Dorotheus en zijn digestenvertaling
Brandsma, Freerk

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SUMMARY

The subject of this book is the professor Dorotheus and his Digest translation. Dorotheus was professor at the law school of Beyrouth around the year 530 A.D. His fame had obviously preceded him to the imperial residence in Constantinople, for emperor Justinian summoned him to court in that year to participate in the committee which was assigned to compile the Digest and the Institutes. After these two law books had been written and published in 533, a revised edition of Justinian’s Codex was compiled by a committee of which Dorotheus was also a member. So Dorotheus took an important part in the formation of the Justinianic law books and this certainly makes any of his writings an interesting source of information on Justinian’s codification. Now after the codification activities he made a Greek translation of the Digest. This translation renders the Digest text quite literally and will have been an important aid in the Greek-speaking Byzantine law practice in applying the largely Latin text of the law. To us this translation is especially important, because it can provide data for the textual criticism of the Digest: data that may be all the more valuable, because they derive from one of the compilers of the Digest.

The first chapter of this work deals with the few, general data known about Dorotheus. An introductory paragraph is followed by a paragraph with the biographical data as they are known to us from the introductory constitutions to the said Justinianic law books: the main ones have been briefly quoted above. Subsequently an attempt is made to further specify the date of origin of the Digest translation: it has probably been written in the period between 536 and 539. A fourth paragraph discusses rank and title of Dorotheus and the change in the Justinianic titling which appears from this to have taken place around the years 533 and 534. Next, two fragments are discussed which are said to demonstrate that besides his Digest translation Dorotheus would have written other works, concerning the Institutes and the Codex, as well: these fragments, however, probably indicate nothing more than that Dorotheus has taught these law books, like the Digest, as it is only fair to assume that any Institute and Codex commentaries of Dorotheus would have left more traces in Byzantine legal literature than these two insignificant fragments. Paragraph six deals with the theory of Huschke, who thought he could prove that Dorotheus as editor of the Institutes would have been responsible for the writing of the first two books, while Theophilus would have taken care of the last two books; Huschke appears to have made a division of the compiling of the Institutes plausible, but determining the actual division of the work among the editors seems impossible, based on the lack of data on the Latin style of
the two professors. Finally a number of fragments are discussed in which Dorotheus is quoted together with Thalelaeus with regard to the Digest. In addition to this the question is considered whether these fragments may have been borrowed directly by a listener from the teachings of the two professors, as Heimbach thinks, or whether they have not been compiled until later from the separate works of the two gentlemen: in short, the question whether these fragments contain traces of the Digest teaching of Dorotheus or whether they only relate to his Digest translation: the latter seems the most plausible.

Chapter two successively deals with the sources from which fragments from the Dorotheus translation have been handed down to us. This enumeration begins with the main source of the Dorotheus translation, that is the scholia on the Basilica. In the Basilica scholia, in particular with regard to the Digest books that were not taught in the Justinianic legal educational system, many fragments from the Dorotheus translation had been included; based on this is the conclusion that the translation did not originate in education and will have been intended for the legal practice in particular. There is a discussion of those Basilica scholia which have been particularly ascribed to Dorotheus, as they may provide the data to recognize fragments not explicitly ascribed to Dorotheus. Next a number of scholia are discussed that have apparently not been derived from the translation, but for which a convincing explanation can be given, that is to say, that it partly concerns fragments that still derive from the translation and partly annotations on the translation.

In the paragraphs two and three there is a discussion of the possibility that two papyrus fragments, PSI 1350 and 55, might contain fragments from the Dorotheus translation; it appears, however, that we have to reject this suggestion, made for both fragments, because neither of the two fragments shows the characteristics of a translation.

Paragraph four subsequently deals with a number of fragments from the Codex Vindobonensis iur. gr. 2, which have been borrowed from the fortieth book of Dorotheus' Digest translation. Most of these fragments have also been handed down in the Basilica scholia. A comparison between the two groups of fragments provides data on the various ways in which they have been handed down and leads to an attempt to reconstruct the original text. Some data on form and content of the translation are subsequently deduced from the fragments, data that are or have been confirmed by the Basilica scholia containing Dorotheus fragments. Finally, there is a discussion of the text-critical data that these fragments produce for the Digest.

Finally, in the paragraphs five to and including twelve, a number of less extensive sources of the translation than the Basilica scholia are discussed, namely the Appendix Eclogae, the Rhopai, the Ecloga, the Eisagoge scholia, the Synopsis scholia and the Tractatus de creditis. There is some doubt in the case of Nomocanon
L titulorum and the Codex Parisinus gr. 1351, which were once said to contain Dorotheus fragments. Paragraph 13 deals with a remarkable fragment in the Cod. Ven. Marc. gr. 173.

Finally, by way of illustration, chapter three, of all those fragments in the Basilica scholia derived from the translation, but which have not been ascribed to Dorotheus by name, deals with the scholia on the sixtieth book of the Basilica that were still missing in the edition of Heimbach and were first edited by Scheltema, Holwerda and Van der Wal. These scholia have not been studied before in connection with the Digest text; a first attempt to this end is undertaken in this chapter, after first explaining why these fragments were missing in Heimbach's edition: for the collation of the relevant manuscript Heimbach made use of the services of the theologist Tischendorf, who did not consider it worth while collating the Dorotheus fragments found at the extreme edge of the manuscript, which he did not recognize as such; Heimbach, who should have known better, did not correct this omission.

The comparison of the said scholia with the Digest fragments of which they give a translation produces a great number of text-critical data, which were not yet available to Mommsen when making his editio maior of the Digest. Furthermore this comparison provides a number of general characteristics of the translation itself. Of the way in which Dorotheus translates, one may say in particular that he tries to render the Digest text as well as possible and if necessary tries to be clearer than the Digest text itself. In addition the character of a translation implies, certainly when it is intended to render the text to be translated as literally as possible, that it does not show any or hardly any stylistic characteristics of the translator. The form of the translation may be said to have formed one continuous whole, in which the inscriptions of the separate Digest fragments had not been rendered. We can no longer ascertain whether the title headings of the Digest had somehow been rendered in the translation, but this does seem likely. The fact that the translation had been divided into books, parallel to the Digest books, already appears from the fragments from the Codex Vindobonensis iur. gr. 2. It seems plausible that at some time the translation has been circulated separately, disconnected from the Digest, and had been arranged in such a way that it could be used independently in the law practice instead of the Latin text of the law, which could often be employed only with difficulty in the mainly Greek-speaking Byzantine empire. That the translation may even have been made at the order of the legislator for this reason remains a theory that can only be suggested here, but for which no indication can be found.

Finally it should be pointed out that the Dorotheus translation as compared to for instance the Digest commentary of Stephanus or any other educational commentary from Justinianic times produces less interesting data for a jurist, such as the present writer, than for a classic philologist. The legal background of the present writer thus confined him in the way he was able to use the data supplied by
his study. He did, however, learn to estimate the true value of these chiefly philological data and therefore he would like to bring this explicitly to the attention of philologists: any future edition of the Digest, even after Mommsen, may benefit greatly from the text-critical data provided by the Dorotheus translation.