

the hand that did it; and, without speaking of the diminution of the pay, or of the gratuity, it was found diminished.

We even still see in cabinets a kind of medals which are called plated, and are only pieces of copper covered with a thin plate of silver.^a This money is mentioned in a fragment of the 77th book of Dio.^b

Didius Julian first began to debase it. We find that the coin of Caracalla ^c had an alloy of more than half; that of Alexander Severus of two-thirds; ^d the debasing still increased, till in the time of Gallienus nothing was to be seen but copper silvered over.^e

It is evident that such violent proceedings could not take place in the present age; a prince might deceive himself, but he could deceive nobody else. The exchange has taught the banker to draw a comparison between all the money in the world, and to establish its just value. The standard of money can be no longer a secret. Were the prince to begin to alloy his silver, everybody else would continue it, and do it for him; the specie of the true standard would go abroad first, and nothing would be sent back but base metal. If, like the Roman Emperors, he debased the silver without debasing the gold, the gold would suddenly disappear, and he would be reduced to his bad silver. The exchange, as I have said in the preceding book,^f has deprived princes of the opportunity of showing great exertions of authority, or at least has rendered them ineffectual.

14.—How the Exchange is a Constraint on despotic Power

Russia would have descended from its despotic power, but could not. The establishment of commerce depended on that of the exchange, and the transactions were inconsistent with all its laws.

In 1745 the Czarina ^g made a law to expel the Jews, because they remitted into foreign countries the specie of those who were banished into Siberia, as well as that of the foreigners entertained in her service. As all the subjects of the empire are slaves, they can neither go abroad themselves nor send

^a See Father Joubert's "Science of Medals," Paris edit. of 1739, p. 59.
^b "Extract of Virtues and Vices."
^c See "Savote," part II. chap. xii., and "Le Journal des Savants" of the 28th of July, on a discovery of fifty thousand medals.
^d See "Savote," *ibid.*
^e *Ibid.*
^f Chap. 16.
^g Elizabeth, daughter of Peter I.—Ed.

away their effects without permission. The exchange which gives them the means of remitting their specie from one country to another is, therefore, entirely incompatible with the laws of Russia.

Commerce itself is inconsistent with the Russian laws. The people are composed only of slaves employed in agriculture, and of slaves called ecclesiastics or gentlemen, who are the lords of those slaves; there is then nobody left for the third estate, which ought to be composed of mechanics and merchants.

15.—The Practice of some Countries in Italy

They have made laws in some part of Italy to prevent subjects from selling their lands, in order to remove their specie into foreign countries. These laws may be good, when the riches of a state are so connected with the country itself that there would be great difficulty in transferring them to another. But since, by the course of exchange, riches are in some degree independent of any particular state, and since they may with so much ease be conveyed from one country to another, that must be a bad law which will not permit persons for their own interest to dispose of their lands, while they can dispose of their money. It is a bad law, because it gives an advantage to movable effects, in prejudice to the land; because it deters strangers from settling in the country; and, in short, because it may be eluded.

16.—The Assistance a State may derive from Bankers

The banker's business is to change, not to lend, money.^h If the prince makes use of them to change his specie, as he never does it but in great affairs, the least profit he can give for the remittance becomes considerable; and if they demand large profits, we may be certain that there is a fault in the administration. On the contrary, when they are employed to advance specie, their art consists in procuring the greatest profit for the use of it, without being liable to be charged with usury.

^h The mistake here is apparent, bankers and money-changers being by no means identical.—Ed.

17.—*Of Public Debts*

Some have imagined that it was for the advantage of a state to be indebted to itself: they thought that this multiplied riches by increasing the circulation.

Those who are of this opinion have, I believe, confounded a circulating paper which represents money, or a circulating paper which is the sign of the profits that a company has or will make by commerce, with a paper which represents a debt. The first two are extremely advantageous to the state: the last can never be so; and all that we can expect from it is, that individuals have a good security from the government for their money. But let us see the inconveniences which result from it.

1. If foreigners possess much paper which represents a debt, they annually draw out of the nation a considerable sum for interest.

2. In a nation that is thus perpetually in debt the exchange must be very low.

3. The taxes raised for the payment of the interest of the debt are an injury to the manufactures, by raising the price of the artificer's labor.

4. It takes the true revenue of the state from those who have activity and industry, to convey it to the indolent; that is, it gives facilities for labor to those who do not work, and clogs with difficulties those who do work.

These are its inconveniences: I know of no advantages. Ten persons have each a yearly income of a thousand crowns, either in land or trade; this raises to the nation, at five per cent., a capital of two hundred thousand crowns. If these ten persons employed one-half of their income, that is, five thousand crowns, in paying the interest of a hundred thousand crowns, which they had borrowed of others, that still would be only to the state as two hundred thousand crowns; that is, in the language of the algebraists, 200,000 crowns — 100,000 crowns + 100,000 crowns = 200,000.

People are thrown perhaps into this error by reflecting that the paper which represents the debt of a nation is the sign of riches; for none but a rich state can support such paper without falling into decay. And if it does not fall, it is a proof that the state has other riches besides. They say that it is not an

evil, because there are resources against it; and that it is an advantage, since these resources surpass the evil.

18.—*Of the Payment of Public Debts*

It is necessary that there should be a proportion between the state as creditor and the state as debtor. The state may be a creditor to infinity, but it can only be a debtor to a certain degree, and when it surpasses that degree the title of creditor vanishes.

If the credit of the state has never received the least blemish, it may do what has been so happily practised in one of the kingdoms of Europe; ⁱ that is, it may require a great quantity of specie, and offer to reimburse every individual, at least if they will not reduce their interest. When the state borrows, the individuals fix the interest; when it pays, the interest for the future is fixed by the state.

It is not sufficient to reduce the interest: it is necessary to erect a sinking-fund from the advantage of the reduction, in order to pay every year a part of the capital: a proceeding so happy that its success increases every day.

When the credit of the state is not entire, there is a new reason for endeavoring to form a sinking-fund, because this fund being once established will soon procure the public confidence.

1. If the state is a republic, the government of which is in its own nature consistent with its entering into projects of a long duration, the capital of the sinking-fund may be inconsiderable; but it is necessary in a monarchy for the capital to be much greater.

2. The regulations ought to be so ordered that all the subjects of the state may support the weight of the establishment of these funds, because they have all the weight of the establishment of the debt; thus the creditor of the state, by the sums he contributes, pays himself.

3. There are four classes of men who pay the debts of the state: the proprietors of the land, those engaged in trade, the laborers and artificers, and, in fine, the annuitants either of the state or of private people. Of these four classes the last, in a case of necessity one would imagine, ought least to be spared, because it is a class entirely passive, while the state is

ⁱ England.

supported by the active vigor of the other three. But as it cannot be higher taxed, without destroying the public confidence, of which the state in general and these three classes in particular have the utmost need; as a breach in the public faith cannot be made on a certain number of subjects without seeming to be made on all; as the class of creditors is always the most exposed to the projects of ministers, and always in their eye, and under their immediate inspection, the state is obliged to give them a singular protection, that the part which is indebted may never have the least advantage over that which is the creditor.

19.—*Of lending upon Interest*

Specie is the sign of value. It is evident that he who has occasion for this sign ought to pay for the use of it as well as for everything else that he has occasion for. All the difference is, that other things may be either hired or bought; whilst money, which is the price of things, can only be hired, and not bought.^j

To lend money without interest is certainly an action laudable and extremely good; but it is obvious that it is only a counsel of religion, and not a civil law.

In order that trade may be successfully carried on, it is necessary that a price be fixed on the use of specie; but this should be very inconsiderable. If it be too high, the merchant who sees that it will cost him more in interest than he can gain by commerce will undertake nothing; if there is no consideration to be paid for the use of specie, nobody will lend it; and here too the merchant will undertake nothing.

I am mistaken when I say nobody will lend; the affairs of society will ever make it necessary. Usury will be established, but with all the disorders with which it has been constantly attended.

The laws of Mahomet confound usury with lending upon interest. Usury increases in Mahomedan countries in proportion to the severity of the prohibition. The lender indemnifies himself for the danger he undergoes of suffering the penalty.

In those Eastern countries, the greater part of the people are secure in nothing; there is hardly any proportion between the actual possession of a sum and the hopes of receiving it again

^j We do not speak here of gold and silver considered as a merchandise.

after having lent it: usury, then, must be raised in proportion to the danger of insolvency.

20.—*Of Maritime Usury*

The greatness of maritime usury is founded on two things: the danger of the sea, which makes it proper that those who expose their specie should not do it without considerable advantage, and the ease with which the borrower, by means of commerce, speedily accomplishes a variety of great affairs. But usury, with respect to landmen, not being founded on either of these two reasons, is either prohibited by the legislators, or, what is more rational, reduced to proper bounds.

21.—*Of Lending by Contract, and the State of Usury among the Romans*

Besides the loans made for the advantage of commerce, there is still a kind of lending by a civil contract, whence results interest or usury.

As the people of Rome increased every day in power, the magistrates sought to insinuate themselves in their favor by enacting such laws as were most agreeable to them. They retrenched capitals; they first lowered, and at length prohibited, interest; they took away the power of confining the debtor's body; in fine, the abolition of debts was contended for whenever a tribune was disposed to render himself popular.

These continual changes, whether made by the laws or by the plebiscita, naturalized usury at Rome; for the creditors, seeing the people their debtor, their legislator, and their judge, had no longer any confidence in their agreements: the people, like a debtor who has lost his credit, could only tempt them to lend by allowing an exorbitant interest,^k especially as the laws applied a remedy to the evil only from time to time, while the complaints of the people were continual, and constantly intimidated the creditors. This was the cause that all honest means of borrowing and lending were abolished at Rome, and that the most monstrous usury established itself in that city, notwithstanding the strict prohibition and severity of the law.^l This evil was a consequence of the severity of the laws against

^k Cicero assures us that in his day money was lent at Rome at thirty-four per cent., and forty-eight per cent. in the country.—Ed.
^l Tacit. "Annal." lib. VI.

usury. Laws excessively good are the source of excessive evil. The borrower found himself under the necessity of paying for the interest of the money, and for the danger the creditor underwent of suffering the penalty of the law.

22.—*The same Subject continued*

The primitive Romans had not any laws to regulate the rate of usury.^m In the contests which arose on this subject between the plebeians and the patricians, even in the sedition on the Mons Sacer, nothing was alleged, on the one hand, but justice, and on the other, the severity of contracts.ⁿ

They then only followed private agreements, which, I believe, were most commonly at twelve per cent. per annum. My reason is, that in the ancient language of the Romans, interest at six per cent. was called half-usury, and interest at three per cent. quarter-usury.^o Total usury must, therefore, have been interest at twelve per cent.

But if it be asked how such great interest could be established among a people almost without commerce, I answer that this people, being very often obliged to go to war without pay, were under a frequent necessity of borrowing: and as they incessantly made happy expeditions, they were commonly well able to pay. This is visible from the recital of the contests which arose on this subject; they did not then disagree concerning the avarice of creditors, but said that those who complained might have been able to pay, had they lived in a more regular manner.^p

They then made laws which had only an influence on the present situation of affairs: they ordained, for instance, that those who enrolled themselves for the war they were engaged in should not be molested by their creditors; that those who were in prison should be set at liberty; that the most indigent should be sent into the colonies; and sometimes they opened the public treasury. The people, being eased of their present burdens, became appeased; and as they required nothing for the future, the Senate was far from providing against it.

^m Usury and interest among the Romans signified the same thing.

ⁿ See Dionysius Halicarnassus, who has described it so well.

^o "Usuræ semisses, trientes, quadrantes." See the several titles of the

digests and codes on usury, and especially the 17th law, with the note ff. "de Usuris."

^p See Appian's speech on this subject, in Dionysius Halicarnassus.

At the time when the Senate maintained the cause of usury with so much constancy, the Romans were distinguished by an extreme love of frugality, poverty, and moderation: but the constitution was such that the principal citizens alone supported all the expenses of government, while the common people paid nothing. How, then, was it possible to deprive the former of the liberty of pursuing their debtors, and at the same time to oblige them to execute their offices, and to support the republic amidst its most pressing necessities?

Tacitus says that the law of the Twelve Tables fixed the interest at one per cent.^q It is evident that he was mistaken, and that he took another law, of which I am going to speak, for the law of the Twelve Tables. If this had been regulated in the law of the Twelve Tables, why did they not make use of its authority in the disputes which afterwards arose between the creditors and debtors? We find no vestige of this law upon lending at interest; and let us have ever so little knowledge of the history of Rome, we shall see that a law like this could not be the work of the Decemvirs.

The Licinian law, made eighty-five years after that of the Twelve Tables,^r was one of those temporary regulations of which we have spoken. It ordained that what had been paid for interest should be deducted from the principal, and the rest discharged by three equal payments.

In the year of Rome 398, the tribunes Duellius and Menenius caused a law to be passed, which reduced the interest to one per cent. per annum.^s It is this law which Tacitus confounds with that of the Twelve Tables,^t and this was the first ever made by the Romans to fix the rate of interest. Ten years after^u this usury was reduced one-half,^v and in the end entirely abolished;^w and if we may believe some authors whom Livy had read, this was under the consulate of C. Martius Rutilius and Q. Servilius, in the year of Rome 413.^x

It fared with this law as with all those in which the legislator carries things to excess: an infinite number of ways were

^q "Annal." lib. VI.
^r In the year of Rome 379.—Tit. Liv. lib. VI.

^s "Unciaria usura."—Tit. Liv. lib. VII. See the "Defence of the Spirit of Laws," article "Usury."

^t "Annal." lib. VI.
^u Under the consulate of L. Manlius Torquatus and C. Plautius, according

to T. Liv. lib. VII. This is the law mentioned by Tacitus, "Annal." lib. VI.

^v "Semiunciaria usura."
^w As Tacitus says, "Annal." lib. VI.

^x This law was passed at the instance of M. Genucius, Tribune of the people.—Tit. Liv. lib. VII., towards the end.

found to elude it. They enacted, therefore, many others to confirm, correct, and temper it. Sometimes they quitted the laws to follow the common practice; at others, the common practice to follow the laws; but in this case, custom easily prevailed.^y When a man wanted to borrow, he found an obstacle in the very law made in his favor; this law must be evaded by the person it was made to succor, and by the person condemned. Sempronius Asellus, the pretor, having permitted the debtors to act in conformity to the laws,^z was slain by the creditors for attempting to revive the memory of a severity that could no longer be supported.^a

I quit the city, in order to cast an eye on the provinces.

I have somewhere else observed that the Roman provinces were exhausted by a severe and arbitrary government.^b But this is not all, they were also ruined by a most shocking usury.

Cicero takes notice, that the inhabitants of Salamis wanted to borrow a sum of money at Rome, but could not, because of the Gabinian law.^c We must, therefore, inquire into the nature of this law.

As soon as lending upon interest was forbidden at Rome, they contrived all sorts of means to elude the law;^d and as their allies,^e and the Latins, were not subject to the civil laws of the Romans, they employed a Latin, or an ally, to lend his name, and personate the creditor. The law, therefore, had only subjected the creditors to a matter of form, and the public were not relieved.

The people complained of this artifice; and Marius Sempronius, tribune of the people, by the authority of the Senate, caused a plebiscitum to be enacted to this purport, that in regard to loans the laws prohibiting usury between Roman citizens should equally take place between a citizen and an ally, or a citizen and a Latin.^f

At that time they gave the name of allies to the people of Italy properly so called, which extended as far as the Arno and the Rubicon, and was not governed in the form of a Roman province.

^y "Verteri jam more fœnus receptum erat."—Appian "on the Civil War," lib. I.

^z "Permisit eos legibus agere."—Appian "on the Civil War," lib. I.; and the "Epitome" of Livy, lib. LXIV.

^a In the year of Rome 663.

^b Book XI. chap. 19.

^c "Letters to Atticus," lib. V. ep. 21.

^d Livy.

^e Ibid.

^f In the year 559 of Rome. See Livy.

It is an observation of Tacitus,^g that new frauds were constantly committed, whenever any laws were passed for the preventing of usury. Finding themselves debarred from lending or borrowing in the name of an ally, they soon contrived to borrow of some inhabitant of the provinces.

To remedy this abuse they were obliged to enact a new law; and Gabinius^h upon the passing of that famous law, which was intended to prevent the corruption of suffrages, must naturally have reflected that the best way to attain his end was to discourage the lending upon interest: these were two objects naturally connected; for usury always increased at the time of elections,ⁱ because they stood in need of money to bribe the voters. It is plain that the Gabinian law had extended the *senatus-consultum* of Marcus Sempronius to the provinces, since the people of Salamis could not borrow money at Rome because of that very law. Brutus, under fictitious names, lent them some money^j at four per cent. a month,^k and obtained for that purpose two *senatus-consultums*; in the former of which it was expressly mentioned that this loan should not be considered as an evasion of the law,^l and that the Governor of Sicily should determine according to the stipulations mentioned in the bond of the Salaminians.

As lending upon interest was forbidden by the Gabinian law between provincials and Roman citizens, and the latter at that time had all the money of the globe in their hands, there was a necessity for tempting them with the bait of extravagant interest, to the end that the avaricious might thus lose sight of the danger of losing their money. And as they were men of great power in Rome, who awed the magistrates and overruled the laws, they were emboldened to lend and to extort great usury. Hence the provinces were successively ravaged by everyone who had any credit in Rome: and as each governor, at entering upon his province, published his edict^m

^g "Annal." lib. VI.

^h In the year 615 of Rome.

ⁱ See "Cicero to Atticus," lib. IV. ep. 15 and 16.

^j "Cicero to Atticus," lib. VI. ep. 10.

^k Pompey having lent 600 talents to King Ariobarzanes, made that prince pay him thirty Attic talents every thirty days.—"Cic. ad Att." lib. III. ep. 21, lib. VI. ep. 11.

^l "Ut neque Salaminis, neque cui eis dedisset, fraudi esset."—Ibid.

^m Cicero's edict fixed it to one per cent. a month, with interest upon interest at the expiration of the year. With regard to the farmers of the republic, he engaged them to grant a respite to their debtors; if the latter did not pay at the time fixed, he awarded the interest mentioned in the bond.—"Cic. ad Att." lib. VI. ep. 1.

wherein he fixed the rate of interest in what manner he pleased, the legislature played into the hands of avarice, and the latter served the mean purposes of the legislator.

But the public business must be carried on; and wherever a total inaction obtains, the state is undone. On some occasions the towns, the corporate bodies and societies, as well as private people, were under the necessity of borrowing—a necessity but too urgent, were it only to repair the ravages of armies, the rapacity of magistrates, the extortions of collectors, and the corrupt practices daily introduced; for never was there at one period so much poverty and opulence. The Senate, being possessed of the executive power, granted, through necessity, and oftentimes through favor, a permission of borrowing from Roman citizens, so as to enact decrees for that particular purpose. But even these decrees were discredited by the law; for they might give occasion to the people's insisting upon new rates of interest, which would augment the danger of losing the capital, while they made a further extension of usury.* I shall ever repeat it, that mankind are governed not by extremes, but by principles of moderation.

He pays least, says Ulpian, who pays latest.^o This decides the question whether interest be lawful; that is, whether the creditor can sell time, and the debtor buy it.

* See what Lucretius says, in the "21st letter to Atticus," lib. V. There was even a general senatus-consultum,

to fix the rate of interest at one per cent. per month. See the same letter, ^o Leg. 12 ff. "de verb. signif."

