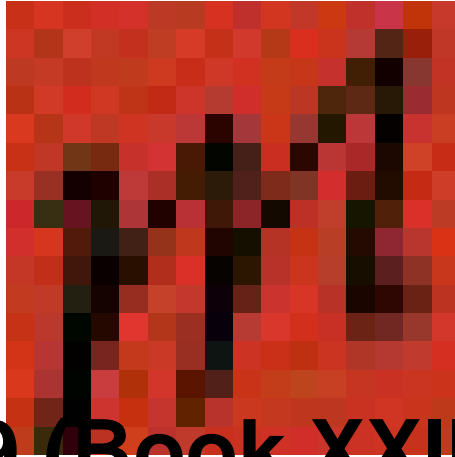


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# Annex 19 (Book XXII, chapter 22)

- The Spirit of Law - Annexes to the edition of 1758 -

Publication date: samedi 8 septembre 2018

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I leave the city now to cast a glance on the provinces.

I have said elsewhere [1] that the Roman provinces were desolated by a despotic and harsh government. That is not all : they were also desolated by dreadful usuries.

Cicero says that the Salaminians wanted to borrow money from Rome, and could not because of the Gabinian Law. [2] I must find out what that law was.

When loans at interest had been prohibited in Rome, all sorts of means were imagined to evade the law [3] ; and as the allies and those of Latin nationality were not subjected to the civil laws of the Romans, [4] they used a Latin or an ally who lent his name and seemed to be the creditor. All the law had done was to subject creditors to a formality, and there was no relief for the people.

The people complained about this fraud, and Marcus Sempronius, tribune of the people, by authority of the senate, had a plebiscite held bearing that, with respect to loans, the laws that prohibited usurious loans between one Roman citizen and another Roman citizen would equally apply between a citizen and an ally or a Latin.

In those times, the peoples of Italy proper, extending to the Arno and the Rubicon, and not governed as Roman provinces, were called allies.

Tacitus says that ever new frauds were perpetrated against the laws made to stop usury. When it was no longer possible to lend or borrow under the name of an ally, it was a simple matter to produce a man from the provinces who lent his name.

A new law was required against these abuses, and Gabinius, making the famous law of which the purpose was to halt corruption in the voting, must naturally have thought that the best means to achieve that was to discourage borrowing [5] : these two things were naturally linked, for usuries always increased at the time of elections, [6] because money was needed to acquire votes. It is clear that the Gabinian Law had extended the Sempronian *senatus consultum* to the provincials, since the Salaminians could not borrow money in Rome because of that law. Brutus, under assumed names, lent them some [7] at four percent per month, [8] and for that obtained two *senatus consulta*, in the first of which it was said that this loan would not be regarded as an evasion of the law, [9] and that the governor of Cilicia would judge in accordance with the conventions stated in the Salaminians' note.

Lending at interest being forbidden by the Gabinian Law between people of the provinces and Roman citizens, and these latter having at the time all the money in the world in their hands, they had to be tempted by ample usuries, which could make avarice blind to the danger of losing the debt. And as there were powerful persons in Rome who intimidated the magistrates and silenced the laws, they were bolder in lending, and bolder in demanding ample usuries. The result was that the provinces were ravaged in turn by all who had credit in Rome ; and as each governor issued his edict upon entering the province, in which he put the rate he wished on usury, [10] avarice lent a hand to legislation, and legislation to avarice.

Business must go on, and a state is lost if everything in it stops. There were occasions when the cities, the corporations, the societies in the cities, and individuals had to borrow ; and there was only too much need to borrow, were it only to support the ravages of the armies, the plundering of magistrates, the extortions of businessmen, and the bad practices that were being established every day ; for there was never such wealth nor such poverty. The senate, which held the executive authority, would give by necessity, often by favor, permission to borrow from Roman

citizens, and made senatus consulta on the subject. But these senatus consulta were themselves discredited by the law : these senatus consulta could give the people the opportunity to demand new tables, [11] which, increasing the danger of losing capital, further increased the usury. I shall ever repeat : it is moderation that governs men, and not the excesses.

He who pays later, says Ulpian, pays less. [12] It is this principle that led legislators after the destruction of the Roman republic.

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[1] Book XI, ch. xix.

[2] Letters to Atticus, book V, letter 21.

[3] Livy.

[4] *Ibid.*

[5] Roman year 615.

[6] See the letters of Cicero to Atticus, book IV, letters 15 and 16.

[7] Cicero to Atticus, book VI, letter 1.

[8] Pompey, who had lent six hundred talents to king Ariobarsane, had himself paid thirty-three Attican talents every thirty days. Cicero to Atticus, book III, letter 21 ; book VI, letter 1.

[9] *Ut neque Salaminis, neque cui eis dedisset, fraudi esset. Ibid.*

[10] Cicero's edict fixed it at one percent per month, with the usury of the usury at the end of the year. As for the republic's tax farmers, he urged them to give their debtors a delay : if they did not pay at the set time, he granted the usury stated on the note. (Cicero to Atticus, book VI, letter 1.)

[11] See what Luceius says, letter 21 to Atticus, book V. There was even a general senatus consultum to set usury at one percent per month. See the same letter.

[12] Law 12, following *De verbor. signif.*