

Ramses Delafontaine, *HISTORIANS AS EXPERT JUDICIAL WITNESSES IN TOBACCO LITIGATION: A CONTROVERSIAL LEGAL PRACTICE*. (Series: studies in the history of law and justice 4; Series Editors: Mortimer Sellers, Georges Martyn). New York: Springer, 2015. Pp. xxv+453.

To many it comes as a surprise that historians are frequently performing a role of expert witnesses. We do not know enough about this practice. Morgan Kousser, a doyen of historical expert witnesses in voting rights cases, reflected on the literature about historical expert witnessing, concluding that it is wider than it is deep. An important remedy for this concern appeared with a book *Historians as Expert Judicial Witnesses in Tobacco Litigation*, written by Ramses Delafontaine, a doctoral candidate at University of Gent. I never reviewed a thicker contribution from a younger author; the book is just a segment of his ambitious design to compare emanations of postwar historical expert witnessing. A bold task indeed, given the disciplinary and linguistic barriers, as well as sheer volume of material generated in cases scattered over different jurisdictions. However, if one is to judge according to his first results, Delafontaine demonstrates that it can be in a voluminous, and equally meticulous contribution to the investigation of historical forensics which deals with one of the most contentious elements of the practice – appearance of historians as expert witnesses in tobacco litigation.

The book is composed in concentric circles. Divided into three parts, it consists of eighteen chapters stretching on over 300 pages, with another 150 pages of appendices. Three parts are uneven in size. First part, entitled *History and Law*, is the shortest and it considers shifting relations between these two disciplines. It tracks methodological similarities and differences between legal and historical inquiry into the past, and draws theoretical implications of this entangled relationship. Impressive amount of literature, which is otherwise scattered and disconnected is brought together to set the scene for better understanding of the role of historical expert witnesses in different settings, investigated in the second part of the book, *Historians as Expert Witnesses*. Delafontaine skillfully sets the chronology of historical expert witnessing in three huge waves, intimately connected

to the prosecution of crimes committed during the Second World War. However, he observes that this general trend contained a number of detours. As the most important one, he rightfully focuses on litigation driven expert witnessing typical for the United States. What we get here is an important technical overview of the process of expert witnessing from the initial contact with an expert until the end of a legal case. He takes us through the entire process, from an initial contact and recruitment, through the creation of an expert report and its tendering, through deposition; witnessing, including direct examination and cross-examination is given a special place, as well as the aftermath of the trial. Such approach is very helpful, as colleagues who embark on this venture are not necessarily familiar with its most daunting aspects.

Why tobacco litigation? Noting the variety of cases in which historians take part, from antidiscrimination, voting rights, employment, indigenous people property rights and health concerns, Delafontaine detected lead paint, toxic torts, reproductive rights cases and tobacco litigation as its important subgroup. The latter is a central topic of the third, largest part of his book. Delafontaine determined that in this genre of cases, historians have been very active, as he compiled a list of 50 historians active in 314 cases. In order to help understand such proliferation of historians in this field, Delafontaine sketches the evolution of tobacco industry, starting with its switch to cigarettes production at the beginning of the twentieth century. The tension between high profits and growing concerns about the public health in the postwar period led to the obfuscation of the disastrous effect on health, but also to over 800 lawsuits between 1954 and 1994. Particularly prominent were fraud and conspiracy cases, which evolved in the light of the aggressive advertising strategies of tobacco companies. In order to refute these claims, tobacco industry implemented different legal strategies, making use of the historians from 1986 *Cipollone v Liggett group* case in which three historians testifying for the tobacco (John Burnham, Fred Carstensen, Kenneth Ludmerer). Many more took the stand in the following years (Stephen Ambrose, James Breeden, Otis Graham, Joan Hoff, Robert Hudson, James Kirby Martin, Michael Parrish, David Sansing, Todd Savitt

and William Stueck). All in all, 46 historians testified for the defense until 2014, whereas only four testified for the plaintiffs, including Robert Proctor, the author of the book *Golden Holocaust*, and Allan Brandt who wrote a book *The Cigarette Century*. Proctor, however, testified in no less than 93 cases in this period, becoming one of the most emblematic figures of this litigation.

Delafontaine considers a case *US v. Philip Morris et al* (1999) to be a decisive confrontation of experts and an actual turning point, as it included not only three historians who testified for the tobacco (Peter English, Theodore Wilson, and Kenneth Ludmerer), but also two historians who testified for the claimant (Robert Proctor and Allan Brandt). This case ended in 2006 with an important judgment which concluded that tobacco industry knowingly misinformed the public for decades in order to sell a dangerous product. It was found in the violation of Racketeer Influenced Corrupt Organizations Act. Historians significantly contributed to such an outcome. According to Delafontaine, "in *US v. Philip Morris et al.*, Brandt and Proctor prevented a coup on history organized by a small number of historians who were willing to sell history and their professional integrity to the tobacco industry" (300). Delafontaine's rests his conclusion on a careful assessment based on a historical code of ethic devised by Antoon de Baets from University of Groningen. Applying these standards (integrity and respect for historical truth, disclosure of information, free debate, accountability, universalism, critical and objective method, independence, protection of historical profession) he concluded that unlike those who testified for the tobacco industry, the historians who testified against tobacco industry, "although not innocent from a degree of advocacy of their own, have defended the history of tobacco and the historical discipline" (300).

This in-depth analysis is indicative of wider trend which Delafontaine rightfully calls 'forensification of history'. Growing involvement of historians in judicial proceedings, which takes places both in continental and common law, occurs both in criminal and civil cases and manifests itself in accordance with the specificities of the cases is in his view a trend which is likely to stay, and even grow at an exponential

rate. So should an interest in this book, as Delafontaine offers a number of principles which could help scholars to orientate in a courtroom, whose rules are much different from their classrooms. Five principles of his manifesto (a duty to respect the standards of professional historical research, a duty to work in an interdisciplinary manner, a duty to research all possible sources, a duty to adhere to a code of ethics, and a right to refuse to take part in a case) offer a convincing compass for navigating these troubled waters.

Vladimir Petrović

Zlata Vuksanović-Macura, SAN O GRADU. MEĐUNARODNI KONKURS ZA URBANISTIČKO UREĐENJE BEOGRADA 1921–1922, Beograd, Orion Art, 2015, 346.

Istoriografija o Beogradu nedavno je postala bogatija za jedan značajan poduhvat iz pera renomiranog istraživača urbane istorije Beograda, arhitekta dr Zlate Vuksanović-Macura. Njen bogati opus obuhvata niz radova o urbanim problemima međuratnog Beograda, kao i o socijalnom stanovanju i nehiigijenskim naseljima beogradskih Roma i siromašnih građana.

Ovom monografijom, proizašlom iz doktorske teze o Generalnom urbanističkom planu Beograda 1923–1924, dr Vuksanović-Macura popunila je jedan dosada gotovo prazan istraživački prostor, obradom izuzetno značajne teme za istoriju Beograda. Urbanistički konkursi, posebno međunarodni, predstavljaju kulturno nasleđe grada, što važi i za nerealizovane projekte. Knjiga obrađuje temu jednog veoma važnog kulturnog i društvenog događaja u istoriji grada. Ali, i više od toga. Međunarodni konkurs za Generalni plan Beograda, koji je trajao tokom 1921. i 1922. godine, predstavlja presek urbanističkih ideja u Evropi tog vremena, pa njegov značaj stoga nije samo lokalni već i globalni. Preko dokumentacije o ovom konkursu dobijamo uvid u tadašnju evropsku urbanističku teoriju i praksu – u glavne koncepte i modele za uređenje gradova i način njihovog sprovođenja.

U istoriji urbanizma Beograda, od kada postaje srpska prestonica u 19. veku do danas, ovo je bio jedini međunarodni konkurs za