Emanuele Conte and Sara Menzinger (eds), *La Summa Trium Librorum di Rolando da Lucca (1195–1234). Fisco, politica, scientia iuris,* Viella, 2012. Pp. CCLXIX + 570. € 70.00 (ISBN 978-8-883-34498-5).

It has long been accepted that Roman law provided the basis for the development of private law in the Western legal tradition. Accordingly, there is an abundant literature which tries to uncover the connections between provisions in the *Digest*, the *Institutes* and the *Code* of Emperor Justinian, on the one hand, and the modern codifications of private law, on the other, for instance regarding the principle of privity of contract (*nemo alteri stipulari potest*). However, much less attention has been paid so far to the reception of Roman law in matters of public law. Perhaps due to the lasting impact of nineteenth-century legal-historical scholarship and the assumption that public law is closely intertwined with national identity, surprisingly little effort has been made by comparativists to highlight the common, Roman roots of various public law institutions in contemporary jurisdictions. The volume under review is a timely invitation to question that view. It convincingly shows that the development of public administration and taxation in medieval Italian towns such as Lucca was driven to a large extent by the reception and adaptation of Roman legal texts. Books ten to twelve of Justinian’s *Code* in particular, the so-called *tres libri Codicis*, provided medieval jurists with an unparalleled source of inspiration for public government and finance.

The role of Roman law in the development of late medieval public finance is approached in this book from the angle of the *Summa trium librorum*, a summary of the last three books of the *Code*, written by the Italian judge Rolando (c 1150–1234) from the town of Lucca. As a matter of fact, the main purpose of the book under review is to provide scholars with a critical edition of the text of Rolando’s *Summa*, which has been handed down to us through five manuscripts preserved in Madrid (Biblioteca Nacional), Montecassino (Archivio dell’Abbazia), Peralada (Biblioteca di Palau), Sankt Florian (Stiftsbibliothek) and Rome (Biblioteca Apostolica Vaticana). The volume contains a detailed description of each of these manuscripts by Valentina Longo and Sabina Magrini (ccxx–ccxli). Careful collation of the different manuscripts reveals that there are actually two versions of the *Summa* (ccxix). The second version of the text, which is most complete in the Sankt Florian manuscript, was enlarged with textual fragments from Placentinus and Pillius, two medieval jurists who had also summarised the *tres libri Codicis*. The Sankt Florian manuscript was chosen as the starting point for the critical edition.

In the edition of Emanuele Conte and Sara Menzinger, the *Summa* of Rolando consists of an impressive 570 pages, including a list of citations. This remarkable piece of philological scholarship, however, is preceded by no fewer than 250 pages investigating the historical context from which the *Summa* emerged. These preliminary investigations constitute a monograph on their own, which, for a wider audience, may turn out to be of even greater interest than the edition. It is subdivided into three large chapters, which, ideally, deserve to be translated into English soon. The first chapter, written by Emanuele Conte with the assistance of Veronica Bagnai Losacco and Frank Theisen, deals with the life and work of Rolando (xv–lxiv). In the second chapter, Emanuele Conte offers a general account of public law in the twelfth century and the role of the renaissance of Roman law in the construction of a public body and a civil soul (lxv–cxxiv). The last chapter, by Sara Menzinger (cxxv–ccxxviii), concentrates on the emergence of public law at the level of the medieval Italian towns, particularly as reflected in the work of Rolando and his contemporaries.

Rolando was not just an early theoretician of public law or a political philosopher *avant la lettre*. As a judge and administrator he occupied major public offices in the town of Lucca. In fact, the beginning of his *Summa* mentions that he dedicated his work to the Holy Roman Emperor Henry VI (1191–7) in the hope of gaining economic benefits in return which would allow him to retire from the hustle and bustle of life in the courts (xxviii). As was typical of judges in medieval Tuscany, Rolando was cultivated and familiar with classical literature by virtue of his training in the liberal arts (lxiv). The culture to which he belonged was that of the proto-humanist circles of notaries, lawyers and judges who had a genuine interest in scrutinising the history of classical antiquity that lay behind the texts of the *Corpus iuris civilis* (lxxxi). The legal culture in which Rolando prospered was different, then, from that of the Bolognese glossators. While glossators such as Azzo mostly deprived the Roman legal texts of their historical background in order to make them fit for application to the society of their time, Rolando also indulged in historical investigation of the identity of certain officials mentioned in Justinian’s *Code*, in erudite reflections on the origin of certain public offices, or in conjectures about lost Greek laws (lxvii).

The fascination that ancient Rome exerted on medieval Italians—long before the Renaissance of the fourteenth and fifteenth centuries—can hardly be exaggerated if one wishes to understand the early development of public law. For all the parties involved—citizens, towns, the Church, the Emperor—references to ancient Rome played an important political role. For example, Arnoldo da Brescia (1090–1155) revived the Roman institution of the Senate as a counterweight against ecclesiastical power in temporal affairs (lxvi). Medieval towns such as Pisa claimed to be the new Rome to stress their autonomy (lxxiii). Pope Innocent II (1130–43) drew on Justinian to prohibit clerics from studying law or medicine and to develop a Romano-canonical procedural law (lxxi). Emperor Frederik Barbarossa (1155–90) claimed to be the living embodiment of Roman law (xcvii) and the rightful successor to the Roman emperors by virtue of a *translatio imperii* (lxix). With Barbarossa we also witness some of the most blatant misinterpretations and manipulations of the Roman texts. For example, he tried to lend authoritative support to his pretension of being the lord of the world by inserting the words *ego quidem mundi dominus*—a Latin translation of a Greek *Digest* fragment—in the Bolognese edition of the *Digest* (ci).

The tendentious use of Roman legal texts was not only the province of the emperor. Citizens in Italian towns defended their interests against imperial tax collectors by appealing to Roman law (cxix). Moreover, through creative misreading of Justinian’s laws, the towns argued convincingly that they had a public and not a private juridical character. Rolando, for instance, qualified Italian towns (*civitates*) as public entities (*res publica*), whereas the *Digest* texts had reserved this term exclusively to Rome (cxx). The qualification of towns as ‘public’ may strike the modern reader as obvious, but it was relatively new at the time and it had important consequences. The eleventh book of the *Code* mentioned that a *res publica* benefitted from the same privileges as a minor (C 11,30,3: *rem publicam ut pupillam extra ordinem iuvari moris est*). Accordingly, the administrator of a town was to be considered a tutor who merely had the power to act in the interest of his pupil (cxxii). In addition, the towns shared their status of ‘minors’ with the Church. As Rolando pointed out, public affairs are like sacred affairs (*sacrae res a publicis non multum differunt*) (cxlii). Hence, through the superposition *ecclesia/civitas/res publica/pupillus*, both a ‘canonisation’ and a ‘priviligisation’ of many public institutions and duties were made possible (cxci).

In light of the claim that Italian towns had benefited from a tax exemption in ancient Rome, there was an urgent need to know more about the Roman system of taxation, as described in the *tres libri Codicis* (xcviii). Both Rolando and the city of Lucca, however, were rather supportive of the imperial tax policies of the Hohenstaufen, even though they fought against abuses by dishonest imperial representatives (cxxviii). In general, Rolando seems to have considered the interests of the empire and the city as part of a continuity (cxxx). For instance, one of the legitimate titles (*causa*) to levy taxes in the town was for the sake of the emperor’s army (cli). Much more sensitive was the question whether the military and the clergy—the two *militiae* as Rolando called them—were exempted from taxation (cxxx). Generally speaking, Rolando opposed the fiscal privileges of the clergy even more than those of the military (cxxxv), but he denied even soldiers exemption from patrimonial taxes (ccxi). As a matter of fact, Rolando tried to single out a certain number of *causae* in which paying taxes was obligatory regardless of status (clxxxv), for instance the construction of city walls (clvi). In principle, Rolando defended a tax system based on patrimonial wealth and proportionality. The analytical distinction between personal and patrimonial taxation went back to a creative reinterpretation of Justinian’s *Code* during the diet of Roncaglia and the principle of proportionality was inspired by the ecclesiastical tithe system (clix–clx).

A thorny issue concerned the relationship between citizenship and taxation. According to traditional Roman law, citizenship was determined by blood or birth. However, assuming that there is a direct connection between citizenship and taxation, did this mean that an immigrant from Bologna was not subject to the local tax authorities in Lucca? Rolando forcefully denied that (cciv). But what if Bologna, too, claimed taxes from that man? Rolando thought that the man in question had to pay taxes in both cities, arguing that it was possible to enjoy ‘multiple citizenship’ (ccvi). Related to this problem was the situation where a woman married a husband from another city. Roman law stipulated that women move to the city of their husbands and become exempt from personal duties (*munera*) in their city of origin, although patrimonial taxes were due in the city where their estate was situated, which would often be their husband’s town because of the dowry (ccx). Accordingly, many Lombard cities prohibited wealthy women from marrying strangers, for fear of losing income from taxation on their patrimony (ccxi). Rolando solved this problem by applying the principle of multiple citizenship. In this he was alone: his contemporaries had solved the conundrum by denying women citizenship in their town of origin, which also meant that they lost their right to inherit in that town (ccxii).

It may be questioned why the common opinion, which did not follow Rolando’s idea of multiple citizenship, would necessarily have been disadvantageous to women, as the author claims (ccxii), but this reviewer does share her view that Rolando delivered a rather novel defence of women’s rights to perform public *munera*. Roman law had denied women any administrative and jurisdictional power (D 50,17,2). However, it is probable that under the influence of developments in the canon law tradition at the outset of the thirteenth century, Rolando eventually challenged this view. In 1203, Pope Innocent III recognised the validity of an award delivered after arbitration by Éléonore d’Aquitaine (ccxiv). Interestingly, the second version of Rolando’s *Summa*, which appeared somewhere at the beginning of the thirteenth century, mentions the legitimacy of female judicial activity, while this notion is absent in the first version, which is anterior to 1197.

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