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Craig Anderson, ROMAN LAW FOR SCOTS LAW STUDENTS

Edinburgh University Press (www.edinburghuniversitypress.com), 2021. xxii + 474 pp.
ISBN: 9781474450195. £40.

The relationship between Roman law and Scots law is one which is often presumed but rarely considered. In law schools, introductory textbooks, and in discussions among academics and lawyers, Scotland is ascribed the supposedly unusual attribute of being a “mixed jurisdiction” – that is, one which is both an inheritor of the Civilian legal tradition of the Romans, as well as being influenced by the Common Law. This “mix” is complex, but its more sophisticated features are often misunderstood or disregarded. Craig Anderson’s new book, *Roman Law for Scots Law Students*, undertakes a welcome approach to the subject of Roman law’s role in Scots law. An approach which, through its investigation of Roman law and Scots law side by side, promises to unpick some of the complexity surrounding the “mix” in the Scottish lawyer’s methodology.

As the title suggests, the book is purposive. The purpose can be divided into two functions. The first function is to provide students with an account of Roman law. The second function is to use this account of substantive Roman law to show students the similarities and differences between the Roman and Scots approaches to particular legal points and, by extension, to encourage students to think about law’s historical foundations. While related, these functions are different. The first is well-trodden ground. There are many well-established introductory textbooks to the study of Roman law, several of which offer thoughtful, detailed and engaging explanations of their subject matter. The second function, however, is done far less. While the standard textbooks often give short overviews of the impact of Roman law on their target jurisdictions, and there exist several works which consider the reception and history of Roman law, a systematic and comprehensive textbook adopting a comparative method to substantive law between the ancient and the contemporary is not so close to hand, at least in Scotland. Some work has been done to this end, not least through the production of casebooks on areas of Roman law, but Anderson’s aim is more pointedly in the direction of outlining how Roman legal rules match up to their modern Scots equivalents.

The book is divided into five sections: an overview of Roman history; the law of persons; the law of property; the law of succession; and the law of obligations. The first section is a necessity for the modern student – long gone are the days when prospective law students would, by dint of a rigorous secondary education, be acquainted with a knowledge of classical history. Here, Anderson is succinct. He offers an accessible review of the key events in Roman history, contextualising the law within the turning chapters of the Roman story across a long period. No such account can be comprehensive, and the more advanced student will find more fruit on different trees, but as an introductory summary of Roman history for the undergraduate lawyer, the account given in this book is worthwhile.

From this point, the book adopts the classic division of Roman legal pedagogy: persons, things, and obligations. The law of persons presents an immediate obstacle for a textbook which aims to show the relationship between Scots law and Roman law. At Rome, status was paramount. In contemporary Scotland, it is not. At least, not in the same way. The result is that much of this section is devoted entirely to the function of setting out Roman law. There are points at which some consideration is given to Scots law, for instance on slavery, or the lack of it, but the cultural, moral, religious, economic and social distance between Roman and Scottish society, even early Scottish society, is so great as to render any comparison tenuous. In this part, therefore, the book is a Roman law textbook in the purer and more traditional form.

The law of things provides more fertile ground for examining Scots and Roman law together as some, but not all, of the historical and cultural considerations can be set aside in favour of a doctrinal approach. The treatment of things is subdivided between property and succession. In this section, the focus remains on an elucidation of Roman law, but there are fuller discussions of the reception of these legal ideas into Scots law. The reception is treated conceptually, with emphasis placed on the Scots receipt of doctrine from text. This is helpful, in that it allows the student to see clearly how the ancient law offered a template for legal solutions in modernity. While positivistic, this approach gives students an understanding of the mechanics of the rules.

The law of obligations also offers a chance to compare Roman and Scots doctrine, albeit in a less pronounced manner than was achievable with the law of things.

On the law, the book is thorough. A full and articulate description of the operation of the rules is given on every point. From a didactic perspective, greater clarity could have been achieved by the inclusion of more key texts in full to show the student the primary sources in which the ancient law is actually contained. The textbook, while giving a comprehensive overview of the law, must be read alongside a copy of the *Corpus Iuris Civilis* and *Gaius's Institutes* as the legal texts themselves are often omitted from explanations.

As a textbook of Roman law, this book is lucid and helpful. It is a good addition to the available literature. As a textbook with the specific aim of bringing together Roman and Scots laws for the benefit of the Scottish law student, the book forms part of an exciting movement within the scholarship of the Civilian tradition in Scotland. The “mix” of Scots law remains a difficult and underexamined concept, but a generation of students educated through textbooks which actively acknowledge the debt owed by the Scots to their Roman predecessors will be better placed to understand and analyse that complexity.

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