

Book Reviews

Detlef Liebs, translated by Rebecca L.R. Garber and Carole Gustely Cürten, *Summoned to the Roman Courts: Famous Trials from Antiquity*, Berkeley: University of California Press, 2012. Pp. viii + 274. \$60.00 (ISBN: 978-0-520-25962-1).

doi:10.1017/S0738248012000776

This book has its origin in lectures delivered by Liebs to a seminar on famous trials in antiquity, and the chapters display a tight adherence to a schematic structure that must have served author and audience well in the classroom. Sixteen chapters are devoted to seventeen “trials”—the term is used loosely, on which more below. With slight variation, each chapter sets out a notionally autonomous summary of the events; an account of surviving sources for those events and the trial itself; a fuller account of the background; an “evaluation in light of the civil law”; and often but not always, conclusions. The volume ends with a helpful review of the material presented, here analyzed in respect of patterns not highlighted in the particularist focus of the individual chapters. The aim of the volume as a whole is to “acknowledge the contribution of Roman judicial practices to the evolution of Roman law” (vii). Its success in this ambition is limited, for reasons grounded in the book’s mode of exposition as well as its selection of material.

The problem of selection is the more crucial. Liebs treats six civil and eleven criminal trials. But the civil law tradition as commonly understood is concerned nearly exclusively with private law, not criminal law. This is a normative bias, grounded in Roman legal theory, as well as an evidentiary one. Nearly the totality of surviving Roman jurisprudence, and in consequence nearly the totality of Roman legal science, is concerned with private law. As a result, the chapters on civil law trials can occasionally gesture at post-Roman, even modern developments on substantive issues regarding which there exists a meaningful history of doctrinal continuity from antiquity to the moment in question, but elsewhere, Liebs can make only comparative claims. The result is a certain schizophrenia in the book’s explanatory ambitions.

As regards exposition, the historical or comparative remarks that conclude most chapters consume perhaps a single page: the aggregated wisdom is very thin. This problem is compounded by the choice to select trials illustrating different issues of law. The book benefits thereby in its scope, but the opportunity to

comment in depth on historical developments is lost. The single exception concerns trials for religious deviance: Liebs treats the trial of Jesus; the condemnation of Christians after the Great Fire under Nero; the letters from the governor Pliny to the Emperor Trajan regarding trials of Christians in northern Asia Minor circa 110 CE; and two inquiries into heresy in the Christian empire. A variety of problems intervene, however, not least huge changes in context: the difference between governors or the emperor himself as judge; the coming-to-be of the institutionalized church, with its own interest in, and institutions for, the enforcement of orthodoxy. What is more, it is not at all clear that a trial was conducted under Nero, nor is Liebs in any better position than the ancients to say why Christianity was criminalized. In consequence, the rules of evidence—many major questions of procedure—were radically underdetermined. The ability of Liebs to draw firm conclusions, of the sort he favors, is thus reduced.

Perhaps as a result of these gaps in our knowledge, and the apparent discontinuities in justification for the assorted trials of religious figures, Liebs himself declines to announce religion as a theme. On some very formal level, this is prudent, but his silence on this matter surprises. He could have exchanged two of the trials of Christians for ones concerning deviant pagans and Jews, and much profit might have been realized from the more capacious perspective. There survive from antiquity spectacular fictional narratives of trials of Jews: little could illustrate the importance of the trial as a site for contesting governmental legitimacy and religious truth as the widespread use of trials in fiction.

Liebs has done superb technical work as a biographical historian, cataloguing legal practitioners, and as a historian of legal literature. None of that work exists in English. It speaks to this moment in academic publishing that the work of his chosen for translation is a misguided popular one. The trials under study raise fascinating issues of forensics and epistemology, procedure, gender, and rights, but none of these topics is treated in a way that could sustain discussion with students or comparative inquiry by a legal scholar.

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Aldo Schiavone, translated by Jeremy Carden and Antony Shugar, *The Invention of Law in the West*, Cambridge, MA: Harvard University Press, 2012. Pp. 624. \$49.95 (ISBN 978-0-674-04733-4).
doi:10.1017/S0738248012000788

This is a translation of Schiavone's *Ius. L'invenzione del diritto in Occidente*, first published by Einaudi in 2005. It is immediately striking that the translated