

# Roman Law & The Twelve Tables

The Romans were one of the most legally minded people in history. The development of their law was Rome's GREATEST and most enduring achievement. Roman law formed during the Republic, was adapted to serve the needs of the Empire. When the Empire declined, it was carried forward into the legal system of the Middle Ages, where it became the model for European and South American law codes until the 20<sup>c</sup>.



The earliest law was that of religious customs. The Romans called them *fas*. The *pontiffs*, or priests, in their capacity as advisors to the kings, determined the *fas*. Disputes between individuals were arbitrated [decided] by the king who in the regal period was also a judge. The king's judgments were called *jus*, and they were first codified in the **Twelve Tables** in 450 BCE.

The Twelve Tables were strict and harsh [draconic]. They were also limited. As the little city-state of Rome by the Tiber River grew, more detailed laws were needed to regulate a society that was growing more complex and more civilized. The Roman *magistrates*, particularly the *praetors*, were the source of this new law. The *praetor's* duty was to decide cases by interpreting the Twelve Tables and by applying their regulations to the dispute in question. When the *praetor* had to judge a case where the law was not clear, or where it was not exactly suitable, he rendered an interpretation based on his opinion. This new ruling, if it worked, was then adopted by his successors. At the beginning of his term, each *praetor* issued an edict stating the principles he would use to guide him in administering the law. In this way, a body of law developed that could be changed to fit new needs, and yet was based on the customs and traditions inherited from the ancestors.

The largest body of Roman law was the *jus civile* or common law. It applied to Romans only. After Roman rule was extended over the Mediterranean, disputes arose between Roman and foreigners. In Rome, a new official, the *praetor* for foreigners, was appointed to listen to disputes between citizens and foreigners. In the provinces, the governors had the job of settling disputes between Romans and provincials. The opinion of both the *praetors* for foreigners and the governors together produced a new set of rules called the law of nations, or *jus gentium*. In order to make fair rulings, the *praetor* for foreigners and governors carefully studied the laws and customs of the conquered territories. Often they found that foreign laws and customs were applicable to Roman needs, so the *praetors* gradually incorporated them into the civil law. In such a way did the excellent maritime regulations of Rhodes become part of the Roman code.

As the law grew more complex over the centuries, schools arose to train lawyers in the technicalities of their profession. Two such schools had appeared by the reign of Augustus and they were later supplemented by several in the provinces. Lawyers advised the emperors, who became a new source of law by issuing **edicts**, while other jurists collected the written sources of law. In the reign of the Emperor Hadrian, these written sources were collected, edited and, by order of the emperor, issued into one body of law called the **Perpetual Edict**. It was binding in every Roman court. Some 400 years later, the Emperor Justinian issued the most famous law code in western antiquity, and it was through this code, the **Corpus Juris Civilis** or Body of Civil Law, that Roman law was passed on to us.

Roman law was based on the concept of JUSTICE and the RIGHTS OF THE INDIVIDUAL. It is from the Romans that we inherited the belief that a man should not be accused anonymously, that he should not be penalized for what he thinks, that he should be considered innocent until he is proven guilty. Justice, as defined by the Romans, was the *steady and abiding purpose to give every man that which is his own*. Remarkably, Rome's legal system developed in a pagan society in which slave labor was common, turned out to be adaptable to the Christian society of the Middle Ages, the capitalists of the 17<sup>c</sup>, and to us today.



**This painting shows a Roman trial by jury.**

## **The Twelve Tables:**

An important step in the political development of any people is the organization and publication of their laws in a way that makes it possible for all persons to know what the law is. About 450 B.C.E., the Romans codified their laws and inscribed them on twelve bronze tables which were set up in the Roman Forum. These Twelve Tables were the basis of all later Roman law, and through it, of the legal system of much of the world today.

Below are some of the more important excerpts from the Twelve Tables:

### **TABLE III:**

- 1. In the case of an admitted debt of awards made by a court, 30 days shall be allowed for payment.*
- 2. In default of payment, after these 30 days of grace have elapsed, the debtor may be arrested and brought before the magistrate.*
- 3. Unless the debtor discharge the debt, or someone come forward in court to guarantee payment, the creditor may take the debtor away with him and bind him with thongs and fetters the weight of which shall be fifteen pounds, or less if the creditor wishes . . .*
- 5. In default of settlement of the claim, the debtor may be kept in bonds for 60 days. In the course of this period he shall be brought before the judge on three successive market days, and the amount of the debt shall be publicly declared. After the third market day the debtor may be punished with death or sold beyond the Tiber.*

### **TABLE IV:**

1. *Monstrous or deformed offspring may be put to death by the father.*
2. *The father shall, during his who life, have absolute power over his children. He may imprison his son, or scourge him, or keep him working in the fields in fetters {chains}, or put him to death, even if the son held the highest offices of state . . .*

**TABLE V:**

1. *All women shall be under the authority of a guardian.*
2. *The provisions of the will of a **paterfamilias** [head of the household] concerning his property and the tutelage [support] of his family, shall have the force of law.*

**TABLE VI:**

1. *The legal effect of every contract, and of every conveyance shall rest upon the declarations made in the transaction.*
2. *Any one who refuses to stand by such contractual declarations shall pay a penalty of double damages.*

**TABLE VII: . . .**

7. *Holders of property along a road shall maintain the road to keep it passable; but if it be passable, anyone may drive his beast or cart across the land wherever he chooses.*

**TABLE VIII:**

1. *Whoever publishes a libel—that is today writes falsely imputed [intending] crime or immorality to anyone—shall be beaten to death with clubs . . .*
3. *For breaking a bone of a freeman, the fine shall be 300 asses; of a slave, 150 asses ..*
12. *A person committing burglary in the night may be lawfully killed.*
13. *A thief in the daytime may not be killed unless he carried a weapon . . . .*
23. *Perjurers and false witnesses shall be hurled from the Tarpeian Rock . . . .*
26. *Seditious [conspiratorial, rebellious] gatherings in the city during the night are forbidden.*



**Statue of Justice in front of the U. S. Supreme Court Building**