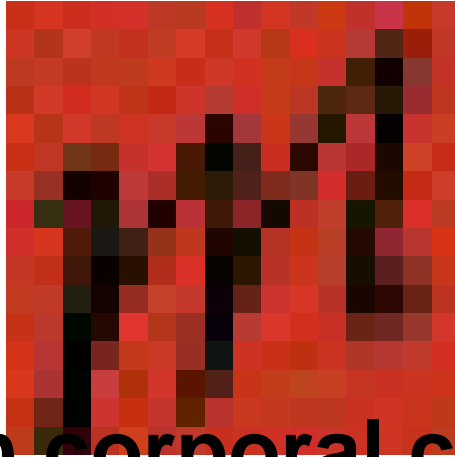


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XX.14 On corporal constraint

- The Spirit of Law - Book XX. On laws in their relationship with commerce, considered in its nature and its distinctions -

Date de mise en ligne : jeudi 6 septembre 2018

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XX.14 On corporal constraint

Solon ordered in Athens that the body would no longer be required to secure civil debts. [1] He took this law from Egypt : Bocchoris had made it, and Sesostris had renewed it. [2]

Though this law is very good for ordinary civil matters, [3] we are right not to observe it in matters of trade. For inasmuch as dealers are obliged to entrust large sums often for very short times, to pay them and recover them, the debtor must always fulfill his engagements at the fixed time, which assumes bodily constraint.

In matters that derive from ordinary civil contracts, the law should not allow a person to be held, because it gives priority to one citizen's freedom over another's convenience. But in conventions that derive from commerce, the law must prioritize public convenience over a citizen's freedom, which does not prevent the restrictions and limitations that humanity and good public order might require.

[1] Plutarch, in the treatise "That we ought not to borrow."

[2] Diodorus, book I, part 2, ch. iii.

[3] Greek legislators were amiss in prohibiting taking a man's weapons and wagon as collateral, and allowing the seizure of the man himself (Diodorus, book I, part 2, ch. iii).