

*De legibus ac Deo legislatore. Liber tertius: De lege positiva humana / Über die Gesetze und Gott den Gesetzgeber. Drittes Buch: Über das menschliche positive Gesetz, Teil 1.* Francisco Suárez.

Ed. Oliver Bach, Norbert Brieskorn, and Gideon Stiening. Stuttgart-Bad Cannstatt: Frommann-Holzboog, 2014. xxxiv + 456 pp. €188.

*De legibus ac Deo legislatore. Liber tertius: De lege positiva humana / Über die Gesetze Und Gott den Gesetzgeber. Drittes Buch: Über das menschliche positive Gesetz, Teil 2.* Francisco Suárez.

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This is a beautifully presented bilingual edition of book 3 of Suárez's ten-book *De Legibus*, from a publishing house conspicuous for its uncompromising academic and production standards. Scholars of the stature of Bach, Brieskorn, and Stiening rarely engage in the ungrateful work of translating and of tracing Suárez's enormous apparatus of citations. The Latin text and referencing are based on the only comparable modern (Latin-Spanish) edition, that of L. Pereña and others for the *Corpus Hispanorum de Pace* (1971–81), but amended and expanded where necessary — I have been unable to check to what extent — with reference to the editions supervised by Suárez himself. The proofreading in these 890 or so pages is of astonishingly high quality, with scarcely a misprint. The Latin text deliberately retains Suárez's own format, apart from (like Pereña) paragraphing Suárez's numbered sections and using line numbering, thus facilitating precise referencing to his mighty folios. The translation is meant to be readable on its own. In line with the editors' intention, it generally refrains from more interpretation than translating inevitably demands. In order not to clutter the text it reduces Suárez's somewhat skeletal citations to names and titles; admirably full and precise citations are in the endnotes, which contain virtually no amplifications or exegeses. There are comprehensive indexes of persons and subjects. The translation is polished and intelligently punctuated. The sentences — like Suárez's own — are reasonably short, though his constant references back and forth require some amplification.

All the same, the readership for this work is restricted. Proficiency in Latin is now uncommon, and the Latin text is readily available online, in any event. German, again, is not the language of choice for anglophone (or francophone) readers, to put it mildly. Moreover, this edition gives no information whatever about the Roman-law texts and commentators, church fathers, glossators, decretalists, canonists, medieval and early modern theologians, lawyers, and polemicists that (with Aristotle and scripture) were Suárez's authorities, and for many of these some information would have been valuable to nonspecialists. The editors rightly contend that book 3 is "the conceptual centre of the Suárezian doctrine of law." It is, however, not freestanding, as Suárez's constant references to the rest of *De Legibus* demonstrate. Nor is it the center of his ecclesiology, which, as the editors themselves emphasize, qualifies his entire political theory. Readers must look elsewhere for some of his conceptual groundwork on *ius*, on the legislator's right and role in changing the law, the customary (i.e., common) law that Suárez greatly valued, and the *ius gentium*, all critically relevant to Suárez's understanding of rulers and ruling. Brieskorn has admittedly produced a German translation of books 1 and 2 (without the original Latin), now out of print. Anglophone readers, by contrast, have only the 1944 translation of *Selections from Three Works*, now also out of print, which I have not seen; the admirable Sydney Penner website so far only has an excellent translation of Suárez's *De Iuramento Fidelitatis* (On the oath of allegiance), arguably as important for Suárez's political theory and ecclesiology as the *De Legibus*.

In my view, the editors would have done well to radically abridge some of his interminable discussions of strictly in-house issues, replacing them with excerpts from the other books of *De Legibus* to which he refers, and some context for his sources. The fourteen-page introduction is not introductory. Although it is a masterpiece of concision, it will be of value only to experts; peculiarly, moreover, it cites only German secondary works. There is of course the editors' excellent collection of essays, *Auctoritas Omnium Legum* (2013), but only the most specialized and/or pecunious libraries can afford all three volumes, and some have none of them. Moreover, and especially regrettably, the editors provide no account of their hermeneutics. The translation is, admittedly, almost totally reliable and intelligible. There are occasional mistranslations (*privare* as *berauben*; *humana politia* as *Politik*; *inferiores magistrati* as *Staatsverwaltung*; *politici* and *heretici* as *Politiker* and *Heretiker*, instead of *the Politiques* and *the heretics*; *est de fide* as *verdient Glauben*; and *bürgerliche Gesetze*, their ordinary and — for German — unavoidable term for *leges civiles*, where Roman law is meant) or the occasional omission of a crucial word (like *necessario*). However, it is the translators' judgement and consistency, and their propensity to modernize, that in some points seem to me contestable. Thus the translation normally declines to retain Latin terms, but *corpus mysticum* is once left as that and elsewhere rendered as *überirdischer Körper*. Conversely, *Telos* appears several times in the translation but is not in the original. They translate the central term *potestas* as *Macht*, *Gewalt*, or *Autorität* interchangeably; of these, only the last unambiguously conveys Suárez's meaning, which was always rightful power. So the translation in some places says that rulers do not have *Macht* or *Gewalt* to do something, when they plainly do; what

they lack is *potestas*. Again, German, like the Romance languages and unlike English, is able always to translate *ius* by the same term. Not so with what Suárez's English contemporaries universally termed the *commonwealth*. The editors generally have the entirely apt *Gemeinwesen* for *communitas*. But many of their translations needed an explicit defense, in particular *Staat* (or even *Flächenstaat*) for *regnum*, or *Stadtstaat* for *civitas*, notably in a passage where the editor's interpretative translation of *civitas* as either *Stadt* or *Staat* conceals Suárez's own ambiguities. *Status* was by Suárez's time occasionally used as a back-formation for the by-then fashionable terms *stato*, *estado*, *state*, *e(s)tat*, etc., but was not part of Suárez's vocabulary. Again, *regimen* (difficult for the translators throughout) and *gubernatio* are both translated as either *Lenkung* or *Leitung*. In all these cases there should have been consistency, or the Latin terms should have been included in square brackets. The editors' general tendency to modernize adds to the smoothness of the translation, but "Regelungsgegenstand" for "materiam in qua" and "Angelegenheiten der grundlegenden and ranghöchsten Herrschaftsbeziehungen" for "quae ad supremum regimen spectant" are plainly interpretation, and in the latter case overinterpretation.

For all that, virtually anything in this translation could be safely quoted as an accurate citation from Suárez. The rejoinder to any critic of a translation is, can you do better? And the answer in my case is, I couldn't come close. This is obviously overall a first-class piece of work.

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