *Publicano scrutari liceat. Quod quis professus non fuerit, perdat;* see also Plut., *De curios.*, 7. For more on this issue, see A. Pikulska-Radomska: *Kontrabanda...*, pp. 305–314.

⁶ Ps.-Quint., *Declam. min.*, 359: *Publicano scrutari liceat. Quod quis professus non fuerit, perdat;* the right has also been discussed by Plut., *De curios.*, 7.

⁷ Ps.-Quint., *Declam. min.*, 359: *Matronam ne liceat attingere. Matrona iter faciens cum ad publicanos venisset, uniones habens CCCC in sinum abdidit. Hos cum requireret publicanus, matrona scrutandi potestatem fecit. Publicanus noluit scrutari: translatis manum incit et suos dicit.* This information has recently been referred to by: R. Duncan-Jones: *Roman*

the issue of the existence or non-existence of a formal privilege enjoyed by the aforesaid group of persons is disputable, the very right to conduct an intimate search is not. Furthermore, if we believe what Plautus mentioned in his comedy *Trinummus* to be true, the right to conduct a search also covered personal documents of travelers, including any letters they may have been carrying⁸. While this has only been confirmed for the republican era, if it was actually effective, it most likely remained in force in the imperial period.

Papyrus Oxyrhynchus 1, 36, which most likely refers to a collection point in Memphis, provides information on publicans having the right to stop a ship in order to conduct a search. This account not only describes the said right, but is also interesting because it specifies the consequences of a wrong decision to stop a ship, i.e. the consequences of failure to identify contraband. It should be pointed out that the document suggests that in the event the search does not reveal any transgressions on the part of a traveler, the collector shall be obliged to cover all costs related to stopping the ship. It is not clear, however, whether this regulation was in force all over the state⁹.

While there may have existed some lists of goods to which certain fixed duties applied, as a general rule, at least in collection points situated on the borders of duty districts, but also internally, the levy was calculated *ad valorem*. Even if it were an overstatement to say that ancient sources offer numerous mentions of abuse on the part of the publicans, or tax collectors, it is beyond any doubt that their public image was very bad. Examples of highly critical perception of the collectors can be found in the works of Cicero¹⁰; like-

Customs Dues: a Comparative View. Latomus 65 (2006), pp. 3—16, in particular pp. 7—8 and K. Schörlle: *Pearls, Power, and Profit: Mercantile Networks and Economic Considerations of the Pearl Trade in the Roman Empire*. In: *Across the Ocean: Nine Essays on Indo-Mediterranean Trade*. Eds. F. De Romanis, M. Maiuro. Leiden/Boston 2015, pp. 43—54, in particular p. 53, albeit without a satisfactory commentary, and A. Pikulska-Radomska: *Kontrabanda...*, pp. 308—309.

⁸ Plaut., *Trin.*, 793—795: *iam si opsignatas non feret, dici hoc potest, apud portitorem eas resignatas sibi/ inspectasque esse*. (if he doesn't bring them sealed, it can be said that they were unsealed at the custom officers' and inspected even if his letters aren't brought sealed, he can say they were unsealed and examined at the customs house); as translated in: Plautus: *Stichus. Trinummus. Truculentus. Tale of a Travelling Bag. Fragments*. Edited and translated by Wolfgang de Melo. Loeb Classical Library 328. Harvard University Press, Cambridge, MA, 2013, p. 199.

⁹ Pap. Oxy, 1,36, col. II, verses 6—15; on this papyrus, e.g. S.J. De Laet: *Portorium...*, p. 321, and most recently J.L. Zamora Manzano: *Algunos aspectos sobre el régimen fiscal aduanero en el derecho romano: reglamentación jurídica del 'portorium', control de mercancías y comiso por fraude fiscal*. Madrid 2009, pp. 79—81.

¹⁰ See e.g. Cic., *Ad Q. fr.*, 1,1,11,33: *Illa causa publicanorum quantam acerbiter afferat sociis, intelleximus ex civibus, qui nuper in portoriis Italiae tollendis non tam de portorio quam de nonnullis iniuriis portitorum querebantur; quare non ignoro, quid sociis accidat in ultimis terris, cum audierim in Italia querelas civium* (How much bitterness the tax farmer question

wise, tax collectors are frequently mentioned in the Gospels, where they are compared to sinners and prostitutes. Bogumił Brzeziński goes so far as to say they had a “paradigmatically negative image”¹¹.

Although the problem of abuse in the area of tax collection was acknowledged, attempts at combating it were rather ineffective. In fact, the first emperor to have taken successful measures in this regard was Nero. The tactic he adopted was to make the rules and principles governing the collection of tax available to the public by posting them in every *statio*¹², which proved successful, and sources concerning the periods that followed contain hardly any mentions of abuse. In addition to that, emperors Marcus Aurelius and Commodus ruled in a rescript that while tax collectors are not obliged to instruct travelers on how to make a declaration, they must not mislead them¹³. The fact that there were no mentions of abuse does not mean that there were no abuses, but the scale must have been small enough not to trigger public outcry and protest.

In the event that a tax collector uncovered an undeclared item, the item was subject to forfeiture (*commissum*). This sanction was confirmed by numerous legal¹⁴ and non-legal sources¹⁵, as well as by the aforementioned Papyrus Oxyrhynchus 1, 36. This was a sanction of a general character that could be

creates in the provinces has been illustrated for us by the attitude of some of our countrymen over the abolition of Italian customs. It was not the duty they complained of so much as certain maltreatments at the hands of customs officers. Having heard the complaints of Roman citizens in Italy I do not need to be told what happens to provincials at the ends of the earth); as translated in: Cicero: *Letters to Quintus and Brutus. Letter Fragments. Letter to Octavian. Invectives. Handbook of Electioneering*. Edited and translated by D.R. Shackleton Bailey. Loeb Classical Library 462, Cambridge, 2002, p. 35.

¹¹ B. Brzeziński: *Poborcy podatkowi i dzierżawcy podatków w starożytności*. In: *W świecie finansów i prawa finansowego. Działalność dydaktyczna Profesora Jana Gluchowskiego*. Eds. B. Kłosowska, P. Prewysz-Kwinto. Toruń 2010, pp. 73—79, in particular p. 76.

¹² Tac. *Ann.*, 13,51: *Ergo edixit princeps ut leges cuiusque publici, occultae ad id tempus, proscriberetur*. (The emperor, therefore, issued an edict that the regulations with regard to each tax, hitherto kept secret, should be posted for public inspection); as translated in: Tacitus: *Annals: Books 13—16*. Translated by John Jackson. Loeb Classical Library 322, Cambridge, 1937, p. 91.

¹³ D. 39,4,16,6: *Divi quoque Marcus et Commodus rescriperunt non imputari publicano, quod non instruxit transgredientem: sed illud custodiendum, ne decipiat profiteri volentes* (The deified Marcus and Commodus also stated in a rescript that a tax farmer should not be blamed for failing to instruct someone who broke the law, but that care should be taken that he does not mislead those who are willing to make a declaration); as translated in: *The Digest of Justinian*. Vol. 3. Ed. A. Watson. Philadelphia 1998, p. 407.

¹⁴ Entire titles of Digests of Justinian were dedicated to this matter (D. 39,4: *De publicanis et vectigalibus et commissis*), (C. 4, 61: *De vectigalibus et commissis*); see in particular one concerning slaves: D. 39,4,16,3: *Quotiens quis mancipia invecta professus non fuerit sive venalia sive usualia, poena commissi est*.

¹⁵ Ps.-Quint., *Declam. min.*, 359; Bab. Baba Kama 114a.

toughened up under certain circumstances. This was particularly the case when a collector discovered the smuggling of goods or items whose carriage was forbidden, such as iron ores, iron, cereal, or salt. Whenever this was the case, forfeiture was imposed not only on the goods, but also on the ship that was used to transport these goods¹⁶.

There is every reason to believe that this rule was obviously applicable to all means of transport. Additionally, the smuggler could be sentenced to death¹⁷. However, Paulus, who provides this information, specifies: if something of the sort is done, in the absence of the owner, by the master or steersman or the pilot or any of the sailors, the latter are liable to capital punishment, and the goods are confiscated, but the ship is returned to its owner¹⁸. Interestingly, nothing prevents the owner of the confiscated property from repurchasing it¹⁹.

Needless to say, the law also provided for accountability on the part of the tax collector. Naturally, when he received something that was not due, he was obliged to return it²⁰. However, if he abused the law and extorted the payment

¹⁶ D. 39,4,11,2: *Dominus navis si illicite aliquid in nave vel ipse vel vectores imposuerint, navis quoque fisco vindicatur* (If either the owner of a ship or passengers on it bring anything on board illegally, the ship is forfeit to the imperial treasury as well); as translated in: *The Digest of Justinian*. Vol. 3. Ed. A. Watson..., p. 405.

¹⁷ D. 39,4,11,pr.: *Cotem ferro subigendo necessariam hostibus quoque venundari, ut ferrum et frumentum et sales, non sine periculo capitis licet* (It is also not permissible to sell flint for striking fire to the enemy, just as it is not permissible to sell them iron, wheat, or salt; and the penalty for doing so is capital); as translated in: *The Digest of Justinian*. Vol. 3. Ed. A. Watson..., p. 405.

¹⁸ D. 39,4,11,2: *Quod si absente domino id a magistro vel gubernatore aut proreta nautave aliquo id factum sit, ipsi quidem capite puniuntur commissis mercibus, navis autem domino restituitur* (But if something of the sort is done, in the absence of the owner, by the master or steersman or the pilot or any of the sailors, the latter are liable to capital punishment, and the goods are confiscated, but the ship is returned to its owner); as translated in: *The Digest of Justinian*. Vol. 3. Ed. A. Watson..., p. 405.

¹⁹ D. 39,4,11,4: *Eam rem, quae commissio vindicata est, dominus emere non prohibetur vel per se vel per alios quibus hoc mandaverit*; D. 39,4,16,pr.: *Interdum nec vendendus est is servus qui in commissum cecidit, sed pro eo aestimatio a domino danda est. divi enim Severus et Antoninus rescripserunt, cum is servus, qui actum domini gessisse diceretur, in commissum cecidisset, venire non debuisse, sed pro eo viri boni arbitrato aestimationem oportuisse dari* (The owner of property which has been confiscated is not forbidden to purchase it either in person or through persons to whom he has given a mandate); as translated in: *The Digest of Justinian*. Vol. 3. Ed. A. Watson..., pp. 405—406; This has also been mentioned by pseudo-Quintilian with respect to stolen items: Ps.-Quint., *Declam. min.*, 341 (*Res furtiva apud publicanos*): *Deprehensa res est. Publicani cum domino contendunt. Illi tamquam commissam rem vindicant, ille tamquam suam* (The article was discovered. The customs officers are at law with the owner. They claim the object as confiscated, he as his property); as translated in: Quintilian: *The Lesser Declamations*. Vol. 2. Edited and translated by D.R. Shackleton Bailey. Loeb Classical Library 501, Cambridge, 2006, p. 245).

²⁰ D. 39,4,16,14: *Si quid autem indebitum per errorem solventis publicanus accepit, retro eum restituere oportere divi severus et antoninus rescripserunt* (The deified Severus and An-

of a public revenue that was not due, he was subject to returning double the amount that he collected himself or that his slaves collected. The injured party had one year to bring action to receive this double amount, and if they did not do that, the collector was obliged to return the sum involved²¹. The collector's accountability could also be extended to three times the sum involved if the undue payment had been collected by use of force²². Ulpian, who discussed this matter, admits that there was a certain degree of leniency in the treatment of collectors, for common law applicable in the case of manifest theft or robbery of goods provided for a quadruple penalty to be imposed²³. Ulpian, invoking Pomponius and his views, acknowledges an injured party's right to seek quadruple penalty and stresses that it would be absurd to treat an abusive publican with greater leniency than others would be treated. However, if we acknowledge that a tax collector could be absolved from any and all obligation if they returned what was collected by use of force (presumably the returning ought to precede bringing of an action or issuance of a judgment), *favor publicani* is rather prominent, even if the term itself is not used²⁴. One has to

toninus stated in a rescript that if an error on the part of the person making payment leads to a tax farmer receiving something that is not due, the latter is obligated to return it); as translated in: *The Digest of Justinian*. Vol. 3. Ed. A. Watson..., p. 408.

²¹ D. 39,4,1,pr.: *Quod illicite publice privatimque exactum est, cum altero tanto passis iniuriam exsolvitur. per vim vero extortum cum poena tripli restituitur: amplius extra ordinem plectuntur: alterum enim utilitas privatorum, alterum vigor publicae disciplinae postulat* (The praetor says: "If a tax farmer or his familia takes anything by force in the name of the public revenue and it is not returned, I will grant a judicium against them for double the sum involved, or if the action is brought after the passage of a year, for the sum involved. Similarly, where loss is said to have been wrongfully inflicted or theft is said to have occurred, I shall grant a judicium. If the persons whom the matter in hand will concern are not brought before me, I shall grant a judicium without possibility of noxal surrender against the owners"); as translated in: *The Digest of Justinian*. Vol. 3. Ed. A. Watson..., p. 403; see also D. 39,4,9,5.

²² D. 39,4,9,5: *Quod illicite publice privatimque exactum est, cum altero tanto passis iniuriam exsolvitur. Per vim vero extortum cum poena tripli restituitur: amplius extra ordinem plectuntur: alterum enim utilitas privatorum, alterum vigor publicae disciplinae postulat* (Any illegal exaction, private or public, is paid back to the victims with as much again; but where the extortion was made by force, the restitution is threefold; those responsible are in addition liable to extraordinary criminal punishment. The one measure is demanded by the interests of private individuals, the other by the need for strong public discipline); as translated in: *The Digest of Justinian*. Vol. 3. Ed. A. Watson..., p. 405.

²³ D. 39,4,1,3: *Quod quidem edictum in aliqua parte mitius est, quippe cum in duplum datur, cum vi bonorum raptorum in quadruplum sit et furti manifesti aequae in quadruplum* (This edict is to some degree more lenient in that the penalty laid down is double the sum involved, whereas in the case of robbery of goods, as also in that of manifest theft, the penalty is quadruple); as translated in: *The Digest of Justinian*. Vol. 3. Ed. A. Watson..., p. 403.

²⁴ D. 39,4,1,4: *Et restituendi facultas publicano vi abreptum datur, quod si fecerit, omni onere exiit et poenali actione ex hac parte edicti liberatur. Unde quaeritur, si quis velit cum publicano non ex hoc edicto, sed ex generali vi bonorum raptorum, damni iniuriae vel furti agere, an possit? Et placet posse, idque Pomponius quoque scribit: est enim absurdum*

wonder why this is so. The easiest way to answer any questions in this regard is by quoting some more sentences from Cicero's letters to his brother Quintus. While Cicero acknowledges and condemns abuse on the part of publicans, he at the same time expresses his understanding of how inconvenient and burdensome their role may be. Maintaining a balance between the interests of the taxpayers and those of the tax collectors is an art that requires divine virtues²⁵.

The observations made above, both with respect to ways of evading the payment of levy and to measures taken against fraudsters, along with the short (albeit with the potential to create plenty of opportunities for the injured party) list of remedies intended to help the injured party pursue claims for collection of unwarranted payment, elicit a relatively simple and obvious reflection: that it was not we who came up with the idea of wearing ten dresses at once; that the ever-so-popular expression *in dubio pro tributario* is a lofty postulate that, however, was realized neither in the ancient times nor today, and that the ancient collectors of public levies had a moral advantage over the people in that they did not formulate it or even think about how one could take legal action against tax collectors and seek multiple penalties. It may all sound beautiful in theory, but what if the proceedings drag over time and the forfeited commodity lies idle?

Bibliography

Brzeziński B.: *Poborcy podatkowi i dzierżawcy podatków w starożytności*. In: *W świecie finansów i prawa finansowego. Działalność dydaktyczna Profesora Jana Gluchowskiego*. Eds. B. Kłosowska, P. Prewysz-Kwinto. Toruń 2010.

meliores esse publicanorum causam quam ceterorum effectam opinari (And the tax farmer is given the opportunity of returning that which was taken by force, and if he does so, he is absolved from all obligation and freed from any penal action based on this part of the edict. The question arises, consequently, of whether someone can, if he so wishes, bring an action against a tax farmer on the basis not of this edict, but of the general one relating to robbery of goods, wrongfully inflicted injury, or theft. It is agreed that he can, and Pomponius also writes that this is so, since it is ridiculous to hold that the legal position of tax farmers has been made better than that of other people); as translated in: *The Digest of Justinian*. Vol. 3. Ed. A. Watson..., pp. 403—404.

²⁵ Cic., *Ad Q. fr.*, 1,1,11,33: *Hic te ita versari, ut et publicanis satisfacias, praesertim publicis male redemptis, et socios perire non sinas, divinae cuiusdam virtutis esse videtur, id est tuae* (So to manage that you satisfy the tax farmers, especially when they have made a poor bargain with the Treasury, without letting the provincials go to ruin seems to call for capacity more than human—which is to say, it calls for yours); as translated in: Cicero: *Letters to Quintus and Brutus...*, p. 35.

- Cicero: *Letters to Quintus and Brutus. Letter Fragments. Letter to Octavian. Invektives. Handbook of Electioneering*. Edited and translated by D.R. Shackleton Bailey. Loeb Classical Library 462, Cambridge, 2002.
- De Laet S.J.: *Portorium. Étude sur l'organisation douanière chez les Romains, surtout à l'époque du Haut-Empire*. Bruges 1949.
- Duncan-Jones R.: *Roman Customs Dues: a Comparative View*. Latomus 65 (2006).
- Pikulska-Radomska A.: *Fiscus non erubescit. O niektórych italskich podatkach epoki rzymskiego pryncypatu*. University of Lodz Publishing House, Lodz, 2013.
- Pikulska-Radomska A.: *Kontrabanda. Uwagi o poborze portorium w republice i wczesnym cesarstwie*. In: *Semper Fidelis. Prace dedykowane pamięci Profesora Janusza Sondla legendzie krakowskiego fakultetu prawniczego*. Eds. D. Malec, Ł. Marzec, T. Palmirski. Krakow 2017.
- Pikulska-Radomska A.: *Podmiotowe zwolnienia celne w Rzymie epoki imperialnej*. In: *Noctes iurisprudentiae. Scritti in onore di Jan Zabłocki*. Temida 2, Białystok, 2015.
- Pikulska-Radomska A.: *Species pertinentes ad vectigal, czyli co miał na myśli Aelius Marcianus*. In: *Nil nisi veritas. Księga dedykowana Profesorowi Jackowi Matuszewskiemu*. Eds. M. Głuszak, D. Wiśniewska-Józwiak. University of Lodz Publishing House, Lodz, 2016.
- Plautus: *Stichus. Trinummus. Truculentus. Tale of a Travelling Bag. Fragments*. Edited and translated by W. de Melo. Loeb Classical Library 328. Harvard University Press, Cambridge, MA, 2013.
- Quintilian: *The Lesser Declamations*. Vol. 2. Edited and translated by D.R. Shackleton Bailey. Loeb Classical Library 501, Cambridge, 2006.
- Schörle K.: *Pearls, Power, and Profit: Mercantile Networks and Economic Considerations of the Pearl Trade in the Roman Empire*. In: *Across the Ocean: Nine Essays on Indo-Mediterranean Trade*. Eds. F. De Romanis, M. Maiuro. Leiden/Boston 2015.
- Tacitus: *Annals: Books 13—16*. Translated by J. Jackson. Loeb Classical Library 322, Cambridge, 1937.
- The Digest of Justinian*. Vol. 3. Ed. A. Watson. Philadelphia 1998.
- Zamora Manzano J.L.: *Algunos aspectos sobre el régimen fiscal aduanero en el derecho romano: reglamentación jurídica del 'portorium', control de mercancías y comiso por fraude fiscal*. Madrid 2009.

Anna Pikulska-Radomska

Quod illicite (...) exactum est... Und was, wenn das Zoll zu Unrecht erhoben wurde? Die Haftung von Steuereintreibern im klassischen römischen Recht

Schlüsselwörter: portorium, vectigal, publicani, commissum, römisches Recht

Zusammenfassung: Personen, die Zollgrenzen passierten — Händler, professionelle Schmuggler, aber auch einfache Reisende — haben schon immer versucht, die dort erhobenen Abgaben zu vermeiden. Es wurden verschiedene Methoden angewandt, um *portorium* nicht zu zahlen: die Reisenden versuchten entweder die tatsächlichen Eigenschaften der transportierten Waren zu verbergen, oder Waren zu befördern, ohne sie zu deklarieren, oder auch die Zollgrenze zu überqueren, ohne durch die Zollstelle zu gehen. Die Steuereintreiber missbrauchten hingegen oft ihre Befugnisse und verlangten übermäßige oder rechtsgrundlose Abgaben. In den Quellen findet man zahlreiche Belege für solche Praktiken. Ein Steuereintreiber, der einen unangemessenen oder übermäßigen Tribut verlangte, lief Gefahr, mindestens das Doppelte zahlen zu müssen. Die kaiserlichen Vorschriften sind in dieser Hinsicht eindeutig. Was passierte aber mit verfallenen Waren, wenn der Prozess zu lange dauerte?

Anna Pikulska-Radomska

Quod illicite (...) exactum est... And what if the duty was wrongly paid? Accountability of tax collectors in classical Roman Law

Keywords: portorium, vectigal, publicani, commissum, Roman Law

Summary: Persons crossing the border between duty districts — traders, professional smugglers and regular travelers alike — tried to avoid paying duties collected in such places all along. There were different ways to avoid paying the portorium: travelers either tried to conceal the real nature of the commodities they were carrying, or attempted to transport the goods they carried without declaring them, or tried to cross the customs border without actually passing through the levy collection point. Meanwhile, the collectors frequently abused their powers by extorting payments that were not due altogether or by collecting payments that were too high. Sources provide numerous evidence of such practices. A collector receiving a payment that was not due or that was too high ran the risk of having to pay back at least double the amount received. Respective imperial regulations leave no doubt in this regard. However, what about the commodity that was forfeited, if the process took too long?

Anna Pikulska-Radomska

Quod illicite (...) exactum est... A co, jeśli cło nienależnie pobrano? Odpowiedzialność poborców podatkowych w rzymskim prawie klasycznym

Słowa kluczowe: portorium, vectigal, publicani, commissum, prawo rzymskie

Streszczenie: Osoby przekraczające granice okręgów celnych — handlowcy, zawodowi przemytnicy, ale i zwykli podróżni — od zawsze starali się uniknąć opłacania danin pobieranych

w takich miejscach. Aby uniknąć opłacania *portorium*, stosowano różne wybiegi: podróżujący albo starali się ukryć właściwą naturę przewożonych produktów, albo usiłowali przewieźć towar, nie deklarując go, albo wreszcie próbowali przekroczyć granicę celną, nie przechodząc przez punkt poboru daniny. Poborcy zaś często nadużywali swoich uprawnień, naliczając daninę nienależną bądź nadmierną. W źródłach można znaleźć liczne dowody takich praktyk. Poborca naliczający daninę nienależną lub nadmierną narażał się na obowiązek zapłaty przynajmniej w podwójnej wysokości. Regulacje cesarskie w tym zakresie są jasne. Co jednak z towarami objętymi przypadkiem, jeśli proces trwa zbyt długo?