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**Cynthia Jordan Bannon, A Casebook on Roman Water Law. Ann Arbor, MI: University of Michigan Press, 2020. Pp. 262. Paper (ISBN 978-0-472-03786-5) \$34.95.**

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Cynthia Jordan Bannon, *A Casebook on Roman Water Law*. Ann Arbor, MI: University of Michigan Press, 2020. Pp. 262. Paper (ISBN 978-0-472-03786-5) \$34.95.

Cynthia Bannon, a recognized authority on water rights in Roman law, has now written a casebook on the subject. If you are a North American reader of this review and have not studied Roman law, let alone Roman water law, you are not alone: Roman legal sources are notoriously complicated; very little of the secondary scholarship is in English; reading either requires specialized knowledge and legal reasoning skills that few who have not had the benefit of formal legal or Romanist training possess; and in North America at least there are now only a handful of competent experts engaged in research or teaching. All of this is a pity, since (as many are fond of saying) Roman law is a major intellectual achievement in its own right and important to study both in the context of the Roman imperial project and the development of the European and North American legal traditions. We should thus applaud scholars like Bannon who choose to spend their time and energy writing casebooks in English for those who would set out to explore the Romanist foothills. In this connection, this is in fact but one of a growing collection of such casebooks written by Bruce Frier and his students: B. W. Frier, *A Casebook on the Roman Law of Delict* (1989), B. W. Frier and T. A. J. McGinn, *A Casebook on Roman Family Law* (2004), and soon B. W. Frier, *A Casebook on the Roman Law of Contracts* (2021).

Bannon in her introduction says that her aim in this casebook is

to cross historical and disciplinary boundaries by making the primary evidence for Roman water rights accessible. Reaching a wider audience is critical to this project because Roman law makes important contributions to contemporary debates about water rights and the management of the environment. (2)

The wider audience Bannon has principally in mind seems to be undergraduates, although one could imagine this book being useful for graduate students and even law students or legal historians engaged in comparative study. The pedagogical purpose, then, is clear and, for the reasons noted above, vital to the continued study of Roman law.

The book begins with a general introduction and includes four substantive chapters. The introduction briefly sketches the sources for Roman law, the development of the juristic tradition, and the main ways in which water rights were articulated and negotiated in Roman law (i.e., property rights, legislation, interdicts, servitudes, etc.). The introduction also includes short section on modern approaches to water rights and a final note to instructors on how to use this book in a classroom. Bannon then proceeds through her assembled material: (1) the action for warding off rainwater; (2) servitudes; (3) the law and interdicts governing rivers and seas; and (4) aqueducts. There is a generous topical bibliography at the end, as well as a general topical index.

The chapters are collections of “cases,” with each chapter prefaced by a brief, but helpful overview. The cases are further grouped into thematic categories (e.g., 3.II.A *River Interdicts*) and each case is numbered and given a short title (e.g., Case 3.34. *What is a River Bank?*). Typically, a case consists of one or more Roman law texts from the *Digest* in Latin (with Gaius’s *Institutes*, the *Codex Theodosianus*, and the *Codex Justinianus* playing supporting roles), followed by a translation and a set of study questions. The cases are drawn from a period that spans the law of the Twelve Tables to that of the late fifth century CE.

One of the interesting features of this book is the inclusion of not only literary (as opposed to legal), but also epigraphic texts. So, thirteen cases stem from inscriptions from Italy, Spain, and Africa (2.4, 3.25, 3.29, 3.33, 4.3, 4.4, 4.10, 4.25, 4.31–35, and

more obliquely 2.21), while a large portion of Chapter 4 on aqueducts is excerpts from Frontinus. The diplomatic transcriptions of the inscriptions faithfully signal lacunae and restorations. I did not systematically check the legal texts, but I also found no significant errors. Only one case addresses the issue of interpolation (1.23), while another asks students to consider alternatives presented by the manuscript tradition (3.15), which is not otherwise discussed. The translations are admirably precise, clear, and accessible.

The study questions are largely legal in nature, asking students to think about how responsibility or liability was divided between parties; whether certain juristic analogies, limitations, or extensions are apt; to comment on the applicability of interdicts to changed or hypothetical fact patterns; etc. Several study questions, however, ask students to consider or reconstruct social norms (e.g., question 1.8.3 [p. 35]: “What assumptions do Labeo and Pomponius make about the relationship between neighbors? How realistic are their assumptions? What sticking points might make it difficult to get a neighbor’s permission to undertake a particular work project?”), or technological or economic practices (e.g., question 3.30.2 [p. 142]: “A drain could be either a hollowed-out place where waste collected or it could be fitted with pipes (*D.* 43.23.1.4, 6 Ulp. 71 *ad Ed.*). What particular risks or challenges does each type of drain present?), or even draw comparisons across time and place (e.g., question 4.29.4 on *CJ* 11.43.8, 474 or 479 CE [pp. 206-7]: “Compare the right of management for aqueducts in different places and at different times in Rome’s history. Who exercises the right? How were these individuals held accountable? Which system do you think would be most effective at funding and performing maintenance on the aqueducts? Why?”). The questions thus encourage a mix of standard legal reasoning, law-and-economics approaches to problem-solving around water rights, and legal realism in the Roman world. Some of these questions, as is obvious from the examples above, require quite a bit of background knowledge to answer, and perhaps are best used to encourage students to interrogate their assumptions about the interplay of norms, technology, and law, not to mention their specific assumptions as to how neighbors in the Roman world might have related to each other (ideally or practically), how pre-industrial hydraulic infrastructure worked or ancient economic transactions were structured or enforced, or what they need to know in order to make a productive and cogent comparison of legal institutions and property rights between Augustan Rome and Zeno’s Constantinople.

So much for what is in the book; what is not included is also worth noting, particularly in light of Bannon’s stated purpose and intended audience. The cases are not dated unless the date is itself part of the translation, e.g., a translation of a consular dating. There is no glossary of technical or legal terms or of the principal jurists and no timeline of the principal texts or authorities. There is no *index locorum*. There are no plans or schematics of Roman water works or maps of the routes of the aqueducts or localities from which the major inscriptions come. The bibliography is good, but there is virtually no connection between it and the rest of the text. Finally, although Bannon stresses that she would like the students to make connections between Roman and “modern” law, such laws (which laws?) and theories are rarely, if ever, explicitly cited, stated, explained, or compared in the study questions.

Now, this is a casebook, not a book or even a textbook of Roman water law, and as such it was not meant to be a systematic, holistic treatment of the topic. Indeed, Bannon in her introduction describes the ways in which she supplements this material with other resources. Even so, one could be forgiven for missing some of this pedagogical apparatus, precisely because one finds it thoughtfully included in the other Roman law casebooks mentioned at the beginning. The embeddedness of this book in what seems the particular pedagogical expertise and experience of a specific scholar also helps to explain the striking brevity of some of the technical discussions.

Bannon has thus written a solid casebook of Roman water law, but for whom?

How many instructors are there today interested in or prepared to teach a class on Roman water law primarily as an exercise in legal reasoning? Water law, of course, is not a self-contained or coherent conceptual area of Roman law, like contract or delict: indeed, its second-order nature constitutes both its intellectual interest, representing the intersection of property, contract, procedure, and regulation over a vital but mercurial natural resource, and its weakness as an introduction to Roman law, at least to undergraduates. From a different perspective, the connections to contemporary (American) law and environmental regulation are not nearly robust enough for this book to find its way onto many law school syllabi with an interest in comparative environmental law. Yet the material is excellent and certainly graduate students and scholars studying the agricultural or environmental history of the Roman empire, or even the conceptual boundaries between *natura* and *cultura*, are likely to find these texts and problems interesting—provided that they either have the necessary background or sufficient interest and incentive to read up on Roman law along the way.

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Steele Brand, *Killing for the Republic: Citizen Soldiers and the Roman Way of War*. Baltimore, Maryland: Johns Hopkins University Press, 2019. Pp. 384. Cloth (ISBN 978-1-4214-2986-1) \$34.95.

There remain important questions that need to be asked about the Roman republic, and its rise to dominance across the Mediterranean world. Its political culture undoubtedly instilled a powerful sense of identity, one shaped both by defeat and victory, and, as the Roman writings so often tell us, a persistent need to defend themselves against other belligerent powers. Caesar presents the invasion of Gaul as a response to a genuine perceived threat, and a duty to defend allies. Cicero in his *De officiis* argued that Roman war was never harsher than necessary, and committed in defence of allies or to uphold the Roman sense of *imperium*. Even Sallust, who can often offer a more nuanced historical perspective, creates a bifurcated narrative of virtuous war in the mid-republic against great powers such as Carthage, set against a self-destructive instinct born through dominion and avarice in the late first century BCE. Defensive imperialism may have been, for the large part, dismantled and the aggressive nature of the Roman city and its emergent republic exposed (not just in the late republic as Sallust indicates), but this does not always leave us with a clear picture of how and why the Roman armies of the republic were so often victorious. Most modern treatments focus upon key shifts in Roman military thought and practice (e.g., Marius' Mules) or instead can suggest a logical (and sometime teleological) set of battles that create the shining early- and mid-republic we so often find in Roman historiography. This can reduce Roman military history to a series of snapshots that create a clear and logical narrative, but ignore the wider concerns, especially the social and political framework(s) that create these Roman and allied armies. What can we know about the ordinary Roman citizen soldier? How can we interpret their motives, and their beliefs? To what extent was Roman success in arms based upon the civic-ethos and belief of the ordinary legionary?

Steele Brand's book is in part a foray into this world. Pitched towards a general audience, this is a book that covers an impressive array of topics and ideas, but also one that does not fully answer the questions asked at the start. Brand sets out to show how Rome's farmers were transformed into highly competent soldiers, and how Rome "perfected civic militarism in a way no other civilization ever has" (9). This optimistic

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