Preface by Prof. Alberto Trabucchi

Valcavi: on hearing this name, you would expect to find a discussion of monetary problems in the book. Currency is effectively discussed here, but so are other subjects and indeed this collection of experiences and studies is not the mere reproduction of previous articles and notes by the author.

The title that I would have preferred for the volume would have been different: « The old and the new in the experience of a modern jurist ». This is a wider subject because, whilst the studies on currency, evaluation and quantitative expressions form the most conspicuous part, other subjects which are discussed here in the broader context of property law are no less interesting.

Old and new: browsing through these pages, an outline can be found to follow a vast in-depth experience which remains alive in our interest, but it has also been the author's wish to offer today's research, for each subject discussed, a new definition that revives the information and offers the questions in topical terms. The informative introductions to the discussion of each set of subjects offer a useful expression of every possible modern critical reference.

To express the vastness of the interests that are expressed here, including outside the recurrent theme, it is sufficient, by way of example, to mention some topics, chosen from those which are still the object of great significance in the life of the law: the open-end guarantee or the limits to the prohibition of the agreement of forfeiture.

However, as mentioned from the beginning, Valcavi must be considered above all as a master in monetary matters for his studies which coincided with the variations of the effective values involved as the restrictive laws of the currency market followed on one another. Case law, continually changing, has found in him an attentive commentator and the criticism and proposals from the countless studies he has published in various journals may be thought to have had an influence on the contemporary legal mind. We can also say, browsing through the pages of this book, that the reader will not fail to notice the unconcealed but deserved satisfaction the author expresses when pointing out that some of his arguments, which were strongly and not always

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From: « L'Espressione monetaria nella responsabilità civile », Cedam 1994.

pacifically championed, were concretely enacted, in subsequent case law on in the statutory law on the matter. For example, the increase of the legal rate of interest, which doubled in virtue of a rule, which we could call extravagant, can be related to the strong and repeated criticism of the insufficient consideration of the effective values involved at the mercy of unjustified delays. More recently, the author will have been able to observe that his theories have also been applied in the new fundamental agreements on the cost of labour and on pensions.

The very title the author has given to this book refers us to an original ideal of great significance, money being the instrument each system uses to measure values in the general context of responsibility: speaking of the monetary expression of civil liability, the latter is to be taken in a wider meaning which includes every function for satisfactory resolution to be obtained following the infringement of a right.

I am always fond of remembering that Carnelutti often raised his powerful voice to admonish the jurisprudentialists, complaining that we do not assert ourselves enough in the making of new laws; he maintained that, if anything, the activity of proposing legislation should take precedence over the other aspects of interpreting and applying current law. In this book, Valcavi shows that he is not insensitive to this type of vocation; in the few months when he sat in the Senate, he wanted to contribute immediately to bringing about a vast plan of clarification and progress and in the appendix we can find a concise indication of this vocation which he immediately enacted. At a time like the present, of major reforms, especially in company law, his experience in the world both of business and banking, to which he appears to have devoted enthusiasm and attention, led him to at least rekindle the activity of producing laws and the reader finds confirmation of this impassioned work comparing the proposals described in the last part of the book with the most recent reforms. for an adjustment to article 1219 of the Civil Code, to ensure that every reference to the ancient, but obsolete, principle expressed with the words «in illiquidis non fit mora» *was cancelled.*

As we have already remarked on the significance recognized by the author in relation to the various problems affected by monetary upheavals with the more general vision of civil liability, it is particularly meaningful to note that the interesting collection of bills of law opens with an appeal Well constructed in the distribution of the subject, the book we are presenting here can be rightly indicated as a model of effective contribution to what the life of the law can expect, with great significance, from our most lively and learned practitioners.

Padua, 11th July 1993

ALBERTO TRABUCCHI