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CICERO'S LAW: RETHINKING ROMAN LAW OF THE LATE REPUBLIC.

Ed by Paul Du Plessis

Edinburgh: Edinburgh University Press (edinburghuniversitypress.com),

2016. ix + 214pp.

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Marcus Tullius Cicero (106 BC-43 BC), orator, philosopher, statesman and man of letters, was one of the major figures of the final days of the Roman Republic. Although he reached the office of consul in 63 BC, the first of his family to do so, it is however his writings that have been his greatest legacy. These are extensive, both in volume and in scope. Of greatest interest in the study of Roman law, though, are the published versions of the speeches he made before the courts.

I first encountered Cicero in 1995, studying his *in Verrem* (a prosecution of Verres, a corrupt governor of Sicily) in the Higher Latin class at Kirkcaldy High School. Indeed, this was one of the things that nudged me in the direction of applying to study law. I was surprised and disappointed, then, soon after arriving at Edinburgh in 1997, to be told by a friend who had preceded me in the Civil Law class that Cicero was not considered to be a lawyer at all.

Such, at any rate, is the traditional view, albeit simplified. Any introductory textbook on Roman law will explain to students that a distinction is made between jurists, who had the function of advising on the law, and orators or advocates, who actually appeared before the courts and pled cases. This distinction is strongly urged by Alan Watson in his "Cicero the Outsider", an appendix to his book *The Spirit of Roman Law*. Here we are told that in "almost every particular [Cicero's] attitude is the reverse of that of the jurists" (p. 195). Although he himself was learned in the law, he dismisses jurists' expertise as unworthy of serious attention, except possibly as a means of staving off loneliness in old age, and the jurists themselves as concerned with trivialities. Watson perhaps does not sufficiently stress that a comment made by a Roman advocate in pleading a case may have a rhetorical function of discrediting an opponent rather than representing a genuine expression of opinion. This is a standard part of the advocate's method, and Cicero's comments in *pro Murena* on the triviality of legal learning (see especially *pro Murena* 10.23-25, a defence of a politician accused of bribery by a defeated opponent) must be read in that light, given that they were directed at his opponent, the jurist Servius Sulpicius Rufus. As Matthijs Wibier observes in the book under review (at p. 117):

"That orators and jurists felt the need to engage in such polemics [about the superiority of their respective fields], however, suggests that they were talking to each other to some extent, and that the boundaries between the two fields may have been fuzzier than their rhetoric claims them to be."

Moreover, Cicero included jurists in his circle of friends, and his letters show him engaged in debating legal issues. Further, when it suited him, he was quite capable of striking a different note from that in *pro Murena*. A notable example may be found in his *pro Caecina*, in which Cicero's client sought the interdict *de vi armata* with respect to certain

disputed land. At 77-79, Cicero is highly complimentary of the jurist Gaius Aquilius Gallus. The point loses only some of its force from the fact that he had given an opinion supportive of Cicero's position (that, on the strict wording of the interdict *undi vi armata*, contrasted with that of the interdict *unde vi*, it was not necessary to show dispossession). Given this, it is perhaps unfortunate that *pro Caecina* is, as far as appears, given only two brief mentions in the book under review.

All the same, Watson's argument, based as it is on direct reference to Cicero's own words, is a strong one. The book under review, though, is presented as a response to Watson's characterisation of Cicero as an "outsider". I have to say that, notwithstanding the high merits of the chapters in this book, I did not see anything in it that persuaded me that the view espoused by Watson was anything other than fundamentally sound. For example, stimulating though Philip Thomas' contribution was, it does not entirely appear to me that Cicero presents himself in *pro Murena* as belonging among the jurists he lampoons there. Nonetheless, there is much to provoke reflection here, which can only in the end be positive.

Space does not allow full discussion of all chapters. Suffice to say that they range widely - more widely indeed than the book's stated aim would suggest - and discuss numerous aspects of the relationship between forensic and juristic practice. It may be unfair to pick out only two, as all of the contributions justify close attention. However, I particularly enjoyed the contributions of Yasmina Benferhat and Matthijs Wibier, especially the latter's discussion of "conversions" from oratory to juristic study. That there could be such conversions is itself suggestive of a division in the Roman mind between the two.

Finally, I did notice one minor typographical error. In an analysis of Cicero's *pro Caelio*, Michael C Alexander identifies (at p. 198) a number of charges faced by Caelius, beginning with "assault on a senator sexually molesting women". This should of course be two separate items, the omission of a comma after "senator" giving an unfortunate impression of the conduct of the senator in question. This, though, is a trivial complaint against a thoroughly enjoyable and thought-provoking book. It is always a pleasure to remake Cicero's acquaintance, and this book does not disappoint.

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