

Judiciary laws – timeline

In the middle Republic the normal method of trying for capital crimes was trial before the centuriate assembly (*iudicium populi*), in which magistrates prosecuted. Tribunes and aediles could also prosecute for pecuniary penalties in the *concilium plebis*, and some ordinary crime was probably punished by the magistrates on their own authority, which was not seen as unconstitutional as long as the *prouocatio* to the people (protected by the tribunician *ius auxilii*) was not prevented.

The procedure was obviously cumbersome and unsuited to prevention and punishment of crime in the city (and citizen body) the size of the late Republican Rome. Eventually popular trials got replaced by the standing juries (*quaestiones, iudicia publica*), established separately for each crime (but sharing the list of jurors) and presided over by one of the praetors or a specially appointed *quaesitor: de sicariis et ueneficis* (punishing assassins and poisoners), *de parricidiis* (murder of close relatives), *de falsis* (forgery), *de ambitu* (electoral corruption), *de sodaliciis* (illegal activities of associations), *de repetundis* (extortion), *de peculatu* (embezzlement of public funds), *de iniuriis* (assault and house-breaking), *de ui* (armed violence), *de maiestate* (high treason), *de plagiariis* (sale of free people into slavery). By the time of Cicero trials in the assembly become very rare indeed. From the time of Gaius Gracchus on, the composition of these juries was a highly contentious political question.

Some of these courts (notably the court *de repetundis*) applied pecuniary penalties, and ‘capital penalty’ did not necessarily mean death. In most cases, apart from the time of political disturbance, the condemned were actually allowed to go into exile, after which a ‘bill of attainder’, so-called *aquae et ignis interdictio*, was passed against them, outlawing them in case of return to Italy. See also on the *lex Sempronia* of 123, below.

For private law cases (which included theft, accidental injury, harrassment, gross indecency, and other offences punished publicly in later periods) praetor (or governor of a province) appointed a single judge to try the case. Under the terms of the *lex Aebutia* (ca. 150 BC) praetor in annual edict issued a list of ‘writs’ (*formulae*) for appointment of a judge that he will grant. History of Roman private law in this period is largely the history of the edict.

149. *Lex Calpurnia de repetundis* – first standing court established. Senatorial juries.
Between 149–123. *Lex Iunia de repetundis* – known only from a reference in the epigraphic extortion law, content unknown.
137. *Lex Cassia tabellaria* establishes secret ballot in the *iudicia populi* (except those for *perduellio*).
- 123 (probably early in the year). Gracchan *lex ne quis iudicio circumueniatur* establishes a penalty for ‘conspiracy to divert the course of justice’ for senators only (still in force in the same form at the time of Cic., *Cluent.* 151). Presumably, equestrian participation in the juries not yet contemplated by Gaius Gracchus at this stage. Later incorporated into the *lex Cornelia de sicariis* of 81. Special standing court perhaps not established.
123. *Lex Sempronia de capite ciuis Romani* forbids execution of Roman citizens *iniussu populi* (this is not in the later period construed to apply to *quaestiones*, which were created by a law of the Roman people, though actual death punishment falls out of use, and was perhaps seen as inappropriate in the absence of actual popular decision).
- 123 or 122 (Gracchus’ second tribunate). *Lex Acilia de repetundis* (Cic., *Verr.* 1.51 for the title) = epigraphic law of the Tabula Bembina (*RS* no. 1) = Gracchan law. Equestrian juries. Whether there was a separate *lex Sempronia iudiciaria* (covering private law judges and other *quaestiones*, if any existed at that date) remains debatable.
121. An ‘emergency decree’ (so-called *senatus consultum ultimum*, cf. Caesar, *Civil War* I.5 for the origin of the expression) is passed by the consul L. Opimius against Gaius Gracchus and his supporters. An exemption from the *lex Sempronia de capite ciuis* is later claimed for murders during its operation, a precedent used a number of times in the later period, notably by Marius in 100 and Cicero in 63.
116. Gaius Marius is tried for *ambitus* by a *quaestio* (Plut., *Marius* 5.3), perhaps specially established for that purpose, rather than a standing court.

110. *Quaestio Mamilia* – consisting of *Gracchani iudices* (Cic., *Brut.* 128) to try those bribed by Iugurtha. Had a generally bad reputation (*aspere uiolenterque*, Sall., *BJ* 40; *inuidiosa*, Cic., *Brut.* 128, see further Greenidge/Clay, pp. 68–9).
106. *Lex Seruilia de repetundis* (passed by the consul Q. Servilius Caepio, who was defeated next year by the Cimbri) – mixed juries.
107. *Lex Caelia tabellaria* extend secret vote to the *iudicia populi* for *perduellio*.
103. *Lex Appuleia maiestatis* – equestrian *quaestio* for *maiestas* established (perhaps not in permanent existence, but convened specially in case of need, see also below on the *lex Varia* of 90).
101. *Lex Seruilia de repetundis* (passed by the tribune Servilius Glaucia) – re-establishes equestrian juries for the *repetundae* court.
92. Trial and condemnation of P. Rutilius Rufus for extortion, universally condemned as unjust (Greenidge/Clay, pp. 125–7, for a good selection of sources).
91. Tribune M. Livius Drusus tries to reestablish mixed juries: law passed, but repealed almost immediately.
90. *Lex Varia* – establishes an equestrian *quaestio* to judge those who instigated the Italian rebellion (effectively for *maiestas*).
89. *Lex Plautia* – changes the composition of the *quaestio Variana* to mixed senatorial / equestrian.
86. The existence of a *quaestio de peculatu* first firmly attested (Plut., *Pomp.* 4), though it could have been specially convened for the occasion rather than permanent.
81. *Leges Corneliae iudicariae* (*maiestatis, repetundarum, de sicariis et ueneficis, de falsis, de iniuriis, de peculatu*, perhaps *de ambitu*) – senatorial juries for all *quaestiones*, comprehensive reform of criminal law. At least the *quaestio de sicariis* pre-dated Sulla (Cic., *Rosc. Am.* 11); see above on the *quaestiones de peculatu, de maiestate*, and *de ambitu*, which may not have been permanently in operation in the preceding period. It is very probable (but not definitely attested) that on top of laws for specific jury courts there was a general *lex Cornelia iudicaria* on the composition of the jurors' list for all *quaestiones*.

78. *Lex Lutatia de vi* establishes a new *quaestio* (initially dealing with the supporters of Lepidus). Replaced or supplemented by a *lex Plautia* between 78–63 and a *lex Pompeia* (aimed at quelling the violence after the murder of Clodius) in 52.
77. Trial of Q. Calpurnius for *repetundae* (claims after conviction that the going rate for convicting an innocent praetorian is 300,000 HS, Cic. *Verr.* 1.38).
74. Scandalous trial of Oppianicus. Many bribed jurors later expelled from the Senate by the censors of 70.
70. Trial of Gaius Verres. (Later in the year) *Lex Aurelia iudiciaria* – juries of senators / equestrians / *tribuni aerarii*. Cornelian laws remain in force as regards substantive law, only the composition of juries is changed.
- Before 63. *Lex Fabia de plagiariis* establishes a new court to punish sale of free people into slavery.
67. *Lex Calpurnia de ambitu* increases penalties for electoral corruption.
63. *Lex Tullia de ambitu* does the same.
- Spring 63. Trial of C. Rabirius, who was accused of killing the tribune Saturninus under ‘emergency decree’ in 100, for *perduellio* (defended by Cicero in a surviving speech), the best (and latest) known *iudicium populi* in the late Republic.
- December 63. Execution of the Catilinarians by Cicero after a senatorial debate, in contravention of the *lex Sempronia* of 123.
61. A special *quaestio* set up to try Clodius for violating the mysteries of Bona Dea.
59. *Lex Iulia repetundarum* – much more comprehensive than the Sullan, does not touch the composition of the juries. *Lex Fufia* requires that the votes of the panels of senators, equestrians and *tribuni aerarii* be counted separately, to prevent corruption being blamed on another panel (Cassius Dio 38.8.1).
58. *Lex Clodia de capite ciuis Romani* reaffirming the *lex Sempronia* and aimed at Cicero’s actions in December 63.
55. *Lex Licinia de sodaliciis* and *Lex Pompeia de parricidio* establish new standing courts.
46. *Lex Iulia iudiciaria* – the panel of *tribuni aerarii* abolished by Caesar. Reversed by the *lex Antonia* of 44.