

**THE ORIGIN AND HISTORY OF
CONTRACT IN ROMAN LAW: DOWN
TO THE END OF THE REPUBLICAN
PERIOD (BEING THE YORKE PRIZE
ESSAY FOR THE YEAR 1893)**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649664078

The Origin and History of Contract in Roman Law: Down to the End of the Republican Period
(Being the Yorke Prize Essay for the Year 1893) by W. H. Buckler

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

W. H. BUCKLER

**THE ORIGIN AND HISTORY OF
CONTRACT IN ROMAN LAW: DOWN
TO THE END OF THE REPUBLICAN
PERIOD (BEING THE YORKE PRIZE
ESSAY FOR THE YEAR 1893)**

CONTRACT IN ROMAN LAW.

London: C. J. CLAY AND SONS,
CAMBRIDGE UNIVERSITY PRESS WAREHOUSE,
AND
STEVENS AND SONS, LIMITED,
119 AND 120, CHANCERY LANE.



Leipzig: F. A. BROCKHAUS.
New York: MACMILLAN AND CO.

©

THE ORIGIN AND HISTORY
OF
CONTRACT IN ROMAN LAW
DOWN TO
THE END OF THE REPUBLICAN PERIOD.

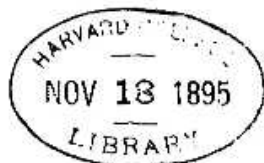
(BEING THE YORKE PRIZE ESSAY FOR THE YEAR 1893)

BY
William Hopburn
W. H. BUCKLER, B.A., LL.B.
OF TRINITY COLLEGE, CAMBRIDGE.

LONDON:
C. J. CLAY AND SONS,
CAMBRIDGE UNIVERSITY PRESS WAREHOUSE,
AVE MARIA LANE.
1895

[All rights reserved.]

HH 7168.95
~~V. 8554~~



Lucy Csgood farm.

Cambridge:
PRINTED BY J. & C. F. CLAY,
AT THE UNIVERSITY PRESS.

PREFACE.

IN treating so vast a subject within the narrow limits of an essay it is impossible to give a full description of every contract: I shall therefore assume the reader to be familiar with the ordinary terms and rules of Roman Law. It is equally impossible to discuss every debatable point on which historians have differed. Such works as the two large volumes by Bechmann on the history of Sale are indeed a rebuke to superficial scholarship; but the present essay professes only to be a sketch, and I shall be satisfied if I succeed in making the outlines clear.

W. H. B.

The following authorities have been consulted for the purposes of this essay:

Bachofen.	Das Pfandrecht.
Baron, I.	Geschichte des römischen Rechts. 1884. III Abhandl. aus dem röm. Civilpr. 1881.
Bechmann, C. G. A.	Der Kauf. 1876. Das röm. Dotalrecht.
Bekker, E. I.	Aktionen des röm. Privatrechts. 1871.
Bethmann-Hollweg.	Civilprozesse.
Bruno, C. G.	Fontes iuris rom. antiqui. (5th Ed.)
Carnazza, G.	Il diritto commerciale dei Romani. 1891.
Christiansen.	Institutionen des röm. Rechts.
Clark, E. C.	Early Roman Law. 1872.
Costa, E.	Il dir. privato nelle commedie di Plauto. Le azioni exercitoria ed institoria.
Danz, H. A. A.	Lehrbuch der Gesch. des röm. Rechts. (2d Ed.) 1871. Der sacrale Schutz im röm. Rechts- verkehr, 1857.
Dernburg.	Das Pfandrecht.
Girtanner.	Die Stipulation. 1859. Ueber die Sponsio.
Gneist.	Die formellen Verträge. 1845.
Heimbach, G. E.	Lehre von dem Creditum. 1849.
Hugo.	Röm. Rechtsgeschichte.
Hunter.	Systematic Code of Roman Law. 1876.
Huschke.	Das Nexum. 1846.
Ihering, R. von	Geist des röm. Rechts. 1852.
Karlowa, O.	Civilprozess zur Zeit der L. Aktionen.
Karsten.	Die Stipulation. 1878.
Keller, F. L. von	Der röm. Civilprozess. (5th Ed.) 1878.
Leist.	Greco-Italische Rechtsgeschichte. Altarisches Ius Civile. Altarisches Ius Gentium. Geschichte der röm. Societas, 1881.
Lenel, O.	Das Edictum perpetuum. 1883.
Lieba.	Die Stipulation. 1840.

Meykow, R. von	Diction der röm. Brautgabe. 1850.
Maine, Sir H. S.	Ancient Law. Early History of Institutions.
Mommsen.	History of Rome (Dickson tr.). 1862. Gesch. des röm. Münzwesens. 1860. Stadtrechte von Salpensa, &c.
Moyle.	Institutes of Justinian.
Muirhead, J.	Private Law of Rome. 1886.
Muther.	Die Sequestration.
Ortolan.	Hist. of Roman Law (Eng. translation). 1871.
Pernice, L. A. F.	M. Antistius Labeo. 1873.
Poste.	Gaius.
Pott, A. F.	Etymologische Forschungen. 1859.
Puchta.	Institutionen.
Rivier.	Untersuchungen ueber die Cautio, &c.
Rudorff, A. A. F.	Röm. Rechtsgeschichte. 1858. Das Edictum perpetuum. 1869.
Salpina.	Novation u. Delegation.
Savigny, F. C. von	Vermischte Schriften.
Schilling.	Institutionen.
Schlessinger.	Lehre von den Formalcontracten. 1858.
Ubbelohde.	Gesch. der benannten Realcontracten.
Voigt, M.	Röm. Rechtsgeschichte. Vol. 1. 1892. Die XII Tafeln. 1863. Lehre vom Ius Naturale. 1856—1876.
Walter.	Röm. Rechtsgeschichte.
Wunderlich, A.	De antiqua litterarum obligatione. 1832.

PERIODICALS.

- Krit. Vierteljahrschrift für geoch. Rechtswissenschaft.*
Zeitschrift für Rechtsgeschichte.
Zeitschrift für Civilrecht und Process.
Nouvelle Revue historique de Droit.
Phil. Hist. Abhandlungen der kön. sächs. Gesellschaft der Wissenschaft.
Phil. Hist. Berichte (of the same).
Zeitschrift der Savigny Stiftung. (Röm. Abtheilung.)