É. JAKAB, *RISIKOMANAGEMENT BEIM WEINKAUF: PERICULUM UND PRAXIS IM IMPERIUM ROMANUM* (Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte 99). Munich: C.H. Beck, 2009. Pp. vii + 284. ISBN 9783406582851. €74.00.

This erudite and densely argued study of the legal texts from the Roman world which deal with sales of wine is not an easy read, but it more than repays the effort. The subject, how in legal theory and practice the Romans and their subjects dealt with risk in large-scale purchases of wine, is a prime case-study of 'transaction costs' in the Roman Empire, of particular value because wine was a ubiquitous, relatively expensive and unstable good which has therefore left us substantial documentary and juristic evidence. Jakab is also a standard-bearer for the 'real life' approach to studying Roman law, and wine sales allow her to collate and compare the juristic sources with actual contracts and related documents from Roman and Byzantine Egypt, and also, looking back to the Republic, the specimen contract in Cato's *De Agricultura*. Her principal conclusion is that, despite the general Roman legal principle of *periculum emptoris*, both Roman legal writings and the contracts from Egypt developed similar clauses to limit, or at least clarify, the exposure of the purchaser to the particular risks, principally to do with quality and measurement, inherent in the practice of bulk-buying wine as must at the vintage for collection or delivery some months later, well after vinification.

J.'s detailed analysis of so many difficult texts, sometimes pressing them until they squeak, inevitably invites occasional disagreement. She does not directly address the broader question of whether the common contractual elements she finds reflect a trend to empire-wide legal norms or are inevitably similar responses to common practical problems. J. focuses on sale in advance (*Lieferungskauf*) because that is the best attested type in the legal writings and contracts, and sometimes slips into claiming it was the main type actually used. However, she notes that direct sales of ready wine may not have required contracts or caused juristic debate, and I suspect that most bulk dealing in wine to supply major cities and the army will have involved stocks of ready wine. Furthermore, fifty-two of the fifty-seven usable contracts from Egypt are of the fifth to seventh centuries, and only one before the third. Matched against total numbers of published texts per century, this type of contract looks to have been a predominantly Byzantine usage in Egypt. There is also the curious fact that forty-four of the contracts do not specify the price, which Bagnall has suggested was to mask usury while J. suggests that there may have been a separate receipt. To progress we need to put these contracts in their socio-economic context. First, by noting that these wine sales belong to a Byzantine boom in contracts of sale in advance of all kinds of goods, and also of labour contracts for vineyards (see *P.Heid*. V). Second, by looking at the positions of the contracting parties. *P.Oxy*. LXXVII 5123 (A.D. 555), just published, reveals a sale in advance of wine to Apion II, the great landowner at Oxyrhynchus, by one of his 'registered tenants'. Were these sales in advance a way in which small producers maintained their cash-flow and some economic independence or a means for the rich of keeping or gaining control, and were they an alternative or an adjunct to labour contracts? J.'s study has opened up fascinating issues for further investigation and debate.

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A. M. RIGGSBY, *ROMAN LAW AND THE LEGAL WORLD OF THE ROMANS*. Cambridge: Cambridge University Press. 2010. Pp. viii + 283. ISBN 9780521867511 (bound); 9780521687119 (paper). £55.00/US$85.00 (bound); £16.99/US$27.99 (paper).

This is a general introduction to Roman law for American undergraduates. They will have no prior knowledge of Roman law, and they may be attending the course less than willingly. This is because many American universities require students to study a handful of subjects outside of their area of concentration. This is important for understanding both the merits and shortcomings of this book.

In design the book most closely resembles John Crook's *Law and Life of Rome* and David Johnston's *Roman Law in Context*: Roman institutions and Roman law discussed with emphasis on daily realities. The main difference is that where Crook and Johnston regularly quote law, documents and ancient literature, the author of this book gives a straight narrative, indeed without notes. He was perhaps worried that students would be put off by original sources

(documents are in an appendix), and admittedly this is a difficult choice for a book like this. Roman sources are immediate to those who understand them but mysterious to a beginner. The author avoids mystery by entrusting everything to his own powers of description, synthesis, and simplification. This approach distinguishes this book from virtually every other introductory book on Roman law. In places the approach works well. The chapters on the legal profession and legal education are clear and interesting. The chapter on sources for Roman law offers a common-sense division, 'technical' (for or by lawyers) and 'non-technical'; this is an improvement on the traditional division of 'legal' and 'non-legal', which tends to elide our evidence for law with the Romans' sources of law, with artificial results (e.g., Gaius regarded as a lesser source). The chapter on social control brings together diverse institutions of private law and shows their public function. This is novel, and a good way to encourage students to think broadly about the law without having to engage with the law itself too closely. Finally, the chapter on law in the provinces brings to the students' attention several of the basic problems affecting the administration of justice outside Italy. Here it is very welcome to see the author pointing up the discrepancies between legal and documentary sources.

On the other hand, the author's straight-and-simple narrative is often overly reassuring. Telling students repeatedly to ignore some difficulty or detail is a lesson they may learn for all time. Apologizing for the unfairness of Roman society makes the Romans seem less deserving of study. Assimilating Roman institutions to modern ones discourages deeper thinking. The author clearly does not want to confuse the students, but is this really the best approach? A gentle tour without too much confrontation? Other introductory books allow students to be confused for a short time. They give them difficult sources and difficult ideas. They then gently reduce the distance until the law, though still unfamiliar, is no longer confusing. This is really how it ought to be done.

The chapters on substantive law suffer the most. It is difficult to introduce the rules of Roman law without going into some of the smaller points and providing texts and fact-based illustrations. This is not simply a lawyer's love of detail: the Romans' achievement in law-making is only apparent in the deeper regions of the law. For example, the author compares the character of the old formal contract and the newer informal contract, and prefers the latter for its flexibility. But this is an old trap. The formal contract is not 'a type of contract' but 'a way of making a contract', and there were virtually no limits to what could be done with it. You could use it to create sale or hire; to secure insurance from your neighbour from damage by his property; to settle a case; to forgive all debts and real claims in a single transaction; to litigate on any foolish or outlandish wager. In comparison, the purpose-bound informal contract was a straitjacket. Another example: the Lex Aquilia. This delict allowed liability for harm that was less than intentional, and causation, which had never been a problem before, suddenly demanded expert attention. The jurists' efforts to mark off remote, unactionable harm are found in a series of famous and stimulating texts. Past students of Roman law remember the barber and the muleteers even when they have forgotten everything else. But in the five hundred words which the author of this book has given to the Lex Aquilia, none of this achievement is apparent. In its place is a potted statement ('The person doing the damage had only to exercise a "reasonable" level of care in protecting others' property from foreseeable harm to avoid a charge'), which is not even Roman law but *Palsgraf vs Long Island Railroad*. In short, students learning from this book may not understand why one studies Roman law, and this is something an introductory book should avoid, even when the students are reading the book reluctantly.

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J. E. GAUGHAN, *MURDER WAS NOT A CRIME: HOMICIDE AND POWER IN THE ROMAN REPUBLIC*. Austin: University of Texas Press, 2009. Pp. xviii + 194. ISBN 9780292721111 (bound); 9780290705676 (paper). £35.00/US$50.00 (bound); US$25.00 (paper).

In this monograph, based on her 1999 PhD thesis, Judy E. Gaughan aims to re-interpret Republican Roman legal institutions that are commonly associated with murder from 753 to 81 B.C. and proposes a new interpretation of the relationship between homicide and power. G. argues that murder was not