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**LEX POETELIA DE AMBITU OF 358 B.C.  
AS AN EXAMPLE OF LEGISLATION AGAINST  
CORRUPTION IN ELECTIONS\***

Elections of the supreme state authorities weather in antiquity or in contemporary times have always given a temptation to unlawful practices aiming at election of one specific candidate. It is not then surprising that in Republican Rome attempts were made to fight the phenomenon of election corruption. It should be pointed out that holding an office in the times of the republic was considered an honour which meant that those performing the function of *magistratus* were not paid. Therefore, it could seem that this situation would forejudge low interest in election campaign or lack of willingness to perform such a function. In practice it was not so – competition for supreme office and dignities would take a very turbulent course. It is not surprising then, that since the 5<sup>th</sup> century B.C.<sup>1</sup> attempts were made to counteract the disadvantageous election practices favouring specific candidates.

It should be emphasised that defining particular crimes was similar to private law grounds where Romans were reluctant to define particular legal institutions.<sup>2</sup> Defining a prohibited act was a long lasting process preceded by issuing several legal regulations devoted to a given legal prob-

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<sup>1</sup> See P. Kołodko, *Ambitus w ustawodawstwie rzymskim w V–IV w. p.n.e.*, [in:] *Społeczeństwo a władza. Ustrój, prawo, idee*, (ed.) J. Przygodzki, M. J. Ptak, Wrocław 2010, pp. 131–143.

<sup>2</sup> D. 50, 17, 202 (*Iavolenus libro undecimo epistularum*): *Omnis definitio in iure civili periculosa est: parum est enim, ut non subverti posset*. The Maxim among many other decorates the courthouse of the Supreme Court in Warsaw– See A. Kacprzak, J. Krzy-nówek, W. Wołodkiewicz, *Teksty 86 inskrypcji wraz z komentarzem*, [in:] *Regulae iurip. Lacińskie inskrypcje na kolumnach Sądu Najwyższego*<sup>2</sup>, (ed.) W. Wołodkiewicz, Warsaw 2006, pp. 47–49.

lem.<sup>3</sup> The same concerned precise definition of election corruption (*crimen ambitus*) features of which evolved practically throughout the history of the *Imperium Romanum*<sup>4</sup> with changing social-political realities.

It seems that the most concise definition of *crimen ambitus* was presented by Sextus Pompeius Festus,<sup>5</sup> Roman grammarian living in the second century A.D.

**Fest., s.v. *ambitus* 5L:** *proprie dicitur circuitus aedificiorum patens in latitudinem pedes duos et semissem, in longitudinem idem quod aedificium: sed et eodem vocabulo crimen avaritiae vel affectati honoris appellatur.*

**Fest., s.v. *ambitus* 15L:** *proprie dicitur inter vicinorum aedificia locus duorum pedum et semipedis ad circumvendi facultatem relictus. Ex quo etiam honoris ambitus dici coeptus est a circumvendo supplicandoque. Ambitio est ipsa actio ambientis.*

In the greater part of the quoted excerpts Festus concentrated his attention on explaining the notion of *ambitus* as a strip of ground 2,5 foot large separating two neighbouring properties. Only in the background the grammarian explained that *ambitus* is a term which relates also to illegal election practice. It is worth underlining that, according to Festus, *ambitus* should be understood as a crime of greed (*crimen avaritiae*) or thirst for holding an office (*affectatio honoris*). Next, in the second excerpt, the Roman grammarian explained his point of view adding that *ambitus* originated from going around places (where potential voters gathered) and asking (for intercession in support of a candidature during the election). Festus remark will have support in the account of Livy concerning *lex Poetelia*.

The only preserved information on *lex Poetelia de ambitu* originates from Livy *ab Urbe condita*. The chronicler presented the origin of this legal regulation as follows:

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<sup>3</sup> Crime of political corruption (*crimen ambitus*) was subject of regulations of 15 laws (both in form of *lex* and *plebiscitum*) the majority of which (14) dates back to the times of the Republic – See G. Rotondi, *Leges publicae populi Romani. Elenco cronologico con una introduzione sull'attività legislativa dei comizi romani*, Milano 1912 (Nachdruck Hildesheim 1966), pp. 105–106, 211, 221, 277, 288, 361, 369–370, 374, 378–379, 407–408, 411, 443.

<sup>4</sup> Concerning the understanding of *crimen ambitus* in the times of the Empire See H. Kowalski, *Przekupstwa wyborcze w Rzymie w okresie cesarstwa*, [in:] *Crimina et mores. Prawo karne i obyczaje w starożytnym Rzymie*, (ed.) M. Kuryłowicz, Lublin 2001, pp. 57–72 (= *Die Wahlbestechungen im kaiserzeitlichen Rom*, *Pomoerium* 6, 2007–2008, pp. 29–45).

<sup>5</sup> Before Festus Varro attempted to seize the essence of *ambitus* – See Varro, *Ling.* 5.4.8: *Qui populum candidatus circum it, ambit, et qui aliter facit, indagabili ex ambitu causam dicit.*

**Liv. 7, 15, 12–13:** *Eodem anno duae tribus, Pomptina et Publilia, additae; ludi votivi, quos M. Furius dictator voverat, facti; et de ambitu ab C. Poetelio tribuno plebis auctoribus patribus tum primum ad populum latum est; eaque rogatione novorum maxime hominum ambitionem, qui nundinas et conciliabula obire soliti erant, compressam credebant.*

Livy starts the description by indicating that that year (*eodem anno*), that is in 358 B.C., two new *tribus* were created – Pomptina and Publilia. This information will influence the concept of *ambitus*.<sup>6</sup> Next, the chronicler mentions the Olympic games which the dictator Marcus Furius pledged to organise (*M. Furius*).<sup>7</sup> However, from the point of view of the issue of *ambitus* the most interesting is the information about the plebeian tribune Gaius Poetelius (*C. Poetelius*) and his activity.<sup>8</sup> The chronicler noted that in 358 B.C. *tribunus plebis* lodged a project *plebiscitum*,<sup>9</sup> which received *auctoritas patrum*, and crucial content of which was to prevent *homines novi* from canvassing on fairs and market places (*nundinae*)<sup>10</sup> and places of

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<sup>6</sup> L. Fascione, *Alle origini della legislazione de ambitu*, [in:] *Legge e società nella repubblica romana*, (ed.) F. Serrao, vol. I, Napoli 1981, p. 269.

<sup>7</sup> Little is known what pledge of the dictator Livy meant. Maybe the chronicler overlooked something or made a mistake – See J. Wolski, [in:] T. Liwiusz, *Dzieje Rzymu od założenia miasta, ks. VI–X. Streszczenie ksiąg XI–XX*, Wrocław–Warsaw–Kraków–Gdańsk 1971, p. 69, footnote 55.

<sup>8</sup> G. Niccolini, *I fasti dei tribuni della plebe*, Milano 1934, p. 63–64. It is extremely difficult to establish if G. Poetelius mentioned by Livy held previously (in 346 B.C. and in 326 B.C.) twice the office of consulate or we should assume that there were two Romans with such *cognomen* ([http://imperiumromanum.com/geschichte/zeittafeln/konsularlisten\\_05.htm](http://imperiumromanum.com/geschichte/zeittafeln/konsularlisten_05.htm) from 21.11.2011 r.) – See M. Elster, *Die Gesetze der mittleren römischen Republik. Text und Kommentar*, Darmstadt 2003, p. 21. T. R. S. Broughton (*The Magistrates of the Roman Republic*, vol. I: *509 B.C.–100 B.C.*, New York 1951–1952, p. 122) suggests that G. Poetelius held the office of consulate three times in 360 B.C. at the earliest.

<sup>9</sup> W. Rein, *Das Kriminalrecht der Römer von Romulus bis auf Justinian*, Leipzig 1844, p. 706; G. Humbert, s.v. *ambitus*, DS, vol. I.1 (1873), p. 223; M. Isler, *Ueber das Poetelische Gesetz de ambitu*, RhM 28, 1873, p. 473; Th. Mommsen, *Römisches Strafrecht*, Leipzig 1899 (Nachdruck: Darmstadt 1955), p. 866; R. W. Husband, *The Law of Poetelius on Corrupt Practices at Elections*, CJ 10, 1915, p. 376; A. Berger, p.v. *lex Poetelia de ambitu*, RE, vol. XII (1925), szp. 2402–2403; G. Rotondi, *op. cit.*, p. 221; G. Carnazza-Rametta, *Studio sul diritto penale dei romani*, Roma 1972, p. 178; K.-J. Hölkesskamp, *Die Entstehung der Nobilität. Studien zur sozialen und politischen Geschichte der römischen Republik im 4. Jhd. v. Chr.*, Stuttgart 1987, p. 84; V. Giuffré, *La 'repressione criminale' nell'esperienza Romana. Profili*<sup>3</sup>, Napoli 1993, p. 79; H. Mouritsen, *Plebs and Politics in the late Roman Republic*, Cambridge 2001, p. 35; C. Rosillo López, *La corruption a la fin de la republique romaine (Ile-Ier s. av. J.-C.): Aspects politiques et financiers*, Neuchâtel 2005, p. 40, 48. Compare A. Dębiński, J. Misztal-Konecka, M. Wójcik, *Prawo rzymskie publiczne*, Warsaw 2010, p. 180.

<sup>10</sup> Fest., s.v. *conciliabulum* 33L: *locus, ubi (in) concilium convenitur*. Compare Forcellini, s.v. *conciliabulum*, vol. I, p. 534.

public assemblies (*conciliabulum*)<sup>11</sup> to solicit votes of electors.<sup>12</sup>

It is possible to understand the norm *de ambitu* when social-political context of the 5<sup>th</sup> and 4<sup>th</sup> centuries B.C. is taken into account. If in the 5<sup>th</sup> century B.C. the struggle between patricians and plebeians had progressed with variable intensity and its effect was measurable benefit (e.g. *lex duodecim tabularum* or *lex Canuleia de conubio patrum et plebis*<sup>13</sup>), in the 4<sup>th</sup> century B.C. the fundamental questions at issue were already regulated.<sup>14</sup> Its meaningful example was the fact of enacting *leges Liciniae Sextiae*<sup>15</sup> in 367 B.C. the most important of which seems *lex de consule plebeo*<sup>16</sup> admitting plebeians to the consulship initially reserved for patricians. Thus new social stratum was composed both of patricians and plebeians,<sup>17</sup> who coming to power attempted to ensure its consolidation through enacting legal norms.<sup>18</sup>

Livy noted in his account that the fundamental guiding principle of plebeian tribune G. Poetelius was to stop the ambitions of *homines novi*, who during election campaign would canvass on fairs (markets) and other

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<sup>11</sup> Fest. s.v. *nundinas* 176L: *feriatum diem esse voluerunt antiqui, ut rustici convenirent mercandi, vendique causa, eumque nefastum, ne (si) liceret cum populo agi, interperlarentur nundinatores*; idem, s.v. *nundinas* 177L: *feriatum diem esse voluerunt antiqui, quo mercandi gratia Urbem rustici convenirent*; Forcellini, s.v. *nundinae*, vol. III, p. 194.

<sup>12</sup> Such behaviour was practiced particularly by *homines novi* – See T. Wallinga, ‘Ambitus’ in *the Roman Republic*, RIDA 41, 1994, p. 416.

<sup>13</sup> See G. Rotondi, *op. cit.*, p. 207. D. Flach has recently carried out an analysis of this *lex* (which was in fact a *plebiscitum*), *Die Gesetze der frühen römischen Republik. Text und Kommentar*. In Zusammenarbeit mit P. von der Laehr, Darmstadt 1994, pp. 230–231, there are also further bibliographic indications.

<sup>14</sup> For more information see R. F. Mitchell, *The Definiton of the patres and plebs. An End to the Struggle of Orders*, [in:] *Social Struggles in archaic Rome: New perspectives on the conflict of the orders*<sup>2</sup>, (ed.) K. A. Raafaub, Oxford 2005, pp. 128–167; J. von Ungern-Sternberg, *The End of the Conflict of the Orders*, [in:] *Social Struggles...*, pp. 312–332. See also E. Ferenczy, *From the Patrician State to the Patricio-Plebeian State*, Amsterdam 1976, pp. 47–72.

<sup>15</sup> G. Rotondi, *op. cit.*, pp. 218–220; G. Longo, s.v. *leges Liciniae Sextiae*, NNDI, t. IX (1961), p. 629, S. Tondo, *Profilo di storia costituzionale romana*, vol. II, Milano 1993, p. 8. More broadly *leges Liciniae Sextiae* presented D. Flach, *op. cit.*, pp. 280–297.

<sup>16</sup> The law is analyzed in detail by D. Flach, *op. cit.*, pp. 294–297 together with quoted literature.

<sup>17</sup> The genesis of formation of this social stratum might already be situated in 432 B.C. that is when *lex de ambitu* was enacted, since Livy explained that in houses of plebeian tribunes gathered not accidental plebeians but *principes plebis* dissatisfied with election failure – Compare L. Fascione, *Alle origini...*, p. 269. See idem, *Crimen e quaestio ambitus nell’età repubblicana. Contributo allo studio del diritto criminale repubblicano*, Milano 1984, p. 24.

<sup>18</sup> L. Fascione, *Alle origini della...*, p. 269.

places of public assemblies to collect votes.<sup>19</sup> Information about creation of new *tribus*, which accompanies this account, seems to be of importance in the context of this *de ambitu* norm. Two additional units of territorial<sup>20</sup> division of the country allowed *homines novi* to campaign by going around public places to collect votes in favour of their candidature.<sup>21</sup>

The determinant qualifying a potential candidate for an office as *homo novus* was the impossibility to check if they held any curule office or if such an office was held by any member of their families.<sup>22</sup> Therefore *plebiscitum* enacted by a plebeian tribune was to, above all, strike the plebeians to which, after passing *lex Licinia Sextia de consule plebeo*, a possibility was given to aspire to the supreme curule office in the Republican Rome. Symptomatic is the fact that the proponent of this legal regulation was plebeian

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<sup>19</sup> Ibidem, p. 270. Compare F. Serrao, *Classi partiti e legge nella Roma repubblicana*, Pisa 1974, p. 167; A. Lintott, *Electoral Bribery in the Roman Republic*, JRS 80, 1990, p. 4.

<sup>20</sup> P. Nadig (*Ardet ambitus. Untersuchungen zum Phänomen der Wahlbestechungen in der römischen Republik*, Frankfurt am Main 1997, p. 22) questioning the point of view of Th. Mommsen, who found that the scope of the binding force was limited only to Rome justifies it with the fact that Livy in his account about *ambitus* mentioned two new *tribus*, and this information seems not insignificant. L. Fascione (*Crimen e quaestio...*, p. 27) points out that behaviour defined as *ambitus* in this *lex* might have also been committed outside Rome. The analysis of the whole excerpt of Livy permits to declare for observation of both researchers. Moreover two new *tribus* – Pomptina and Publilia (established in the same year 358 B.C.) gave plebeians a possibility to threaten the electoral system in force in which patricians dominated – See T. Walling, *op. cit.*, p. 416.

<sup>21</sup> This way of campaigning was characteristic of *homines novi*, and patricians had never used it having a great support of country *tribus* and that is why they had never been forced to influence the decisions of electors – See P. Nadig, *op. cit.*, p. 23. It is worth quoting an unusually pertinent remark of F. Millar (*The Political Character of the Classical Roman Republic 200–151 B.C.*, JRS 78, 1984, p. 9): [...] *not programmes or political attitudes, but persons – or even membership of a particular familia or gens – decided the results; it is a sign of this that the candidates did not make election speeches to the people [...]*.

<sup>22</sup> L. Fascione, *Alle origini della...*, p. 274; idem, *Crimen e quaestio...*, p. 26. M. Elster (*op. cit.*, p. 12) states that Livy used the term *homines novi* in anachronistic sense. P. Nadig had already expressed the same view on this subject (*op. cit.*, p. 23). More broadly on *homo novus* see M. Gelzer, *Die Nobilität der römischen Republik*, Leipzig 1912; J. Vogt, *Homo novus*, Stuttgart 1926; H. Strasburger, s.v. *homo novus*, RE, t. XVII (1936–1937), column 1223–1228; P.A. Brunt, “*Nobilitas*” and “*Novitas*”, JRS 72, 1982, pp. 1–17; R. T. Ridley, *The Genesis of Turning-Point: Gelzer's Nobilität*, Historia 35, 1986, pp. 474–502; D. R. Shackleton Bailey, “*Nobiles*” and “*novi*”. *Reconsidered*, AJPh 107, 1986, pp. 255–260; J. J. Vanderbroeck, *Homo novus again*, Chiron 16, 1986, pp. 239–242; K.-J. Hölkeskamp, *Die Entstehung der Nobilität...*, p. 9 and next; idem, *Conquest, Competition and Consensus: Roman Expansion in Italy and the Rise of the Nobilität*, Historia 42, 1993, pp. 12–39; Ch. Simson, *Gelzers “Nobilität” der römischen Republik als “Wendepunkt”. Anmerkungen zu einem Aufsatz von R. T. Ridley*, Historia 37, 1988, pp. 229–240; L. A. Burckhardt, *The Political Elite of the Roman Republic. Comments on Recent Discussion on the Concepts of “Nobilitas” and “Homo novus”*, Historia 39, 1990, pp. 77–99; T. Aleksandrowicz, *Kultura intelektualna rzymskich konsulów w schłkowym okresie republiki rzymskiej*, Katowice 2002, p. 17 and next.

himself.<sup>23</sup> It seems strange though, that *tribunus plebis* whose major task was to support the interests of plebeians and protect them against abuse by magistrates, enacted *plebiscitum* himself hampering political aspirations of *homines novi*. This phenomenon might be explained by a thesis telling that G. Poetelius advocated the interests of a narrow group of wealthy plebeians<sup>24</sup> who wanted to hinder election campaign of *homines novi* which consisted in presenting their candidature in public places. However, if this was the case, sufficient measure to hamper this form of *ambitus* would be enacting the *plebiscitum* itself. On the other hand, it does not seem that *homo novus* was solely a synonym of plebeian.<sup>25</sup> Probably that is why the chronicler in his account mentioned *auctoritas patrum*<sup>26</sup> and consequently raised *plebiscitum*<sup>27</sup> to the dignity of *lex*.

The approval of this *plebiscitum* by *patres* not only gave it legal force but also manifested that the menace of *ambitus* in the form practiced by *homines novi* had been noticed. It seems that *tertium gens*<sup>28</sup> could feel threatened by *homines novi* candidates. Specificity of election campaign reduced to direct presentation of a candidature in public places would probably enable to collect the necessary amount of votes ensuring electoral success. Hampering through *lex Poetelia* practices which consisted in circulating around markets, fairs and places of public assemblies, made it possible to continue to maintain complete power by *tertium gens*. The idea of this plebiscite was not directed against plebeians but merely against those candidates who did not have any tradition in exercising a republican

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<sup>23</sup> See M. Isler, *op. cit.*, p. 476.

<sup>24</sup> M. Elster, *op. cit.*, p. 13. Compare T. Walling (*op. cit.*, p. 417) who stated that [...] although Poetelius was himself a plebeian, he was undoubtedly siding with senate [...].

<sup>25</sup> L. Fascione, *Crimen e quaestio...*, p. 26.

<sup>26</sup> See M. Isler, *op. cit.*, p. 476–477. In German Roman studies a statement is encountered that indicating by Livy on *auctoritas patrum* a plebiscite in the 4<sup>th</sup> century B.C. was an anticipation of events from 3<sup>rd</sup> century B.C. and exactly *lex Hortensia* – See *ibidem*. Compare P. Nadig, *op. cit.*, p. 19, footnote 26. Whereas Italian Romanists take a stand on the issue that already in the 4<sup>th</sup> century B.C. plebiscites which were granted *auctoritas partum* were commonly valid – Compare L. Fascione, *Alle origini della...*, p. 272, footnote 28, p. 273.

<sup>27</sup> Only M. Elster (*op. cit.*, p. 12) uses the term *plebiscitum Poetelium de ambitu*. In literature prevails *lex* – See e.g. G. Rotondi, *op. cit.*, p. 105, 221; G. Longo, p.v. *lex...*, p. 794; P. Nadig, *op. cit.*, p. 22.

<sup>28</sup> Term used by L. Fascione (*Alle origini della...*, p. 275) seems to define accurately plebeians and patricians stratum which was interested in not allowing *homines novi* to hold offices in Republican Rome. Compare C. Venturini, *Quaestiones ex senatus consulto*, [in:] *Legge e società nella repubblica Romana*, vol. II, (ed.) F. Serrao, Napoli 1984, p. 39 (= *Processo penale e società nella Roma repubblicana*<sup>2</sup>, Pisa 2003, p. 115).

office.<sup>29</sup> Hence, the inspirers of this *lex* were not only patricians, as it might have seemed, but *tertium gens* aspiring after consolidation of power in their hands, which they received completely after *leges Liciniae Sextiae*<sup>30</sup> had been passed. Striking is the fact why *plebiscitum* was enacted first, and only on the course of *auctoritas patrum* its effective bidding force was extended to the whole *populus Romanus*. It has to be remembered that patricians were of great majority in the *comitia centuriata*,<sup>31</sup> where they could, with no obstacles, force the *de ambitu* norm through. However, it was the role of plebeian tribune to propose a *rogatio* in the *concilia plebis*. Unfortunately, insufficient reference makes it impossible to establish what reasoning G. Poetelius used to persuade plebeians to enact *plebiscitum* in the established form. It is also difficult to explain why patricians used plebeians at first and then using *auctoritas patrum* extended the bidding force of the *de ambitu* norm. Maybe the involvement of *tribunus plebis* was to reflect the influence of plebeians on the form of this *de ambitu* norm and the participation of patricians reduced to *auctoritas patrum* of the senate, which in its composition reflected the involvement of this social stratum in legislating this *lex de ambitu*. It seems that this is the only way to explain why such a legislative course was adopted during *lex Poetelia de ambitu* proceedings.

Concerning *lex Poetelia* Livy explained that it was the first (*tum primum*) law devoted to this issue.<sup>32</sup> This statement contrasts with the previous account related to *lex de ambitu* of 432 B.C.<sup>33</sup> and it is difficult to explain why the chronicler presented the information on *lex Poetelia* in such a light. Furthermore, placing the phrase *tum primum* in the centre of the account does not refer to the previous *auctoritas patrum*.<sup>34</sup> Probably these reservations were the basis for analytical reconstruction of the whole excerpt concerning the *de ambitu* norm (*de ambitu ab C. Poetelio tribuno*

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<sup>29</sup> Idem, *Crimen e quaestio...*, p. 26. Compare D. Cloud, *The Constitution and Public Criminal Law*, [in:] CAH<sup>2</sup>, t. IX, *The Last Age of the Roman Republic 146–43 BC*, (ed.) J. A. Crook, A. Lintott, E. Rawson, Cambridge 1994, p. 517. See also R. W. Husband, *op. cit.*, p. 377.

<sup>30</sup> L. Fascione, *Alle origini della...*, p. 274.

<sup>31</sup> Ibidem, 266 footnote 18. Compare J. Zabłocki, A. Tarwacka, *Publiczne prawo rzymskie*, Warsaw 2011, p. 32; A. Dębiński, J. Misztal-Konecka, M. Wójcik, *op. cit.*, p. 33.

<sup>32</sup> See R. Rilinger, *Humiliores-honestiorep. Zu einer sozialen Dichotomie im Strafrecht der römischen Kaiserzeit*, München 1988, p. 239; P. Nadig, *op. cit.*, p. 22; M. Elster, *op. cit.*, p. 14. Compare H. Mouritsen, *op. cit.*, p. 35.

<sup>33</sup> See Liv, 4, 25, 9–14. Compare L. Fascione, *Alle origini della...*, 258; idem, *Crimen e quaestio...*, p. 20, D. Flach, *op. cit.*, pp. 246–246; P. Kołodko, *op. cit.*, p. 133 and next.

<sup>34</sup> L. Fascione, *Alle origini della...*, p. 273.

*plebis auctoribus patribus tum primum ad populum latum est*) undertaken by L. Fascione.<sup>35</sup> The first of hypothesis proposes the following arrangement of the text: 1) *tum primum*, 2) *auctoribus patribus*, 3) *ad populum latum est*, 4) *de ambitu*, 5) *ab C. Poetelio tr. pl.*, from which it would result that *patres* would grant *auctoritas* for the first time to the *de ambitu* norm or *patres* would be for the first time the inspirers of the very same norm. Second arrangement of the text starting also with 1) *tum primum* 2) *ad populum latum est* 3) *de ambitu* 4) *ab C. Poetelio tr. pl* 5) *auctoribus patribus* would indicate that the *de ambitu* norm was for the first time presented to the people which would be contrary to the account about the plebiscite in 432 B.C.<sup>36</sup> However, the last reconstruction of this excerpt 1) *tum primum* 2) *de ambitu* 3) *ad populum latum est* etc. would indicate that the *de ambitu* norm the first in the chronological configuration was enacted by the people and this would constitute grounds for asserting that the 432 B.C. plebiscite could not have been qualified as *de ambitu* being solely a project of an *ambitus* undetermined in its basic elements.<sup>37</sup> It is difficult to indicate which of the above interpretations is correct. It seems however, that compilation of all of three hypothesis is justifiable and the chronicler emphasized with the phrase *tum primum* that *lex Poetelia* was the first legal regulation proclaimed without contrast between plebeians and patricians.<sup>38</sup> The social-legal background which accompanied passing the plebiscite was decidedly more favourable than plebeian-patrician relations from the end of the 5<sup>th</sup> century B.C. Even if both *plebiscita* (that is the one of 432 B.C. and 358 B.C.) attained *auctoritas partum*, the way of attaining it was different. In case of *lex Poetelia* Livy did not mention anything about a battle which plebeian tribune G. Poetelius<sup>39</sup> had to fight. Thus, it seems that both social strata were equally interested in enacting this norm *de ambitu* on the understanding that patricians wanted by the force of this regulation, to impede the ambitions of *homines novi*, the majority of which originated from the wealthier plebs.

Livy did not mention the sanction threatening *homines novi* for an activity *contra legem*. It might seem that it was *lex imperfecta*. This is therefore little convincing since it is hard to accept that *homines novi* would

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<sup>35</sup> Ibidem. Compare also M. Isler, *op. cit.*, pp. 474–475.

<sup>36</sup> L. Fascione, *Alle origini della...*, p. 273.

<sup>37</sup> Ibidem.

<sup>38</sup> Ibidem.

<sup>39</sup> See ibidem.

avoid this form of *ambitus* without fear of bearing penal responsibility.<sup>40</sup> The possibility to hold a curule office only just granted to plebeians would constitute a great temptation to profit from probably effective canvassing on fairs (markets) and other public spaces. On one hand, lack of sanctions would leave this form of *ambitus* unpunished which would contradict the idea of this *lex*. It seems therefore that some kind of sanction should have been included in this legal regulation even though it could not have been significant since the chronicler did not devote a word on this issue in his account. On the other hand, the entire Livy's message is laconic and does not fully reflect the contents of *lex Poetelia*.<sup>41</sup> And thereby it is difficult to interpret it and not possible to confront with any other source material since Livy's account is the only one to present *lex de ambitu*. Despite all these reservations the genesis of this plebiscite remains legible – to hamper or simply to limit aspirations of *homines novi* for holding offices of the Roman magistrate.

#### S U M M A R Y

Presented considerations concerning *lex Poetelia de ambitu* permit to prove that yet in the first half of the 4<sup>th</sup> century B.C. Romans started to notice the need to limit activities related to electoral campaign. Direct meetings of the candidate (and his supporters) with potential electors on markets and places of public assembly gave opportunity for active agitation in favour of a specific candidate for a distinction. It is worthwhile mentioning that this particular form of election campaign was conducted by *homines novi* who probably wanted to manifest their political aspirations. It seems this was an effective means of campaigning, otherwise it would be difficult to explain why it was decided to enact *lex Poetelia de ambitu*.

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<sup>40</sup> *Lex Poetelia* should introduce some repressive measures for infringing its content and Livy completely failed to mention this issue – see M. Elster, *op. cit.*, p. 13.

<sup>41</sup> *Ibidem*, pp. 13–14.