

THE TWELVE TABLES

(451-450 B.C.)

This is the earliest attempt by the Romans to create a CODE OF LAW; it is also the earliest (surviving) piece of literature coming from the Romans. In the midst of a perennial struggle for legal and social protection and civil rights between the privileged class (patricians) and the common people (plebeians) a commission of ten men (Decemviri) was appointed (ca. 455 B.C.) to draw up a code of law which would be binding on both parties and which the magistrates (the 2 consuls) would have to enforce impartially. The commission produced enough statutes (most of them were already 'customary law' anyway) to fill TEN TABLES, but this attempt seems not to have been entirely satisfactory--especially to the plebeians. A second commission of ten was therefore appointed (450 B.C.) and two additional tablets were drawn up. The originals, said to have been inscribed on bronze, were probably destroyed when the Gauls sacked and burned Rome in the invasion of 387 B.C. The Twelve Tables give the student of Roman culture a chance to look into the workings of a society which is still quite agrarian in outlook and operations, and in which the main bonds which hold the society together and allow it to operate are: the clan (genos, gens), patronage (patron/client), and the inherent (and inherited) right of the patricians to leadership (in war, religion, law, and government).

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Cicero, *De Oratore*, I.44: Though all the world exclaim against me, I will say what I think: that single little book of the Twelve Tables, if anyone look to the fountains and sources of laws, seems to me, assuredly, to surpass the libraries of all the philosophers, both in weight of authority, and in plenitude of utility.

Table I.

1. If anyone summons a man before the magistrate, he must go. If the man summoned does not go, let the one summoning him call the bystanders to witness and then take him by force.
2. If he shirks or runs away, let the summoner lay hands on him.
3. If illness or old age is the hindrance, let the summoner provide a team. He need not provide a covered carriage with a pallet unless he chooses.
4. Let the protector of a landholder be a landholder; for one of the proletariat, let anyone that cares, be protector.
- 6-9. When the litigants settle their case by compromise, let the magistrate announce it. If they do not compromise, let them state each his own side of the case, in the *comitium* of the forum before noon. Afterwards let them talk it out together, while both are present. After noon, in case either party has failed to appear, let the magistrate pronounce judgment in favor of the one who is present. If both are present the trial may last until sunset but no later.

Table II.

2. He whose witness has failed to appear may summon him by loud calls before his house every third day.

Table III.

1. One who has confessed a debt, or against whom judgment has been pronounced, shall have thirty days to pay it in. After that forcible seizure of his person is allowed. The creditor shall bring him before the magistrate. Unless he pays the amount of the judgment or some one in the presence of the magistrate interferes in his behalf as protector the creditor so shall take him home and fasten him in stocks or fetters. He shall fasten him with not less than fifteen pounds of weight or, if he choose, with more. If the prisoner choose, he may furnish his own food. If he does not, the creditor must give him a pound of meal daily; if he choose he may give him more.
2. On the third market day let them divide his body among them. If they cut more or less than each one's share it shall be no crime.
3. Against a foreigner the right in property shall be valid forever.

Table IV.

1. A dreadfully deformed child shall be quickly killed.
2. If a father sell his son three times, the son shall be free from his father.
3. As a man has provided in his will in regard to his money and the care of his property, so let it be binding. If he has no heir and dies intestate, let the nearest agnate have the inheritance. If there is no agnate, let the members of his gens have the inheritance.

4. If one is mad but has no guardian, the power over him and his money shall belong to his agnates and the members of his *gens*.

5. A child born after ten months since the father's death will not be admitted into a legal inheritance.

Table V.

1. Females should remain in guardianship even when they have attained their majority.

Table VI.

1. When one makes a bond and a conveyance of property, as he has made formal declaration so let it be binding.

3. A beam that is built into a house or a vineyard trellis one may not take from its place.

5. *Usucapio* of movable things requires one year's possession for its completion; but *usucapio* of an estate and buildings two years.

6. Any woman who does not wish to be subjected in this manner to the hand of her husband should be absent three nights in succession every year, and so interrupt the *usucapio* of each year.

Table VII.

1. Let them keep the road in order. If they have not paved it, a man may drive his team where he likes.

9. Should a tree on a neighbor's farm be bend crooked by the wind and lean over your farm, you may take legal action for removal of that tree.

10. A man might gather up fruit that was falling down onto another man's farm.

Table VIII.

2. If one has maimed a limb and does not compromise with the injured person, let there be retaliation. If one has broken a bone of a freeman with his hand or with a cudgel, let him pay a penalty of three hundred coins. If he has broken the bone of a slave, let him have one hundred and fifty coins. If one is guilty of insult, the penalty shall be twenty-five coins.

3. If one is slain while committing theft by night, he is rightly slain.

4. If a patron shall have devised any deceit against his client, let him be accursed.

5. If one shall permit himself to be summoned as a witness, or has been a weigher, if he does not give his testimony, let him be noted as dishonest and incapable of acting again as witness.

10. Any person who destroys by burning any building or heap of corn deposited alongside a house shall be bound, scourged, and put to death by burning at the stake provided that he has committed the said misdeed with malice aforethought; but if he shall have committed it by accident, that is, by negligence, it is ordained that he repair the damage or, if he be too poor to be competent for such punishment, he shall receive a lighter punishment.

12. If the theft has been done by night, if the owner kills the thief, the thief shall be held to be lawfully killed.

13. It is unlawful for a thief to be killed by day....unless he defends himself with a weapon; even though he has come with a weapon, unless he shall use the weapon and fight back, you shall not kill him. And even if he resists, first call out so that someone may hear and come up.

23. A person who had been found guilty of giving false witness shall be hurled down from the Tarpeian Rock.

26. No person shall hold meetings by night in the city.

Table IX.

4. The penalty shall be capital for a judge or arbiter legally appointed who has been found guilty of receiving a bribe for giving a decision.

5. Treason: he who shall have roused up a public enemy or handed over a citizen to a public enemy must suffer capital punishment.

6. Putting to death of any man, whosoever he might be unconvicted is forbidden.

Table X.

1. None is to bury or burn a corpse in the city.

3. The women shall not tear their faces nor wail on account of the funeral.

5. If one obtains a crown himself, or if his chattel does so because of his honor and valor, if it is placed on his head, or the head of his parents, it shall be no crime.

Table XI.

1. Marriages should not take place between plebeians and patricians.

Table XII.

2. If a slave shall have committed theft or done damage with his master's knowledge, the action for damages is in the slave's name.

5. Whatever the people had last ordained should be held as binding by law.
