

O. Tellegen-Couperus, ed., *Law and Religion in the Roman Republic*. Leiden: Brill. Pp. vi + 229. ISBN 978-04-21850-5. \$136.00 (HB).

Part of the reflowering of scholarly interest in Roman religion in the last 25 years has been a renewed focus on the intersection of law and religion in the Roman world. This collection of essays, edited by O. Tellegen-Couperus, brings together experts in both subjects.

This volume in part complements and in part diverges from an earlier collection: J. Rüpke and C. Ando's *Religion and Law in Classical and Christian Rome* (Steiner, 2006). Although not officially linked in any way, the two volumes share some contributors (Rüpke and Rives) and are at times in close dialogue. The brief introduction of *Law and Religion in the Roman Republic* lays out the aims of the book: to examine the shared foundation of law and religion and to highlight the role of religion in private law, a topic largely outside the scope of the volume edited by Rüpke and Ando. The result is a collection of interesting studies of narrow compass. As is often the case in collected volumes, the quality varies. There are issues one could quibble over (e.g., the younger Pliny did not invent the epistolary genre nor do we think his letters were "real" [p. 185]), but with one exception addressed at the end of this review, on the whole these are small and do not detract from the worth of the volume.

The collection is divided into three sections of varying length and levels of cohesion, the first being "Law and Religion as Means to Control the Future". L. Ter Beek's "Divine Law and the Penalty of *Sacer Esto*" uses the punishment *sacer esto* (understood as "let him be dedicated to a certain god, forfeited to a certain god," p. 20) as a test case to illustrate the "secular-religious character" of law in early Rome. Ter Beek offers a reading of the Lapis Niger inscription, not entirely convincing, in which *sacer esto* is a completely religious matter: a penalty owed to the gods for a transgression against them or their property. That the penalty also has a secular application is made clear by its inclusion in several *leges regiae* and the Twelve Tables for transgressions against mortals. F. Santangelo offers a careful consideration of the role of both law and divination as mechanisms for controlling the future by conferring legitimacy on decision-making in "Law and Divination in the Late Roman Republic." He provides a close, useful look at the evolution of some overlapping vocabulary: *divinatio* and *prudentia /prudens / prudentes*.

The second group of essays covers "Priests, Magistrates, and the State." M. Humm investigates why magistrates elected by the Roman people needed a second endorsement by voters in the *comitia curiata* in order to be invested. In "The Curiate Law and the Religious Nature of the Power of Roman Magistrates," Humm argues that the *lex curiata* bestowed the *ius auspicioium*, which in turn allowed the magistrate to seek Jupiter's approval through auspices. The people select a magistrate, but Jupiter gives the magistrate his powers.

In a pair of closely related articles, J. Rüpke (“Rationalizing Religious Practices: The Pontifical Calendar and the Law”) and J. H. Valgaeren (“The Jurisdiction of the Pontiffs at the End of the Fourth Century BC”) dispute the orthodox opinion that the publication of the Roman calendar and the *legis actiones* (details of legal procedure) by Cn. Flavius in 304 BC had a detrimental effect on the power of the pontiffs and the wider Roman aristocracy. Rüpke sees the publication of Rome’s calendar as an assertion of Roman hegemony that was fully endorsed by Rome’s elite. Valgaeren argues that Flavius’s action did not break the pontiffs’ monopoly on civil law. They continued to supervise litigation as they had before; the *lex Ogulnia* of 300, which doubled their number, suggests that the publication of the *legis actiones* and the calendar increased the frequency of litigation in Rome and, by extension, the need for pontiffs. L. Zollschan’s “The Longevity of the Fetial College” gathers literary and numismatic evidence for a persuasive case that the fetial college survived throughout the whole of the Republic.

The final group of essays is entitled “Sacred Law, Civil Law, and the Citizen.” In her article, “Sacred Law and Civil Law,” O. Tellegen-Couperus challenges J. Scheid’s argument in the Rüpke and Ando volume that civil and sacred law overlapped to a large extent. Through a case study of *deditio* in both civil and religious contexts, she argues that civil and pontifical law were two different things: although they were interpreted by the same people and had loosely parallel procedures, they differed significantly in subject matter and purpose. J. Rives’ “Control of the Sacred in Roman Law” traces the development of the meaning of *sacer*, *sanctus*, and *religiosus* in legal texts, arguing that by establishing their true meaning, Roman elites exerted control over what was contained in those legal categories.

J. W. Tellegen’s “The Immortality of the Soul and Roman Law” closes the collection with a consideration of the *fideicommissum*, a request by a testator that his heir fulfill specific requests regarding the funeral and memorial monument. Tellegen sees these documents as a byproduct of the Romans’ belief in the immortality of the soul. There are several problems with this contention. First, from the text of the *fideicommissa* cited in the article, it appears that these documents arise out of a concern for the preservation of *memoria*, which is a different thing from worrying about the state of one’s immortal soul. Second, there is no consensus among scholars about evidence for a Roman belief in an afterlife. Third, for the ancients, the question of the mortality of the human soul was a philosophical one; there is very little unequivocal evidence that, for the Romans, the state of one’s soul was a religious issue (meaning one that involved the gods). The assertion that it was a religious matter among the Romans is a clear imposition of a modern idea about what constitutes religion.

Despite some limitations, this book has something to offer both students of Roman law and Roman religion. Perhaps most important, it reminds the reader what fertile ground this is and points toward the need for a large-scale study of the integral relationship between what are now usually discrete areas of intellectual activity.

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