

eventually, Rome too would fall. He also pays meticulous attention to the thorny philological problems raised by this collection of texts, of which both the dating of specific passages and the overall mode of compilation are highly controversial.

The range of the volume is wide, in terms of both chronology and authors covered, and bears out the claim made in the introduction that it would foreground provincial and subversive voices. The title, however, which leads one to expect a comprehensive and systematic survey of ancient writings on the city, promises too much. There are some conspicuous lacunae. Cicero, for instance, would surely have merited a chapter of his own (though his thoughts on the location of Rome in *de lege agraria* and *de republica* are competently discussed by Stok). And apart from D'Elia's paper on Augustine, which the last footnote reveals as the potted version of an article first published over twenty years ago, the collection sidelines Christian authors, despite the fact that some of the most intriguing texts on the subject come from the period when pagans and Christians tussled over the notional ownership of the city. There is nothing on Symmachus and Ambrose, Claudian or Prudentius. And there is, finally, no attempt to establish some measure of contact between the theme of the volume and current theorizing in cultural studies about the powers and pitfalls of constructing Rome in discourse, of the kind one finds, for instance, in Catharine Edwards, *Writing Rome. Textual Approaches to the City* (Cambridge, 1996). Still, the volume is definitely worth dipping into, and the three exhaustive indices of names, modern scholars, and passages cited facilitate the hunt for what are, in some cases, genuine nuggets of insight and information.

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PERCEPTIONS OF THE ROMAN REPUBLIC

F. MILLAR: *The Roman Republic in Political Thought. The Menahem Stern Jerusalem Lectures*. Pp. xi + 201. Hanover, NH and London: University Press of New England, 2002. Paper, US\$25. ISBN: 1-58465-199-7 (1-58465-198-9 hbk).

This is the latest in a sequence of publications now extending twenty years in which M. presses his view that 'the Republic should be seen as a form of democracy' (p. 6). M. here sets foot in territory that he confesses is largely new to him. Much of the book is devoted to an inevitably selective survey of perceptions of the Roman Republic articulated by political thinkers from the later Middle Ages to the present, prefaced by discussion of ancient Greek observers, notably Polybius and Dionysius of Halicarnassus. M. is at pains to stress his own amateur status as a commentator on most of this material, and his indebtedness to authorities like Quentin Skinner and Paul Rahe.

M. is clearly delighted by what he has found in his reading. The very title used by John Thelwall in 1796 in republishing a pamphlet on the Roman constitution by Walter Moyle (1672–1721) says it all: *Democracy Vindicated: An Essay on the Constitution and Government of the Roman State*. Not many of the writers M. considers shared such enthusiasm for Roman democracy. M.'s point is that whether they liked what they saw or not, the great tradition—as we might call it—perceived the Roman Republic as a state in which popular sovereignty was real and powerful. Unsurprisingly he presents the climactic moment for knowledgeable and productive

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engagement with the Republic as the later eighteenth century, in Rousseau's *Le Contrat social* (1762) and then in the *Federalist Papers* of 1787–8. In his chapter covering this period, entitled 'From Restoration to Revolution', M. is struck by the very detailed treatment of the institutions of the Republic which occupies much of the fourth and final book of *Le Contrat social*, and not least—as with Moyle, Blackstone, Noah Webster, and Alexander Hamilton also—by Rousseau's appreciation of the constitution and powers of the *comitia tributa* (on which M. has laid such stress in earlier writings): something not previously much evidenced before the eighteenth century since its classic treatment in Dionysius, though James Harrington (who thought the institution 'a sign of anarchy', p. 92) is one exception.

When M.'s writers discussed the Republic, what period or periods in its long and complex history were salient for their reflections? Everyone knows that for Machiavelli it was early Rome, or rather Livy's 'semilegendary narrative' (p. 69) in Books 1–10 from the foundation to the beginning of the third century B.C. One of the most interesting results to emerge from M.'s enquiry is his finding that early Rome as mediated through Livy remained almost universally what thinkers had in mind when they talked about the Republic. A fascinating contemporary example M. produces is Sanford Lakoff's *Democracy*, published as recently as 1996. Montesquieu and Rousseau commented on Cicero's views on the Gracchi, and Giucciardini and Milton on the final descent of the Republic into mob rule and tyranny, but these developments were never the main focus of attention. No printed edition of Polybius was available before 1549, and his celebration of the constitutional stability of the Rome he had known in the mid-second century seems to have made little impact on M.'s authors, with Addison (writing in the *Spectator* in 1712) and Montesquieu constituting interesting exceptions (pp. 106–7, 111–12).

In his final chapter M. turns to constitutional analysis on his own account; or rather, to the analysis an Aristotle might have made, not of Livy's early Republic, but of Cicero's Rome. When M. has claimed in the past that Rome was a democracy, he has been challenged to be more forthcoming about just what type of democracy he has in mind. I take it that his adoption here of an Aristotelian *alter ego* is a way of simultaneously answering and not answering the question. M. watchers will be intrigued by the verdict he reaches. After due expressions of caution about the limitations of our historical evidence and the difficulty of applying to a nation-state categories designed to produce highly nuanced analyses of the city-state (even though late republican Rome anachronistically maintained constitutional arrangements appropriate to a city-state), M. (or rather M.'s Aristotle) plumps for some sort of mixed constitution rather along the lines Polybius had developed a century before Cicero. Aristotle 'would have seen the *res publica* as a complex balance of "aristocratic" or "oligarchic" elements on the one hand and "democratic" on the other' (p. 180).

On the previous page M. has quoted a passage on oligarchy from the *Politics* (4.14, 1298b26–38) which suggests the desirability of adopting provisions pretty similar to those obtaining in Rome. One idea Aristotle mentions is to allow the citizen body to deal only with such issues as have been considered in advance in some probouleutic forum. Another in the interest of oligarchies is that 'the people should only be free to vote for measures which are identical, or at any rate in agreement, with those submitted to them'. M. points out with regard to the first suggestion that it is actually something that fits the Athenian democracy as well as it (imperfectly) fits Rome. He does not comment on the second (one of a little list of further possibilities sketched by Aristotle). That would seem to match the Roman situation exactly. M.'s last sentence

offers his own measured judgement: that 'given what passes for democracy in the contemporary nation-state, a Republic in which elected office-holders had to function in public, had to persuade those gathered in the Forum (who themselves represented, however imperfectly, the vastly greater total of citizens), and could not pass legislation without the votes of the people, would still deserve a place among the objects of political thought' (p. 182).

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MALCOLM SCHOFIELD

REPUBLICAN LEGISLATION

K. SANDBERG: *Magistrates and Assemblies. A Study of Legislative Practice in Republican Rome.* (Acta Instituti Romani Finlandiae 24.) Pp. 4 + vi + 214. Rome: Finnish Institute at Rome, 2001. ISBN: 952-5323-01-3.

This is not an easy hook to review: S. would, it seems, have liked to be able to advance a strong form of his hypothesis, namely that consuls could not engage in normal legislative activity until Sulla, and that different language was used to describe tribunician legislation and—when it became possible—consular legislation. Even S., however, cannot eliminate at least some pre-Sullan consular legislation.

To begin with terminology, S. holds that tribunes are described as legislating with the terms *promulgare* and *rogare*, consuls with the term *ferre*. In fact, it could perfectly well be said of a tribune that he *tulit* a statute (Cicero, *pro Balbo* 21, actually cited by S. at p. 70 n. 38; compare Val. Max. 5.8.2, cited at p. 117 n. 9). The word *ferre* is also used of tribunes in three cases from Livy cited by S. on p. 98 (compare p. 138 n. 28; p. 140 n. 42), where the senate instructs the consuls, a consul, or a praetor to arrange with the tribunes to legislate. At Livy 27.5.16 *rogare* is used of consuls and praetors.

Now there is no doubt that—in my view, for reasons of the availability of their time and the simplicity of the procedure—tribunes were often used by the senate to legislate: consuls were expected to fight wars, praetors, when they had come into existence, were expected to concern themselves with jurisdiction (see, against C. Brennan, G. Rowe, *BMCR* [2001], 8, 21). One needs to remember that Rome became from an early date a state with a highly differentiated office-holding (and priesthood-holding) structure. From the late second century B.C., consuls tended to spend more of their year of office in Rome, as political consensus was eroded, and so legislated more. Praetors, on the other hand, also from the late second century B.C., drew lots first for an urban *provincia*, then for an overseas one; but their urban *provincia* remained jurisdiction. Macrobius, *Saturnalia* 3.17.4 (p. 102 n. 22: at 17.3, print *lata*, with **M**, the *corrector* of **B**, **R**, and **F**, not *data*) proves only that consular legislation was rare, which we knew anyway. Given the rarity of such legislation, it is not surprising that the complete apparatus of *promulgare* and *rogare* happens not to be attested for it.

But S.'s approach to the sources in order to eliminate as much pre-Sullan consular legislation as possible is simply breath-taking: Livy 23.30.14 says *tutto tondo* that, at the very end of the year, Ti. Sempronius was instructed by the senate that 'cum <magistratum> [the consulship] inisset ad populum ferret, ut Q. Fabium duumvirum esse iuberent aedis dedicandae causa'. If all that Ti. Sempronius was to do was to chat up the tribunes, who were actually to legislate, why wait until he was in office? Any existing curule magistrate could have done this, since the tribunes were already in