

# READING

## *The Twelve Tables*

### EXPLANATION

Tradition tells us that the code was composed by a commission, first of ten and then of twelve men, in 451-450 B.C., was ratified by the Centuriate Assembly in 449 B.C., was engraved on twelve tablets (whence the title), which were attached to the Rostra before the Curia in the Forum of Rome.

### INSCRIPTION TRANSLATION

#### **Table I. Proceedings Preliminary to Trial**

1. If the plaintiff summons the defendant to court the defendant shall go. If the defendant does not go the plaintiff shall call a witness thereto. Only then the plaintiff shall seize the defendant.
2. If the defendant attempts evasion or takes flight the plaintiff shall lay hand on him.
3. If sickness or age is an impediment he who summons the defendant to court shall grant him a vehicle. If he does not wish he shall not spread a carriage with cushions.
4. For a freeholder' a freeholder shall be surety; for a proletary anyone who wishes shall be surety.
5. There shall be the same right of bond and of conveyance with the Roman people for a steadfast person and for a person restored to allegiance.
6. When the parties agree on the matter the magistrate shall announce it.
7. If they agree not on terms the parties shall state their case before the assembly in the meeting place or before the magistrate in the market place before noon. Both parties being present shall plead the case throughout together.
8. If one of the parties does not appear the magistrate shall adjudge the case, after noon, in favor of the one present.
9. If both parties are present sunset shall be the time limit of the proceedings.
10. Â.. sureties Â.. subsureties Â.. with platter and loincloth ...

#### **Table II. Trial**

- 1a. The penal sum in an action by solemn deposit shall be either 500 asses or 50 asses ... It shall be argued by solemn deposit with 500 asses, when the property is valued at 1,000 asses or more, but with 50 asses, when the property is valued at less than 1,000 asses. But if the controversy is about the freedom of a person, although the person may be very valuable, yet the case shall be argued by a solemn deposit of 50 asses. ...
- 1b. An action by demand for a judex ... concerning that which is claimed in accordance with a stipulation ... concerning division of an inheritance among joint heirs.

2. ... a serious sickness ... or a day appointed for the hearing of a case with an alien ... If any of these circumstances is an impediment for the judex or for the arbiter or for either litigant, on that account the day of trial shall be postponed.
3. Whoever needs evidence shall go every third day to shout before the doorway.

### **Table III. Execution of Judgment**

1. Thirty days shall be allowed by law for payment of confessed debt and for settlement of matters adjudged in court.
2. After this time the creditor shall have the right of laying hand on the debtor. The creditor shall hale the debtor into court.
3. Unless the debtor discharges the debt adjudged or unless someone offers surety for him in court the creditor shall take the debtor with him. He shall bind him either with a thong or with fetters of not less than fifteen pounds in weight, or if he wishes he shall bind him with fetters of more than this weight.
4. If the debtor wishes he shall live on his own means." If he does not live on his own means the creditor who holds him in bonds shall give him a pound of grits daily. If he wishes he shall give him more.
5. ... Meanwhile they shall have the right to compromise, and unless they make a compromise the debtors shall be held in bonds for sixty days. During these days they shall be brought to the praetor" into the meeting place on three successive market days, and the amount for which they have been judged liable shall be declared publicly. Moreover, on the third market day they shall suffer capital punishment or shall be delivered for sale abroad across the Tiber River.
6. On the third market day the creditors shall cut shares. If they have cut more or less than their shares it shall be without prejudice.

### **Table IV. Paternal Power**

1. A notably deformed child shall be killed immediately.
- 2a. To a father ... shall be given over a son the power of life and death.
- 2b. If a father thrice surrenders a son for sale the son shall be free from the father.
3. To repudiate his wife her husband shall order her... to have her own property for herself, shall take the keys, shall expel her.
4. A child born within ten months of the father's death shall enter into the inheritance ...

### **Table V. Inheritance and Guardianship**

1. ... Women, even though they are of full age, because of their levity of mind shall be under guardianship ... except vestal virgins, who Â. . shall be free from guardianship ...
2. The conveyable possessions of a woman who is under guardianship of male agnates shall not be acquired by prescriptive right unless they are transferred by herself with the authorization of her guardian ...

3. According as a person has made bequest regarding his personal property or the guardianship of his estate so shall be the law.
4. If anyone who has no direct heir dies nearest male agnate shall have the estate.
5. If there is not a male agnate the male clansmen shall have the estate.
6. Persons for whom by will ... a guardian is not given, for them ... their male agnates shall be guardians. If a person is insane authority over him and his personal property shall belong to his male agnates and in default of these to his male clansmen.
- 7b. ... but if there is not a guardian for him ...
- 7c. ... Administration of his own goods shall be forbidden to a spendthrift. ... A spendthrift, who is forbidden from administering his own goods, shall be ... under guardianship of his male agnates.
8. If a Roman citizen freedman dies intestate without a direct heir, to his patron shall fall the inheritance ...said household ... into said household.
9. Those items that are in the category of accounts due to the deceased ...shall be divided among the heirs by ordinary operation of law in proportion to their shares of the inheritance. ... Debts of the estate of a deceased shall be divided, according to law, among the heirs, proportionately to the share of the inheritance that each acquires.
10. ...Action for division of an estate shall be available for joint heirs wishing to withdraw from common and equal participation ...

### **Table VI. Ownership and Possession**

1. When a person makes bond and conveyance, according as he specified with his tongue so shall be the law.
2. It shall be sufficient to make good those faults that have been named by his tongue, while for those flaws that he has denied expressly, when questioned about them. vendor shall undergo a penalty of double damages ...
3. Warranty of prescriptive right in land shall be two years to acquire ownership. ... Of all other things, prescriptive right shall be for one year to acquire ownership.
4. Against an alien a warranty of ownership or prescriptive right shall be valid forever.
5. ... If any woman is unwilling to be subjected in this manner to her husband's marital control she shall absent herself for three successive nights in every year and by this means shall interrupt his prescriptive right of each year.
- 6a. If the parties join their hands on the disputed property when pleading in court ...
- 6b. Both conveyance and surrender in court... shall be confirmed.
7. ... Interim possession shall be granted in favor of liberty.
8. One shall not take from framework timber fixed in buildings or in vineyard ... One shall be permitted neither to remove nor to claim stolen timber fixed in buildings or in vineyards, ... but against the person who is convicted of having fixed such timber there an action for double damages shall be given.

9. ... Whenever the vines are pruned, until the timbers removed ...

**Table VII. Real Property**

1. ... Clearance shall be two and one-half feet ...

2. ... in an action for regulating boundaries ...

3a. ... inclosure... inherited plot...

3b. ... cottages ...

4. Ownership by prescriptive right ...shall not be within five feet.

5a. If they disagree ...

5b. ... Three arbiters shall regulate boundaries ...

6. The width of a road .... shall be eight feet on a straight stretch, on a bend .... sixteen feet.

7. They shall build and repair the road: unless they keep it free from stones one shall drive one's beast or marriage where one wishes.

8a. If rain water damages ...

8b. If a watercourse conducted through a public place does damage to a private person the said person shall have the right to bring an action ... that security against damage may be given to the owner.

9a. . . . Branches of a tree shall be pruned all around to a height of fifteen feet.

9b. If a tree from a neighbor's farm has been felled by the wind over one's farm, ... one rightfully can take legal action for that tree to be removed.

10. ... It shall be lawful to gather fruit falling upon another's farm.

11. Articles sold ... and delivered shall not be acquired by the purchaser, unless he pays the price to the seller or in some other way satisfies the seller, as, for example, by giving a surety or a pledge ...

12. A slave is ordered in a will to be a free man under this condition: "if he has given 10,000 asses to the heir"; although the slave has been alienated by the heir, yet the slave by giving the said money to the buyer shall enter into his freedom..

**Table VIII. Torts or Delicts**

1a. Whoever enchants by singing an evil incantation ...

1b. ... If anyone sings or composes an incantation that can cause dishonor or disgrace to another ... he shall suffer a capital penalty.

2. If anyone has broken another's limb there shall be retaliation in kind unless he compounds for compensation with him.

3. ... If a person breaks a bone of a freeman with hand or by club, he shall undergo a penalty of 300 asses; or of 150 asses, if of a slave.

4. If one commits an outrage against another the penalty shall be twenty-five asses.

5. ... One has broken ... One shall make amends.

6. If a quadruped is said to have caused damage an action shall lie therefor ... either for surrendering that which did the damage to the aggrieved person ... or for offering an assessment of the damage.
7. If fruit from your tree falls onto my farm and if I feed my flock off it by letting the flock onto it. . . . no action can lie against me either on the statute concerning pasturage of a flock, because it is not being pastured on your land, or on the statute concerning damage caused by an animal ...
- 8a. Whoever enchants away crops ...
- 8b. ... Nor shall one lure away another's grain ...
9. If anyone pastures on or cuts by night another's crops obtained by cultivation the penalty for an adult shall be capital punishment and, after having been hung up, death as a sacrifice to Ceres ... A person below the age of puberty at the praetor's decision shall be scourged and shall be judged as a person either to be surrendered to the plaintiff for damage done or to pay double damages.
10. Whoever destroys by burning a building or a stack of grain placed beside a house ..., shall be bound, scourged, burned to death, provided that knowingly and consciously he has committed this crime; but if this deed is by accident, that is, by negligence, either he shall repair the damage or if he is unable he shall be corporally punished more lightly.
11. Whoever fells unjustly another's trees shall pay twenty-five asses for each tree.
12. If a thief commits a theft by night, if the owner kills the thief, the thief shall be killed lawfully.
13. By daylight ... if a thief defends himself with a weapon ... and the owner shall shout.
14. In the case of all other ... thieves caught in the act freemen shall be scourged and shall be adjudged as bondsmen to the person against whom the theft has been committed provided that they have done this by daylight and have not defended themselves with a weapon; slaves caught in the act of theft ..., shall be whipped with scourges and shall be thrown from the rock; but children below the age of puberty shall be scourged at the praetor's decision and the damage done by them shall be repaired.
- 15a. The penalty for detected and planted theft shall be triple damages.
- 15b. ... by platter and by loincloth ...
16. If a person prosecutes for theft which is not of the type wherein the thief is caught in the act ... the thief shall settle the loss by paying double damages.
17. Title to a stolen article ... shall not be acquired by prescriptive right.
- 18a. ... No person shall practice usury at a rate of more than one twelfths.
- 18b. ... A thief shall be condemned for double damages and a usurer for quadruple damages.
19. From a suit about an article deposited ..., an action for double damages shall be given.
- 20a. If guardians are suspect in their administration there shall be the right to accuse them as such ...

- 20b. If ... guardians steal a ward's property ... there shall be an action ... against a guardian for double damages; each guardian shall be held for the entire sum.
- 21. If a patron defrauds a client he shall be accursed.
- 22. Unless he speaks his testimony whoever allows him self to be called as a witness or is a scales-bearer shall be dishonored and incompetent to give or obtain testimony.
- 23. ... Whoever is convicted of speaking false witness shall be flung from the Tarpeian Rock.
- 24a. If a weapon has sped accidentally from one's hand, rather than if one has aimed and hurled it, to atone for the deed a ram is substituted as a peace offering to prevent blood revenge.
- 24b. If anyone pastures on or cuts stealthily by night ... another's crops ... the penalty shall be capital punishment, and, after having been hung up, death as a sacrifice to Ceres, a punishment more severe than in homicide.
- 25. ... for administering a drug.
- 26. ... No person shall hold nocturnal meetings in the city.
- 27. These guild members shall have the power ... to make for themselves any rule that they may wish provided that they impair no part of the public law.

**Table IX. Public Law**

- 1-2. Laws of personal exception shall not be proposed. Laws concerning capital punishment of a citizen shall not be passed ... except by the Greatest Assembly ...
- 3. A judex or an arbiter legally appointed who has been convicted of receiving money for declaring a decision shall be punished capitally.
- 4. ... the investigators of murder ... who have charge
- 5. Whoever incites a public enemy or whoever betrays a citizen to a public enemy shall be punished capitally.
- 6. For anyone whomsoever to be put to death without a trial and unconvicted ... is forbidden.

**Table X. Sacred Law**

- 1. A dead person shall not be buried or burned in the city.
- 2. ... More than this one shall not do: one shall not smooth a funeral pyre with an ax.
- 3. ... Expenses of a funeral shall be limited to three mourners wearing veils and one mourner wearing an inexpensive purple tunic and ten flutists . ...
- 4. Women shall not tear their cheeks or shall not make a sorrowful outcry on account of a funeral.
- 5a. A dead person's bones shall not be collected that one may make a second funeral.
- 5b. An exception is for death in battle and on foreign soil.
- 6a. ... Anointing by slaves is abolished and every kind of drinking bout ... there shall be no costly sprinkling, no long garlands, no incense boxes ...

- 6b. ... A myrrh-spiced drink ... shall not be poured on a dead person.
7. Whoever wins a crown himself or by his property, by honor, or by valor, the crown is bestowed on him at his burial ...
8. ... Nor gold shall be added to a corpse. But if any one buries or burns a corpse that has gold dental work it shall be without prejudice.
9. It is forbidden ... to build a new pyre or a burning mound nearer than sixty feet to another's building without the owner's consent.
10. It is forbidden to acquire by prescriptive right a vestibule of a sepulcher or a burning mound.

**Table XI. Supplementary Laws**

1. ... There shall not be intermarriage between plebeians and patricians ...
2. ... regulations concerning intercalation ...
3. ... regulations concerning days permissible for official legal action.

**Table XII. Supplementary Laws**

1. ... There shall be introduced a seizure of pledge against a person who buys an animal for sacrifice and does not pay the price; likewise against a person who does not make payment for that animal which anyone lets to him for this purpose, that the lessor may spend money received therefrom on a sacred banquet, that is, on a sacrifice.
- 2a. If a slave commits a theft or does damage to property ...
- 2b. From delinquency of children of the household and of slaves ... actions for damages shall be appointed, that the father or the master may be permitted either to undergo assessment of the claim or to deliver the delinquent for punishment ...
3. If one has obtained an unjustifiable grant of interim possession and if his adversary wishes ... the magistrate shall grant three arbiters; by their arbitration ... the unjustifiable holder of interim possession shall settle the plaintiff's loss of enjoyment of the thing by paying double damages.
4. It is forbidden to dedicate for consecrated use a thing concerning whose ownership there is a controversy; otherwise a penalty of double the value involved shall be suffered ...
5. Whatever the people ordain last shall be legally valid.