

*Roman Law. Linguistic, Social and Philosophical Aspects.* By DAVID DAUBE, Regius Professor of Civil Law, University of Oxford. (The Gray Lectures, 1966.) [Edinburgh: at the University Press. 1969. vii, 194 and (Index) 9 pp. 45s. net.]

LANGUAGE is full of traps in historical scholarship as in other intellectual endeavour, no doubt more so where other peoples' or ancient language is the material of study. But there are regularities in language which are shared by more than one tongue. If not everyone who cooks is in English a cook, so not everyone who *scribit* is in Latin a *scriptor*, not everyone who *imperat* is an *imperator*, and not everyone who *spondet* is a *sponsor*. The agent noun has not necessarily so wide an ambit as the verb from which it is formed; very likely it denotes one who performs the action indicated by the verb in a special or striking way. It may seem obvious that, as it is not only a cook who cooks, so it is not only an *imperator* who *imperat*, and not only a *sponsor* who *spondet*. Yet the thesis has been advanced, by Mitteis and others, that *spondere* must originally have meant to promise as a *sponsor*—as a guarantor or surety.

Professor Daube's thesis in the first lecture published in this little book is that untested assumptions about language, for example that there must be an absolute, initial agreement between a verb and its agent noun, have contributed to false historical conclusions. Much new illumination can also come, the author shows, from attention to the evolution of action nouns, for example in English of neutralisation from neutralise, or nationalisation from nationalise; in Latin of *fructus perceptio* from *fructum percipere*, while, significantly, there was no emergence of *fructus separatio*: "strong and unexpected support" argues Professor Daube, for the thesis that "acquisition of fruits on separation is spurious, a post-classical intrusion into the earlier texts." The appearance of the action noun marks the attainment of a relatively advanced stage of institutionalisation of the action in question, and the history of the emergence of institutions may be charted by exploring the evolution of the respective action nouns. There is an illuminating discussion of the fact that the action noun *alienatio* precedes by hundreds of years the appearance of *acquisitio*: "conveyance" is an institutionalised conception long before "acquisition." Some verbs never generate the action noun, and if *fidepromissio* and *adpromissio*, for example, are totally absent from the sources, Professor Daube will have us think again about the concepts which these terms are supposed to represent. Sometimes, it may be, the institution, as well as the word, is a modern invention (see the discussion of *confirmatio donationis* at p. 38, note 3), or the modern invention of the action noun may invest an old rule or practice with a novel and false significance (cf. pp. 51–52, *denegatio actionis*).

Lecture 2, concerned with social and economic realities beneath the "systematic coherence and conceptual smoothness of the law," begins with a splendidly sustained piece of irony, directed against the view that the third chapter of the *lex Aquilia* imposed a penalty of the full value of the property damaged. Professor Daube's burlesque masks a formidable attack, though it should be said that it is only the extreme form of the opinion assailed, which holds the entire value to have been still the measure of damages in the classical law and as such applicable to all kinds of property, that suffers the full force of his criticism.

# Roman Law Linguistic Social And Philosophical Aspects

**John Peradotto, J. P. Sullivan**



## **Roman Law Linguistic Social And Philosophical Aspects:**

**Roman law** David Daube, 1969      **Roman law** David Daube, 1969      Women in the Ancient World John Peradotto, J. P. Sullivan, 1987-04-15 One of the reasons for the study of the Greek and Roman classics is their perpetual relevance. In no area can this position be more clearly defended than in the investigation of the feminine condition, for it was here that basic attitudes derogatory to the sex were molded by legal and social systems by philosophers and poets and by the thinking of men long since gone. *Women in the Ancient World* brings together essays that examine philosophy, social history, literature, and art and that extend from the early Greek period through the Roman Empire. Their wide range of critical perspectives throws new light on the personal, political, socio-economic, and cultural position of women.      *A Companion to Justinian's Institutes* Ernest Metzger, 1998 The *Corpus Iuris Civilis*, a distillation of the entire body of Roman law, was directed by the Emperor Justinian and published in A.D. 529. The *Institutes*, the briefest of the four works that make up the *Corpus*, is considered to be the cradle of Roman law and remains the best and clearest introduction to the subject. *A Companion to Justinian's Institutes* will assist the modern-day reader of the *Institutes* and is specifically intended to accompany the translation by Peter Birks and Grant McLeod, published by Cornell in 1987. The book offers an intelligent and lucid guide to the legal concepts in the *Institutes*. The essays follow its structure and take up its principal subjects, for example, slavery, marriage, property, and capital and noncapital crimes, and give a thorough account of the law relating to each of them. Throughout, the authors explain technical Latin vocabulary and legal terms.      *The Spirit of Roman Law* Alan Watson, 1995 This book is not about the rules or concepts of Roman law, says Alan Watson, but about the values and approaches, explicit and implicit, of those who made the law. The scope of Watson's concerns encompasses the period from the Twelve Tables around 451 B.C. to the end of the so-called classical period around A.D. 235. As he discusses the issues and problems that faced the Roman legal intelligentsia, Watson also holds up Roman law as a clear, although admittedly extreme, example of law's enormous impact on society in light of society's limited input into law. Roman private law has been the most admired and imitated system of private law in the world, but it evolved, Watson argues, as a hobby of gentlemen, albeit a hobby that carried social status. The jurists, the private individuals most responsible for legal development, were first and foremost politicians, and in the Empire, bureaucrats; their engagement with the law was primarily to win the esteem of their peers. The exclusively patrician College of Pontiffs was given a monopoly of interpretation of private law in the mid-fifth century B.C. Though the College would lose its exclusivity, and monopoly of interpretation of law remained one mark of a Roman gentleman. But only interpretation of the law, not conceptualization or systematization or reform, gave prestige, says Watson. Further, the jurists limited themselves to particular modes of reasoning; no arguments to a ruling could be based on morality, justice, economic welfare, or what was approved elsewhere. No praetor, one of the elected officials who controlled the courts, is famous for introducing reforms, Watson points out, and in contrast with a nonjurist like Cicero, no jurist theorized about the nature of law.

A strong characteristic of Roman law is its relative autonomy and isolation from the rest of life. Paradoxically this very autonomy was a key factor in the Reception of Roman Law, the assimilation of the learned Roman law as taught at the universities into the law of the individual territories of Western Europe. The Oxford Handbook of European Legal History Heikki Pihlajamäki, Markus D. Dubber, Mark Godfrey, 2018-07-04. European law, including both civil law and common law, has gone through several major phases of expansion in the world. European legal history thus also is a history of legal transplants and cultural borrowings, which national legal histories as products of nineteenth-century historicism have until recently largely left unconsidered. The Handbook of European Legal History supplies its readers with an overview of the different phases of European legal history in the light of today's state of the art research by offering cutting-edge views on research questions currently emerging in international discussions. The Handbook takes a broad approach to its subject matter both nationally and systemically. Unlike traditional European legal histories which tend to concentrate on heartlands of Europe, notably Italy and Germany, the Europe of the Handbook is more versatile and nuanced, taking into consideration the legal developments in Europe's geographical fringes such as Scandinavia and Eastern Europe. The Handbook covers all major time periods from the ancient Greek law to the twenty-first century. Contributors include acknowledged leaders in the field as well as rising talents representing a wide range of legal systems, methodologies, areas of expertise and research agendas.

*Roman Law in Context* David Johnston, 2022-05-12. This book explains how Roman law worked for those who lived by it by viewing it in the light of the society and economy in which it operated. Written in an accessible style with the minimum of legal technicality, the book is designed for students and teachers of Roman history as well as interested general readers. Topics covered include the family and inheritance, property and the use of land, business and commercial transactions and litigation. In this second edition, all chapters have been extensively revised and updated, and a new chapter on crime and punishment has been included. The book ends with an epilogue covering the fate of Roman law in medieval and modern Europe. David Johnston is a lawyer practising in the courts and draws on his experience of law in practice to shape the work and provide new insights for his readers. **European Legal History** Randall Lesaffer, 2009-06-25. This historical introduction to the civil law tradition considers the political and cultural context of Europe's legal history from its Roman roots. Political, diplomatic and constitutional developments are discussed, and the impacts of major cultural movements such as scholasticism, humanism, the Enlightenment and Romanticism on law and jurisprudence are highlighted. Aufstieg und Niedergang der römischen Welt: Principat. v Hildegard Temporini, Wolfgang Haase, 1994. *Popular Culture in Ancient Rome* J. P. Toner, 2013-04-25. The mass of the Roman people constituted well over 90% of the population. Much ancient history, however, has focused on the lives, politics and culture of the minority elite. This book helps redress the balance by focusing on the non-elite in the Roman world. It builds a vivid account of the everyday lives of the masses, including their social and family life, health, leisure and religious beliefs, and the ways in which their popular culture resisted the domination of the ruling elite.

The book highlights previously under considered aspects of popular culture of the period to give a fuller picture It is the first book to take fully into account the level of mental health given the physical and social environment that most people faced their overall mental health mirrored their poor physical health It also reveals fascinating details about the ways in which people solved problems turning frequently to oracles for advice and guidance when confronted by difficulties Our understanding of the non elite world is further enriched through the depiction of sensory dimensions Toner illustrates how attitudes to smell touch and noise all varied with social status and created conflict and how the emperors tried to resolve these disputes as part of their regeneration of urban life Popular Culture in Ancient Rome offers a rich and accessible introduction to the usefulness of the notion of popular culture in studying the ancient world and will be enjoyed by students and general readers alike

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