



Leslie G. Rubin, ed. *Justice v. Law in Greek Political Thought*. Lanham, Md.: Rowman & Littlefield Publishers, 1997. xii + 268 pp. \$41.95 (paper), ISBN 978-0-8476-8423-6; \$95.00 (cloth), ISBN 978-0-8476-8422-9.

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## Nolo Contendere

This volume of essays, the third in a series of collected papers presented under the aegis of the North American Chapter of the Society for Greek Political Thought, aims to examine a persistent and transcultural dilemma regarding the interface between the values implicit in the practical, positive rules under which a community governs itself, on the one hand, and more abstract and universal standards of morality and proper conduct on the other. "The multifaceted and subtle arguments of the Greeks demonstrate the perennial nature of the problem and suggest some practical political teachings to ameliorate its effects," writes the editor, "though a final solution seems impossible" (p. vii). The title of the collection, *Justice v. Law*, conveys something of the tension which results when socially embedded practices are lifted out of their immediate context and scrutinized in the cold light of reason or with reference to moral absolutes.

But who are "the Greeks" with whom this examination is concerned? What methodological, historical, or ideological considerations circumscribe the boundaries of what might be confidently identified as "Greek political thought"? The reader who picks up this volume without preconceptions may be excused for imagining that one of its aims is to problematize such categories and to cross the disciplinary boundaries which separate the study of Greek law (itself a problematic category[1]) and Greek political philosophy, or to contrast democratic and elitist assumptions about the interrelation of positive law and absolute justice in antiquity. Yet, on closer inspection, the conclusion dawns that the all-encompassing rubric serves mainly to accommodate a few ancient sources that fail to fit comfortably within the traditional canons of classical political philosophy.

Within a collection of thirteen essays, ten of which are mainly devoted either to Aristotle's *Politics* or to Plato's *Republic* or *Laws* (including, in one instance, a joint discussion of the first and second works, and in another a discussion of the *Republic* and Herodotus' *His-*

*tories*), the inclusion of two essays on Homer's *Odyssey* calls for a certain amount of editorial comment (p. viii), and even an essay on Sophocles' *Antigone* tends to stand out. What is more puzzling, in a volume that purports to examine Greek attitudes toward law, is the virtual absence of any references to our key sources for positive law in the classical period and for the administration of justice in the classical city. Particularly troubling is the lack of any contribution that addresses the subject of political and forensic rhetoric, and therefore collective processes of decision-making, other than through the work of the philosophers. Paul Bullen's essay, entitled "Lawmakers and ordinary people in Aristotle" (pp. 229-41), represents a worthwhile gesture in this direction, although here one feels that Aristotle's position could be usefully contextualized through discussion of the constitutional checks upon popular sovereignty carried through in Athens in the aftermath of the Peloponnesian War.[2]

Thematic integrity is difficult to achieve in a volume of conference papers, and the imbalances perceptible in this collection should not obscure the merits of individual essays. The best contributions are distinguished by the lucidity and consistency of their argumentation and by the skill with which the contributors balance close attention to the source text with careful exposition and a sense of the broader organization of the work as a whole. The essays by William E. Conklin, Tim Collins, and Brian Calvert are particularly noteworthy in this regard.

Conklin's contribution—"Hegel, the author and authority in Sophocles' *Antigone*" (pp. 129-51)—aims to rehabilitate Hegel's crudely gendered structuralism in associating Antigone's devotion to divine law with the feminine and Creon's exultation of human law with the masculine by invoking the Foucauldian concept of the author function and stressing the incompatibility of the sources of authority to which the two characters appeal. Collins's essay—"Aristotle's legislative science" (pp. 213-27)—is dis-

tinguished by the author's attention to the pedagogical dimension of the *Politics*, which he imagines as a teaching text addressed to an audience of impressionable and inexperienced young men. Collins's key observation, that Aristotle's attitude toward legislative reform was practical, moderate, and attuned to peculiarities in the socio-political culture of individual cities, is less original than the parallels he draws between the piecemeal, unsystematic, and non-linear process of carrying through a program of political change and the experience of reading the *Politics* itself, which manifests many of the same qualities. Meanwhile, in "The death penalty in Plato's *Laws*" (pp. 243-62), Calvert evaluates the philosopher's justifications for capital punishment in the light of contemporary public policy debates on the issue. Calvert's discussion, which catches Plato in a number of inconsistencies and puzzles, is fairly illuminating, but here once again more attention to the contemporary Athenian judicial context would be welcome. Calvert recognizes the relevance of such comparisons, but his references to the standard textbooks are unsatisfying and further examination of the primary sources is warranted.

Of the remaining essays, three have previously appeared in other publications; among these, two are excerpted from full-length monographs with slight alterations. The inclusion of such material detracts from the value of what will strike many readers as a pricey volume, and in the case of the two excerpts the interested reader would be well advised to hunt down the full-length treatment in any event. Joshua Parens's essay—"The foundations and defense of law" (pp. 113-28) [3]—which concerns Alfarabi's commentary on Plato's *Laws*, takes for granted a great deal of essential background about the author's identity, the extent of his scholarship, and the religious, social and political context of his writing. Judith A. Swanson's piece—"Aristotle on how to preserve a regime" (pp. 153-82) [4]—is an assemblage of evidence from the *Politics* and other works in support of the author's contention that Aristotle identified the preservation of the private sphere as essential for the inculcation of civic values and the perpetuation of the rule of law. The scope of an essay cannot easily accommodate the resulting accumulation of detail, which demands the fuller treatment Swanson has given it elsewhere.

To sum up, the selection of essays represented here, evidently the product of four years' worth of contributions to three regular meetings of North American political and social sciences associations, makes up a volume which is simultaneously rather narrow in its aspirations and yet curiously ill-focused. In contrast with comparable collections (Carnes Lord and David K. O'Connor, eds., *Essays on the Foundations of Aristotelian Political Science* [Berkeley: University of California Press, 1991] comes to mind), the individual efforts of the contributors are enhanced neither by a unity of subject matter nor by a diversity of methodological approaches.

In re Justice v. Law: non liquet. [5]

#### Notes

[1]. See S. Todd and P. Millett, "Law, society and Athens," pp. 1-18 (esp. 7-11) in P. Cartledge, P. Millett, and S. Todd, eds., *NOMOS: Essays in Athenian law, politics and society* (Cambridge, Engl.: Cambridge University Press, 1990).

[2]. For an overview, see D. M. MacDowell, *The Law in Classical Athens* (Ithaca, N.Y.: Cornell University Press, 1978), 43-52. Bullen's reference to Martin Ostwald's *From Popular Sovereignty to the Sovereignty of Law* (Berkeley: University of California Press, 1986), buried in a footnote to an appendix, begs the question of why the Athenian constitutional material is not more prominent.

[3]. Reprinted from Joshua Parens, *Metaphysics as Rhetoric: Alfarabi's Summary of Plato's Laws* (Albany, N.Y.: State University of New York Press, 1995).

[4]. Reprinted, with slight revisions, from Judith A. Swanson, *The Public and Private in Aristotle's Political Philosophy* (Ithaca, N.Y.: Cornell University Press, 1992).

[5] Literally translated, this Latin tag means simply that "the case is not clear." The online OED gives the following gloss: Definition: A condition of uncertainty as to whether a thing is so or not; spec. in Law, a verdict given by a jury in cases of doubt, deferring the matter to another day for trial. Also attrib. = uncertain as to the side to which one belongs.

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