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## MENSARII, BANKERS ACTING FOR PUBLIC AND PRIVATE BENEFIT

In ancient Rome, during the period from the 3<sup>rd</sup> century BC until the 3<sup>rd</sup> century AD, the heyday of the period of commerce, a significant role was played by banking activity.<sup>1</sup> The expansion in the Mediterranean Sea Basin opened new remote markets to Roman commerce and influenced this heyday of trade, enterprise and other types of institutions as well as financial transactions which resulted in the development of a new stratum of entrepreneurs, a distinct state of equities.<sup>2</sup> To this state belonged *publicani*, and thus entrepreneurs who were large scale<sup>3</sup> leaseholders; then *faeneratores* or

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<sup>1</sup> J. Marquardt, *De l'organisation financière chez les Romains*, [in:] *Manuel des antiquités romaines*, vol. 10, Paris 1888, p. 78 and next.; T. Frank, *Storia economica di Roma* (trad. it.), Firenze 1924, p. 211 and next.; idem, *An Economic Survey of Ancient Rome*, Paterson New York 1959; M. Rostovzeff, *Storia economica e sociale dell'impero romano* (trad. it.), Firenze 1946, p. 214 and next.; 216 and next.; R. H. Chico, *Funcion y origen de los argentarii*, «Anuario de estudios sociales y jurídicos» 6 (1977), p. 105 and next.; G. Maselli, *Argentaria. Banche e banchieri nella Roma repubblicana. Organizzazione prosopografia terminologia*, Bari 1986; J. Andreau, *La vie financière dans le monde romain. Les métiers des maniers d'argent (IVe siècle au J.C. – IIIe siècle ap. J.C.)*, Roma 1987, p. 5 and next.; idem, *Les comtes bancaires en nature*, «Index» 15 (1987), p. 413 and next.; A. Bürge, *Fiktion und Wirklichkeit: Soziale und rechtliche Strukturen des römischen Bankwesens*, «ZSS» 104 (1987), p. 463 and next.; M. A. Peñalver Rodríguez, *La banca en Roma*, [in:] *Estudios en Homenaje al Profesor Juan Igliesias*, vol. III, Madrid 1988, p. 1531 and next.; A. Petrucci, *Mensam exercere. Studi sull'impresa finanziaria romana (II sec. a. C. – metà del III sec. d.C.)*, Napoli 1991, p. 6 and next.; idem *Qualche riflessione sulla possibile configurazione di un "diritto bancario" romano nell'età commerciale (età del III secolo a.C. – età del III secolo d.C.)*, Studi Senesi 15 (2005), pp. 71–85.

<sup>2</sup> T. Łoposzko, *Historia społeczna republikańskiego Rzymu*, Warsaw 1987, p. 82 and next.; M. Cary i H. H. Sculland, *Dzieje Rzymu*, transl. J. Schwarckopfa, vol. I, Warsaw 1992, p. 372; W. Morawski, *Zarys powszechnej historii pieniądza i bankowości*, Warsaw 2002, p. 28 and next.

<sup>3</sup> Liv. 23, 49, 1 and next.; Liv. 24, 18, 10; Liv. 45, 18, 3. See Z. Służewska, *D. 17, 2, 82 a zasady odpowiedzialności wobec osób trzecich wspólników konsensualnej rzymskiej societatis*, [in:] *Honeste vivere... Księga pamiątkowa ku czci Profesora Władysława Bojarskiego*, ed. Andrzej Sokala and Ewa Gajda, Toruń 2001, p. 222 and next.

*argentarii*, namely usurers and bankers,<sup>4</sup> in addition to *negotiatores*, that is merchants, and above all *agricolae*, land owners, many of whom came from Italian colonies and municipia or *mercatores* i.e. wholesale merchants.<sup>5</sup> Many of these entrepreneurs originated from lower social strata.<sup>6</sup> These were *publicani*,<sup>7</sup> rich merchants, usurers and bankers<sup>8</sup>.

At first, two types of names were used to denominate bankers: from Greek, they were called *trapezites*,<sup>9</sup> while in Latin, *argentarii*. There also exists other terms used to describe subjects involved in banking activity, namely *mensarii*, *mensularii*, *nummularii*, *coactores*, *coactores argentarii*, *stipulatores argentarii*, *collectarii*.<sup>10</sup>

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<sup>4</sup> A. Bürge, *Vertrag und personale Abhängigkeiten in Rom der späten Republik und den früher Keiserzeit*, «ZSS» 97 (1980), p. 114 and next.; idem, *Fiktion und Wirklichkeit*, *op. cit.*, p. 495 and next.; A. Pikulska-Robaszekiewicz, *Lichwa w państwie i prawie republikańskiego Rzymu*, Łódź 1999, p. 21 and next.

<sup>5</sup> T. Łoposzko, *op. cit.*, p. 83 and next. Por. K. Verboven, *Faeneratores, negotiatores and Financial Intermediation in the Roman World (Late Republic and Early Empire)*, [in:] K. Verboven, K. Vandorpe and V. Chankowski-Sable (edd.), *‘Pistoi dia tèn technèn’. Bankers, loans and archives in the Ancient World. Studies in honour of Raymond Bogaert*, *Studia Hellenistica* 44 (2008), p. 211 and next.

<sup>6</sup> T. Łoposzko, *op. cit.*, p. 83 and next.; G. Alföldy, *Historia społeczna starożytnego Rzymu*, transl. A. Gierlińska, Poznań 1998, p. 79.

<sup>7</sup> Polib. 6, 17, 2 and next.

<sup>8</sup> *Wielka Historia Powszechna*, ed. J. Dąbrowski, O. Halecki, M. Kukiel and S. Lama, vol. III (1), L. Piotrowicz, *Dzieje Rzymskie*, Kraków 1934, p. 315; T. Wałek-Czernecki, *Historia Gospodarcza Świata Starożytnego*, vol. II, *Grecja – Rzym*, Warsaw 1948, p. 195 and next.; M. Cary H. H. Scullard, *op. cit.*, p. 372; J. Krzynówek claims that bankers occupied in social hierarchy a lower position than a small group of equites finance, see *Odpowiedzialność przedsiębiorcy (exercitor) w prawie rzymskim*, Warsaw 2000, p. 184.

<sup>9</sup> The name of banker profession – *trapezites* proves that this profession was in foreign hands. see. Plautus, *Curculio* 480. Establishing magistrate’s courts for foreigners (*peregre*) in the 3<sup>rd</sup> century BC was undoubtedly a fact encouraging foreigners to settle in the capital. See M. Voigt, *Über die Bankiers die Buchführung und die Litteralobligation der Römer*, *Abhandlungen der philologisch – historischen Klasse d. k. Gesellschaft der Wissenschaften* 1 (1887), No. 7, p. 3; R. Beigel, *Rechnungswesen und Buchführung der Römer*, lack of place of publication 1904, p. 207; W. Morawski, *op. cit.*, p. 28 and next. see. Also J. Andreau, *Banking and Business in the Roman World*, translation J. Lolyd, Cambridge 2004, p. 30 and next.

<sup>10</sup> See. G. Maselli, *op. cit.*, p. 138 and next.; S. Balbini De Caro, *La banca a Roma*, Roma 1989, p. 55 and next.; A. Földi, *Dubbi e ipotesi in tema della terminologia relativa ai banchieri romani*, [in:] *Au-delà des frontières. Mélanges de droit romain offerts à Witold Wołodkiewicz*, vol. I, Warsaw 2000, p. 207 and next.; A. Petrucci, *Profili giuridici delle attività e dell’organizzazione delle banche romane*, Torino 2002, p. 15 and next.; idem *Per una storia della protezione dei contraenti con gli imprenditori I*, Torino 2007, p. 155 and next.; P. Cerami, A. Petrucci, *Diritto commerciale romano. Profilo storico*, Torino 2010, p. 100. Compare also L. Schmitz, *Mensarii, Mensularii, or Nummularii*, [in:] *A Dictionary of Greek and Roman Antiquities*, John Murray (ed.), London 1875, p. 750; idem, *Argentarii*, [in:] *A Dictionary of Greek and Roman Antiquities, cit.*, p. 130; J. Oehler, *Argentarii*, (1), «RE» 2 (1895), columns 706–710; P. Habel, *Argentarii* (2), «RE» 2 (1895), columns 710–711; M. Talamanca, *Argentarii*, «NNDI» 1. 2 (1957), p. 940 and next.

*Mensarius*, as one of the terms defining Roman bankers, may be a Latin equivalent of the Greek *trapezites*.<sup>11</sup> The first bank transactions were done in counting houses owned by Greeks and consequently the Greek term was used to describe bankers. The etymological origin of this word is composed of *trapeza*, table or counter, with the suffix *itas*, which is related to functions; it is used for professions and indicates activities done at a table by a person making transactions in a banking sense.<sup>12</sup>

The term *mensarius* was used by Titus Livius<sup>13</sup> and the first mention of *mensarii* comes from *Ab Urbe condita*.

Liv. 7, 21: *Inclinatis semel in concordiam animis novi consules fenestram quoque rem, quae distingere una animos videbatur, levare adgressi solutionem alieni aeris in publicam curam verterunt quinqueviris creatis quos mensarios ab dispensatione pecuniae appellarunt. Meriti aequitate curaque sunt, ut per omnium annalium monumenta celebres nominibus essent; fuere autem C. Duillius, P. Decius Mus, M. Papirius, Q. Publilius et T. Aemilius. Qui rem difficillimam tractatu et plerumque parti utriusque, semper certe alteri gravem cum alia moderatione tum impendio magis publico quam iactura sustinuerunt. Tarda enim nomina et impedimenta inertia debitorum quam facultatibus aut aerarium mensis cum aere in foro positis dissolvit, ut populo prius caveretur, aut aestimatio aequis rerum pretiis liberavit, ut non modo sine iniuria sed etiam sine querimoniis partis utriusque exhausta vis ingens aeris alieni sit.*

According to Livy’s account, during the fights between patricians and plebeians, citizens’ debt was a problem of significant importance to the state.

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<sup>11</sup> L. Nadjo, *L’argent et les affaires à Rome des origines au IIe siècle avant J.-C. Étude d’un vocabulaire technique*, Paris 1989, p. 211.

<sup>12</sup> R. Bogaert, *Banques et banquiers dans les cités grecques*, Leiden 1968, p. 40 and next.; idem, *Les origines antiques de la banque des dépôts: une mise au point accompagnée d’une esquisse des opérations de banque en Mésopotamie*, Leyden 1966, p. 142 and next. M. Mielczarek with the term *trapedzitas* described a banker checking coins, making exchanges, giving loans or accepting a deposit. He describes the bank with the word *trapedza*, which in his opinion related to the table at which transactions were made – Compare M. Mielczarek, *O teorii pieniądza i praktyce instytucji banku w starożytnej Grecji doby klasycznej*, [in:] *Pieniądz i banki – wspólnota dziejów. Białoruś – Litwa – Łotwa – Łotwa – Ukraina. Materiały z V Międzynarodowej Konferencji Numizmatycznej*, PTN, Warsaw 2002, p. 12.

<sup>13</sup> E. Nadjo suggested that the term *mensarius* was unknown and not used in practice by the majority of authors except Titus Livius (L. Nadjo, *op. cit.*, p. 211). Similarly V. M. Кравець, O. B. Кравець, who thought that this term may replace *trapezites* borrowed from Greek – por. *Західноєвропейський банківський бізнес: Становлення і сучасність*, Київ 2003, p. 57 and next. See also M. Сайко, *Аргентарії, менсарії, нуммуларії... (банкери античного Риму і їхні основні операції)*, [in:] *Питання стародавньої та середньовічної історії, археології й етнології (Збірник наукових праць)* 2 (26), Чернівці 2008, p. 47.

In 352 BC consuls appointed a *quinqueviris mensarios* commission, which was to help plebeians in overcoming economic difficulties. As noted by Pikulska, this was possible by virtue of a plebiscite *de quinqueviris mensariis creandis*.<sup>14</sup> Thus, a kind of public bank was established.<sup>15</sup> This five-man commission of citizens was set up to solve the problem of citizens' debt. It should be mentioned that frequent wars contributed to significant impoverishment of the lower social strata. Masses of citizens incurred debts – *nexum*.<sup>16</sup> Many of them were exposed to slavery, not being able to repay their debt. This social debt must have been considerable since consuls started to work on it at the beginning of their term. It was a nationwide problem which could lead to social unrest.<sup>17</sup> Even in relation to overwhelming debt, the people had little interest in political life.<sup>18</sup> The debt in republican Rome caused the same havoc as plagues and was one of the social problems raised by plebeian agitation. It probably happened due to the fact that Roman loan, which to tell the truth, was created as free of charge, became a convenient source of income by supplementing it with interest stipulation.<sup>19</sup> The Roman loan was undoubtedly of consumer character and was used to complement resources, paying taxes, or paying off other loans.<sup>20</sup> Such use of borrowed amounts caused the debt to grow.

Thus *mensarii* had a very difficult task to fulfil. They had to do it with reserves, so as not to risk misappropriation of public funds with which they

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<sup>14</sup> The plebiscite *de quinqueviris mensariis creandis* is called in the literature a debt relief act—compare A. Pikulska-Robaszkievicz, *op. cit.*, p. 31 and next. See also A. Storchi Marino, *Quinqueviri mensarii: censo e debiti nel IV secolo*, «Atheneum» 81 (1993), p. 213–250. It does not result from the context (Liv. 7, 21) that this was a *lex* obligatory to all citizens. It may be concluded that the plebiscite was passed during a very tense political situation. The consul Publius Valerius was accompanied by the plebeian Gaius Marcius Rutilus (Liv. 7, 21) and a plebeian was for the first time elected censor (Liv. 7, 22). We are not sure if the plebiscite *de quinqueviris mensariis creandis* was binding on all citizens. It was probably not necessary. It was addressed to plebeians and was to be a panacea to their financial problems. Л. Кофанов proved that a great deal of plebiscite were called acts which might mean they obtained approval of the Senate – *autoritas patrum* (*Lex u Ius. Возникновение и развитие римского права в VIII–III вв. до н.э.*, Москва 2006, p. 318).

<sup>15</sup> See considerations of J. Marquardt about *mensa publica* – *op. cit.*, p. 79.

<sup>16</sup> Por. Л. Кофанов, *Nexum u mancipium XII Таблиц*, «Вестник древней истории» 3 (1992), p. 68 and next.; idem, *Lex u Ius., cit.*, p. 399 and next.

<sup>17</sup> S. Śnieżewski, *Koncepcja historii rzymskiej w Ab Urbe Condita Liwiusza*, Kraków 2000, p. 144 and next.

<sup>18</sup> A. Pikulska-Robaszkievicz, *op. cit.*, p. 31 and next. see also A. Storchi Marino, *op. cit.*, p. 213–250.

<sup>19</sup> Compare the considerations of M. Zabłocka, *Realny charakter mutuum w rzymskim prawie klasycznym*, «СРН» 31.2 (1979), p. 1–30.

<sup>20</sup> A. Pikulska-Robaszkievicz, *op. cit.*, p. 28.

were equipped, and not to cause further social unrest with their activity. Livy claimed that despite the difficulties the result of *mensarii* activity was excellent. They regulated citizens’ money issues and did not expose the treasury to unjustified waste. They became noted after the positive outcome of their mission and their names were widely known: Gaius Duilius, Publius Decius Mus, Marcus Papirius, Quintus Publius and Titus Emilius.<sup>21</sup> The result of their activity was a success since by using public funds they covered the debt of those who could provide a good guarantee. The debtors who could not provide such guarantee transferred their property to creditors as debt repayment. This results, from the description provided by Livy, that seizure of property and forced sale were conducted after a reliable evaluation of officials.

The debt which became a nationwide problem was the subject of earlier legislative regulation which had not been related to debt but had established the maximum value of the rate collected. Livy mentioned this legal regulation in another fragment of his seventh book.

Liv. 7, 16: *Haud aequae laeta patribus insequenti anno C. Marcio Cn. Manlio consulibus de unciario fenore a M. Duillio L. Menenio tribunis plebis rogatio est perlata; et plebs aliquanto eam cupidius sciuit.*

The first regulation within the sphere of the maximum value of the collected rate was established by the Twelve Tables Law,<sup>22</sup> which did not however prevent the practice which consisted of adding the interest unpaid in due time to the amount of the basic loan. Moreover, low capital accessibility and the weakness of the machinery of state were not conducive to observing the limitations provided for by the Twelve Tables Law and became an unquestionable reason for issuing the next legal regulation. In 357 BC, during the consulate of Gaius Macius and Gnaeus Manlius, the plebeian tribune Marcus Duilius and Lucius Menenius carried out a plebiscite *lex Duillia Menenia de unciario fenore*. According to its provisions, regulations

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<sup>21</sup> Decius Mus a consul of 340 BC, Marcus Papirius, whether Quintus Publius and Titus Emilius – consuls of 339 BC Compare T. R. S. Broughton, *The Magistrates of the Roman Republic*, vol. I, New York 1951, p. 126.

<sup>22</sup> Tab. 7, 18 a. = Tacitus, *ann.*, 6, 16: ) *Nam primo XII tabulis sanctum, ne quis unciario fenore amplius exerceret.* – b. Cato, *de r. r. praef.*, *Maiores – in legibus posiverunt furem dupli condemnari, generatorem quadrupli.* – Tacitus, *ann.*, 6, 16: Since in the Twelve Tables it was decided for the first time that nobody collected more than one twelfth percentage [capital]– b. Cato, *de r. r. praef.*, *Ancestors – decided in laws to punish thieves for double value [of the stolen object], [whether] usurers for the quadruple [of excessively collected percentage]* – polish translation after: M. and J. Zabłoccy, *Ustawa XII tablic. Tekst – tłumaczenie – objaśnienia*<sup>2</sup>, Warsaw 2003, p. 59.

were instituted concerning the rate which was to amount to one-twelfth of the capital. The plebiscite also introduced the *quadruplum* penalty which consisted of an obligation to pay the value four-fold of unduly collected interest.<sup>23</sup>

As a result of these regulations being introduced, usury softened but poor people still fell into slavery for their debts since they were not able to repay them. This occurred because even if in reality the interest rate collected by the usurers did not cross the statutory interest rate, the situation of the debtor was worsened by the practice of collecting rates from outstanding compound interest.<sup>24</sup> This generated social unrest and forced the necessity of debt reduction in the form of the next *tabulae novae*, the same as the plebiscite *de quinqueviris mensariis creandis* already described.

*Mensarii* (*quinqueviri mensarii*) acted as bankers on behalf of and for the benefit of the state. They could therefore, in the name of the state, carry out financial transactions especially with the lenders. They analysed the debt of the poor and to ensure security measures against social unrest offered them financial aid.<sup>25</sup>

Another mention about *mensarii* also comes from Livy.

Liv. 23, 21: *Et Romae quoque propter penuriam argenti triumviri mensarii rogatione M. Minucii tribuni plebis facti, L. Aemilius Papus, qui consul censorque fuerat, et M. Atilius Regulus, qui bis consul fuerat, et L. Scribonius Libo, qui tum tribunus plebis erat. Et duumviri creati M. et C. Atilii aedem Concordiae, quam L. Manlius praetor voverat, dedicaverunt; et tres pontifices creati, Q. Caecilius Metellus et Q. Fabius Maximus et Q. Fulvius Flaccus, in locum P. Scantini demortui et L. Aemili Pauli consulis et Q. Aeli Paeti, qui ceciderant pugna Cannensi.*

The *Lex Minucia de triumviris mensariis* was passed in 216 BC by an application of the plebeian tribune Marcus Minutius Rufus.<sup>26</sup> It provided for the appointment of three exceptional officials to contain the crisis

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<sup>23</sup> A. Pikulska-Robaszkiewicz, *op. cit.*, p. 31 and next.

<sup>24</sup> Compare A. Pikulska-Robaszkiewicz, *op. cit.*, p. 30.

<sup>25</sup> Compare A. Pollera, *Un intervento di politica economica nel IV sec. a C.: «lex de creandis quinqueviris mensariis»*, «Index» 12 (1983), p. 445 and next.

<sup>26</sup> A. Pikulska-Robaszkiewicz, *op. cit.*, p. 34. It was probably a plebiscite binding all citizens according to *lex Hortensia* of 287 BC. About equalization *leges* with *plebiscita* see J. Zabłocki, *Leges de plebiscitis*, «PK» 35. 1–2 (1992), pp. 235–246 and J. Zabłocki, A. Tarwacka, *Publiczne prawo rzymskie*, Warsaw 2005, p. 62 and next. Compare also F. Serrao, *Classi partiti e legge nella Repubblica Romana*, Pisa 1974, p. 61 and next.; S. Tondo, *Profilo di storia costituzionale romana*, vol. I, Milano 1981, p. 202 and next.

caused by lack of money in circulation (*propter penuriam argenti*). This commission probably had vast power. It is however difficult to determine these due to the incompleteness of Livy’s account. The competences of the commission might be guessed on the basis of its composition. If, as *triumviri mensarii* – the former censor and consul Lucius Emilius Papus,<sup>27</sup> the former twice appointed consul Marcus Atilius Regulus<sup>28</sup> and the plebeian tribune of that time Lucius Scribonius Libo were appointed, they were also equipped with important prerogatives. This commission probably had similar competences as the *quinqueviris mensarios*<sup>29</sup> created in 352 BC. Thus, it could regulate the citizens’ debt towards the state. However, *triumviri mensarii*, as opposed to the preceding five-man commission, were not appointed just once, but it was the case of an office which existed at least until 210 BC,<sup>30</sup> since Livy in several fragments of the story mentioned certain of their competences.

Liv. 24, 18: *Convenere deinde domini eorum quos Ti. Sempronius ad Beneventum manu emiserat arcessitosque se ab triumviris mensariis esse dixerunt ut pretia servorum acciperent; ceterum non antequam bello confecto accepturos esse. Cum haec inclinatio animorum plebis ad sustinendam inopiam aerarii fieret, pecuniae quoque pupillares primo, deinde viduarum coeptae conferri, nusquam eas tutius sanctiusque deponere credentibus qui deferebant quam in publica fide; inde si quid emptum paratumque pupillis ac viduis foret, a quaestore perscribebatur. Manavit ea privatorum benignitas ex urbe etiam in castra, ut non eques, non centurio stipendium acciperet, mercennariumque increpantes vocarent qui accepisset.*

In 214 and 210 BC the *triumviri mensarii* registered amounts due in favour of the state and what is more, they made payments instead of bursars.<sup>31</sup> They also placed citizens’ money on irregular deposit,<sup>32</sup> which

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<sup>27</sup> Consul of 225 BC, censor of 220 BC – after: Tytus Liwiusz, *Dzieje Rzymu od założenia miasta. Księgi XXI–XXVII*, translated and laborated by M. Brożek, commentary of J. Wolski, M. Brożek, Kraków 1974, p. 150, footnote 45. Compare T. R. S. Broughton, *op. cit.*, p. 230, 235 and next., 252; A. Lippold, *Consules. Untersuchungen zur Geschichte des römischen Konsulates von 264 bis 201 v. Chr.* Bonn 1963, pp. 95–97.

<sup>28</sup> Consul of 227 and 217 BC – after: Tytus Liwiusz, *op. cit.*, p. 150, footnote 45.

<sup>29</sup> A. Storchi Marino, *op. cit.*, p. 221 and next.

<sup>30</sup> C. Nicolet, *A Rome pendant deuxième guerre punique: techniques financières et manipulations monétaires*, «*Annales ESC*» 18 (1963), p. 417 and next.

<sup>31</sup> Compare A. Pikulska-Robaszkiewicz, *op. cit.*, p. 34.

<sup>32</sup> See R. Bogaert *Ursprung und Entwicklung der Depositenbank im Altertum und Mittelalter*, [in:] *Essay zur historischen Entwicklung des Bankensystems*, Mannheim-Wien-Zürich

was used for supporting small funds of the state. Such charges as soldiers' pay were also left in the hands of *triumviri mensarii*. It was a safe and sure form of a deposit since resources entrusted to the state were easily reclaimable. However, it is only a hypothesis, considering the fragmentary character of the source.

Another mention about *mensarii* also comes from Livy.

Liv. 26, 36: *Cum in hac difficultate rerum consilium haereret ac prope torpor quidam occupasset hominum mentes, tum Laevinus consul: magistratus senatui et senatum populo, sicut honore praestet, ita ad omnia quae dura atque aspera essent subeunda ducem debere esse. 'si quid iniungere inferiori velis, id prius in te ac tuos si ipse iuris statueris, facilius omnes obedientes habeas; nec impensa gravis est, cum (ex) ea plus quam pro virili parte sibi quemque capere principum vident. Itaque (si) classes habere atque ornare volumus populum Romanum, privatos sine recusatione remiges dare, nobismet ipsis primum imperemus. Aurum argentum (aes) signatum omne senatores crastino die in publicum conferamus, ita ut anulos sibi quisque et coniugi et liberis, et filio bullam et quibus uxor filiaeve sunt singulas uncias pondo auri relinquunt: argenti qui curuli sella sederunt equi ornamenta et libras pondo, ut salinum patellamque deorum causa habere possint: ceteri senatores libram argenti tantum: aeris signati quina milia in singulos patres familiae relinquamus: ceterum omne aurum argentum aes signatum ad triumviros mensarios extemplo deferamus nullo ante senatus consulto facto, ut voluntaria conlatio et certamen adiuvandae rei publicae excitet ad aemulandum animos primum equestris ordinis, dein reliquae plebis. Hanc unam viam multa inter nos conlocuti consules invenimus; ingredimini dis bene iuvantibus. res publica incolumis et privatas res facile salvas praestat: publica prodendo tua nequiquam serves. 'In haec tanto animo consensum est ut gratiae ultro consulibus agerentur. Senatu inde*

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rich 1980, pp. 9–26. About irregular deposit see also T. Niemeyer, *Depositum irregulare*, Hale 1889; J. Najber, *Observatiunculae de iure Romano*, [in:] *Mnemosyne – Bibliotheca Philologica Batava* 34 (1906), pp. 59–64; C. Longo, *Appunti sul deposito irregolare*, «BIDR» 18 (1906), pp. 121–156; idem, *Il deposito (Corso)*, Milano 1933; F. Bonifacio, *Ricerche sul deposito irregolare in diritto romano*, «BIDR NS» 8–9 (1948), pp. 80–152; E. Seidl, *Der Eingentumsübergang beim Darlehen und Depositum irregulare*, [in:] *Festschrift Fritz Schulz*, vol. I, Weimar 1951, pp. 373–379; B. Adams, *Haben die Römer "depositum irregulare" und Darlehen unterschieden?*, «SDHI» 28 (1962), pp. 360–371; w. M. Gordon, *Observations on "depositum irregulare"*, *Studi Biscardi*, vol. III, Milano 1982, pp. 363–373; K. Geiger, *Das depositum irregulare als Kreditgeschäft*, München 1962, p. 6. Compare also W. Litewski, *Studien zur Verwahrung im Römischen Recht*, Warsaw–Crakow 1978, p. 5 and next; J. Sondel, *Szczególne rodzaje depozytu w prawie rzymskim*, Crakow 1967, p. 34.

*misso pro se quisque aurum argentum et aes in publicum conferunt, tanto certamine iniecto ut prima aut inter primos nomina sua vellent in publicis tabulis esse ut nec triumviri accipiundo nec scribae referendo sufficerent. Hunc consensum senatus equester ordo est secutus, equestris ordinis plebs. ita sine edicto, sine coercitione magistratus nec remige in supplementum nec stipendio res publica eguit; paratisque omnibus ad bellum consules in provincias profecti sunt.*

Moreover, *triumviri mensarii* accepted and registered all voluntary contributions for the benefit of the state. They collected gold and silver as well as bronze mint coins. The officials were accompanied by writers while collecting contributions. The events described by Livy (26, 36), initiated by the consuls, the aim of which was to collect funds for the army, demanded a great amount of labour from the *triumviri mensarii*. All social strata took part in the collection of public funds. Each citizen brought considerable amounts of gold, silver or bronze coins so as to be sure their name appeared as first on the list. That is why *triumviri mensarii* could hardly manage to accept and the writers to register the contributions.

Therefore, Livy places *triumviri mensarii* among the officials who participated in three-man boards appointed to deal with various issues.<sup>33</sup> Their activity was realised on behalf and for the benefit of the state. The expression *triumviri mensarii* deserves attention since the word *triumvirii* may suggest an official character of actions undertaken by them, while *mensarii* indicates the scope of their duties. There is no doubt that since the 4<sup>th</sup> century BC *mensarii* were bank officials. However, with time, they became regular bankers making transactions at the Forum. We should not, however, confuse *mensarii* with *argentarii*.<sup>34</sup> The latter were private bankers who made transactions on behalf of their clients at the tables or in shops prepared for them at the Forum.

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<sup>33</sup> Collegia composed of three officials known as *tresviri nocturni*, *tresviri capitales* See M. Kuryłowicz, ‘*Tresviri capitales*’ oraz edytlowie rzymscy jako magistratury policyjne, «*Annales UMCS*» Sec. G, Ius 40 (1993), p. 71 and next.; C. Cascione, *Tresviri capitales. Storia di una magistratura minore*, Napoli 1999, p. 1 and next., or recently B. Sitek, *Apud vestiores incendiis arcendis triumviri praeerant – organy orzekające w sprawach incendium podpaleń w starożytnym Rzymie*, Journal of Modern Science 1 (2008), Administracja i Bezpieczeństwo, p. 54 and next.

<sup>34</sup> For more on financial transactions undertaken by *argentarii* See P. Niczyporuk A. Talecka, *Czynności bankowe w starożytnym Rzymie a współczesne polskie prawo bankowe* [in:] *Pieniądz i banki – wspólnota dziejów...*, cit., p. 17 and next. and further quoted literature.

There is also a mention about *mensarii* in Suetonius.

Suet. Aug 4.4: .... *Cassius quidem Parmensis quadam epistola non tantum ut pistoris, sed etiam ut nummulari nepotem sic taxat Augustum: Materna tibi farinast ex crudissimo Ariciae pistrino: hanc finxit manibus collybo decoloratis Nerulonensis mensarius.*

The historian quotes a letter of Cassius of Parma in which he insulted the ancestors of August. The author of the letter claimed that the grandfather of the Princeps was a money-changer of Nerulum who married a daughter of a baker of Aricia. From this marriage August's father was born. The excerpt by Suetonius may suggest that *mensarii* from the public became private bankers. What is more, there appeared the term *nummularius*, which might suggest several hypotheses. It is probable that both words were used interchangeably, since both *nummularii*<sup>35</sup> and *mensarii* were involved in banking activity on behalf and for the benefit of the state. Presumably, during the period described by Suetonius, a decline of specialised fields of banking activity might have occurred and all those involved in such activity were described by terminology which treated them as identical. In the cited excerpt a slight mistake might have appeared and its author meant another term related to people involved in banking, namely *mensularus*. *Nummularii* were at first involved in banking on the behalf and for the benefit of the state and were next engaged in other activity, being part of *mensa argentaria*.<sup>36</sup> From public they became private bankers and that is why the usage of both terms *nummularius* and *mensularius* may be justified. Whereas *mensarii* were respectable state officials, and comparing them to despicable professions or calling them disdainfully money-changers or usurers, does not harmonise with the dignity of their distinction.

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<sup>35</sup> Compare P. Niczyporuk, A. Talecka, *Nummularii jako strażnicy jakości monety w starożytnym Rzymie*, [in:] *Psucie pieniądza europie środkowo wschodniej od antyku po czasy współczesne. Białoruś – Litwa – Łotwa – Łotwa – Ukraina. Materiały z VI Międzynarodowej Konferencji Numizmatycznej*, Warsaw 2006, pp. 23–30.

<sup>36</sup> According to M. Talamanca *nummularii* never took part in organising public auctions which was one of the Basic functions of bankers. Compare M. Talamanca, *Argentarii*, *cit.*, p. 940 and next. See also A. Bürge, *Vertrag und personale Abhängigkeiten in Rom der späten Republik und den früher Keiserzeit*, *op. cit.*, p. 114 and next; idem, *Fiktion und Wirklichkeit*, *op. cit.*, p. 495 and next.; J. Andreau, *Patrimoines, échanges et prêts d'argent: l'économie romaine*, Roma 1997, p. 137 and next.; J. F. Rodríguez Neila, C. González Román, J. Mangas, Almudena Orejas, *El Trabajo en la Hispania Romana*, Madrid 1999, p. 96; H.-J. Drexhage, H. Konen, K. Ruffing, *Die Wirtschaft des römischen Reiches (1.–3. Jahrhundert): eine Einführung*, Berlin 2002, p. 151; S. B. MacDonald, A. L. Gastmann, *A History of Credit and Power in the Western World*, New Brunswick, New Jersey 2004, p. 27; D. F. Jones, *The Bankers of Puteoli: finance, trade and industry in the Roman world*, Tempus 2006, p. 82.

To sum up, *mensarii* were bank officials appointed and chosen by the state in exceptional situations and especially during the periods of general poverty. *Mensarii* were held in high esteem as far as the field of their activity was concerned. They appeared in Rome in the 4<sup>th</sup> century BC and precisely in 352 BC. *Quinqueviri mensarii* were appointed then and as a consequence a kind of public bank was created which consisted of 5 citizens.

Subsequent *lex Minucia de triumviris mensariis* passed in 216 BC appointed *triumviri mensariis*, that is officials having similar competences as *quinqueviri mensarii*. However, unlike the commission of five, they were not appointed once. In this case, a new kind of office was created, which was operating at least until 210 BC.

#### S U M M A R Y

*Mensarii* were bank officials appointed or chosen by the state in some circumstances especially in the periods of general poverty. They appeared in Rome in the 4<sup>th</sup> century, in 352 BC. *Quinqueviri mensarii* were appointed then to solve the problem of citizens' indebtedness. The commission was established by the virtue of *de quinqueviris mensariis creandis* plebiscite. As a consequence a kind of public bank was created, in which there were five citizens. Debt of those citizens who could provide a good security were covered from public resources by *quinqueviri mensarii*. The debtors who could not do so, transmitted their property to creditors as debt repayment. Seizure of property and forced sales were done after a reliable pricing by officials.

The subsequent *lex Minucia de triumviris mensariis*, passed in 216 BC appointed *triumviri mensariis*, namely officials who had similar competences as *quinqueviri mensarii*. However, unlike the preceding five-man commission they were not appointed once, in this case we can speak about a certain type of office which operated at least until 210 BC. This commission had probably wide competences. In 214 and 210 BC it registered citizens' debts and made payments in place of bursars. Probably it also accepted money from the citizens on irregular deposit which was used to support scarce financial resources of the state. Even such charges as soldier's pay were left in the hands of *triumviri mensariis*. It was a safe and sure form of deposit since financial resources entrusted to the state were easily reclaimable. *Triumviri mensariis*, accepted and registered every voluntary contribution for the benefit of the state. They collected gold, silver as well as the bronze mint coins. *Mensarii* arouse general respect and esteem as far as their activity was concerned.