method was — as Cicero's *alter ego* Crassus observes in the *de Oratore* (1.187–189) — extremely common in the later Hellenistic period, in disciplines ranging from music and astronomy to grammar and rhetoric. Further, B. much too casually accepts that Crassus's programme for fully systematising Roman private law (*de Or.* 1.188–191) was actually adopted by the jurists (42–3). Here the consensus of scholars is strongly against him, since there is no evidence of any such general systematisation until centuries later. Cicero's aspirations in this regard are related expressly to the difficulty that laypersons, especially litigants and their rhetorically trained advocates, have in comprehending and applying erudite jurisprudence. (It is symptomatic of B.'s problems in this regard that on 17 he translates Ulpian's famous definition of jurisprudence — *ars aequi et boni*, *Dig.* 1.1.1 pr. — as 'the science of the good and the equitable'. Maximilian Herberger's *Dogmatik* (1981) is not in his bibliography.)

Similar difficulties attend his arguments on casuistry. B. freely confounds the *responsa* that jurists gave to their actual clients with the *responsum* as a literary form in their writings (89–94); the former date from the Middle Republic at latest, while the latter are not attested until the mid-second century B.C.E. with the 'founders', especially M. Junius Brutus, Praetor in 142 B.C.E. (Cicero, *de Or.* 2.224). By that date, casuistry was already well developed among the leading Stoics (94–8). But it served quite distinct purposes in the two disciplines. The jurists use casuistry, in the form of brief and stylised hypotheticals, in order to raise legal questions and establish legal rules, not to explore moral ambiguities; Cicero himself observes this considerable difference (*de Off.* 3.68: *aliter*). Such juristic casuistry manifestly originates from the absence, at this time, of a formal Roman appellate system, which would at a later date do the vital work of isolating and resolving questions of law that have been separated from the messy details of actual cases. Paul, *Dig.* 9.2.31, paraphrasing Q. Mucius, is an outstanding example.

Much of B.'s trouble results from his initial decision to exclude rhetorical thought from his discussion (14–17). He is aware that, in the mid-second century, Hermagoras of Temnos had revolutionised rhetoric by 'slicing and dicing' pleadings into all possible arguments pro and con for all general forensic positions. Whether or not Hermagoras initiated the fashion of casuistry, his influence was profound. This becomes evident when B. turns to examine (90–8) Cicero's justly famed description of the development in the later Republic of prohibitions against misrepresentation and concealment by sellers and buyers, *de Officiis* 3.49–72. As Cicero stresses, the problem had been much debated among Stoic philosophers. But the core of his discussion comes at 3.58–72, in which the progression of late Republican law is described. Here, and perhaps surprisingly, what Cicero emphasises is a series of trial verdicts that step-by-step created the doctrine, with the jurists (in Cicero's presentation) remaining important but largely subsidiary. This is law arising out of precedent based on actual cases and controversies, and not casuistry at all; but the disciplines collided (or colluded) happily. The late Elizabeth Rawson constantly reminded scholars (including me) that the boundaries between intellectual fields, including also history and antiquarianism and even drama and epic, were appreciably more porous and unstable in the second century than they would be in the first.

B.'s argument fares better when he turns to substantive law: persons (ch. 5) and property (ch. 6); both philosophy and law tend to follow the conservative drift of the times. But, in the end, this thought-provoking book suggests the need for deeper research on the entire era.

The University of Michigan Law School BRUCE W. FRIER
bwfrier@umich.edu
doi:10.1017/S0075435824000030

ULRIKE BABUSIAUX, CHRISTIAN BALDUS, WOLFGANG ERNST, FRANZ-STEFAN MEISSEL, JOHANNES PLATSCHEK and THOMAS RÜFNER (EDS), *HANDBUCH DES RÖMISCHEN PRIVATRECHTS*. Tübingen: Mohr Siebeck, 2023. Pp. xxxiii + 3,673. ISBN 9783161523595. €629.00.

This is the longest book on Roman law to appear for many years. It is longer even than Max Kaser's *Das römische Privatrecht* (2nd edn, 1971–75) and *Das römische Zivilprozessrecht* (2nd edn with

Karl Hackl, 1996) which together come to some 2,200 pages. Unlike Kaser's work, however, these volumes are expressly a collaborative enterprise, with six editors, sixty-five contributors and thirteen *Mitarbeiter*. The first two volumes contain the substance; the third consists of indices of subjects and sources and bibliography.

A comprehensive and up-to-date treatment of classical Roman law is extraordinarily welcome, since the leading textbooks in most languages are showing their age. The editors of and contributors to this work are of high standing. The scope and ambition of the work are remarkable. Full account is taken of the modern literature. To produce a work on this scale and of this quality about classical Roman law in 2023 is an outstanding achievement.

The length of the work presents a challenge for the reviewer. All that space allows here is to give a sense of the scope and structure of the work and to comment on some points likely to be of greatest interest to the historian.

For such a long work, the editors' preface is remarkably short: sixteen lines, consisting mainly of thanks. It is a pity that nothing is said about the structure of the work, its aims and objectives. All that can be gleaned about them is printed on the dust jacket. It refers to the book as '*das neue Standardwerk*' on Roman private law. It says the book provides a comprehensive account of the state of current scholarship and will be indispensable for legal scholars, ancient historians and philologists. It explains that the main emphasis is on Roman law in the late Republic and under the Empire, particular attention being paid to procedure, and legal papyrology, epigraphy, and legal practice in the provinces also being considered.

Roman law textbooks often follow the scheme first adopted in the second century A.D. in the *Institutes* of Gaius. There the whole of private law is divided into three: persons; things (*res*), a category which includes property, succession, and obligations; and actions. This is essentially the structure of Kaser's textbook and of W. W. Buckland's *Textbook of Roman Law* (3rd edn by Peter Stein, 1963).

The structure of this book is unusual. There are some vestiges of the Gaian scheme, but the differences are more striking. There are five sections, of quite uneven length. Section 1 contains introductory material covering the formation of law from the Republic up to Justinian and the transmission of sources, both literary and documentary. Section 2 deals with the development of civil procedure from *legis actio* through formulary system to *cognitio*. It also includes legal acts ('*Handlungsformen*'), an expression employed to cover not just conveyances such as *mancipatio* but also each of the main types of contract. Section 3 is concerned with *personae*: citizenship, family (including paternal power, marriage and divorce), slaves, and freedmen. Section 4 addresses *res*, which encompasses ownership and possession, modes of acquiring ownership, property rights less than ownership, and inheritance. That completes volume 1.

Section 5 takes up the whole of volume 2 and is devoted to actions. It is subdivided into actions *in rem*, actions *in personam*, liability for others, and defences to claims. It includes a lot more than the word 'actions' might suggest; it is to volume 2, for example, that one needs to turn to read about the contract of sale or liability under the Lex Aquilia. Most of the law of obligations has therefore been subsumed under the law of actions. Much of the law of property also appears in section 5, slotted in under the action for asserting the appropriate property right.

This approach, of elevating the procedural above the substantive, recalls what Sir Henry Maine wrote in his *Dissertations on Early Law and Custom* (1883) that 'substantive law has at first the look of being gradually secreted in the interstices of procedure, and the early lawyer can only see the law through the envelope of its technical forms'. This is an illuminating insight for the early development of Roman law (among other systems): from a system initially hidebound by technicalities and procedural formalities there evolved one which abstracted legal concepts and institutions and was able to develop them to an extraordinary degree of sophistication. The liberation of the substantive law from the forms of action is generally seen as a mark of progress.

Two questions arise. Is the overwhelming emphasis in this book on procedure helpful? And does the procedure-based structure of the book actually matter (after all, if the indices are adequate, readers can find what they are looking for)? The answers this reviewer would give to these questions are 'no' and 'yes', respectively.

It is true that with the aid of the indices readers can find their way to the issues which interest them. Nonetheless, the structure of the work makes it difficult to appreciate legal institutions in the round. Take inheritance: the topic of succeeding under a will or on intestacy appears in the section on things (chs 52–58). But there is nothing there about the content of a will: instead, one needs to turn to the section on actions *in rem* to read about one kind of legacy (*per*

vindicationem) (ch. 60). Other types of legacy and claims under a will are discussed under actions *in personam*; so are restrictions on freedom of testation (chs 97–100). For manumission, or appointment of a tutor, under a will, the place to look is under the law of persons (chs 31 and 36). However helpful the discussion of these various possible ingredients of a Roman will, something seems to be lost when they are dispersed rather than united by reference to the function they actually serve: disposing of a testator's estate on death.

Is anything gained by this procedural approach (which the editors never explain)? It might perhaps give a sense of how the Roman jurists worked: in advising clients, they would have addressed issues of substantive law by identifying how and where they would be raised in the formula for an intended legal action. Whether that is enough to overcome the apparent drawbacks of this approach readers must judge for themselves.

In relation to the substance of the book, it goes essentially without saying that the various chapters are clear, cogent and comprehensive. They refer to the recent literature and weigh up its significance (some do so more than others). The author of each chapter is identified. Almost all chapters begin with a list of key bibliography. In volume 3 there is also a substantial list of bibliography referred to in abbreviated form; the footnotes refer to much else besides.

Ch. 1 is a masterly sketch of the formation of Roman law. It explains the complementary roles played by legislation, magistrates' edicts and the works of the jurists. There is a subtle account of how the various jurists were (contrary to Savigny's opinion) highly individual in spirit. Yet their writings taken together form a collective body of work with a certain uniformity of style and register, albeit still replete with disagreements. In chs 2–5 there are sketches of the development of the law during the Republic, Principate, Late Antiquity and the Justinianic period. It is worth noting that the book devotes very little space to either pre- or post-classical law. That is slightly regrettable, but in a book already so lengthy one cannot reasonably ask for more. Ch. 6, entitled '*Römische Rechtsschichten*' (a geological metaphor), separates the various strata of the law: *ius civile* (comprising statutes, senatusconsulta, juristic interpretation, and imperial constitutions); law made by magistrates (*ius honorarium*); *ius naturale* and *ius gentium*.

Section 1 ends with two chapters on the sources. Ch. 7 deals with legal literature and begins with a (not entirely dispassionate) account of the recent history of criticism of the legal texts, including but not limited to interpolations in the Digest. It continues with a survey of the various kinds of legal literature produced in the classical and post-classical periods and sets out the writer's views on the authorship of some of those works (not all of which are uncontested).

Ch. 8, a lengthy account of the papyrological and epigraphic evidence, goes well beyond what its title might suggest and is likely to be particularly valuable to the ancient historian. It is completely up to date. It refers, for instance, in paras 20–26 to the results reached by the recent REDHIS project, not all of which have yet been published but which demonstrate the continuity of the classical legal tradition into Late Antiquity. In paras 49–108 the chapter also gives a valuable account of '*Reichsrecht*' and '*Volksrechte*', that is, the reality that in certain provinces the governor did not automatically impose law as it applied in Rome ('*Reichsrecht*'). Instead, local laws were not just accepted but in some cases adopted by the Roman administration. The papyri are an invaluable tool for understanding the coexistence and operation of different legal systems and traditions in the provinces. This chapter is an excellent guide to the key issues.

Given the procedural focus of this work, before embarking on volume 2 the reader will need to be acquainted with the formulary system of litigation. The survey in chs 10–13 is both compact and helpful. Ch. 13 in particular also takes account of the copious epigraphic material found since the 1980s; views still differ on certain aspects of this material, but such differences are meticulously noted.

With the exception of *stipulatio* (mostly covered in section 2), the main contracts are discussed in section 5 under the heading of actions based on good faith (*bonae fidei iudicia*). There is an extended discussion of sale in ch. 79. This chapter is a paradigm example of the procedural focus of the book, since the essentials of a contract of sale (an object; a price that is certain or ascertainable; consensus) are considered from the point of view of the legal action the buyer or seller would bring if the other party breached the contract. There is some reference to documentary practice to make the point that law in the books finds its reflection in real life. Nonetheless, here as elsewhere, it should be made clear that the focus of this book is not on law in its social or economic context. It is on legal doctrine and institutions and their development.

The chapter on sale occupies some 250 pages. Although sale is the most important of the good faith contracts, it is a little surprising to find that hire is treated in only about 25 pages, and the other contracts in much the same. Delict is also covered rather briefly, in about 100 pages. In ch.

92 the Lex Aquilia receives a precise and accurate treatment but one which does not perhaps convey the sheer extent of modern scholarly disagreement. There is (sadly) no mention of the lively controversy stirred up by David Daube on the oddities flowing from applying the received view of the measure of damages under chapter 3 of the Lex Aquilia. But that is perhaps an interest peculiar to those schooled in the English-speaking Romanistic tradition.

To conclude: this book is not perfect. But it is excellent, significant, almost indispensable. Navigating it may require frequent resort to the indices, but the subject index is good and the index of sources excellent. With their help, readers will be able to identify the key principles and institutions of Roman law, their evolution and refinement, the main problems and uncertainties, and the most relevant ancient sources and modern literature. This really will be the standard work of reference on Roman law for many years to come.

Advocates Library, Edinburgh DAVID JOHNSTON
david.johnston@axiomadvocates.com
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IV. LATE ANTIQUITY

LOUISE BLANKE and JENNIFER CROMWELL (EDS), *MONASTIC ECONOMIES IN LATE ANTIQUE EGYPT AND PALESTINE*. Cambridge and New York: Cambridge University Press, 2023. Pp. xvi + 396; illus., maps, photos. ISBN 9781009278973 (hbk), £123.95; 9781009278942 (pbk); 9781009278959 e-book.

Monastic Economies appears at a particularly vibrant moment in monastic studies. Previous publications by editors Louise Blanke and Jennifer Cromwell are outstanding examples of this recent wave of scholarship. B.'s recent book *An Archaeology of Egyptian Monasticism* (2019) provided a refreshing and detailed study of the White Monastery Federation. C. boasts an influential record of work on Coptic documentary papyri. Together, they have compiled a collection of essays that illuminate early monasticism in two regions often studied separately. The volume is not comparative, but rather a series of local or specialised studies, which, like individual tesserae in a mosaic, illuminate discrete elements of a wider swath of monastic history.

Ch. 1 serves as the Introduction, where the editors set out the stakes for the research in the book. They underscore the importance of economics for understanding monasticism, especially monasteries' roles in local and regional networks. This chapter dismantles common tropes about the isolation of monks and challenges scholarly claims of monasteries as economic 'parasites', financially dependent on elites, the church and government. B. and C. explain the importance of papyrology, archaeology and material culture studies more broadly for a field often dominated (in English-language scholarship, at least) by literary and textual studies. They also argue for the benefits of studying these two regions together: studies in one region can illuminate the other when there are gaps in the other's historical record; differences between Egyptian and Palestinian monasticisms bring to the fore the diversity of monastic economies. In all these endeavours, the volume succeeds.

The subsequent twelve essays are divided into three sections, the first being 'The Monastic Estate'. Basema Hamarneh's chapter traces the extensive economic connections that Arabian and Palestinian monasteries had with their surrounding areas, focusing on monks' property, donations to monasteries, pilgrimage and agriculture. Isabelle Marthot-Santaniello's essay 'From Byzantine to Islamic Egypt' traces the size and influence of land-owning monasteries with ties to Aphrodito. Challenging previous scholarship, Marthot-Santaniello argues that most monastic estates had declining economic influence by the eighth century. Tomasz Derda and Joanna Wegner examine archaeology and Greek papyri in 'The Naqlun Fathers and their Business Affairs'. Some (many?) monks at Naqlun possessed financial wealth and interacted with other individuals and institutions in the region. They caution that the Naqlun monks may not have been typical of individuals in other lavra-type monasteries, again highlighting monastic diversity and importance of local studies.