

Domenico Maffei (1925-2009)

Domenico Maffei died suddenly on 4th July 2009 at Torre Canne (Brindisi), the seaside centre where had planned, as usual, to spend his summer. He was buried in Altamura (Bari), the city where he was born on 6 September 1925. He leaves his wife, Franca Ascarelli, with whom he had been united for over fifty years, and his children Paola, Lorenzo and Sabina, who had given him several grandchildren.

It was in Siena that Maffei lived and conducted the greater part of his fruitful and innovative research in the vast field of the history of medieval and early modern law, in which he became professor at Macerata, in the Faculty of Law, at the age of only thirty-three. Three years later, in 1961, he was already in Siena, and he maintained this as his principal residence despite his appointment to a chair at the Sapienza in Rome in 1979, where he taught until 1990.

It was also in Siena, during a period of almost fifty years, that Maffei amassed his famous collection of manuscripts and printed books, which earned visits by specialists from the four corners of the earth, being considered the richest private library in the world for the study of European law from the twelfth to the eighteenth centuries. In Siena he also conducted the greater part of his scholarly leadership, beyond normal teaching commitments, promoting, facilitating or collaborating in the research and the parallel academic careers of so many students.

Maffei made a concrete and substantial contribution to the development of the Sienese Faculty of Law, for many years directing the glorious journal of the Circolo Giuridico “Studi Senesi” and the connected series of “Quaderni”, which grew under his guidance through numerous substantial volumes, many by external contributors working in prestigious foreign universities. It was his network of acquaintances that made it possible for the Sienese university to add to its list of doctors *honoris causa* scholars of the calibre of William Bowsky, Arnold Esch, Robert Feenstra, Gérard Fransen, Antonio García y García, Sten Gagnér, Knut W. Nörr and Pierre Toubert, not to mention the organisation of the well-deserved honorary citizenship awarded to William Bowsky, distinguished historian of the city. Meanwhile Maffei’s research led him to the appreciation of manuscripts in the

Biblioteca Comunale degli Intronati (for example, highlighting the value of several texts of French origin), where he tirelessly shared his knowledge of the history of books with the learned officers of the library, and collaborated in research initiatives in the history of medicine of Carlo Ricci, for so many years dean of the Faculty of Medicine at Siena.

In Siena, finally, in the early 1970s he assumed the reins of the Accademia degli Intronati (of which he was president from 1973) with a group of collaborators who helped him give new life to the institution. It was Maffei, with his circle of contacts in other universities, who under the auspices of the Accademia organised an international conference on Enea Silvio Piccolomini (Pope Pius II) in 1965, an international symposium on St. Catherine and St. Bernardino (in collaboration with Paolo Nardi) in 1980 and an international conference on university colleges in Europe from the fourteenth to the eighteenth centuries (in collaboration with Hilde De Ridder-Symoens) in 1988. Each of these meetings resulted in substantial publications which are still useful for research today. In the meantime the Accademia resumed the regular publication of the journal *Bullettino senese di storia patria*, and other volumes were published, including for example the final volumes of *Il Caleffo Vecchio del Comune di Siena*, a project started many years earlier.

All this amply demonstrates Maffei's profound relationship with Siena and its ancient university, to the history of which he contributed directly with studies on parchment fragments preserved in the Archivio di Stato di Siena, on Spanish students in the sixteenth century and on distinguished teachers such as Giovanbattista Caccialupi (late fifteenth century) and Pietro Capei (early eighteenth century). Yet despite his base in Siena he was strongly orientated towards the world of international research; the Institute for Advanced Study at Princeton, the Max-Planck-Institute at Frankfurt (in its best years), the Institute of Medieval Canon Law at Berkeley (of which he was a member of the Advisory Board), the American Philosophical Society and the Institut de France. Above all he had many links with medieval historians. He was visited in Siena by many who had only touristic and cultural connections with the city; the honorary doctors mentioned above, as well as Patrick Boyde, Helmut Coing, Giles Constable, Myron Gilmore, Stephan Kuttner, Peter Linehan, Millard Meiss, Samuel Thorne and Hans Erich Troje. Attendance in his youth at the Istituto di Studi Storici of Naples, founded by Benedetto Croce (1948-9) and the University of Harvard (Master of Laws, 1952), and then periods of research in places such as Cambridge, Oxford, Princeton and Berkeley, had broadened his horizons and brought much recognition, for

example honorary doctorates from the universities of Tübingen (1978), Toulouse (1983), Montpellier (1989), Lisbon (1994), Bologna (2004) and Perugia (2006).

This continual engagement with the world of international research, based on total dedication to study, whether direct or indirect, and the encouragement of others in the same direction, inevitably shaped his acute comparative outlook, in specific ways. Maffei did not conceal to his interlocutors the bitterness he felt about the direction that Italian universities had been taking for decades, with the complicity of a political world for which he had little respect. His own relations with the Italian academic world thus weakened at precisely the point at which he attained such recognition from foreign universities and academies. Without ever repudiating Siena or his native Puglia (starting with the city of his birth, which made him an honorary citizen), and without concealing his preference for university towns such as Bologna and Perugia, Maffei was rather becoming a citizen of the world, not least because his insatiable curiosity for new horizons actually grew rather than diminishing with age. From Russia to Japan, from Brazil to Portugal, he went well beyond the traditional academic itineraries of France, England, Germany and the United States that were the norm for famous European scholars.

His participation in the foreign academic world brought him up against some unedifying aspects of Italian research, which he saw confirmed in some decisions taken by the official national culture which he considered quite unjustified. This also explains his passage from the foundation of, and collaboration with, Italian publishing ventures such as the *Opera iuridica rariora* and *Orbis academicus* to the series *Bibliotheca eruditorum* with Keip, in Germany (the title itself has polemic force), and from the catalogue of the manuscripts of the Collegio di Spagna in Bologna, realised with funding from the Consiglio Nazionale delle Ricerche, to the catalogue of the library of Seo de Urgel, the last collective work which he saw through to completion just before he died. The publication of manuscript catalogues, textual editions and the history of printing in the fifteenth and sixteenth centuries, as well as the history of universities and their curricula from the thirteenth to the fifteenth centuries (especially Bologna and Perugia), became central in the last decades of his activity as researcher, and were characterised by attention to the methods practiced among the best international medievalists. It is not necessary to discuss here each of the specific areas of his research in legal history (the Donation of Constantine, Cino da Pistoia, university statutes, the judge as witness, pirate editions of the sixteenth century, false attributions of texts, etc.), but I

will outline the main strands of his activity since his early work, notably the highly successful *Gli inizi dell'umanesimo giuridico* (Milano 1956). His next work, a thorough investigation of the Donation of Constantine in the eyes of medieval lawyers (culminating in a book in 1964) led him to penetrate the intricate internal relationships between the stratified doctrines of medieval jurists, and brought him to the conclusion that only a new, critical engagement with the production of texts, based on precise comparisons of manuscripts, could enable the establishment of the diachronicity of the development of ideas.

The constant, systematic mistrust of printed editions – not only of their content but even of apparent ‘paternity’ – became his watchword. In this respect Domenico Maffei did not leave systematic, organic methodological writings but issued copious warnings in the many pages of his fresh and productive work. Generic works of synthesis soon began to irritate him, arousing suspicion rather than interest. It is characteristic that he never wrote a manual of the history of law, not even for the period that he knew so well, from the thirteenth century to the sixteenth. As he progressed in his study of ‘literary sources’ (meaning the works of late medieval legal writers) the vastness of the task to be done struck him with force, and the bibliological research (not to mention the personal investment) which he conducted tirelessly for his own collection only confirmed this view. Of far too many works one knew nothing, or almost nothing; how could one abandon oneself to generalisation? One had to start from these ancient tomes with humility, with uncertainty, and with great imagination, commitment and intuition.

Maffei achieved so much in this field by combining ceaseless work, without distractions, with innate intuition, something that research can help develop but cannot bestow. His nose was that of the artist, and his passion was pure. The hunt for a book by a jurist like himself was like the pursuit of an artist in the creation of a work of art, touching anxiety, the emotional charge involved, the creation moment by moment. It was like seeing the sparkling intuition of the *bon mot* in the brilliant eyes of Emilio Giannelli, author of vignettes for the *Corriere della Sera*, who by no accident became his friend.

Maffei’s enthusiasm was contagious. It was what explains the originality of so many of his ideas, such as the focus of research on the neglected (in Italy at least) area of canon law; and it also explains the large number of his pupils, who for a greater or lesser period of time

inevitably felt his fascinating and urgent presence, before setting out – as is natural, once they had learned how to do it – on long careers of their own.

So it is not easy to talk about Domenico Maffei, an incomparable *maestro*, rich in ideas and proposals. Harder still to do so in a few pages, unless it be to declare once again one's gratitude, affection and admiration for someone who gave his all, and with great sacrifice, to the project of revitalising an area of great importance for our historical culture. Only time is a gentleman, and will be able to say something more enduring about his achievements. Meantime we focus on the facts; on his commitment and generosity; and pay to Domenico Maffei the tribute of sincere, rather than formal, thanks.

Mario Ascheri
(tr. Peter Denley)

PS. A virtually complete list of Domenico Maffei's publications can be found in the third collection of essays dedicated to him: *Manoscritti, editoria e biblioteche dal medioevo all'età contemporanea. Studi offerti a Domenico Maffei per il suo ottantesimo compleanno*, eds. M. Ascheri and G. Colli, with the collaboration of P. Maffei and indices by A. Bartocci, I, Rome 2006, pp. xxvii-xxxviii. On pp. xix-xx there is a summary of the honours bestowed on him in the *Laudatio* delivered by Andrea Padovani in occasion of the honorary degree conferred upon him by the University of Bologna on 21 June 2004.