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Roby's Roman Private Law Roman Private Law in the times of Cicero and of the Antonines. By Henry John Roby, M.A., Hon. L.L.D. Two volumes. 30s. net.

S. G. Owen

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ipsa sui copia we should expect *sua ipsius c.*), and 6. 20. 20, 9. 13. 26 (*imputare*). Otherwise the differences between Pliny's style and that of the Republicans etc. are regularly and clearly brought out.

In a few places I cannot accept the explanation given in the notes. In 1. 10. 6 *nullus horror in cultu* means 'nothing careless about his dress, get-up' (cp. the common use of *cultus* in reference to style), not 'no rudeness in his manner'; 1. 12. 2 *utcumque* certainly does not go with *magnum* and the *vero* that follows so far from supporting that view makes it impossible: the word is here an adverb and means 'anyhow,' 'after all.' And so evidently in 5. 5. 2 which the ed. cites to support him; 1. 16. 2 *sententiae* here probably does not mean 'aphorisms,' as stated: it might mean 'epigrammatic sentences'—as it does e.g. in the title of the elder Seneca's work—and the Quintilian passages cited in the note undoubtedly refer to such gems of rhetoric. In 2. 1. 5 *colligit* is simply 'pick up': see Mart. 12. 82 c. *follem* and Sil. 10. 3 (a lion *per vulnere colligit hostem* leaps on his assailants and picks up one of them); 2. 11. 10 *cum cetera tum praecipue senatorum frequentia celeberrimus*, 'a time when the city was frequented by crowds of people of all kinds, especially senators': *cetera* is abl. I doubt if Pliny ever uses the 'adverbial' acc. *cetera*: it is quite needless to assume it here; 4. 13. 3 *stude* is 'go to college' rather than 'school': as Prof. Merrill notes, the teachers referred

to are *rhetoires*, not *grammatici*; 7. 24. 7. the heir of the gay Ummidia walks out from an exhibition when her company of actors appears: *hoc nepos, at hercule alienissimi homines...plauderant*. The contrast shows that *al.* means 'men who were in no way related to her': hence Pliny's joy that she left the rightful heir the bulk of her property and treated these *claqueurs* as they deserved. 'Of a very different kind' is a rather serious mistranslation.

In the useful summary of Plinian 'stylistic' which follows the notes Prof. Merrill gives 7. 27. 6 as possibly an ex. of the dative of agent 'perhaps the only ex. with other than perf. ptc.' But surely 2. 14. 12 is another: *pudet referre quae quam fracta pronuntiatione dicantur, quibus quam teneris clamoribus excipiuntur*.

I have noted one or two slips. On p. 206 we read '[the speech] of Pericles over the dead at Marathon'; is there any reason for assigning the famous *orator uir bonus dicendi peritus* to the younger Cato (p. 300)? The comma after *collegi* in 2. 11. 14 is inconsistent with the rendering in the note, and in 5. 16. 8 *omnia quae audiit saepe, quae dixit, aspernatur* the punctuation is surely rather misleading: none is needed except a comma before *saepe*. On p. 318 the rendering 'I cannot feel badly (*moleste fero*) that their opinion of my character is so high' reads strangely to English eyes. Is 'ponys' (p. 298) an Americanism?

WALTER C. SUMMERS.

ROBY'S ROMAN PRIVATE LAW.

Roman Private Law in the times of Cicero and of the Antonines. By HENRY JOHN ROBY, M.A., Hon. L.L.D. Two volumes. 30s. net.

THIS book is a solid contribution to the study of Roman Law, and is at the same time of inestimable importance to those interested in classical scholarship: for it is an attempt to present the Roman Law as it existed during the period of the highest development of the Latin race, that is to say from the close of the Republic to the end of the second century of our era, roughly speaking up to the date of the murder of Ulpian A.D. 228. Most treatises on Roman Law are based upon the law as codified and enacted by Justinian: they thus represent

the law of the Byzantine Empire rather than that of Italian Rome. This body of law is based upon and has its origin in Italian legislation: but for the classical student its significance and interest are more remote than in the case of the earlier law: for it is difficult to disentangle the earlier from the Byzantine elements.

To discriminate these elements is a task which demands one who is at once a lawyer and a scholar. These qualifications are rarely combined in one man, but they are peculiarly distinctive of Mr. Roby. And he has performed the labour which he has undertaken with a skill and lucidity which it would be impertinent in the present writer to praise. To few men of learning does the study of Latin owe so much as to Mr.

Roby. His *Latin Grammar*, the soundest and most scientific work on Latin Grammar in the English language, has had incalculable influence in giving precision to English scholarship: the syntax in itself supplies as good a training in logic as any formal text-book. His Introduction to the Digest and edition of the title *De Usufructu* are an important contribution to the study of Justinian's Digest. And now in the present elaborate work, the product of ripe scholarship and rich legal knowledge, Mr. Roby's untiring energy have provided a treatise which is at once an advanced text-book of the pre-Justinian law and a running commentary on the chief legal cruxes found in the texts of Roman authors. The main authorities are (1) Cicero and other Roman authors (2) Gaius, which is however a small work very imperfectly preserved, (3) such Laws and fragments of Laws as exist (4) quotations in the Digest from the works of great lawyers especially Julian Gaius Papinian Ulpian Paul. This part of the work has given rise to great difficulty, as the nicest care is required in distinguishing the earlier law from the Byzantine interpolations of Tribonian. 'It is impossible,' says Mr. Roby, 'to avoid drawing largely of the waters of the Digest, however suspicious one may justly feel of their being tainted. Justinian's great work in consolidating and amending Roman law was absolutely necessary, if it was to take the place it has taken in the usage of European nations, but his books are full of pitfalls for the student of earlier law. *Incedo per ignes suppositos cineri doloso*' (i. vii.).

After a discussion of the sources of Roman Law, Book I deals with citizenship and status, their modes of acquisition and loss: and suits about freedom (*causae liberales*). Book II concerns the family. The position of slaves, children, wives *in manu*, patrons and freedmen, guardians and wards, *curatores* (which Mr. Roby quaintly translates 'caretakers'), husbands and wives, and arising therefrom the law of dowry and dissolution of marriage are discussed. Book III deals with the law of inheritance, wills, intestate succession, acquisition of inheritance, *bonorum possessio*, *hereditatis petitio*, legacy, trusts, and other matters, such as the restrictions on childless persons. Book IV concerns property in relation to ownership, possession, servitudes, then certain protective interdicts as to easements, the interdicts *de itinere actusque privato*, *de aqua cottidiana et aestiva*, *de rivis*, *de cloacis*; finally gift is treated.

Book V concerns obligations, which are classed under five heads, according to their aim. First stand obligations leading to *stricta iudicia*, viz., *stipulatio*, *litterarum obligatio*, *mutuum* and 'other *condictiones*, where there is at most a constructive contract, or claim analogous to that on a money-loan' (ii. 4). Secondly come obligations leading to *bonae fidei iudicia*, loan (*commodatum*), deposit, trusts (*fiducia*, *pignus* and *hypotheca*), partnership (*societas*), purchase and sale (*emptio venditio*), letting and hiring (*locatio conductio*). Thirdly stand semi-delictal obligations which necessitate discharge without dispute or delay, such as *damni iniuria*. Fourthly stand obligations involving *delictum*, theft, robbery, harbouring of runaway slaves, intimidation, fraud. Fifthly are dealt with liabilities on contracts and delicts of persons other than the defendant. Sixthly come obligations involving persons of insufficient age (minors) or persons in absence or captivity (*postliminium*), etc. Book VI deals with procedure: the constitution of the courts, modes of suing, appeals, execution, and interdicts. The work concludes with four essays on Cicero's four private speeches, pro Quintio, pro Q. Roscio Comoedo, pro Tullio, pro Caecina.

It is obvious from this summary that we have here a complete treatise on the law. It is at once clear in statement and arrangement, and elaborate in detail. It places before the reader fully and copiously the original Latin texts, and in the foot-notes collects illustrative passages from the Latin classics, especially Cicero: and it takes into complete consideration the views of modern authorities on Roman law, chiefly continental. It will make easier the path of the future editor of Cicero's Verrines and technical speeches. For instance the passage in pro Murena § 27, where Cicero derides the ingenuity of lawyers, is elucidated under the head of *coemptio tutelae evitandae causa* (i. 71), and of *tutela mulierum* (i. 101). Marriage within prohibited degrees is illustrated by the marriage of Sassia, Cic. pro Clu. § 12 (i. 129). The difficult passage in Verr. II. i. § 115 regarding the intestate succession in the case of Minucius, and the rights of *gentiles* in such circumstances is examined under the head of intestate succession (i. 221). Cicero's determination to proceed against Dolabella for recovery of dowry and thus to free the sureties Ad Att. xvi. 15 § 2, receives new light (ii. 35). Appeal for reinstatement coupled with application for

double damages (*in duplum ire*) is considered in connexion with the *crux pro Flacc.* § 29, where Mr. Roby believes that the plaintiff sued for double damages because the defendant had enforced a judgement which was no judgement (ii. 422).

The four essays upon Cicero's private speeches, with which the work concludes, are the most luminous attempt that has been made to disentangle the complexities of these speeches, which are among the hardest and most interesting of Cicero's forensic remains. Mr. Roby speaks sympathetically of the *pro Quintio*. 'One cannot but admire young Cicero's courage in taking up the case and pleading it with such vigour . . . while Sulla was dictator. But genius gives impulse and confidence; and genius alone could have excited the enthusiasm and won the favour which have preserved to us so many of Cicero's speeches and writings, when all the other oratory and

almost all the prose writings of the Republic, except his, have been allowed to perish' (ii. 469). To the 'brilliant' *pro Caecina* Mr. Roby pays the special attention that it deserves. The argumentative power, luminous exposition, and irony of this speech, combined with absence of frothy rhetoric, make it one of the greatest monuments of ancient oratory. With regard to the two interdicts *de vi* which play so large a part in it, Mr. Roby concludes that both assumed possession, but that with the *interdictum de vi* such possession must not be faulty, while with the *interdictum de vi hominibus armatis* even faulty possession was sufficient.

The work concludes with two indexes, an index of words and matters, and an index of passages referred to in Cicero and other writers.

S. G. OWEN.

KROMAYER'S ANCIENT BATTLE-GROUNDS.

Antike Schlachtfelder in Griechenland. Von J. KROMAYER. Band I. Von Epaminondas zum Eingreifen der Römer. Pp. x + 352. 6 Lithographic Maps, 4 Photographic Plates, 3 Sketches in Text. Berlin: Weidmann, 1903. Mk 12.

THIS is an interesting book, not only as throwing light on the four battles with which it specifically deals, but also for its general conclusions on Ancient Military History. The author examined the topography in the Spring of 1900 in company with two officers in the German Army, and his book is dedicated to Herr Graf v. Schlieffen, chief of the General Staff. He believes that the military operations of antiquity are some of the best examples that can be found to illustrate modern strategy and tactics, if only for the reason that they are on a smaller scale, and therefore clearer (p. 19). He draws interesting comparisons, as for instance between Mantinea and Leuthen (p. 69), and makes one feel confident that his criticisms, whether we accept them or not, are not those of an amateur, but what a member of the German General Staff would write of a modern battle.

In explaining the careful estimates he has attempted to make of the forces engaged in each case, Kromayer makes the sensible

remark that it matters little whether one knows numbers down to a hundred or a thousand, but that it makes all the difference to the character of a battle whether twenty or forty or sixty thousand men fought in it (p. 12). Whether his data are in all cases sufficient may be a matter of opinion, but most of us will probably admit that it is a line of inquiry that has not always been pursued far enough. The four battles which are dealt with in detail are Mantinea (362 B.C.), Chaeronea (338 B.C.), Sellasia (221 B.C.), and Mantinea (207 B.C.). In each case the strategy of the whole campaign is carefully considered, and a supplement is devoted to its chronology. That on Chaeronea is important, as it is a defence on new evidence of the old view that the capture of Elatea occurred in the autumn of 339. This was Grote's view (chap. xc), and it has this advantage in its favour that it allows the natural interpretation of the 'Winter Battle' for ἡ χειμερινή of *De Corona* § 216. There has however been much to say on the other side, and among British historians, both Hogarth (Philip and Alexander of Macedon, pp. 121 and 126) and Bury (*History of Greece*, ii, 315) take the view that Philip did not seize Elatea till the spring of 338. As in this case there was no winter campaign, ἡ χειμερινή has to