

some with living kine, and some with captives." And in the *Odyssey* (*d*) we meet with the very suggestive phrase—

πρίατο κτεάτεσσιν εἶσιν.

But, as Paul points out in Bk. xvii., Tit. I. of the Digest, although these transactions were relied on by a certain school of Roman jurists as indicating that there was a complete system of contracts of sale in use at as early a period in history as the date of the Homeric poems, the passages quoted disclose simple transactions of barter and nothing more. Even at the most flourishing period of their national existence the ancient Greeks shewed a fatal inaptitude for business methods. Their curious, not to say stupid, failure to apprehend the true function of "money" was alone sufficient to prevent them from becoming a commercial people. Profit derivable from the use of money was prohibited by law, and even so enlightened a thinker as Aristotle could confound "interest" with "usury" (τόκος), and denounce it as unjust (*a*). Indeed the whole social atmosphere of ancient Hellas was inimical to the development of systematized commerce. The Greek States were constantly at strife between themselves; their peoples despised foreign traders; they attempted to prohibit both exports and imports of certain staple commodities; above all, they were known to the outside world as a dishonest race, who would not scruple to repudiate their obligations (*b*). Hence we naturally turn from the annals of Hellenic civilization to those of the Roman in order to discover the foundations of the modern law of Contract.

Although at a very early period in Roman history commerce is seen to follow upon the footsteps of military conquest, yet, as has been before pointed out, we must not expect to discover any normalization of mercantile transactions until Rome came to be recognized as the commercial centre of the world. Dr. Muirhead, in his work on Roman Law, says:

"To speak of a law of obligations in connection with the regal period, in the sense in which the words were understood in the later jurisprudence, would be a misapplication of language. It would be going too far to say, as is sometimes done, that before

(*d*) Bk. i. 430.

(*a*) See his *Politics*, i.

(*b*) Cf. Cicero: *Pro Cæcina*; also Mahaffy's *Social Life in Greece*, cap. xi.