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Loans of ancient Rome

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THE LOANS OF ANCIENT ROME by

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A couple of years ago I was engaged in writing the history of the fixed interest mortgage loan in the United States, and decided to trace lending back as far as I could go. Among the colleagues to whom I addressed inquiries was Ernest Stevelinck of Belgium, and the following is a rather free adaptation of the reply he sent to me. It is submitted here in tribute to his scholarship.

Mr. Stevelinck pointed out that the long-term loan was relatively modern. The history of ancient Rome enables us to see why such loans were improbable during that period and how the mortgage agreement originated.

At the start of the Roman period, the epoch of the patrician tribes, families lived from the cultivation of the land; trade was insignificant. Loans were made for the purpose of surviving until the next harvest, which would be abundant enough to permit repayment of the loan. Thus, a loan would be made for less than one year. The creditor had power of life and death over his debtor, who, knowing that his life, or at least his liberty, was in danger, would hardly be likely to want a long-term loan.

The XII Tables (451 B.C.), foundation of Roman law, confirm that in case of nonpayment, execution was levied against the debtor and not his goods. The *judicatus* (one who had been condemned to pay a certain quantity of metal or who had acknowledged indebtedness of a sum of money) could be seized by his creditor in the street. On apprehending the debtor, the former recited the phrase:

> "Because you have been adjudged or condemned as owing 10,000 sesterces and have not yet paid, for this reason I place upon you my hand by right of judgment for the sum of 10,000 sesterces."

From the moment when the creditor had placed his hand on his debtor *(manus injectio)*, the debtor had only two ways to escape enslavement or death; to pay up or to find someone who would voluntarily take his place *(vindex)*; he was without power to defend himself. In case of nonpayment, or absent a *vindex*, the XII Tables gave the creditor the right to carry the debtor off to his private prison. *Ni judicatum facit aut quis endo eo (in jure) vindicit, secum dicito.* (If the judgment is not satisfied or a *vindex* found, let the creditor take the debtor away.)

Once the debtor was ensconced in the creditor's private prison, the law of the XII Tables gave the latter the right to hold him for 60 days and to bind him with fetters or chains, weighing not more than 15 pounds. The debtor had the right to one pound of flour daily or to procure nourishment from outside *(suo vivito)*. During this period of 60 days, the creditor was required to present his debtor, in chains, on three successive market days, on the steps of the Forum, announcing the amount he owed. The object of this display was to attract the intervention of a relative or friend who might pay the debt and liberate the debtor.

If the debt was not paid within the 60 days, execution followed. *Tertiis nundinis capite poenas dabant traus Tiberim, peregre venum ibant.* (After three presentations in the market, the debtor is put to death or else sold as a slave beyond the Tiber; i.e. outside Rome.) If there were more than one creditor, the XII Tables provided for the corpse to be cut in pieces after the execution.

Gradually, the severity of these laws was relaxed, but although the condemned debtor was no longer put to death, imprisonment in chains remained possible for him. Thus, even during the Republic and Empire there was a real disincentive to borrowing money, except for very short periods. Interest was calculated at so much per month or per week, rather than per annum. Although it was the civilization of the Greeks which was responsible for the enormous advance in the law which permitted the debtor to avoid execution against his person by abandoning his goods to the creditor, *(cessio bonorum)*, there is no clear point of departure for this practice. Roman debtors often avoided capture by hiding or leaving the country, thus encouraging creditors to look to the debtor's assets for security. For this reason, we find the Romans developing forms of mortgage agreements, with or without possession of the mortgaged property, to secure payment of a debt.

QUOTABLE QUOTES ABOUT TAXES

It is a sad commentary on political honesty to compare the 1913 tax law with that of 1938, and the endless procession of laws in between. "Soak the rich without regard to honesty" should be the official title of the present law. "Take from those who have and give to those who have not" is the theme. The use of a tax on income as a means of social reform is common in an autocracy but novel in a democracy.

In our country it has produced billions of dollars in revenue which is used to pay for killing little pigs, for not raising peanuts, and for 1,000 other purposes which have tended and will continue to tend to check thrift, ambition, and incentive on the part of anyone who has any money left to embark on new enterprises.

FIFTY YEARS OF ACCOUNTANCY, p. 123,
PART II. "Taxes and How I Was Forced into the Practice of Law"
Robert H. Montgomery, C.P.A.

QUOTABLE QUOTES ABOUT TAXES

"Everybody is going to suffer from excessive taxation, including the laboring man, and even the President seemed to realize this before he was elected. I am going to quote from another of his 1932 campaign speeches. "After stating that total government expenditures amounted to one third of the entire national income, Mr. Roosevelt said:

> 'That is an impossible economic condition. Quite apart from every man's own tax assessment, that burden is a brake on any return to normal business activity. Taxes are paid in the sweat of every man who labors because they are a burden on production and can be paid only by production. If excessive, they are reflected in idle factories, tax-sold farms, and hence in hordes of the hungry tramping the streets and seeking jobs in vain. Our workers may never see a tax bill, but they pay in deductions from wages, in increased cost of what they buy (as now) in broad cessation of employment. There is not an unemployed man - there is not a struggling farmer - whose interest in this subject is not direct and vital. "

Robert H. Montgomery
From an address before the annual meeting of The Cotton Textile Institute, October 27, 1937.
FIFTY YEARS OF ACCOUNTANCY, 1939.
Page 587

QUOTABLE QUOTES ABOUT OLD ACCOUNTING BOOKS

"I wish someone looking for a hobby would make a study of old account books, and write a book about the entries. It may not be feasible on the other hand it may. One must read some of the old records to catch the romance they contain. The items are so entirely different from those in our daily lives that we catch a glimpse of past centuries quite different from what we find in the histories. In that sense "figures do not lie."

FIFTY YEARS OF ACCOUNTANCY, p. 213
Robert H. Montgomery