Historical introduction to the private law of Rome

Muirhead James
HISTORICAL INTRODUCTION TO THE PRIVATE LAW OF ROME

BY THE LATE

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PREFACE TO SECOND EDITION

In preparing a new edition of this book my principal object has been to supplement the author’s notes by references to the most recent authorities, viz. to such works of importance dealing with the history of Roman Law as have been published since the date of the first edition, and have come within my reach. No alteration has been made in the text, except by way of correcting a few verbal inaccuracies. Neither has any attempt been made to critically examine certain theories propounded by the author regarding primitive Roman institutions, such as the origin and effects of mancipatio and nexum, even where I might not be disposed to accept all his conclusions. To have done so in detail would have swollen the notes and increased the size of the book to an inconvenient extent. It must always be kept in view that our knowledge of early Roman customs, at least till after the XII Tables, cannot be based upon historical evidence; it is almost entirely conjectural, and different writers will take different views according to the value they attach to this or that piece of presumptive evidence.

Among the works that I have consulted, I am specially indebted to the valuable and comprehensive treatises of Cuq, Les institutions juridiques des Romains, L’ancien droit; and P. F. Girard, Manuel élémentaire de droit romain. I have
also consulted with advantage the useful notes appended to the French translation of this work by G. Bourcart of Nancy, and the Italian translation by L. Gaddi.

The notes I have made throughout the book are contained in square brackets. It has been thought advisable to insert in the appendix the conjecturally restored text of the XII Tables, along with a few notes. In doing so, the arrangement of the fragments made by Schoell, and adopted by Bruns in his *Fontes Juris*, has been followed, as it is the one with reference to which the laws are now usually cited. One or two notes on special topics have also been added to the appendix, and the index has been slightly enlarged.

For several useful suggestions, which have been given effect to in the notes, I have to thank Dr. Emerton of Christ Church, and Dr. Williams of Lincoln College, Oxford. I have also to express my grateful acknowledgments to Mr. W. M. Harrison, Fellow of All Souls College, who kindly read the whole of the proofs, and gave me much assistance by his valuable criticisms.

HENRY GOUDY.

Oxford, December 1898.
PREFACE TO FIRST EDITION

The following pages were written originally for the *Encyclopedia Britannica*, but had to be very much abridged in order to bring them within the limits of space the Editor could afford to devote to their subject. He did me the honour to express the opinion that their publication *in extenso* would prove of service to various classes of readers; and the Publishers of the *Encyclopedia* were so good as to urge me to adopt his suggestion. This book is the result.

I think it right to prefix this explanation; for the plan and execution might have been somewhat different had an independent volume been in contemplation from the first.

JAMES MUIRHEAD.

EDINBURGH, 1st October 1896.
CONTENTS

PART I

THE REGAL PERIOD

CHAPTER I

SOCIAL AND POLITICAL CONDITION OF ROME AND ITS POPULATION
DOWN TO THE TIME OF SERVUS TULLIUS

Dualistic result ....... 3-6

Sect. 2. The Patricians.—They alone ranked as citizens or Scribes. Their
patriae or clans. Gentile organisation. Relation between the gentes and
their constituent families ....... 6-9

Sect. 3. The Clients.—How clientage arose. Relation between patron and
client ....... 8, 9

Sect. 4. The Plebeians.—Origin of the plebs. Accessions to its ranks.
Different races and customs represented. Some of the plebeians belonged to
guilds of craftsmen. The greater number engaged in agriculture. Had
no gentile institutions and no share in government ....... 9-13

CHAPTER II

REGULATIVES OF PUBLIC AND PRIVATE ORDER

Sect. 5. Absence of any definite System of Law.—Pomponius’s account
of the early law. Errors in it. Pas, jus, and boni mores ....... 14, 15

Sect. 6. Pas.—What understood by it. Its behests. Their enforcement.
The homo socier ....... 15-18

The lex socius ....... 18-21

Sect. 8.—Bonis Mores.—Their function; restraining jus and supplementing
it. Illustration: influencing faithfulness to engagements ....... 21-23
CONTENTS

CHAPTER III

INSTITUTIONS OF THE PRIVATE LAW

Sect. 9. The family organisation.—The familia and its head and members. The patrician family. Its perpetuation a religious duty. Consuestrate marriage. The husband's resulting manus over his wife. His patria potestas over issue of the marriage. Recruitment of a family by adoption when marriage fruitless. Conjugal and parental (as distinguished from domical) position of the paterfamilias. How and when the pot. potestas came to an end. Guardianship of wife, daughters, and pubil sons on death of paterfamilias. The family clients and slaves. Plebeian family relationships. No justas nuptiae. Their formal union only matrimonii. Exercised a de facto pot. potestas. Having no gentes, set more store than the patricians on cognati and adfines . . . . 24-38


Sect. 11. The order of succession.—Patrician practice. By law a man's wife and children, if in manus and in potestate at his death, were his proper heirs (sui heredes); failing them his gens succeeded. Children who had quitted the family by marriage or otherwise were not sui heredes. By law no preference of sex or age. Splitting up of a hereditas avoided by testamentary arrangement. Testaments made with sanction of curies. Plebeian order of succession. De facto a plebeian's children in potestate succeeded. Having no gentiles, and being unable to make a testament, his succession was de jure vacant on failure of children. Its de facto appropriation by a kinman,—the foundation of the later unius in potestate herede . . . . 42-43


CHAPTER IV

THE SERVIAN REFORMS

CONTENTS

Sect. 14. Their Incidental Effects on the Law of the Family, of Succession, and of Contract.—Employment by plebeians of manus, under the name of compositio, as a civil form of marriage and means of acquiring manus over their wives. Their employment of it for mortises causa, disposal of their estates as a makeshift for a testament. Its employment, under the name of manus, in contracting money loans. Its employment in emancipation and adoption of a filiusfamilias, and in release of a sexual debtor. In all those applications it involved acquisition of manus. 83-87


PART II

THE JUS CIVILE

From the Establishment of the Republic till the Subjugation of Central and Southern Italy

CHAPTER I

Historical Events That Influenced the Law

Sect. 16. The Change from King to Consul.—The strife between patricians and plebeians and its causes. 79-81

Sect. 17. Political Inequalities Removed.—The first secession and the tribunate. The comitia plebis and its plebs. The second secession and the comitia of the tribes. The third secession and the Hortensian law. The Canuleian law and repeal of the prohibition of intermarriage of patricians and plebeians. The Licinian laws, admission of the plebeians to the consulate, and institution of the praetorship. Plebeians in all the magistracies. 81-86

Sect. 18. Uncertainty of the Law.—The Terentilian rotation, the Decemvirate, and the XII Tables. 86, 87

Sect. 19. The Public Lands.—How these were dealt with. Patrician monopoly. The Cassian law of 268 B.C. The Licinian laws. Later agrarian legislation. 87-88