

ROMAN LAW IN  
CONTEXT

DAVID JOHNSTON

KEY THEMES IN ANCIENT HISTORY

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## ROMAN LAW IN CONTEXT

*Roman Law in Context* 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. The book discusses three main areas of Roman law and life: the family and inheritance; property and the use of land; commercial transactions and the management of businesses. It also deals with the question of litigation and how readily the Roman citizen could assert his or her legal rights in practice. In addition it provides an introduction to using the main sources of Roman law. The book ends with an epilogue discussing the role of Roman law in medieval and modern Europe, a bibliographical essay, and a glossary of legal terms. The book involves the minimum of legal technicality and is intended to be accessible to students and teachers of Roman history as well as interested general readers.

DAVID JOHNSTON is an advocate at the Scottish Bar and was Regius Professor of Civil Law in the University of Cambridge, and Fellow of Christ's College, from 1993 to 1999. His publications include: *On a Singular Book of Cervidius Scaevola* (1987), *The Roman Law of Trusts* (1988) and *Prescription and Limitation* (1999).

## KEY THEMES IN ANCIENT HISTORY

*Edited by P. A. CARTLEDGE Clare College, Cambridge and  
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Key Themes in Ancient History aims to provide readable, informed and original studies of various basic topics, designed in the first instance for students and teachers of Classics and Ancient History, but also for those engaged in related disciplines. Each volume is devoted to a general theme in Greek, Roman, or where appropriate, Graeco-Roman history, or to some salient aspect or aspects of it. Besides indicating the state of current research in the relevant area, authors seek to show how the theme is significant for our own as well as ancient culture and society. By providing books for courses that are oriented around themes it is hoped to encourage and stimulate promising new developments in teaching and research in ancient history.

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For my parents





## *Preface*

This book attempts to look at Roman law in its social and economic context. To do so is to court criticism from both historians and lawyers. The attempt, though arduous, is not quite doomed to failure: just over thirty years ago John Crook's deservedly successful *Law and Life of Rome* (1967) appealed to both camps. What need is there for anything more? Two points arise. First, if *Law and Life of Rome* aimed to illustrate the social and economic life of Rome through its law, the concern of the present book is more to understand the law in the light of the society and its economy.

Second, in the last thirty years there have been extraordinary finds of new evidence, especially inscriptions, and there have been remarkable developments in Roman social and economic history. A book which took proper account of all of this would be a good one. Unfortunately, this is not that book. To reflect all the new material would require a much longer treatment, and many years of painstaking composition.

This book therefore presents only a sketch, which may perhaps conjure up a faint image of what would be possible if the final work itself were ever to be executed. The book is aimed at historians rather than lawyers, and the choice of topics, emphasis in discussion, and bibliographical references all reflect that. The topic of commercial law is discussed more fully than the rest, partly because of its intrinsic interest and partly because it (unlike family law) has apparently not yet been much absorbed into the consciousness of historians.

For many constructive comments and suggestions I am most grateful to Peter Garnsey and Paul Cartledge, the editors of the series in which this book appears. The book would never have been finished had I not been able to enjoy the oasis of tranquillity that is the Robbins Collection at the Law School in Berkeley. For their hospitality and help I am glad to be able here to thank its staff and particularly its director, Laurent Mayali.

October 1998

