

The Legacy of Theoderic

MARIOS COSTAMBEYS

J. J. ARNOLD, *THEODERIC AND THE ROMAN IMPERIAL RESTORATION*. Cambridge: Cambridge University Press, 2014. Pp. xii + 340. ISBN 9781107054400. £50.00.

M. S. BJORNLI, *POLITICS AND TRADITION BETWEEN ROME, RAVENNA AND CONSTANTINOPLE: A STUDY OF CASSIODORUS AND THE VARIAE 527–554* (Cambridge Studies in Medieval Life and Thought, Fourth Series 89). Cambridge: Cambridge University Press, 2013. Pp. xiii + 370. ISBN 9781107028401. £65.00/US\$99.00.

D. LACCETTI (ED.), *CASSIODORO, ROMA IMMAGINARIA. SULLE CENERI DEL PIÙ GRANDE IMPERO L'UTOPIA DI UN NUOVO STATO. LE VARIAE E L'ITALIA DI TEODERICO TRA RIMPIANTO E SPERANZA* (Collana Antichità Romane 7). Rome: Arbor Sapientiae, 2014. Pp. 188. ISBN 9788897805113. €30.00.

S. D. W. LAFFERTY, *LAW AND SOCIETY IN THE AGE OF THEODERIC THE GREAT. A STUDY OF THE EDICTUM THEODERICI*. Cambridge: Cambridge University Press, 2013. Pp. ix + 332. ISBN 9781107028340. £65.00/US\$99.00.

G. MARCONI, *ENNODIO E LA NOBILTÀ GALLO-ROMANA NELL'ITALIA OSTROGOTA* (Testi, Studi, Strumenti 27). Spoleto: Centro Italiano di Studi sull'Alto Medioevo, 2013. Pp. xiv + 188. ISBN 9788868090043. €25.00.

P. PORENA, *L'INSEDIAMENTO DEGLI OSTROGOTI IN ITALIA* (Saggi di Storia Antica 33). Rome: "L'Erma" di Bretschneider, 2012. Pp. 299. ISBN 9788882657451. €150.00.

M. VITIELLO, *THEODAHAD: A PLATONIC KING AT THE COLLAPSE OF OSTROGOTHIC ITALY*. Toronto: University of Toronto Press, 2014. Pp. xvii + 333. ISBN 9781442647831. US\$75.00.

I

In the penultimate sentence of his *Historia Romana*, Paul the Deacon inscribes a solid full-stop to his brief sketch of Ostrogothic Italy: having killed Totila, the eunuch Narses, he says, 'universamque Italiam ad reipublicae iura reduxit'.¹ Although the phrase *reipublicae iura* exemplifies the studied ambiguity with which Paul delighted to tantalize his readers, the whole statement can be understood as a judgement on Theoderic's régime that many modern historians of Late Antiquity have shared.² Whatever

¹ *Pauli Historia Romana* 16.23 (ed. H. Droysen, *MGH (SRG)* 49 (Berlin, 1879), 135). Paul drew much of the material for these final chapters from the *Liber Pontificalis*, from which, however, this phrase is tellingly absent: see Cornford 2003: 226. In writing this article, I have benefited from the advice of Patrick Amory, Matthew Innes and Benet Salway, whom I thank warmly; the views expressed here are nonetheless entirely my own.

² The phrase in the *Codex* nearly always seems to mean the state's ownership rights (for example, *CJ* 7.38.2; 8.11.11 ('fundorum iuris rei publicae')). Only in *CJ* 11 does it take on a wider meaning: 11.30 'De iure rei publicae' is about rights in law.

innovations the Ostrogoths had attempted, in the end they came to nothing: Theoderic and his short-lived successors made no lasting imprint, leaving few identifiable traces even in archaeology.³

The group that Theoderic had led into Italy from Pannonia in 489 is known to us, though not to them, as the Ostrogoths (they just called themselves ‘Goths’).⁴ In an initial battle at Verona, they defeated Odoacer, the Roman general of barbarian origin who had been ruling Italy since 476, and subsequently besieged him in Ravenna until, under the pretence of peacemaking, Theoderic coaxed him out and killed him.⁵ Yet this triumph represented no sort of clean break with the past. Having been encouraged in his invasion of Italy by one eastern emperor, Zeno, Theoderic was recognized as a kind of imperial viceroy by the next, Anastasius.⁶ His government was largely staffed by the old imperial bureaucrats — Cassiodorus, scion of an established senatorial family, began his service for the régime c. 507. Theoderic continued to honour the traditional prerogatives of the senate at Rome and exercised the right to nominate a senator as western consul. His army was settled in Italy with apparent success, though on terms that (as we shall see) remain contentious.

It is possible to sketch quite a rosy picture of much of the period of Theoderic’s rule. His intervention in the dispute over the papacy between Symmachus and Laurentius (ultimately in favour of the former) was essentially successful, and he made a sensitive contribution to the termination of the doctrinal dispute known as the Acacian schism.⁷ Beyond Italy, he combined victorious military campaigns in Sicily, Dalmatia, Provence and Spain with traditional diplomatic alliances, marrying his daughters to the kings of the Visigoths and the Burgundians, his sister to the king of the Vandals and a niece to the king of the Thuringians. He was also evidently concerned to promote his rule within Italy, celebrating his *tricennalia* in Rome in 500, and declaring his patronage as a builder of various monuments with such success that his reputation as such grew in later centuries—though considerable doubt attaches to the reality of his claims.⁸ Yet even when, rather than sponsoring pristine constructions, he was ordering the repair of older structures, or encouraging the use of spolia from disused buildings (contrary to Roman law), he couched his activity as a veneration of *antiquitas*: an honouring of Roman tradition.

But in the final years of Theoderic’s reign, honour towards the Romans gave way to suspicion. Whether prompted by the death of his son-in-law and heir Eutharic in 522, or by changes in relations with Constantinople, Theoderic began to display a heightened sense of vulnerability, which took a dramatic turn with the arrest and execution of leading Roman aristocrats, including the philosopher Boethius. After Theoderic’s death in 526, his reputation was sufficient to keep the kingship of the Goths initially in the hands of his family, the Amals. He was succeeded by his ten-year-old grandson Athalaric, the latter’s mother, Theoderic’s daughter Amalasantha, acting as regent. But Athalaric’s early death in 534 brought to the throne Theoderic’s cousin Theodahad, who arranged the murder of Amalasantha, and thereby unwittingly provided a pretext

³ Sean Lafferty’s claim that the Goths left ‘no trace of their presence in Italy in the archaeological record’ (2013: 9) may sound a little sweeping, but efforts to prove him wrong have, to date, not been entirely convincing. Aimone 2012 attempts to read some recent archaeological finds in northern Italy in terms of the Goth-Roman dichotomy. For a view less rooted in wishful thinking, see Halsall 2016: 189–91.

⁴ For a brief account of Ostrogothic Italy, in addition to those in the works covered here, see Amory 1997: 6–12.

⁵ John of Antioch, frag. 214a (ed. S. Mariv (Berlin, 2008)), with other references and bibliography conveniently gathered in Lafferty 2013: 6, n. 11.

⁶ The precise terms on which Anastasius recognized Theoderic’s authority are ambiguous, but play a key rôle in the central argument of Arnold 2014: 61–91, who covers the question of Theoderic’s titles and authority in some detail.

⁷ Sessa 2012: 213–16; Noble 1993: 417–19.

⁸ La Rocca forthcoming. For the ‘tricennalia’, Anon. Val. 67. Attempts to identify an event of which this was the thirtieth anniversary have not been convincing; it may be a corruption of *decennalia*: Arnold 2014: 204, n. 18.

for the invasion of Italy in 535 by the forces of the eastern emperor Justinian. The latter had already taken steps to enhance imperial prestige by ordering a new codification of Roman law, and, above all, by despatching an army to conquer Vandal Africa in 533. Now Justinian had an excuse to send his successful general Belisarius to Italy. Although the Goths swiftly replaced Theodahad with the more militarily competent Witigis (who married Amalasantha's daughter), Belisarius won a series of victories culminating in the capture of the Gothic capital of Ravenna in 540. During this period of Roman success, many senatorial aristocrats left Italy for the East, though Cassiodorus remained in Gothic service until late 538, at the earliest, before he too migrated to Constantinople, where he stayed for the following fourteen years or so. In Italy meanwhile, the Goths turned to a new leader from outside the Amal family, Totila, whose success prolonged the war for more than a decade, until he was defeated by Roman forces under the eunuch Narses in 552. This engagement marked the end of Gothic pretensions to significant power, although Narses continued to have to mop up pockets of resistance into the 560s.

With the edict known as the Pragmatic Sanction issued in 554, Justinian aimed explicitly to restore the status quo *ante bellum* and to affirm the primacy of the laws that he had so magnificently codified, and so, implicitly, to reassert the rights (*iura*) of the Roman *respublica* in Italy.⁹ Moreover, whatever the terms of settlement of the Lombards who arrived in Italy in 568 — a problem unlikely ever to be resolved definitively — they were almost certainly different from those of the Goths eighty years earlier.¹⁰ Seen in this way, there is a paradox to the growing stack of historiography about the Theoderician régime represented by the works discussed here: if its achievements ultimately amounted to so little, why all the fuss?

II

The answer lies, not surprisingly, in the texts surviving for Ostrogothic Italy, which are not only richer than those for the other post-Roman kingdoms, but also seem to address, in a way that other texts do not, those aspects of the late antique world that have dominated historians' attention. To the insistent questions of how the post-Roman kingdoms became established and why they developed identities so distinct from the Roman past, they seem to offer more valuable responses than those from other successor régimes that are either sketchier or later in date. Although one narrative deriving from the kingdom, the *Historia Theodericiana* of the Anonymus Valesianus, still lacks a systematic modern study, in evidential terms Ostrogothic Italy compares favourably with its contemporaries, not least because of the trinity of writers who were still expounding classical Christian Latin letters and have, in turn, commanded most of posterity's attention: Boethius, Cassiodorus, Ennodius.¹¹ The ultimate popularity of these three masks a sharp unevenness in the transmission of their texts. Notoriously, Boethius' *De consolazione philosophiae* had to be rescued from oblivion by Carolingian scholars, while Cassiodorus' *Gothic History* was lost altogether.¹² Nonetheless, it is Cassiodorus who seems to have been the most consistently read. From the sixth century onwards,

⁹ *Constitutio Pragmatica* c. 11, (ed. R. Schoell and W. Kroll, *Corpus Iuris Civilis* III = *Novellae* (Berlin, 1895), Appendix 7, p. 800).

¹⁰ On the Lombard settlement, see now Pohl 2012.

¹¹ The term 'Anonymus Valesianus' encompasses two distinct works (edited together by Henri de Valois — 'Valesius' — in the seventeenth century): we are concerned here only with the second, variously called 'Anonymus Valesianus II', 'Historia Theodericiana' or 'Excerpta Valesiana pars posterior'. A new edition is in preparation; a fresh English translation is a desideratum.

¹² See in particular now Papahagi 2009, modifying Courcelle 1967: 33–47.

there are multiple extant copies of both the *Institutiones* and his great documentary collection, the *Variae*.¹³ But the chequered reception of these late antique authors cautions us to recognize that our priorities — especially our linked interest in barbarian settlement and post-Roman identities — are not perennial, and that among contemporary concerns perhaps the most insistent was anxiety over the proper functions and functioning of the apparatus of the Roman state.

The books discussed here all to some extent identify in these late antique texts a durable legacy of Theoderic's régime in the transmission of the *respublicae iura* intact — but not unchanged. Jonathan Arnold and Sean Lafferty include useful potted sketches of recent historiography on Ostrogothic Italy,¹⁴ which highlight the twin concerns that have dominated much of the recent scholarship: the method of settlement of the Gothic army in Italy after 489, and the nature, durability and even the reality of the Gothic identity that contemporaries attach more or less insistently to that army, its associates and descendants.¹⁵ Neither, however, quite manages to incorporate the emerging sense that identity was (and is) flexible and dynamic, so that the expressions of Gothic identity by those writing under Theoderic's régime have to be seen as particular moments in a ramified discussion about identities that was taking place across the post-Roman world, and always in an intellectual context created by, and with a vocabulary drawn from, Christian texts.¹⁶

Discussions of the practicalities of settlement have proceeded similarly: emphasizing differences between the settlements of particular groups, and changes in patterns of settlement over time, so that a single model no longer seems suitable. Walter Goffart envisaged that each settler was awarded a one-third portion of tax revenue, and assigned to a landowner from whom he collected the tax directly:¹⁷ an attractive explanation for some of the payments that the Goths received by dint of their military occupation that does not however really explain how they were actually *settled* in Italy. The Goths had to live somewhere, and those places had to have been owned by someone else previously. The *prima facie* likelihood of an ambiguity of terminology and a variation in real conditions argues for a flexible interpretation of the handful of apparently meaningful references. Guy Halsall has pointed to the variety of means through which the Gothic army may have received its salary,¹⁸ while Shane Bjornlie points a way out of the land:income tit-for-tat by helpfully linking settlement and identity, arguing that Gothic and Roman identities were at least in part conditioned by the status of one's land in relation to the state: 'Romans' possessed land that was liable to tax, 'Goths' land that was exempt.¹⁹ This has the virtue of connecting to signs of a crisis in taxation that have been detected elsewhere,²⁰ and indicates one benefit of Bjornlie's focus on the *Variae*: that they reflect the Gothic régime through the prism of the Roman state apparatus.

¹³ The manuscript tradition of the *Variae* is neatly summarized by Barnish 1992: xxxiii–iv.

¹⁴ Lafferty 2013: 15–21; Arnold 2014: 2–8.

¹⁵ Questions over Gothic identity range from doubts about their claims to immemorial ancestry as Goths to the notion that nearly everything we see of Gothic identity, at least in Italy, is a situational construct — that is, flexible according to the situation of the (self-)identifier: an excellent overview is Pohl 2013; for a more positivist approach to Gothic identity, see Heather 2007.

¹⁶ See the important discussion by Pohl 2015.

¹⁷ Classically in Goffart 1980: 58–102; more recently in Goffart 2006 and 2010.

¹⁸ Halsall 2016: 180; see also Halsall 2010.

¹⁹ Bjornlie 2014; see also Amory 1997: 52–7.

²⁰ Wickham 2005: 80–124; Innes 2006; Halsall 2016.

III

Three of the works under discussion here (Bjornlie, Laccetti and Porena) are essentially interpretations of the *Variae*; two more (Marconi and Lafferty) deliberately choose to examine alternatives to it. The long-established view of the *Variae* is that they are legal and administrative documents written by Cassiodorus during his tenure of various offices at the court of Theoderic and his successors, and deliberately and carefully assembled into a twelve-book collection by its author at the conclusion of that service. He added two prefaces, before Books I and II, and appended his treatise on the soul, *De anima*.²¹ There has been general agreement, furthermore, that Cassiodorus aimed to create an apology for the service that he, and those like him, had performed for the Ostrogothic régime, while also presenting ideals of bureaucratic conduct and aristocratic deportment to his contemporaries both in Constantinople and in the re-established Roman government in Italy.²²

Shane Bjornlie extends this interpretation radically. The *Variae*, he argues, were intended not just to excuse past deeds, but to recommend positive action in the future, specifically the rehabilitation of those Roman bureaucrats who had served the Goths and their reinstatement once Roman victory in the Gothic war was assured. In order to demonstrate this, B. has to show not only that Cassiodorus compiled the *Variae* later than is commonly thought but also — crucially — that he made much more extensive alterations to his original texts than scholars have recognized, to the extent of inserting numerous passages and adding entirely new documents (all the formulae in Books 6 and 7).

B.'s book is divided into three parts. The first argues that Cassiodorus played an active part in political life in Constantinople after his arrival there in, probably, 540, and that it was then that he composed the *Variae* (rather than in the period 538–540 as usually thought). Part II looks at the context of this activity: the second chapter depicts an imperial bureaucracy imbued with Neoplatonism and carrying the potential to limit imperial power; the third discusses Justinian's approach to government, casting him as 'determined to contest the institutional independence of the bureaucracy' (62); the fourth not only surveys the 'voices of dissent' at Constantinople — known critics like Zosimus, Procopius and John Lydus — but also portrays pro-imperial propagandists as responding to their polemical discourse. Ch. 5 characterizes the senatorial family of the Anicii as a political as well as a familial unit, dominant in Rome for most of Gothic rule, closely allied with the court at Constantinople, and received there with especial favour after their flight from Italy. For them, the death of their family member Boethius in 524 was a bone of contention with Cassiodorus. Accordingly in ch. 6, B. reads some of the *Variae* as having been written after the event to construct a historical defence of Cassiodorus' position in response to these criticisms. Part III, 'Reading the *Variae* as political apologetic', takes this further. Ch. 7 puts the *Variae* in their rhetorical and literary context in order, B. hopes, to correct the assumption that they 'are purely documentary in nature' (207). B. argues that in writing the *Variae* Cassiodorus was projecting the superiority of, first, *antiquitas* (ch. 8), which had guided Theoderic's government, over the 'perversion of traditions' represented by Justinian's legal innovations (219), and, secondly, of *natura* or natural law (ch. 9), which the Amal régime had understood correctly as the source of tradition and moral governance. In ch. 10, B. suggests that Cassiodorus appended *De anima* to the collection in order that he could offer his audience 'a fully developed model for the spiritual nature of temporal

²¹ For succinct descriptions, see Barnish 1992: xiv–xxxv and O'Donnell 1979: 56–67 (with comment on their evidence for Cassiodorus as an office-holder).

²² For a specific case, Vitiello 2008. The most recent general treatments of Cassiodorus and the *Variae* along traditional lines (at least in this respect) are Kakridi 2005 and Giardina 2006.

governance' (305). Finally (ch. 11), B. examines the letters in Books 11 and 12, written while Cassiodorus was praetorian prefect of Italy for Theoderic's successors (533–538), the deficiencies of Theodahad in particular leading him to promote the notion that the moral underpinnings of public service existed quite separately from the personality of any particular ruler.

This is a striking new reading of Cassiodorus' purpose and context, presented in a scholarly, if dense, style. B. makes a strong case for a later date for the composition of the *Variae* that elevates their relevance beyond Ostrogothic Italy. In thinking through its consequences, however, the new Constantinopolitan context tends to dominate his interpretation of the texts. Most of the features of the *Variae* that B. identifies as showing later concoction can just as well be related to the moments during Gothic rule in which the documents situate themselves. B. is quite clear that he does not believe his argument wholly to invalidate the *Variae* as evidence for Ostrogothic Italy (those that can be dated stem from the years 507–511, 523–527 and 535–537/38): 'the core content of the *Variae* — the actual legal and administrative issues forming the purpose of the majority of individual letters — could hardly represent inventions of Cassiodorus', so that 'like the historical record of late antique Italy in a larger sense ... the *Variae* are part historical reality and part rhetorical presentation' (332) — like almost any historical text, indeed.²³ Peeling away the rhetorical layers still leaves a solid kernel. But for whose enjoyment? B. devotes a significant part of the book to identifying Cassiodorus' intended audience as the middle-ranking bureaucrats of Constantinople. But B. can advance no evidence that those men ever acted, or thought of themselves, as a homogeneous cadre, and there are no examples of such a group wielding political power. Cassiodorus' appeals to *antiquitas* and *natura* look like a very natural way for a new Gothic régime to reassure its élite Roman subjects that it intended no fundamental change to their society or culture. Moreover, the idea that Cassiodorus' work in Constantinople responded directly to refugee sentiment sympathetic to the Anicii, supposedly so badly treated under Theoderic, depends on a conception of that family — as widespread, ramified and durable — that Alan Cameron has recently and persuasively challenged in this journal.²⁴

Vindication of the *Variae* takes a very different form in Danilo Laccetti's brief, but stylish, presentation of extracts from the collection. After a readable introduction to both Cassiodorus and his text (more eloquent but less informative than that of Sam Barnish's English translation), L. presents sixteen texts taken from the *Variae*, together with Italian translations, covering three broad topics: Gothic-Roman relations, religious affairs (Judaism, Arianism and magic) and examples of various aspects of Theoderic's (or Cassiodorus') concept of *civilitas*. Inevitably, this means that the reader is dependent on L.'s rationale for these very restricted glimpses into Cassiodorus' world. The sixteen *Variae* here include eleven not chosen by Barnish for his larger selection of English translations.²⁵ Of the various insights thus offered, what stands out is not simply that Cassiodorus' insistence on the supremacy of law over might was rooted in Roman legal tradition (73–4), but that his depiction of that tradition under Theoderic was illusory: an imaginary Rome only present in documents that projected 'l'identità irrimediabilmente contaminata dalle portentose rivoluzioni in atto' (76).

In their wilful neglect of friction between Goth and Roman, the *Variae* seem to be making a plea for the merits of a peace achieved through the integration of the interests of the ruling class, of whatever identity.²⁶ It was a message that would surely have had

²³ See also Bjornlie 2014.

²⁴ Cameron 2012.

²⁵ *Variae* 1.31, 2.18, 4.14, 4.43, 4.50, 6.19, 7.3, 7.15, 8.3, 9.14, 11.3.

²⁶ *Variae* 7.3 spells out the nuts and bolts of conciliation between Goth and Roman.

the most direct purchase with an Italian audience at a time, after 535, when it had cause to lament the absence of such a peace, and of the law that underpinned it, because it was experiencing instead the violent competition of the mighty. What Cassiodorus' silences in this respect were criticizing was not only the punishment meted out to Italian Romans in Theoderic's last years (which in any case his successors sought to mitigate),²⁷ but also, and here Bjornlie may well be on to something, the deliberate decision by Justinian to shift from conciliation to confrontation in his relations with the Goths, as with the Vandals. As Patrick Amory has shown, the letters in the *Variae* move decisively away from a rhetoric of ethnic harmony once the Gothic régime was faced with war against the east Romans (a war that, whatever the provocation, the emperor had started).²⁸ It is important to remember that the invasion first of North Africa and then of Italy, though not driven by some grand vision of 'Reconquest', was still a deliberate choice on Justinian's part, and one that he did not *have* to make. It came when it did because of the peace with the Persians in 532 (the initial excuse — Gelimer's ousting of Hilderic — had been in place since 530), but it was also the logical corollary to the growing emphasis on the figure of the emperor, evidenced most strikingly by the new legal compilations, which explicitly linked the imperial legislative and military powers.²⁹ Cassiodorus' placing of the same rhetoric of legal and military power in the mouth of Theoderic has the effect of emphasizing the contrast between a ruler who was a law-loving protector and a ruler who was a law-giving aggressor.³⁰ In this respect, Bjornlie's suggested connection in Cassiodorus' texts between *civilitas*, defined as social harmony underpinned by tradition, and his exalting of traditional law (as opposed to Justinian's new-fangled *Code*) looks close to the mark.³¹

The contrasting view of the *Variae*, as a collection of contemporary and generally reliable documents, is a necessary precondition of Pierfrancesco Porena's reconstruction of the settlement of Theoderic's army in Italy. After an introduction that gives a concise survey of the historiography on the subject, the book is divided into two parts, on the Gothic settlement, and on the differing fiscal arrangements for Goths and Romans. The first three chapters of Part I offer close readings of key sources. P. christens Cassiodorus' *Variae* 2.16 the 'Laus Liberii' since it is essentially a minor panegyric celebrating Liberius' achievement in settling the Goths in Italy with, it claims, minimal disruption. P. argues that this passage must be read as referring to the expropriation of actual pieces of landed property from Romans and their reallocation to Goths. This is a direct challenge to the Goffart thesis that Gothic soldiers received portions of the tax-take directly into their hands. It pays attention to Procopius' statement that the Goths' requirements were satisfied first from the confiscated properties of Odoacer's partisans.³² Arguably then, the land on which the Goths were established came not from ordinary private estates, but from the *res privata* — state resources. This would make sense — not least because the state's estates were more likely to have a stable population of surplus-generating *coloni*.³³ To an extent these arguments revolve around the definition of two key terms: *sors* and *tertia(e)*. In an appendix, P. argues that *sors*

²⁷ See Vitiello 2014: 80–93.

²⁸ Amory 1997: 75–8.

²⁹ *CJ, De Iustiniano codice confirmando* ('Summa rei publicae tuitio de stirpe duarum rerum, armorum atque legum veniens ...'); see the summary of various relevant texts by Moorhead 1994: 63. For the newly autocratic ideological turn, see Maas 1992: 14–18. For law and the military, Agapetus, *Advice to the Emperor* 1 and 27 (trans. Bell 2009: 99, 109; see also 43–4).

³⁰ *Variae* 4.12.1. See also Proc., *BG* 5.1.25–30. The irony that Justinian's conquering armies were both more ethnically fraught and more detrimental to Italy than the Gothic forces is noted by Pohl 2005: 463–4.

³¹ Bjornlie 2013: 216–53 for discussion of *civilitas* as involving harmony between ethnic groups; see Amory 1997: 43–78.

³² Proc., *BG* 5.1.28.

³³ *CJ* 11.68.1–2.

always indicates a share of ‘una concreta proprietà agraria’ (57). The much-controverted term *tertia*, on the other hand, referred in different instances to two distinct things: the maximum proportion of land expropriable from Romans for apportioning to Goths as *sortes*, and the proportion of the total tax liability that only Roman taxpayers had to pay.

P. concludes the first part of his book by turning to another of Goffart’s key arguments: that the absence of protest from Romans was an indication that the settlement was achieved peaceably and without seizures of land (168–81).³⁴ For P., as for other recent commentators,³⁵ this silence is not quite so telling. For one thing, it is very likely that the arrival in relatively quick succession of the armies first of Odoacer and then of Theoderic in fact represented only the latest in a long line of ‘barbarian’ detachments that had to be settled on (real) Italian soil. P. adds that Roman landowners accepted that the settlement of soldiers was a necessary part of the defence of Italy, recognized that their own praetorian prefect was the main instigator of the process, and welcomed the guarantees that accompanied expropriations. In any case, the senatorial aristocracy favoured such a settlement, and the Catholic Church was immune from it. Put like that, the case for the Ostrogothic settlement to have involved the redistribution of actual lands looks very strong. If so, one of its more significant effects may have been to encourage as proofs of tenure documents attesting private ownership rather than municipal registration for tax purposes: a shift full of implications for the future of documentary production, and not just in Italy.³⁶

In this vein, P. turns in Part II of his book to the fiscal reforms for which both Cassiodorus and Ennodius praise Liberius, seen as more important, P. suggests, than the terms of settlement, because they affected every landowner. He argues that, while the Goths enjoyed no principle of immunity from the ordinary land tax, some of the instances of the term *tertia* indicate that they paid only two-thirds of the amount that Romans did. Like much else in a dense and erudite book, this is persuasive. Occasionally, though, P. runs the risk of replacing definitions that look too one-dimensional, such as Goffart’s, with alternatives that are similarly rigid. In particular, he gives no room to the notion that in the process of settlement soldiers might sometimes have received the income from land rather than the land itself, largely because he treats the crucial terms as having been defined consistently in Cassiodorus’ own sources. His own sensibly ambiguous reading of the term *tertia*, however, indicates that they were no such thing: the language of land management was malleable, and could refer as often to rights associated with land — of ownership, of occupation, of usufruct — as to the soil itself. This fluidity of markers of status and ownership lies at the heart of the palpable anxieties prevalent in post-Roman Italy.

IV

Giulia Marconi certainly has no doubt about the turbulence of the period. For her, ‘invasions’, ‘devastations’ and ‘numerous’ Gothic settlers broke apart the social and economic structures that had traditionally sustained the family of her subject, Magnus Felix Ennodius, prolific author and bishop of Pavia from 513 until his death in 521. Ennodius’ aristocratic but relatively poor family had interests on both sides of the Alps and claimed kinship with the Anicii. He served in the clerical circles of the bishops of

³⁴ Goffart 2006: 134–5.

³⁵ Most recently Shane Bjornlie himself, Bjornlie 2014: 162.

³⁶ The shift away from the registration of property in the *gesta municipalia* is analysed in relation to different regions of the post-Roman West and across different periods in the essays by N. Everett, W. C. Brown, H. Hummer and M. Costambeys in Brown *et al.* 2013.

Pavia and then Milan, during which time he composed a substantial body of poetry, letters, *Dictiones* (discourses) and miscellaneous works including a panegyric of Theoderic and a life of his mentor Epiphanius of Pavia, whom he had accompanied on a mission to the Burgundian king Gundobad in 494–496. As bishop, he helped to heal the Acacian schism between Constantinople and Christian churches in the West. Yet although political fragmentation forced members of families like Ennodius' to choose under which barbarian rule they wished to live, selecting the Ostrogothic régime allowed them to pursue careers remarkably similar to those of their forebears. This, at least, is the message that M. takes from her brief, but scholarly, investigation of the socio-cultural context visible through Ennodius' works. These are now more accessible thanks to a recent proliferation of editions, which make it possible to confront the significant obstacle that has always prevented a better understanding of Ennodius: his tedious, highly elliptical style.³⁷ M. explains this by successfully exposing the paradox that lies behind Ennodius' apparently hypocritical endorsement of simplicity of language for Christian authors: the image that had emerged of the committed Christian who declined to compose profane letters had itself become a topos, cultivated with suitable rhetoric by the well-educated. For M., in fact, Ennodius' rhetoric, however convoluted, *was* the message. The first part of her book shows how his upbringing (ch. 1) and early ecclesiastical career (ch. 2) pointed him towards his image of the ideal bishop as both ascetic and skilled in public oratory. The second part works out the implications of Ennodius' preoccupation with rhetoric, digressing occasionally to resolve problems in the chronology of his corpus and the prosopography of his family. It therefore stands alongside Bianca-Jeanette Schröder's more systematic treatment of his literary posture as seen particularly in his letters.³⁸ Ennodius emerges as a social and cultural conservative, both expounding classical rhetoric and advocating it as a means of advancement. He was addressing men like himself, provincials aspiring to a civil career, and M. suggests that he often subtly promoted himself as a model. Political upheaval meant that the traditional *cursus honorum*, crowned by a sojourn in Rome itself, could now only be pursued in Italy. Those who chose to seek their fortunes in Gaul, including members of Ennodius' own family, were to be condemned — not for their attachment to a barbarian ruler, but for their detachment from the heartland of Roman senatorial culture; and Theoderic was to be praised because of his support for that same traditional set of values.

Sean Lafferty's study of the *Edictum Theoderici* helps to test the rhetoric on display here by giving access to some of the realities of Theoderic's Italy. If, as the *Variae* often declare, Roman *civilitas* was to be maintained, then it was above all through the continued exercise of Roman law, and nothing seems to affirm Theoderic's attachment to the legal culture he inherited more than the *Edictum Theoderici*.³⁹ The retrospective nature of so many of our other texts — the *Variae*, Procopius, the Anonymus Valesianus II, Jordanes — make it especially valuable. It has often been passed over, however, because of doubts over whether it was produced by this Theoderic at all. A strong element in the historiography has held to the view that the *Edictum* is neither legally Roman nor geographically Italian: its reference to 'Theoderic', should be identified as Theoderic II, king of the Visigoths in Gaul (453–466).⁴⁰ But L. puts the case beyond doubt: despite the fact that the only witness to the text is Pierre Pithou's edition of 1579, compiled from two now lost manuscripts, the *Edictum Theoderici* 'is a valuable source for the prevailing social

³⁷ The *Vita Epiphani* is now available in a superior modern edition, with Italian translation, by Cesa 1988. The *Panegyric to Theoderic* has been edited with translations respectively into German and Italian, by Rohr 1995 and Rota 2002. There is an on-going edition with French translation of Ennodius' letters: Gioanni 2006; 2010.

³⁸ Schröder 2007.

³⁹ For definitions of *civilitas*, see Amory 1997: 43, n. 1, 58–9 and 78–84 on the *Edictum* in this context; see also Moorhead 1992: 79; Reydellet 1995.

⁴⁰ Vismara 1967: 119 ('... of all laws the most barbaric and the most distant from Roman sources').

and economic conditions of early sixth-century Italy' (14). L. shows that the *Edictum* was issued by the Ostrogothic Theoderic (24–37) and argues for its production around the *tricennalia* celebrations in 500 (37–41). It is also, he demonstrates, essentially a work of Roman law, a sort of '*ius commune* of the provinces' (46), common to both Goths and Romans. Comparisons with the work of the Roman jurists, especially Paul's *Sentences*, and the *Theodosian Code* (laid out usefully with parallel columns and tables (64–99)), reinforce the point, and there is certainly no doubt of the need for such compilations, since Justinian recognized it too.

It is important to acknowledge how valuable a service L. has performed for historians of the period. Vindicating the *Edictum Theoderici* as a Roman law text emphasizes how crucial the continuing function of the Roman legal system was to the successor régimes. It is a long time now since anyone has seriously argued that the 'barbarian' *leges* were deliberately intended to establish legal régimes self-consciously distinct from the past. They were, rather, part of the process of accommodation with the past that each post-Roman ruler had to negotiate, to which the Roman legal texts that were issued alongside them, such as the *Lex Romana Visigothorum* (LRV), were in no way subordinate. Justinian's great compilation immediately gave much tighter definition to the variegated world of law assumed by the *Variae*. Traces of the transmission of the *Theodosian Code* in those pre-Justinianic decades are quite plentiful north of the Alps and in Spain, where Alaric II's advisers based the LRV on it (albeit it is often hard to distinguish the influence of the *Code per se* from that of its 'provincial cousins' — the customary law in operation in the provinces — or of the LRV).⁴¹ It is more difficult to detect such traces in Italy. A handful of manuscripts dating before 800 and containing fragments of the *Theodosian Code* are likely to have Italian provenances,⁴² but the best evidence for the continuity of Roman law that the *Variae* aver is now the *Edictum Theoderici*. Moreover, L. provides a workmanlike translation of the text that immediately puts it at the disposal of Anglophone students, to set alongside Barnish's selections from the *Variae*.

L. argues that the most important lesson to be drawn from the *Edictum* is not about identity (about what its promulgation might have to do with conceptions of *Romanitas* or *civilitas*) but about the operation of the laws themselves — about law and order. He is able convincingly to show how Theoderic's jurists adapted their sources pragmatically, in an effort to provide a more usable text. The picture of Ostrogothic Italy that results, set out in the central chapters on 'Law and Order' (ch. 3), 'Society and the Family' (ch. 4) and 'The Economy' (ch. 5), looks more disorderly and unstable, and materially poorer and more rural, than the harmonious, urban society implied by the *Variae*. This partly reflects the much greater grandiloquence of Cassiodorus' style in the latter (a 'smokescreen of Roman *civilitas*', according to L. (241)); but both texts in their different ways underline the necessity that the régime felt of maintaining the Roman legal and judicial structure, even in the face of increasingly poor material conditions. In any case, the more practical, pragmatic tone of the *Edictum* may help to explain why it wandered into far greater obscurity in subsequent generations than did the rhetorically and ideologically charged *Variae*. It is this afterlife, the legacy of the *Edictum* and the legal culture that it embodied, that is lacking in L.'s analysis. He misses the opportunity, for example, to make more of correspondences in the treatment of unions between free

⁴¹ Wood 2010: 161–77.

⁴² Perhaps the best example is the composite designated by Lowe as *CLA VII 1016* and dated by him to the late fifth or early sixth centuries. These pieces are now Staatsarchiv Zürich, C. VI 3 Nr. 1 + Roma, Accademia dei Lincei, Fondo Corsiniano 27: palimpsest fragments which between them preserve parts of Books 6, 10 and 11 of the *Theodosian Code*. See the comprehensive note by Coma Fort 2014: 91–3, with fuller treatment by Caravale 2001. Salway 2012: 28–9 sets its evidence in context.

women and slaves, between the *Edictum*, earlier Roman and later Lombard law.⁴³ Nevertheless, his definitive location of the text in space and time will allow others to trace its influence with greater confidence.

V

While Shane Bjornlie therefore sees our picture of Ostrogothic Italy as conditioned by hindsight, and specifically by Cassiodorus' vantage point in Constantinople after the outbreak of war, and Sean Lafferty uncovers Theoderic's pragmatic adaptation of his inheritance from Rome, Jonathan Arnold thinks that the rhetoric of imperial continuity in the *Variae* tells nothing but the truth about Theoderic's régime. Taking his cue from a long tradition that emphasizes the essential Romanness of Ostrogothic rule, A. 'fully accepts Theoderic's reign (489/93–526) as a continuation of Roman history' (7).⁴⁴ Partly this difference is one of source material: Bjornlie focuses largely on the *Variae*, while A. devotes space to the Senigallia medallion⁴⁵ and the inscription by Basilius Decius describing Theoderic as, *inter alia*, 'semper Augustus, bono rei publicae natus ... propagator Romani nominis' (111–14, 273).⁴⁶ But partly too it is a difference of perspective. A. contends that, seen without the benefit of hindsight, Theoderic *was* a great restorer of Roman greatness after the upheavals of the mid-fifth century. He argues that his rule amounted to the restoration of 'an independent western empire' (300) and lays emphasis on occurrences of the term *basileus* to describe the Gothic king, not least by Procopius.⁴⁷ But while the use of this word to designate the emperor did begin around this time, it did not acquire a direct equivalence with the office before the reign of Heraclius.⁴⁸ A.'s book is rather curious in that its account effectively cuts off in the 510s: it begins and ends with Theoderic's appropriation of southern Gaul, 508–511, though it also incorporates the settlement of the Acacian schism in 519. This is a defensible approach, but it is a bit like curtailing a history of the Nazis just before the Wannsee conference of January 1942: momentous policy decisions, and their consequences, are not considered. Only in his final six-and-a-half pages does A. mention the events that are usually seen as marking a decisive break in Theoderic's rule, and reputation, after 522. While it is true that the primary texts for this period change — the *Variae* do not cover it, and we are reliant instead on the self-contradictory and often puzzling Anonymus Valesianus II — the shift in Theoderic's stance was decisive, and A.'s epilogue has the air of an apology: the death of Boethius was among 'a series of very unfortunate events' (296).

A similarly distorted sense of the chronology of Ostrogothic Italy comes from Massimiliano Vitiello's monograph on Theodahad. It is hard not to feel a lack of proportion between Theodahad's eighteen-month reign and Vitiello's 333-page book (granted, Theodahad was co-regent for about seven additional months, and the book includes 110 pages of notes).⁴⁹ What it indicates is that V. is extremely thorough, and

⁴³ *CTh* 9.9, and see Mathisen 2009: 144; for the situation in Lombard Italy, Wickham 2005: 560, n. 77 and compare Rio 2011: 216–23, who emphasizes the evidence for flexibility in practice even in the late Roman period, and notwithstanding the harsher laws against (in particular) slaves forming unions with free women, a point echoed by Lafferty 2013: 171–2.

⁴⁴ Compare Mommsen 1889–1890.

⁴⁵ Grierson and Blackburn 1986: 35.

⁴⁶ *CIL* 10.6850–52 (= *ILS* 827).

⁴⁷ See also Amory 1997: 59.

⁴⁸ Humphreys 2015: 31; see Ostrogorsky 1968: 106 with n. 2. While Basilius' inscription labels Theoderic 'augustus' (see above), he did not use the term himself: Moorhead 1992: 47–8, Amory 1997: 59.

⁴⁹ Assuming that Vitiello's dates are more-or-less accurate: that is, that Amalasintha was murdered around the end of April 535, and Theodahad was replaced by Witigis around the end of November 536.

entirely positivist, in his use of (what for him are simply) ‘the sources’. The *Variae* and Procopius, in particular, are wrung for every drop of information they can yield on Theodahad. Less defensibly, dashes of the author’s own concoction are occasionally added.⁵⁰ This method leads to a much more rounded portrait of Theodahad than that of the bumbling philosopher-king depicted by (especially) Procopius; but whether it persuades us of the importance of anything more than the bungles (if a vicious murder can be so described) is doubtful.

VI

We are used to seeing the evident disorder surrounding the collapse of the western empire as a crisis of identity: contemporaries were concerned with what it meant to be — or whether it was possible to be — a Roman without an emperor.⁵¹ The legal texts that proliferate from around 500 seem to reflect that need for identification, to refract attachment to the Roman ideal into different shades and hues, associated with various ethnic labels and overlapping with notions of property ownership, soldiery and freedom.⁵² But we should not lose sight of the fact that these texts were, in part at least, responses to the disorder itself. Nearly all these books reveal, in some way or another, a desire to defend or re-establish Roman norms of social order (however idealized or nostalgic those were). Arnold emphasizes the degree of sheer continuity of Roman practice. Lafferty uncovers the *Edictum* as explicitly aimed at shaping the post-Roman legal system for the particular Ostrogothic moment. Bjornlie shows how, in the *Variae*, Cassiodorus used the very machinery of that system — the documents that made it tick — as vehicles for ideological expression, leading us to question how we balance the instrumental against the rhetorical purposes of the documents when we read them. Porena too casts the Ostrogothic settlement in terms of legal mechanics, while Marconi sheds light on the personnel who made the system work, and on their formation. The ideological noise generated by the war tends to obscure the more mundane qualities of these texts. It is an important point of contrast between, especially, the *Edictum* and the *Variae*,⁵³ that the major rhetorical shift that saw the emergence of the notion of ‘an orthodox empire called by God to conquer the barbarians’⁵⁴ came after Theoderic’s death, but before either Cassiodorus or Jordanes had finalized their texts. Ultimately the ideology that Theoderic inspired shared the fate of his régime: overwhelmed by the sheer weight of opposing force that the eastern empire could bring to bear against it. The *Corpus Iuris Civilis* was the legislative equivalent of Belisarius’ and Narses’ armies.

Moreover, because Ostrogothic legal products did not ultimately become bound up with legal personality (unlike, most obviously, the Frankish), nor turn into legal monuments like

⁵⁰ For instance, the nine pages on the murder of Amalasantha (94–102), which as the ultimate *casus belli* certainly merits investigation, essentially depend on Proc., *BG* 1.4.12–31 and Jordanes, *Getica* 306 (ed. T. Mommsen, *MGH* (AA) 5 (Berlin, 1882), 136). While momentarily acknowledging ‘Procopius’s intentional ambiguity’ (2014: 97), Vitiello’s description of the sources culminates in a reconstruction of the events around the murder that attempts to serialize all the information that they offer, including the claim in Proc., *HA* 16.5 of Theodora’s incitement of Theodahad to the murder. Theodora may have been exactly as wicked as Procopius describes, but other interpretations are possible. Further, to describe the murder setting — a property of Theodahad on the Isola Martana in Lake Bolsena — as his ‘Wolfsschanze’, as Vitiello follows Cagiano de Azevedo 1980 in doing, is to load the words of the *Appendix Maximiani* (ed. Fo 1984–1985: nos III and IV (pp. 167–8)) with serious anachronism: Vitiello 2014: 95 (and see 36).

⁵¹ See the discussion of the Ostrogothic régime in this context by Heather 2013: 79–87, 97–102.

⁵² Innes 2006: 46–9.

⁵³ Not to say Jordanes’ *Getica*, on the date of which see Croke 2005 and Amory 1997: 291–307. A new English translation of Jordanes’ work would be welcome.

⁵⁴ P. Brown 2003: 194; for more comment on this rhetoric, see T. S. Brown 1984: 144–59.

Justinian's great tomes, their influence was more subtle. But we should not overlook how they sustained Roman methods of written legal administration through a period of extreme disorder and vulnerability, so that when stable government returned to Italy such fundamentals as status, property owning and freedom were expressed in recognizably Roman documentary forms. If that continuity is attested most obviously by the Ravenna papyri, its durability emerges from the clearly 'post-Roman' shape of Lombard documentation, and its essential value to posterity from the 112 surviving manuscripts of the *Variae*.⁵⁵

University of Liverpool
costa@liverpool.ac.uk

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⁵⁵ Ravenna papyri and the limited horizon of Gothic identity: Schoolman 2013; Lombard charters' legal basis: Everett 2003: 197–234; *Variae* manuscripts: Cassiodorus, *Variarum Libri XII*, ed. A. Fridh, CCSL 96 (Turnhout, 1973), xl, adds one to the 111 manuscripts listed in *Cassiodori Senatoris Variae*, ed. T. Mommsen, *MGH (AA)* 12 (Berlin, 1889), LXXVIII–CVIII.

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