

put in context the Lisbon Treaty and its impact on the EU institutional framework.

A minor quibble with the book is that there is no clear road map given for the reader. Even a short introductory chapter to lay out the structure of the book would have been helpful to the reader. Similarly, a final overall conclusion, in this reviewer's opinion, would have added to the undoubted value of this work. One may also question the order of some of the chapters. Indeed the seventh Chapter on the categories of legal acts should, in this reviewer's view, have followed the Chapter on law making process, and the discussion on the European courts and judicial protection should have been put towards the end of the book. But these are very minor criticisms.

In conclusion, *The Lisbon Treaty: Law, Politics, and Treaty Reform* is one of the finest legal analyses of the Lisbon Treaty. With its accuracy of information as well as high quality analysis, it is easy to predict that Craig's work will become essential reading for scholars and practitioners wishing to understand this Treaty and current EU law.

RICCARDO SCIAUDONE

Roman Law and the Legal World of the Romans. By ANDREW M. RIGGSBY.
[Cambridge: Cambridge University Press. 2010. 294 pp. Paperback
£ 17.99. ISBN 9780521687119.]

The study of Roman law in the (mainly English-speaking) common law world has been a sadly neglected art with its renaissance long overdue. Generally, Law students from this tradition graduate 'without a memory', not knowing the fine heritage of their profession. Such a state of affairs would not be tolerated in any of the social sciences or the humanities, let alone the natural sciences, yet it is tolerated in the law. The consequent absence of Roman law and Jurisprudence (pre-Jeremy Bentham) from the modern curriculum results in graduates lacking that depth of knowledge and understanding which makes them much more confident practitioners.

Books on Roman law are as precious as the Law schools where it is still taught and so it was with considerable excitement that this reviewer received Andrew M. Riggsby's recently published work. Typically (perhaps), Professor Riggsby is not an academic lawyer, but professor of classics and of art and art history at the University of Texas at Austin. Not that you would notice. Indeed, he has spent his career writing on the Roman social world, being, also, the author of *Crime and Community in Ciceronian Rome*.

Roman Law and the Legal World of the Romans, clearly, has been written with the U.S. scholarly market in mind. Whilst discussing the status of slaves, Riggsby writes: "Before turning to the details of the legal situation, it will be helpful to say a few words about the broader historical context, and in particular to note some differences from the kind of slavery more familiar to us [my emphasis] from American history" (p. 100). The anticipated market is assisted, throughout the work, with the inclusion of many examples and illustrations from the modern U.S. legal system. However, in the light of the paucity of books published on Roman law in the English language, it is a pity that the author has chosen to address such a narrow audience, leaving a much wider market feeling somewhat excluded. Naturally, parallels with United States law

could have been used, but other illustrations from the much wider common law world could have rendered the work much more 'ecumenical' and inclusive.

The study of Roman law essentially begins with the Twelve Tables (in the fifth century BC) and 'concludes' with the codification of Justinian (in the sixth century AD). It is a challenge for any Romanist to do justice to a millennium of jurisprudence. Riggsby writes: "[t]his book will focus on what historians would describe as the late Republic and the Principate" (p. 7). He acknowledges (p. 135) in the opening sentence to the chapter titled 'Ownership and Possession': "This is a particularly technical area of the law, and the extent of my simplification will be greater than usual." In a work of this kind, a certain level of simplification is unavoidable. However, it is not clear why the Dominate is largely excluded, and too much simplification can result in chronological confusion: such as on p. 191 and the emphasis (provided), during the discussion on theft, regarding the conducting of a ritual search of premises, which even (the second century jurist) Gaius referred to as an ancient practice. Of course, too much simplification can result in more general confusion: for example, the legislative decline of the assemblies and Senate not being explained (pp. 26–7); there being a muffled end to the discussion on joint ownership (p. 151); and, Riggsby's failure to indicate, from the second century BC, the first criminal court and the "single offense" over which it exercised jurisdiction (p. 156). Yet, on other occasions, Riggsby's presentation is flawless. Perhaps the best example is the opening to the chapter titled 'Inheritance' (p. 153): "Any society with private property needs rules to determine how to distribute a person's things when he dies. In Rome, this need was particularly acute because inheritance was more important than it is today as a means of acquiring wealth. Business opportunities certainly existed, but they were relatively rare and risky. Fewer people 'made' fortunes, and more were born into them." Perfect! Finally, in this context, the author should be credited for his bravery. The documents section, at the end (pp. 235–63), is a novel idea, but for an introductory work, which may for many of its readers be their first encounter with Roman law, the documents supplied, despite explanation, are likely to go 'over their heads'.

The Roman lawyer has a much harder job explaining his craft to students. The extent of the new terminology, in Latin, can be daunting and so many of the rules and principles are either archaic or prototypical of what the law relies and depends upon today. It is, therefore, essential to explain your terms well and properly. On the whole, Riggsby's book succeeds, but there are occasions when he fails. The role of the *publicani* (tax farmers) students generally find fascinating, but their function is not explained when they are first mentioned (p. 16), which is a missed opportunity. Nor is it reasonable to describe them as "private investors" (p. 132). Romans might, sooner, have called them 'parasites'. On occasions, examples are not given. Whilst discussing the penalty of *infamia*, Riggsby writes (p. 74): "There are also multiple stories of early imperial aristocrats deliberately committing offenses in order to incur *infamia* and thus escape legal restrictions on persons of status." Unfortunately, not one of these 'multiple stories' is given, by way of illustration. Finally, the meaning of abbreviations such as "SC", for *senatus consultum* (p. 161), should be explained (despite having been indicated at p. 27). On the other hand, where analogies are provided, the result is, on occasions, unsuccessful or 'out of the Roman world'. For example, twice describing the jurists (pp. 20 and 28) as the modern-day equivalent of "law professors". Yes, but was this the extent of their achievement? Further, (pp. 58–9, and in the context of higher educational

instruction) describing the *tirocinium fori* as “roughly, ‘political boot camp’”; the facility for members of the public to bring prosecutions (in the absence of any state prosecutor) as “wiki-policing” (at p. 76); and, most bizarre of all, (at p. 190) during his discussion on theft: “... if you kept a rental item beyond the agreed terms or used a rental car as a taxi (when you had agreed to personal use only), you might be liable for theft”. ‘Used a rented vehicle for a non-authorized purpose’ would have sufficed. Finally, Riggsby claims that the fifty books of Justinian’s *Digest* can each be compared with “the length of a long modern chapter” (at p. 39). This is wrong: ‘the length of a long essay’ would have been a more accurate description.

Tolerance and respect is one of the cornerstones of scholarship. The work is a consideration of the law and society of one of *the* most influential kaleidoscopes of the ancient world. However, it *is* the ancient world that is being elucidated. Use of the word ‘empire’, both for Rome as a “conquering power” and as an “Empire”, is clarified (p. 11). Whilst this clarification has its place, I suspect that those reading this book would have appreciated, already, the justification for the use of such a term. Second, variation of the gender of pronouns, when referring to indefinite persons, in light of, Riggsby informs us (p. 10), “contemporary concern for sexist language”, is unnecessary in a book discussing such a highly patriarchal system of law. Indeed, the author could have given a much more prominent place to this very perversity in the work. Instead, the outcome, whilst well-intended, can be distracting, even disingenuous. For example, when describing the common practice of manumission of slaves following the death of the master (p. 102), being confirmed in “her will”, when few women made wills. It is, of course, a testament to how much modern society is dissimilar from that of Rome when Riggsby, in introducing his section on marriage and divorce writes (p. 174): “There were a number of requirements for marriage under Roman law. The parties had to be of opposite sexes and otherwise unmarried.”

On occasions Riggsby goes wrong. His two jokes at the beginning of the work (p. 1: relating to why sharks don’t eat lawyers, and the number of lawyers it takes to screw in a light bulb) are not only off-putting (even silly), but even more inexplicably bear no relation to the work. Surely, the author could have borrowed some priceless (and relevant) remarks from Martial or Juvenal. The conclusion (if it can be identified as such) might have formed the basis for an interesting journal article, but completely spoils an otherwise successful book. Technically, it bears the worst fault of an undergraduate essay – introducing new ideas, instead of drawing conclusions from those previously presented and providing the reader with one final food for thought. It fails, further, to connect with the reference to Cicero at its beginning. The ‘legal world of the Romans’ may have been “a complicated one” (the work’s final remark); no doubt an accurate assumption to make; but the ‘contract’ between Boesius and Secundus, with all uncertainties regarding the manner of its interpretation, does not demonstrate it.

With such a paucity of works published on Roman law each year, it should be of particular concern that this book represents yet another in an increasing (and more general) trend ‘in favour’ of works introductory to introductory works. The pressure on academics of our generation to publish has meant that the scope for original and primary research is becoming ever less. Consequently, scholars appear to rely ever more on the writings of their 20th century predecessors who, not infrequently, devoted, often, many years to the writing of a single definitive text. It is imperative that scholars resist this pressure,

otherwise knowledge will decline not advance. Sadly, this work is yet another victim of this trend.

Of course, the above comments generally reflect this reviewer's criticisms. This, though, should not mask the fact that this is a very good and highly recommended book. On the whole, Riggsby has successfully undertaken a near impossible task: to explain, in a little over 200 pages, a highly sophisticated, complex and sometimes idiosyncratic system of law. It will be most useful as a first text for students of Roman law, prior to commencing their course (summer reading perhaps). It cannot though, in this reviewer's opinion, function as a textbook. Professional lawyers who did not study Roman law 'at school' should also be directed to the book. By avoiding 'stuffy tones', it would be a delightful book for such to take on holiday; should they wish to be informed and entertained, but not left feeling slightly depressed. A work such as this will draw more (not fewer) people to the pleasures of Roman law, and for this Professor Riggsby deserves both congratulations and thanks.

TIM POTIER

Select Ecclesiastical Cases from the King's Courts 1272–1307. By DAVID MILLON (ed). [London: Selden Society. 2009. cxxviii and 103 pp. Hardback £60. ISBN 9780854231270.]

At a time when the legitimate place of religion in English national life has become a matter of controversy and debate, with the relationship between secular and ecclesiastical norms being brought into question by British legislation and Roman scandal, it is good to seek some historical perspective on the issue. Professor David Millon's volume of *Select Ecclesiastical Cases*, edited with a superb analytical and learned introduction for the Selden Society, does precisely that. Based on work from his doctoral thesis, Millon offers an account of the relationship between the royal and ecclesiastical jurisdictions in the reign of Edward I (1272–1307). A key period for the development of "legislative and judicial initiatives in the growth of a national legal system", the reign also saw the appearance of "several clashes between church and state" at both national and international level (p. xv). The interpretation of his records offered by the editor in his introduction thus has two, complementary aims: firstly, to assess the effect that the changing nature of the developing common law had on the church courts and secondly, to see more precisely if and how the great political dramas and controversies played out between monarch, popes and archbishops affected the relationships of the courts. Millon here seeks to provide a counterpoint to grand constitutional and political narratives of church and state by a focus on the records of the common law courts themselves. His "comprehensive examination", "membrane by membrane, for every term of the reign" of the manuscript rolls – both King's Bench and Common Pleas, as well as the eyres of eight counties – has enabled him to build up an equally comprehensive sense of the way in which the "king's courts resolved jurisdictional controversies" (pp. xvi–ii) and present conclusions about the relationship between the two legal systems that will be of interest to every historian of the period.

Unsurprisingly for a book published by the Selden Society and based on such detailed legal manuscript research, this is something of a technical work.