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## Camp thefts in the Roman Army during the Republic and Principate

by MICHAŁ N. FASZCZA

**ABSTRACT:** In addition to committing strictly military offenses such as treason, desertion, or mutiny, Roman soldiers also committed common offenses. One example was stealing in the camp. This was a serious breach of military discipline because it could negatively impact internal army relations and lead to violence. During the Republic, efforts were made to prevent theft through a special military oath (*iusiurandum*), breaking which exposed the perpetrator to human and divine punishment. During the Principate, punishments were often mitigated, but due to the laconic nature of the sources, it is difficult to say whether the severe punishments used during the Republic, including the death penalty, were maintained.

**KEYWORDS:** ROMAN ARMY, ROMAN MILITARY DISCIPLINE, ROMAN LAW, CAMP THEFTS

**T**heft is one of the most dangerous types of offenses among closed groups of men confined to a small space. The strong emotions provoked by theft can easily escalate into uncontrollable violence. The anger of the injured soldier and his comrades is intensified by the fact that the crime was committed by a fellow soldier.<sup>1</sup> Such disorder undermines mutual trust during peacetime duties and combat, which can lead to additional casualties. Commanders must swiftly and decisively punish thieves; otherwise, mob justice may occur, which would undermine the authority of the superior. Therefore, maintaining camp discipline (*disciplina castrorum*) was crucial to the Roman Army's effectiveness.<sup>2</sup>

The Romans must have been aware of the dangers posed by theft. Their efforts to minimize the risk of stealing are evident in the special oath (*iusiurandum*)

1 C.E. BRAND, *Roman Military Law*, University of Texas Press, Austin 1968, pp. xiii–xiv; J.H. JUNG, «Die Rechtsstellung der römischen Soldaten. Ihre Entwicklung von den Anfängen Roms bis auf Diokletian,» in H. TEMPORINI (ed.), *Aufstieg und Niedergang der römischen Welt*, 2, 14, Walter De Gruyter, Berlin–New York 1982, pp. 964, 1002.

2 A. NEUMANN, s.v. «Disciplina militaris,» in *RE Suppl.* 10, 1965, coll. 150.

taken by soldiers and camp servants, as documented by Polybius of Megalopolis:

μετὰ δὲ τὴν στρατοπεδείαν συναθροισθέντες οἱ χιλιάρχοι τοὺς ἐκ τοῦ στρατοπέδου πάντας ἐλευθέρους ὁμοῦ καὶ δούλους ὀρκίζουσι, καθ' ἕνα ποιούμενοι τὸν ὀρκισμόν. ὁ δ' ὄρκος ἐστὶ μηδὲν ἐκ τῆς παρεμβολῆς κλέψειν, ἀλλὰ κἂν εὕρη τι, τοῦτ' ἀνοίσειν ἐπὶ τοὺς χιλιάρχους.<sup>3</sup>

After forming the camp the tribunes meet and administer an oath, man by man, to all in the camp, whether freemen or slaves. Each man swears to steal nothing from the camp and even if he finds anything to bring it to the tribunes (transl. W.R. Paton).

Clearly, the oath described by Polybius was also an attempt to prevent soldiers from being accused of stealing items they found. If military tribunes were responsible for collecting finds, then cases of lost property would most likely have been reported to them as well.

It is difficult to assess the effectiveness of the oath. Evidently, the custom of taken this form of *iusiurandum* was practiced because it was believed to minimize the number of thefts. However, the existence of additional oaths primarily indicates a serious problem with stealing. There did not have to be many cases of theft. Just a few of them would be enough to break internal cohesion and lower morale in the unit. A perpetrator who was caught could be punished exceptionally severely because he not only broke the law, but also offended the gods by breaking *iusiurandum*.<sup>4</sup> Even if the thief escaped capture, he had to fear the wrath of the gods after taking such an oath, which could strike at any time—also during a battle, when preserving life is every human's primary concern.

Camp thefts posed challenges that could not be overlooked. Since soldiers were in close quarters daily, it was difficult to hide a stolen item. After reporting a loss to a superior, a search of the quarters could be ordered. The risk could be eliminated by quickly selling the thing, but this was not always possible, especially in enemy territory. Thefts were more likely to occur during peacetime when cooperation from others could be expected.

3 Polyb. 6.33.1–2.

4 [F.] KLINGMÜLLER, s.v. «Sacramentum,» in *RE* 1A, 2, 1920, coll. 1667–1668; J. RÜPKE, *Domi militiae. Die religiöse Konstruktion des Krieges in Rom*, Franz Steiner Verlag, Stuttgart 1990, pp. 76–80, 87–88; F. HINARD, «Sacramentum,» *Athenaeum*, 81, 1993, pp. 257, 262–263; S.E. PHANG, *Roman Military Service: Ideologies of Discipline in the Late Republic and Early Principate*, Cambridge University Press, Cambridge 2008, p. 117. See also S. TONDO, «Il 'sacramentum militiae' nell' ambiente culturale romano-italico,» *Studia et Documenta Historiae et Iuris*, 29, 1963, pp. 26–58.

One particularly dangerous phenomenon would be the formation of a network of people involved in theft and receiving stolen goods within the camp. Eliminating the problem would then be significantly more difficult. Another obstacle would be superiors or veterans covering for a thief in exchange for a cut of the profits. Breaking up the criminal activity would require officer intervention, but their ability to react would be limited due to the social distance separating them from the soldiers. Men who wanted to cooperate with the officers would then face the threat of revenge from those involved in the thefts who had not yet been caught or punished.

Aulus Gellius' work preserves information about a slightly different type of oath concerning theft or robbery. Many scholars consider it to be the same type of *iusiurandum* as in Polybius' narrative.<sup>5</sup> Though they differ in the matter of the oath's spatial scope, both ancient writers probably meant the same:

Item in libro eiusdem Cincii de re militari quinto ita scriptum est: "Cum dilectus antiquitus fieret et milites scriberentur, iusiurandum eos tribunus militaris adigebat in verba haec: 'C. Laelii C. filii consulis L. Cornelii P. filii consulis in exercitu decemque milia passuum prope furtum noli facies dolo malo solus neque cum pluribus pluris nummi argentei in dies singulos; extraque hastam, hastile, ligna, poma, pabulum, utrem, follem, faculam si quid ibi inveneris sustulerisve, quod tuum non erit, quod pluris nummi argentei erit, uti tu ad C. Laelium C. filium consulem Luciumve Cornelium P. filium consulem sive quem ad uter eorum iusserit, proferes aut profitebere in triduo proximo, quidquid inveneris sustulerisve dolo malo, aut domino suo, cuium id censebis esse, reddes, uti quod recte factum esse voles."<sup>6</sup>

Also in the fifth book of the same Cincius *On Military Science* we read the following: "When a levy was made in ancient times and soldiers were enrolled, the tribune of the soldiers compelled them to take an oath in the following words dictated by the magistrate. 'In the army of the consuls Gaius Laelius, son of Gaius, and Lucius Cornelius, son of Publius, and for ten miles around it, you will not with malice aforethought commit a theft, either alone or with others, of more than the value of a silver sesterce in any one day. And except for one spear, a spearshaft, wood, fruit, fodder, a

5 M. CARCANI, *Dei reati delle pene e dei giudizi militari presso i Romani*, Jovene Editore, Napoli 1981 [1874], p. 97; F.W. WALBANK, *A Historical Commentary on Polybius*, 1, *Commentary on Books I–VI*, Clarendon Press, Oxford 1957, p. 716; C.E. BRAND, *Roman Military Law*, *cit.*, p. 10; J.H. JUNG, «Die Rechtsstellung der römischen,» *cit.*, p. 966; J. VENDRAND-VOYER, *Normes civiles et métier militaire à Rome sous le Principat*, Adosa, Clermont-Ferrand 1983, pp. 48–49.

6 Gell. *NA* 16.4.2.

bladder, a purse and a torch, if you find or carry off anything there which is not your own and is worth more than one silver sesterce, you will bring it to the consul Gaius Laelius, son of Gaius, or to the consul Lucius Cornelius, son of Publius, or to whomsoever either of them shall appoint, or you will make known within the next three days whatever you have found or wrongful carried off, or you will restore it to him whom you suppose to be its rightful owner, as you wish to do what is right” (transl. J.C. Rolfe).

The situation described by Gellius took place in 190 BCE, as indicated by the mentioned consuls’ names (Caius Laelius and Lucius Cornelius Scipio Asiaticus).<sup>7</sup> Notably, the ban was introduced not only on theft within the camp, but also on looting within 10 Roman miles of the Roman quarters.<sup>8</sup> The question of the reason behind the ban then arises. Some researchers argue that additional oath was intended to prevent Roman soldiers from scattering in search of loot because the enemy could have easily taken advantage of the situation to launch a surprise attack. Permission to loot applied only to items essential for daily functioning and for replenishing equipment.<sup>9</sup> This explanation seems convincing. First and foremost, however, we have confirmation that *iusiurandum*, as described by Polybius, was not an isolated incident, but rather a widespread custom.

The main problem with investigating camp thefts is the brevity of the sources. Roman writers typically chronicled extraordinary events from the past, ignoring everyday criminal activities. Furthermore, no preserved legal acts regulating military theft exist, and the earliest opinions of jurists date to the third century CE. For many years, military thieves were likely punished under customary law, and it is unclear when, if ever, the change was introduced. Documents recording such cases by the Roman military administration have not survived either. Therefore, the difficulties concern determining the legal classification and frequency of the crime in different periods.

According to Polybius, thieves who stole in the camp were punished by flogging to death (*fustuarium*):

ξυλοκοπεῖται δὲ καὶ πᾶς ὁ κλέψας τι τῶν ἐκ τοῦ στρατοπέδου, καὶ μὴν ὁ

7 T.R.S. BROUGHTON, *The Magistrates of the Roman Republic*, 1, 509 B.C.–100 B.C., American Philological Association, New York 1951, p. 356.

8 One Roman mile equals approximately 1,480 meters.

9 F.W. WALBANK, *A Historical Commentary*, cit., p. 720; C.E. BRAND, *Roman Military Law*, cit., pp. 93–94; F. HINARD, «Aulu Gelle et le serment», in *Au miroir de la culture antique. Mélanges offerts au président René Marache*, Rennes 1992, pp. 288–292.

μαρτυρήσας ψευδῆ παραπλησίως, κἄν τις τῶν ἐν ἀκμῇ παραχρησάμενος εὐρεθῆ τῷ σώματι, πρὸς δὲ τούτοις ὁ τρίς περι τῆς αὐτῆς αἰτίας ζημιωθείς.<sup>10</sup>

The bastinado is also inflicted on those who steal anything from the camp; on those who give false evidence; on young men who have abused their persons; and finally on anyone who has been punished thrice for the same fault (transl. W.R. Paton).

Polybius' information generally aligns with the treatment of thieves described in the Laws of the Twelve Tables.<sup>11</sup> The military apparently adopted a punishment commonly used in civilian life—flogging—and simply made it more cruel.

Flogging was not only a way to inflict physical pain on the perpetrator in retaliation for harming a fellow citizen (*concivis*) and comrade-in-arms (*commilito*). It was also a form of public shaming that expressed the community's attitude toward the offense and the offender. The combination of physical pain and humiliation was undoubtedly intended to deter other soldiers from stealing in the camp.<sup>12</sup> Unfortunately, the scope of the problem remains unknown. Therefore, it is unclear to what extent *fustuarium* may have deterred potential thieves. It was a cruel punishment, but no criminal expects to be caught. Pressure from other soldiers could have been much more effective.

However, one must exercise caution when reflecting more deeply on the function of punishments in Republican Rome. The earliest known discussions on this topic were recorded by Gellius,<sup>13</sup> who referenced the now-lost work of the philosopher Lucius Calvenus Taurus.<sup>14</sup> Both Gellius and Calvenus Taurus lived and worked in the second century CE and were not specialists in law. To the Romans, punishment was a practical necessity, primarily used to protect people, their property, and the interests of the state and its institutions (including the army), rather than a matter of theoretical principles determining the application of law.<sup>15</sup> Com-

10 Polyb. 6.37.9.

11 *lex XII tab.* 8.14 = Gell. *NA* 11.18.8.

12 See C.E. BRAND, *Roman Military Law, cit.*, p. xiv.

13 Gell. *NA* 7.14.1–4.

14 Gell. *NA* 7.14.5.

15 J.N. MADVIG, *Verfassung und Verwaltung des römischen Staates*, 2, B.G. Teubner, Leipzig 1882, p. 269; U. BRASIELLO, *La repressione penale in diritto romano*, Jovene Editore, Napoli 1937, p. 14; J. BLEICKEN, *Lex Publica. Gesetz und Recht in der römischen Republik*, Walter De Gruyter, Berlin–New York 1975, p. 4; J.-J. AUBERT, «A Double Standard in Roman Criminal Law? The Death Penalty and Social Structure in Late Republican and Early Imperial Rome,» in J.-J. AUBERT, B. SIRKS (ed.), *Speculum Irvris: Roman Law as a Reflec-*

manders ordered the guilty party to be flogged for theft primarily because they believed in the punishment's effectiveness.

Sextus Iulius Frontinus wrote about another type of punishment:

*M. Cato memoriae tradidit in furto comprehensis inter commilitones dextras esse praecisas aut, si lenius animadvertere voluissent, in principiis sanguinem missum.*<sup>16</sup>

Marcus Cato has handed down the story that, when soldiers were caught in theft, their right hands used to be cut off in the presence of their comrades; or if the authorities wished to impose a lighter sentence, the offender was bled at headquarters (transl. C.E. Bennett).

While the symbolic meaning of cutting off a thief's hand is clear in almost all European cultures, the practice of bloodletting may seem surprising. Even the Romans questioned its purpose. An interesting comment by Gellius about the punishment ordered by Marcus Porcius Cato (the Elder) has been preserved. It suggests a medical justification for bloodletting:

*Fuit haec quoque antiquitus militaris animadversio iubere ignominiae causa militi venam solvi et sanguinem dimitti. Cuius rei ratio in litteris veteribus, quas equidem invenire potui, non exstat; sed opinor factum hoc primitus in militibus stupentis animi et a naturali habitu declinatis, ut non tam poena quam medicina videretur.*<sup>17</sup>

This also was a military punishment in old times, to disgrace a soldier by ordering a vein to be opened, and letting blood. There is no reason assigned for this in the old records, so far as I could find; but I infer that it was first done to soldiers whose minds were affected and who were not in a normal condition, so that it appears to have been not so much a punishment as a medical treatment (transl. J.C. Rolfe).

Gellius considered bloodletting shameful in terms of maintaining military discipline, but he believed it could also cure soldiers of *stupens animus* ("numbness of the mind"). But what was *stupens animus*? While Cato the Elder may have considered some thieves to be mentally ill, it is more likely that he was emphasizing

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*tion of Social and Economic Life in Antiquity*, University of Michigan Press, Ann Arbor 2002, p. 105; O.F. ROBINSON, *Penal Practice and Penal Policy in Ancient Rome*, Routledge, London–New York 2007, p. 179; G. VALDITARA, *Riflessioni sulla pena nella Roma repubblicana*, G. Giappichelli, Torino 2015, pp. 65–76. The most extensive considerations of the functions of punishment in ancient Rome were presented by: M. DUCOS, *Les Romains et la loi. Recherches sur les rapports de la philosophie grecque et de la tradition romaine à la fin de la République*, Les Belles Lettres, Paris 1984, pp. 355–369, 384–388.

16 Frontin. *Str.* 4.1.16.

17 Gell. *NA* 10.8.1–2.

ing the disturbance of a soldier who harmed his comrades, as no normal Roman citizen would do so. Was bloodletting a real punishment, or was it staged to teach all soldiers a moral lesson? If so, what symbolism did Cato the Elder employ? If it was to be effective, it would have to refer to a widely known *exemplum*. Since we cannot link Cato the Elder's behavior to anything specific, his motivations will remain a mystery.<sup>18</sup>

The flogging to death described by Polybius was consistent with Roman legal tradition, but cutting off a citizen's right hand may have been an innovation by one of the commanders (Cato the Elder?). The limited number of military-related laws (*leges*) and the substantial freedom granted to officials under their *imperium militiae* resulted in creative sentencing.<sup>19</sup> However, commanders could not punish soldiers at will. Their disciplinary power was significantly limited by the sense of dignity of Roman citizens and customary law, which established traditions regarding punishments. In the republican system, the moods of the soldiers could not be ignored because the elected official commanded his voters, who could determine his and his male family members' political careers.<sup>20</sup> Offenders who had lost their Roman citizenship were the only ones to be subject to unrestricted forms and severity of punishment. This mainly included those guilty of *perduellio* and, in later times, *maiestas*.<sup>21</sup>

18 Neither Dietmar Kienast (*Cato der Zensor. Seine Persönlichkeit und seine Zeit*, Quelle & Meyer, Heidelberg 1954) nor Alan E. Astin (*Cato the Censor*, Clarendon Press, Oxford 1978) attempted to explain the punishment inflicted by Cato the Elder by referencing his worldview or medical eccentricities.

19 Decision-making autonomy assigned to commanding officers as the basis for imposing penalties: O. KARLOWA, *Römische Rechtsgeschichte*, 1, *Staatsrecht und Rechtsquellen*, Veit & Comp., Leipzig 1885, pp. 144–145, 161–164; Th. MOMMSEN, *Römisches Staatsrecht*, 1, S. Hirzel, Leipzig 1887, pp. 116–136; ID., *Römisches Strafrecht*, Duncker & Humblot, Leipzig 1899, pp. 30–31, 33; F. DE MARTINO, *Storia della costituzione romana*, 1, Jovene Editore, Napoli 1972, pp. 354–357; V. GIUFFRÈ, *Aspetti costituzionali del potere dei militari nella tarda „respublica”*, Jovene Editore, Napoli 1973, pp. 44–46. In general, regarding the freedom to impose sentences, see also G. VALDITARA, *Riflessioni sulla pena*, cit., pp. 9–37.

20 Y. GARLAN, *War in the Ancient World: A Social History*, Chatto & Windus, London 1975, p. 178; C. NICOLET, *The World of the Citizen in Republican Rome*, University of California Press, Berkeley–Los Angeles 1980, pp. 105, 109.

21 Th. MOMMSEN, *Römisches Strafrecht*, cit., pp. 536–539; C.H. BRECHT, *Perduellio. Eine Studie zu ihrer begrifflichen Abgrenzung im römischen Strafrecht bis zum Ausgang der Republik*, C.H. Beck, München 1938, pp. 26–54, 60–68. Toward the end of the Republic, the distinction between *perduellio* and the newly created *maiestas* became problematic. See

Only the commander's immense authority enabled him to increase punishments and impose sanctions with no parallel in Roman legal tradition.<sup>22</sup> His actions also had to be justified in the eyes of the soldiers. The limitations associated with punishment demonstrate the necessity of considering the circumstances and feelings of subordinates in each case, which goes beyond simply viewing the Roman disciplinary system through the lens of legal norms.<sup>23</sup>

Killing the thief by *fustuarium* or cutting off his hand resulted in the loss of a soldier, which weakened the unit's fighting strength. If commanders took such a decisive step, it meant that theft in the camp was generally considered a serious offense. The soldiers could not imagine continuing their military service with someone who had betrayed their trust so significantly. Had the thief been punished less severely, he would likely have been lynched.

The legal situation of commanders became more complicated with the passing of the Porcian Laws between 199 and 193 BCE.<sup>24</sup> The laws granted soldiers *ius provocacionis*, just as they did for all Roman citizens residing in the provinces.<sup>25</sup> Referring death sentences to *comitia centuriata* threatened the authority of commanders, who were responsible for addressing serious disciplinary violations,

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R.A. BAUMAN, *Impietas in principem. A study of treason against the Roman emperor with special reference to the first century A.D.*, C.H. Beck, München 1974, pp. 2–24. *Maiestas* certainly evolved from *perduellio*. From the perspective of republican military discipline, *perduellio* is definitely more important because it encompasses the most serious military crimes. A citizen who committed *perduellio* was considered an enemy of the state and lost his/her citizenship. To deter other subordinates, commanders could be exceptionally cruel toward such soldiers.

22 C.E. BRAND, *Roman Military Law, cit.*, p. viii n. 1. In general: V. GIUFFRÈ, *La repressione criminale nell'esperienza romana*, Jovene Editore, Napoli 1998, p. 13; G. VALDITARA, *Riflessioni sulla pena, cit.*, pp. 77–89.

23 M.N. FASZCZA, «Problemy badawcze związane z rzymską dyscypliną wojskową okresu republiki i pryncypatu,» *Res Historica*, 42, 2016, pp. 13–48.

24 Cic. *Verr.* 2.5.163; *Rab. perd.* 8, 12; *Sest.* 30.65, 34.73; *Rep.* 2.31.54; *Leg.* 3.4.11, 3.19.44; *Sall. Cat.* 51.20; *Liv.* 10.9.4; *Gell. NA* 13.25.14.

25 Th. MOMMSEN, *Römisches Strafrecht, cit.*, pp. 31, 478; F. DE MARTINO, *Storia della costituzione romana*, 2, Jovene Editore, Napoli 1973, pp. 427–428; C. NICOLET, *The World of the Citizen, cit.*, pp. 108–109; V. GIUFFRÈ, *Il 'diritto militare' dei Romani*, Studi e materiali per gli insegnamenti storico-giuridici, Patron Editore, Bologna 1980, pp. 19–20; *Id.*, *La repressione criminale, cit.*, p. 29; M. DUCOS, *Les Romains et la loi, cit.*, p. 72; B. SANTALUCIA, *Studi di diritto penale romano*, L'Erma di Bretschneider, Roma 1994, pp. 178–179; C. LOVISI, *Contribution à l'étude de la peine de mort sous la république romaine (509–149 av. J.-C.)*, Éditions De Boccard, Paris 1999, p. 213.

including theft within the camp.<sup>26</sup> Thus, the Porcian Laws were circumvented in various ways, such as staging a lynching.<sup>27</sup> Consequently, offenses were still punished, albeit differently. The new legal reality likely explains the increase in the disciplinary powers of the centurions.<sup>28</sup> Polybius' account of soldiers punishing a thief by *fustuarium* may also have been influenced by the Porcian Laws, as the death penalty could previously be carried out by lictors.

Compared to the accounts of Polybius and Iulius Frontinus, further sources on the punishment of camp thieves are very late, dating from the third century CE. These sources are excerpts from the treatises of the jurists Arrius Menander and Herennius Modestinus. Thus, the gap in Roman sources spans a long period: from the second century BCE to the third century CE. Obviously, there must have been cases of theft during this time, especially since Emperor Augustus established a fully professional army<sup>29</sup> and some of the volunteers came from the lower social classes.<sup>30</sup> Punishing offenders with the same severity in the early Principate as in earlier times is highly likely.

The general principle for punishing soldiers was conveyed by Arrius Menander:

*Militum delicta sive admissa aut propria sunt aut cum ceteris communia: unde et persecutio aut propria aut communis est. proprium militare est delictum, quod quis uti miles admittit.*<sup>31</sup>

Soldiers' crimes or offenses are either peculiar or common to other men; and accordingly, their prosecution is either peculiar or common. A peculiar military crime is one which a man commits in his capacity as a soldier (transl. Alan Watson).

26 E. SANDER, «Das römische Militärstrafrecht,» *Rheinische Museum für Philologie*, 103, 1960, p. 300; C.E. BRAND, *Roman Military Law*, cit., p. 68.

27 Polyb. 6.38.1–3; M. CRAWFORD, *The Roman Republic*, Fontana Press, London 1992, p. 92; B. SANTALUCIA, *Studi di diritto*, cit., p. 179 n. 113.

28 *Ibid.*; M.N. FASZCZA, «Wzrost dyscyplinarnych uprawnień centurionów w I w. p.n.e.,» in H. KOWALSKI, P. MADEJSKI (ed.), *Armia, systemy obronne i ideologiczno-religijne aspekty wojny w imperium rzymskim*, Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej, Lublin 2015, pp. 19–20; *Id.*, «Vitis centurionis, czyli o okolicznościach nadania centurionom symbolu ich rangi,» *Przegląd Historyczno-Wojskowy*, 16, 2, 2015, pp. 10–16.

29 *RGDA* 17; Suet. *Aug.* 49.1–3; *Hdn.* 2.11; Cass. Dio 40.23–25.

30 G. FORNI, *Il reclutamento delle legioni da Augusto a Diocleziano*, Fratelli Bocca, Milano–Roma 1953, pp. 119–129.

31 D. 49.16.2.pr.

Theft was certainly not considered a peculiar military offense,<sup>32</sup> so it should have been commonly prosecuted. However, it would be surprising if the penalty were a multiple of the value of the stolen item since thieves were not permitted to enlist in the army.<sup>33</sup> To maintain logical consistency, the least severe penalty should be expulsion from the military. According to Herennius Modestinus, Roman military criminal law during the Principate provided for such a sanction:

*Poenae militum huiusmodi sunt: castigatio, pecuniaria multa, munerum indictio, militiae mutatio, gradus deiectio, ignominiosa missio. nam in metallum aut in opus metalli non dabuntur nec torquentur.*<sup>34</sup>

Soldiers' punishments are of such kinds as these: reprimand, money fine, imposition of duties, change of branch of the service, reduction in military rank, dishonorable discharge. For [soldiers] shall not be handed over to the mines or to the *opus metalli*, nor are they tortured (transl. Alan Watson).

Iulius Paulus wrote about the dishonorable discharge (*missio ignominiosa*) prescribed for soldiers who committed theft in bathhouses, which were not always located within the camp:

*Miles, qui in furto balneario adprehensus est, ignominia mitti debet.*<sup>35</sup>

A soldier caught stealing in the baths is to be discharged with ignominy (transl. Alan Watson).

Herennius Modestinus described the second variant of soldier's theft. Although stealing was a common offense, the victim in this case could only be another soldier, which raises the question of whether the act could be classified as a peculiar offense. The regulation passed on by Herennius Modestinus is as follows:

*Qui aliena arma subripuit, gradu militiae pellendus est.*<sup>36</sup>

32 M. CARCANI, *Dei reati delle pene*, cit., pp. 97–99; A. MÜLLER, «Die Straffjustiz im römischen Heere,» *Neue Jahrbücher für das Klassische Altertum, Geschichte und Deutsche Literatur und für Pädagogik*, 17, 1906, pp. 563–577; E. SANDER, «Das römische Militärstrafrecht,» cit., pp. 292–293; C.E. BRAND, *Roman Military Law*, cit., pp. 101–103; J.H. JUNG, «Die Rechtsstellung der römischen,» cit., pp. 897, 966–967, 1002; G. KULECZKA, *Studia nad rzymskim wojskowym prawem karnym*, Wydawnictwo Uniwersytetu im. Adama Mickiewicza, Poznań 1974, pp. 94–95; G. WESCH-KLEIN, *Soziale Aspekte des römischen Heerwesens in der Kaiserzeit*, Franz Steiner Verlag, Stuttgart 1998, pp. 147–156; S.E. PHANG, *Roman Military Service*, cit., p. 116; C. SCHMETTERER, *Die rechtliche Stellung römischer Soldaten im Prinzipat*, Harassowitz Verlag, Wiesbaden 2012, pp. 27–33.

33 D. 47.2.64.

34 D. 49.16.3.1.

35 D. 47.17.3.

36 D. 49.16.3.14.

Anyone who has stolen another's weapons is to be reduced in rank (transl. Alan Watson).

The reason the penalty is less severe than usual is easy to explain. It was apparently assumed that a soldier would steal arms from another to compensate for shortages negatively impacting his ability to perform military duties. Although his motivations may be sound, his actions are unlawful, morally reprehensible, and thoughtless. Disarming another soldier to arm oneself is simply foolish. Herennius Modestinus did not mention an additional penalty so most probably the guilty party was not always dismissed from the army for theft, as Jost H. Jung claimed.<sup>37</sup>

If a dishonorable discharge were the only punishment for ordinary theft, it would represent a significant relaxation of military discipline since the time of the Roman Republic. Presumably, physical punishments were used in some cases, either by centurions or comrades-in-arms. High military morale cannot be maintained by violating the common sense of justice. To some soldiers, being discharged from military service could be considered impunity, especially during the early Principate, when people still remembered how severely thieves were treated during the Republic. Due to the lack of sources shedding light on disciplinary practices, the above considerations can only be general.

To provide more insight into the issue of campsite theft, it is worth asking two more questions.

The phenomenon of experienced soldiers treating recruits still requires further research. At this stage, I would not dare to draw far-reaching conclusions, but it would not be surprising if veterans expected younger comrades to share their belongings in exchange for better treatment. Cornelius Tacitus mentioned a similar case among centurions in 14 CE.<sup>38</sup> While it would not be theft in the strict sense, it would be forced appropriation. Such behavior creates an area of activity often being outside the purview of superiors. Furthermore, some of them may have even participated in the practice of getting rich at the expense of the soldiers.<sup>39</sup> The existence of extortion would not affect the number of thefts; from the recruits' perspective, it was essentially the same thing.

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37 *Contra*: J.H. JUNG, «Die Rechtsstellung der römischen,» *cit.*, pp. 897, 1002.

38 Tac. *Ann.* 1.17.4.

39 A request to the family to send money because a military promotion was not possible without giving a bribe: P.Mich. VIII 468.

Another issue is the potential for abuse by the military administration. According to the soldiers' correspondence from the time of the Principate, they sent money or goods to their families or fellow soldiers.<sup>40</sup> Given the imperfect transportation system of the time, it was easy to "lose" a shipment. In such cases, controlling the actions of the soldiers responsible for transporting the shipments became crucial. However, abuses committed by the military administration are a separate issue that has yet to be studied.

Although studying the course of wars or battles and the achievements of great commanders certainly yields more spectacular results, we cannot forget about the daily lives of soldiers, which included various offenses.<sup>41</sup> Military discipline encompasses more than just mutinies and spectacular punishments; it also involves addressing minor infractions and managing soldiers to maintain appropriate morale. Camp theft was one of the most dangerous offenses because it undermined the internal cohesion of units. The awareness of the destructive consequences of stealing explains why the punishments were so severe during the Republican period and why thieves were, in some cases, removed from the army during the Principate.

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40 E.g., P.Mich. VIII 466; SB 18.13303; Tab. Vindol. II 310.

41 See Y. GARLAN, *War in the Ancient World*, cit., pp. 20–21; R. MACMULLEN, «The Legion as a Society,» *Historia*, 33, 4, 1984, p. 440; S.E. PHANG, *Roman Military Service*, cit., pp. 5–6.

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Busto di Pirro re dell'Epiro, Ercolano, da un originale del 290 a.C.  
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