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Review of *Le Leges Libitinariae Flegree: Edizione e
Commento 34* by Sergio Castagnetti

Sarah E. Bond

Marquette University, sarah.bond@marquette.edu

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Sergio Castagnetti, *Le leges libitinariae flegree: edizione e commento. Pubblicazioni del Dipartimento di diritto romano, storia e teoria del diritto F. De Martino dell'Università degli studi di Napoli Federico II, 34.* Napoli: Satura editrice, 2012. Pp. xiv, 282. ISBN 9788876071126. €45.00 (pb).

**Reviewed by Sarah E. Bond, Marquette University
(sarah.bond@marquette.edu)**

[The Table of Contents listed at the end of the review.]

Act five, scene one of Shakespeare's *Hamlet* opens upon a dialogue between two gravediggers in a church cemetery digging a grave for Ophelia, who was allowed a Christian burial despite her committing suicide. In his attempt to argue against her burial in the cemetery, one gravedigger notes she could only be buried properly if she performed her suicide '*se offendendo*', a perversion of the legal phrase '*se defendendo*' (in self defense). The debate continues in a jocular manner. In fact, the gravediggers are in such spirits that when Hamlet and Horatio arrive, Hamlet is appalled, asking his friend, "Has this fellow no feeling of his business that he sings at grave-making?" Horatio replies, "Custom hath made it in him a property of easiness." Shakespeare's gravediggers divulge a level of popular knowledge of the laws regarding the burial of the dead, but the scene also betrays a common perception of gravediggers as individuals desensitized to the gravity of death. This opinion existed even in Roman antiquity.

Until Bove's 1966 publication of the *leges Libitinariae* from the Campanian cities of Puteoli and Cumae, much of our knowledge of funerary personnel in the Roman Republic and early Empire similarly depended upon such literary accounts. These were drawn from the likes of Martial and Juvenal, sources which often cast them as lower-level, avaricious, and ultimately one-dimensional laborers.¹ Separately called the *lex Puteolana* and *lex Cumana*, the publication of the two inscribed laws provided a novel and exceptional glimpse into the intersection of law, religious pollution, and social life, but also revealed the professional organization of the trade. As such, these laws have garnered a high degree of scholarly attention.² Castagnetti was himself

part of the conference called together by Silvio Panciera in 2002 in Rome that produced a volume on the laws. Another contributor to that conference, John Bodel, has perhaps done the most not only to reconstruct the texts, but to explore further their implications for our understanding of society in Roman Italy.³ This new edition of the laws, edited and commented upon by Sergio Castagnetti, provides an extensive survey of the research done on the *leges* and renews discussions over the scope and regulation of the mortuary trade in Roman Italy.

Initially undertaken as a doctoral thesis, Castagnetti's project was assumed at the behest of Giuseppe Camodeca (yet another contributor to the Rome conference) and Tullio Spagnuolo Vigorita. After a short Preface, Chapter One describes the dimensions, display, and heading of the marble laws (photos in Fig. 1-10, p. 245-250), before providing new editions of the texts. Footnotes helpfully indicate the variant readings in the other editions. The second chapter then describes the context within which these laws should be situated by exploring the *Lucus Libitinae*—the grove of Libitina, goddess of funerals—and the role of the ambiguously termed *manceps* (contractor) mentioned in the *leges*.⁴ The second chapter discusses the presentation of the laws, the location of the *lucus Libitinae*, and the various attempts to date the documents. The *lex Puteolana* is probably Augustan, whereas the *lex Cumana* is later, probably from the first century CE.

Chapter Three explores the insight the laws provide into the tools used for the punishment, *supplicia* (probably torture), and crucifixion of slaves, but also reveals the specialized personnel supplied by a *manceps* (contractor) for such purposes. There is a long appendix (p. 103-114) on the origins and application of crucifixion in the Roman world at the end of this chapter. While it might work better as an appendix at the end of the book, it does provide copious amounts of information on the primary sources for crucifixion in addition to the abundant secondary literature on the topic.⁵ This section will be of interest to those engaged in research on crime and punishment in Roman antiquity, and will perhaps also appeal to Biblical scholars interested in the logistics of crucifixion.

Chapter Four examines the organization of the funerary trade from the top down as evinced from the *lex Puteolana* and *lex Cumana*, by investigating the *manceps* (contractor) in particular. Castagnetti continues to astutely interweave evidence particularly from the *Digest* with the inscriptions as a means of clarifying or showing comparative examples. He also brings in epigraphic comparanda, indicating the similarly monopolistic character of many of the contracted services known from the mining town of Vipasca (FIRA I n. 104-105). His investigation into the associative organization of the *societas* in this chapter will be of particular interest not only to those who work on the mortuary trade, but also to those who study the organization of Roman voluntary associations more generally. Moreover, his avid attention to

the *lex Cumana* is a welcome contrast to other scholarship, which has put more emphasis on the law from Puteoli.

Chapter Five centers on the activities of funerary associations. The transport of the body to an *ustrinum*, for instance, is discussed, as well as the prices for various services. The attitude towards unburied corpses is a topic of interest, with the conclusion that the deprivation of burial for unwanted corpses was rare, owing in part to the risk to the city's overall hygiene. Chapter Six is the most innovative and addresses the dearth of work on the *Lex Cumana* by exploring the law's—admittedly fragmentary—references to various individuals such as the *manceps* and *carnifex*. Interestingly, we learn that Cumae had its own executioners; more than one in fact. The territorial aspects of the law indicate how the municipality defined urban boundaries. Rather than a mere afterthought, Cumae gets its due in Castagnetti's edition.

Castagnetti's methodical, extensive commentary, textual reconstruction, and historiography are to be lauded for bringing much of the scholarship on these laws and the comparative primary material together in one volume, but it should be noted that many of the definitions of mortuary workers and the organization of funereal associations have been well explored by others, including Stefan Schrupf in his excellent dissertation concerning burials and funerals in the early Roman empire, which goes unmentioned in this volume.⁶ It should also be noted that there is often a perceptible preference for Italian scholarship, though this can be said of almost all authors in terms of proclivity for works in one's native language. Those interested in the Roman funeral trade will find this volume rich with detail and learned insight that goes well beyond just the laws from Puteoli and Cumae. Unlike the gravediggers of Hamlet, Castagnetti has shown a definite knowledge of the extant laws surrounding the burial of the dead and proved—much like his academic predecessors—that the laws concerning Roman organization of care for the dead unearth a great deal about municipal governance, business contracts, the funeral trade, and the public presentation of Roman law.

Table of Contents

Premessa XI-XIV

Presentazione dei documenti e testo delle *Leges Libitinariae* Flegree 1-32

Introduzione storica e datazione delle *Leges Libitinariae* 33-48

Supplicia e giurisdizione municipale nelle *Leges Libitinariae* 49-102

Appendice: La crocifissione: origini e applicazioni nel mondo romano 103-114

L'organizzazione *Libitaria* 115-164

Le attività dell'impresa *Libitaria* 165-200

La *Lex Libitaria Cumana* nelle sue due redazioni 201-232

Notes:

- [1.](#) L. Bove, 'Due Nuove Iscrizioni di Pozzuoli e Cuma,' *RAAN* 41 (1966):207-243; idem, 'Due iscrizioni da Pozzuoli e Cuma,' *Labeo* 13 (1967):22-48. See *AE* 1971, n. 88 (Puteoli), 89 (Cumae).
- [2.](#) F. Hinard, J.-C. Dumond, N. Belayche, D. Conso, C. Lovisi, and P. Moreau, *Libitina: Pompes funèbres et supplices en Campanie à l'époque d'Auguste: Édition, traduction, et commentaire de la Lex Libitinae Puteolana par un groupe de romanistes sous le direction de François Hinard et Jean Christian Dumont*, Paris, 2003; S. Panciera, and A. Vauchez, A., eds., *Atti dell'XI Rencontre franco-italienne sur l'épigraphie: Libitina e dintorni: Libitina e i luci sepolcrali; Le leges libitinariae campane; Iura sepulcrorum: vecchie e nuove iscrizioni*, Rome, 2004.
- [3.](#) J. Bodel, 'Dealing with the dead in Ancient Rome,' in V. M. Hope and E. Marshall, eds., *Death and Disease in the Ancient City*, 128–51, London, 2000.
- [4.](#) See J. Bodel, "Graveyards and Groves. A study of the Lex Lucerina," *AJAH* 11 (1986 [1994]):1-133.
- [5.](#) Unseen by Castagnetti is J.G. Cook, "Crucifixion as Spectacle in Roman Campania," *Novum Testamentum* 54 (2012):68-100.
- [6.](#) S. Schrupf, *Bestattung und Bestattungswesen im Römischen Reich: Ablauf, soziale Dimension und ökonomische Bedeutung der Totenfürsorge im lateinischen Westen*, Göttingen, 2006.