

DE NOVIS LIBRIS IUDICIA

Fides Humanitas Ius. Studi in onore di Luigi Labruna. A cura di COSIMO CASCIONE – CARLA MASI DORIA. 8 volumi. Editoriale Scientifica, Napoli 2007. ISBN 978-88-95152-38-7. LII, 6157 pp. EUR 320.

Reading this book, one feels like one is attending a prestigious Italian academic conference. The settings are nice, the food is good, and everybody who is someone is there, but the timetable is illusory and no-one is ever interrupted, no matter how long they speak, making the days long and very tedious in the end. The list of the three hundred authors of the Festschrift of Luigi Labruna is a veritable who's who of the Roman law community, a gathering of friends, pupils, and colleagues, scholarly stars and regional obscurities, the retired and the newly hired. The eight volumes and 6157 pages is a remarkable accomplishment, even in the highly competitive and typically Italian world of Festschrift one-upmanship, though Labruna's eight volumes pale in comparison to his teacher Antonio Guarino's ten-volumed Festschrift.

Luigi Labruna (born 1937), a scholar of Roman constitutional history, is Professor of the History of Roman Law at the University of Naples "Federico II". Apart from being the former Rector of the University of Camerino and the President of the Italian Consiglio Universitario Nazionale, Labruna has numerous significant academic positions and six honorary doctorates to his name. He is a student of Guarino and Max Kaser, both among the most esteemed scholars of Roman law. He is the founder and the editor-in-chief of the journal *Index* and presides over the prestigious *Premio Boulvert*. In addition to 33 monographs, he has authored several hundred articles and smaller pieces. I could go on, but I suspect that I have made my point already: Labruna is the kind of person who commands authority and respect, not to mention Festschriften in eight volumes. Labruna's penchant for big glasses and big, furry dogs is apparent in the selection of photos included in the first volume.

Writing a normal review of a work like this is practically impossible because simply listing the titles of contributions that are included in these volumes would take the space of ten book reviews. In addition to a list of the friends and associates of a senior professor that could be used to make a sociological study of international scholarly networks, Festschriften like this one provide a cross-section of the current state of scholarship in their field. I shall use the opportunity to assess the state of current studies in Roman Law. Romanists, or scholars of Roman law, are a diverse lot, consisting of jurists, historians, and classicists, the highest scholarly populations residing in Germany and Italy, with countries such as Poland and the Netherlands having large research communities. *Fides Humanitas Ius* reflects this geographical division nicely, with a natural overrepresentation from the Naples-Warsaw axis of co-operation, especially among the younger authors.

Since the field of Roman law is purportedly in a predicament because of an existential crisis of epic proportions that has lasted for well over a century, massive collections of essays like this one offer a glimpse of where the field is coming from and where it is heading. The original bread and butter of Roman law was dogmatics, the study of the substance of Roman law, the legal rules in the writings of Roman jurists as they could be gleaned from Justinian's *Corpus Iuris* and other sources. The second strand of Roman law scholarship seeks to address contemporary issues such as finding the common roots of European law from the Roman law tradition and its work is clearly aimed at a contemporary audience. More historically oriented Roman law scholars seek to study the legal texts as sources for the history of ancient societies and their functioning. Legal papyrologists are represented in both the dogmatically and historically oriented groups.

A good example of the first group, legal dogmatics, is Okko Behrends' paper titled "Eine Bibliothek wird verkauft". The text in question is Digest 18,1,50, where the jurist Ulpian discusses Labeo's treatment of a case of a sale of a library under the condition that the council of Capua agrees to sell the buyer a piece of land to house it, and the issue of whether a certain action in law is available to the seller if the buyer neglects to apply for the land from the council. What follows is an analysis of the options available for the seller according to the solutions presented by Labeo and Ulpian and how the opinions of different jurists reflect their views on larger issues, such as the teachings of Sabinian and Cassian schools. Like much of the dogmatical scholarship, the result is logical and learned, but also very legal and extremely impenetrable to outsiders. The extent of the self-referentiality of dogmatics is underlined by the fact that beyond references to the current civil law codes of Germany and Italy, there are no other references except to works by and about Roman jurists. To entitle a work simply using its Digest reference, as done by Boudewijn Sirks among others, testifies to the extent to which knowledge of the sources is assumed.

The Roman law tradition as the foundation of European law or as a sounding board for contemporary issues is, despite its high visibility otherwise, mostly absent from this book. Johanna Filip-Fröschl examines in "*Libertas naturalis*" the concept of natural rights of both men and animals in Roman legal sources and their implications for contemporary legislation. J. Michael Rainer discusses illegal trade in humans and prostitution, another pressing contemporary concern, in Roman law, pointing to the attitudes and shortcomings of the Roman approach. A refreshing connection between the ancient and contemporary is achieved by Aglaia McClintock in her piece "Nemico non più cittadino", which deals with the case of Yaser Hamdi, a prisoner at Guantanamo, using the Roman concept of *servitus poenae* as a point of reference. There are also a number of articles of purely contemporary significance.

The descent of Roman law into history, to paraphrase Bruce Frier's famous title, is evident in the large proportion of historical works in the book. There are historical analyses of Roman jurists, such as Federico D'Ippolito's reading of Cic. *de orat.* 1,56,239–240, studies on textual transmission, like Alfonso Castro Sáenz' article on whether Suetonius' *De viris illustribus* served as a model for Pomponius' *enchiridion*, as well as traditional legal history such as François Hinard's constitutional analysis on Sulla's dictatorship or Maria Baccari's observations on the condition of women in the Roman legal and religious system. As always, the dividing line between legal history and regular history is blurred, and there are several contributions that could be categorized either way.

The division of the papers is indicative of the larger transformation that studies in Roman law are currently going through. Despite the fact that the average article in the book is a legal dogmatic study on Roman law, the works by scholars of the younger generation tend to be inclined more towards historical analysis, at least by linking dogmatic study with its historical context.

For the main part, close textual analysis appears to be the method of choice, whereas prosopography, comparative analysis, papyrology, anthropology, and epigraphy are represented with just a paper or two each, which is surprising to say the least. Purely historical articles are also quite a small minority, though not without a few novel approaches, for example in "*Balneum romanum*" Carmela Pennacchio discusses the discovery of warm water in the form of baths in the Roman historical experience.

Unlike many similar Festschriften that group essays by their fields, the editors of this one have opted for alphabetical ordering throughout the eight volumes. Considering the heterogeneity of the papers involved, the choice is understandable, but at least some grouping together, either chronologically or thematically, would have made this massive opus slightly more accessible. For example, the likelihood is not great that without prior knowledge of its existence, even the most diligent student of ancient mythology would venture to the last volume of the book to find Marisa Tortorelli Ghidini's fascinating article on matriarchal myths, on the idea of mother earth and mother gods.

Like Roman law scholarship in general, the book is multilingual, containing articles in Italian, German, English, Spanish, and French. The quality of individual papers varies, as does the level of care taken with proofreading.

Kaius Tuori

MARTIN FERGUSON SMITH: *Supplement to Diogenes of Oinoanda the Epicurean Inscription*. Bibliopolis, Napoli 2003. ISBN 88-7088-441-4. 156 pp., 6 Figs. EUR 103.

Diogenes und kein Ende. For decades, Smith has worked on with the publication and explanation of the fragments of the Epicurean which do not seem to cease to appear on the scholarly market. In this journal, Smith's earlier contributions to the textual criticism of Diogenes were hailed by Rolf Westman as fundamental pieces of work. I have nothing to add to his judgement. What justifies this supplement is the discovery during excavations in 1997 of ten blocks from the stoa wall on which Diogenes displayed his inscription, the reader will find much of compelling interest in Smith's new readings of old discoveries, reflections and retractions, but the essential part of this volume are these new discoveries of 1997. We should indeed be grateful to the editor for having put this new material at to the disposal of the scholarly community in a rapid and successful way.

Heikki Solin