Review of The Constitution of the Roman Republic, by Andrew Lintott

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Review
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"You can imagine the mixture of startled amusement and admiration we felt," recounted T. R. S. Broughton in a 1970 memorial lecture for his Bryn Mawr colleague Lily Ross Taylor, "when we discovered her using a period of enforced inactivity in the hospital to read through the three stout volumes in legal German (there is no translation into English) of Mommsen's Roman Public Law." Taylor was close to eighty years old when she first tackled in its entirety Theodor Mommsen's Römisches Staatsrecht (13, 23, 3 [Leipzig 1887–88]), "after a half century of admiring consultation" (see her Roman Voting Assemblies [Ann Arbor 1966] 12). Such is the challenge of the Staatsrecht, the fullest (three thousand plus pages) and greatest attempt to reconstruct Rome's unwritten constitution, drawing...
together virtually all the evidence then known, including thousands of scattered notices in the antiquarians and historians of the late Republic and early empire.

But for the historian of political institutions, Mommsen’s maximum opus of course must serve as just a starting point—thanks in no small measure to the legacy of Taylor and Broughton themselves. Now those two lumina, like Mommsen, accepted the ancient tradition on the creation and basic development of the Republic in its essentials, and proceeded from there. Yet other approaches to the sources on Rome’s “constitution” deserve study, too. For instance, think of the host of scholars, starting already in the mid-1940s, who have challenged Mommsen on such basic points as whether he was right to accept imperium as an attribute of Rome’s kings, or the evolution of the Roman political system as a transition from a monarchy to a system of two (equal) chief magistrates. One can easily imagine a compendium of the most stimulating speculative reactions to Mommsen filling the space of another Staatsrecht. (The skeptical can take a look simply at the collected works of P. De Francisci.)

What about short cuts? Handbooks published in continental Europe have kept consistent pace with developments in Roman constitutional studies, of which one in particular—W. Kunkel and R. Wittman, Staatsordnung und Staatspraxis der römischen Republik. Die Magistratur (Munich 1995, with two complementary volumes to follow)—will remain essential for some time to come. And in English? Keep a dustcloth handy. Putting out of mind the revisionist scholarship, until not so long ago two of the best syntheses of how the overall system of government was supposed to work were ones Lily Ross Taylor will have known during her student days: F. F. Abbott’s Roman Political Institutions (first edition Boston 1901) and A. H. J. Greenidge’s Roman Public Life (London 1901).

So 1993 marks a red-letter date of sorts. That year saw the publication of Andrew Lintott’s splendid Imperium Romanum: Politics and Administration (London), which could be accurately advertised as “the first full-length book in English on the organisation of the Roman empire for over fifty years,” superseding old G. H. Stevenson, Roman Provincial Administration (Oxford 1939). There Lintott professed an interest “not only in the mechanics of the administration but in the conceptualisation of the empire both by the Romans themselves and by modern scholars” (Imperium Romanum ix).

Lintott in his expert The Constitution of the Roman Republic (“a work in English to which teachers of ancient history can refer pupils,” as he modestly defines it at v) follows a similar path. About seventy percent of this volume (1–15, 27–190, nine of thirteen chapters) has to do with questions about how things functioned. What were the guiding principles of the Roman state? How were Rome’s various assemblies organized? What were the powers of the various magistracies? In what ways was criminal justice administered? (He leaves private law out of account.) How does the Senate fit into the overall system of government? And what roles did aristocratic society and the state religion play in all this? Thanks to his enviable detailed knowledge of res Romanae—and eye for significant passages—Lintott very much succeeds in conveying these complex topics in a reasonably succinct, three-dimensional form, usually stressing development where he can find it. In places, Lintott can be too succinct: the experiment of military tribunes with consular power, much discussed in the literature of the last three decades, hardly gets its due (at 113 Lintott even seems to doubt the institution’s existence). But some of his technical descriptions in these chapters are models of clarity (e.g., 170, on the influence of the presiding magistrate on elections), and practically everything he does choose to discuss is fully sourced.
Lintott then devotes the remaining bits of his book (16–26, 191–255) to political speculations on the Republican constitution—ancient (Polybius and Cicero), medieval (Machiavelli through Montesquieu and the Founding Fathers). Here (and in some sense throughout the work—see the Index Locorum at 288–289) Lintott gives pride of place to Polybius, “the first to have actually attempted to put Roman political behavior in a conceptual framework.” Without a theoretical analysis such as Polybius’, Lintott argues, “we are likely to lose our way in a mass of data” (quotations from 8). But Lintott thankfully is aware of Polybius’ tendency to over-schematism, which can lead him into misleading distortions and omissions (see 17 and 65, n. 1).

One can just imagine the difficulty of putting together a book such as this. It really is “the first major work in English to study the constitution of the Roman Republic in all its complexity” (thus the jacket blurb), with ample references to the most important nineteenth- and twentieth-century approaches (including those reactions to Mommsen). Yet for all its (considerable) merits, The Constitution of the Roman Republic rates an ovatio, not a full triumph. Lintott tells us (v) he has made it a major goal “to rescue Roman constitutional studies from the stigma of being old-fashioned, smelling of the attic of nineteenth-century scholarship, and out of touch with modern approaches to the analysis of society.” Whether this sub-field needs “rescuing” is a dodgy proposition, refuted by even a cursory glance at the book’s own bibliography (256–268), which teems with significant recent work using a wide variety of methodological approaches. And Lintott’s own book may have a few too many dullish stretches (chief among them 9–15, “A Roman Political Year,” a bald summary of Livy’s narrative of 189 B.C.) and unfiltered legalisms (see, at random, 200 on the ager in trientabulis, left unglossed) to destigmatize his subject for the unconverted.

The chief shortcoming, however, is that sometimes Lintott is not nearly as au courant as he needs to be. E. Badian’s revised list of the consuls in the years 179–49 B.C. (Chiron 20 [1990] 371–413) goes ignored (see 167, where it is needed), and his important article “Tribuni Plebis and Res Publica” (in J. Linderski [ed.], Imperium Sine Fine [Stuttgart 1996] 187–213), though cited, has not been absorbed (as is clear from 106–107 and 124, on Q. Pleminius, or 69, the discussion of the lex Atinia). Not a single item by F. X. Ryan—who published almost sixty articles through the year 1998, most in major journals, concerning magistrates, assemblies, or the Senate in the later Republic—finds its way into Lintott’s book.

But most consequentially, in his treatment of the public auspicia—obviously a crucial topic in a book on the constitution—Lintott fails the “Linderski Test” (on which see my comments at BMCR 8.2 [1997] 151), never citing that scholar’s monumental monograph-length “The Augural Law” (ANRW II 16.3 [1986] 2146–2312), or hardly any of his other (numerous) specialized studies of the Roman religio. This leads to actual errors. For instance, auspicia are not the province of “the gods” (103), but of Jupiter; in an interregnum (discussed at 164), the first interrex cannot hold the consular elections (see Ascon. 43 C and Schol. Bob. 116 St.). On some related issues, Lintott is unnecessarily hazy. Dictators are not “nominated” (110), but “named”—in an augural ceremony. And surely specific scruples regarding auspical continuity, not simply “the influence and prestige of the patricians” (thus 105), prevented two plebeians from being elected consular colleagues until 172 B.C., almost two full centuries after the office first opened to that order. It seems important to alert the reader to such points, small as they may be. For if past history is a guide, no one in
the English-speaking world will try to improve on Lintott’s splendid overall achievement for many generations.

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Some fifteen years after the publication of Rome in the Late Republic, Duckworth has now published a second edition. It is basically a reprint, the changes consisting in one and a half pages added to the Introduction, some four pages on “New Directions” added at the end, and nine pages of additional bibliography (some 240 items) covering the period after 1985. As in the first edition, only works in English are listed (except picture books). This limiting choice of language is explained by the audience to whom the book is addressed: “some sixth-formers, undergraduates and their teachers” (vi), obviously in the English-speaking world.

The first edition received important attention from other scholars,¹ and the publication of the second edition indicates that the book has reached its intended audience. Having myself taught upper-level undergraduate courses on the Late Republic several times, I think it important to point out that presumptive users should follow the authors’ advice, i.e., begin by thoroughly mastering general works like H. H. Scullard’s From the Gracchi to Nero⁵ (London 1982), an English work admirable in its thoroughness—though not always providing the most easy reading for undergraduates, and admittedly old-fashioned on several counts.

Some ninety pages of this slim volume provide the main content with chapters on “The Nature of the Problem,” “The Cultural Horizons of the Aristocracy,” “Religion,” “Political Institutions,” “The Working of Politics,” and “Rome and the Outside World.” Someone who published his first scholarly paper the same year that this book first appeared should perhaps abstain from judging what was new and what was not in 1985. One original purpose of the authors was to “subvert your expectations” (vii) on how to write the history of the Late Republic, and in the words of Nicholas Purcell in 1987 “there has not been a book like this before.”²

To start out with a chapter on the influx of Hellenistic culture seems a very natural thing to do today; it may indeed have been provocative fifteen years ago. The choice to follow with a chapter on Roman religion, a notoriously difficult subject, might have been equally innovative in 1985. This is of course a chapter that the authors might have wished to rework or expand, had it been possible, considering how much Mary Beard especially has contributed to the field during the past decade.³ The choice to focus only on what is called the “traditional ‘official’ religion of the city of Rome” (25) was perhaps not the happiest

¹ See in particular the thoughtful review by Nicholas Purcell in JRS 77 (1987) 191–192.
² Purcell (above, n. 1) 192.