

The Classical Review

<http://journals.cambridge.org/CAR>

Additional services for *The Classical Review*:

Email alerts: [Click here](#)

Subscriptions: [Click here](#)

Commercial reprints: [Click here](#)

Terms of use : [Click here](#)



LAWYER-QAESTORS

R. W. Benet Salway

The Classical Review / Volume 50 / Issue 02 / October 2000, pp 501 - 503

DOI: 10.1093/cr/50.2.501, Published online: 12 April 2006

Link to this article: http://journals.cambridge.org/abstract_S0009840X00780048

How to cite this article:

R. W. Benet Salway (2000). LAWYER-QAESTORS. The Classical Review, 50, pp 501-503 doi:10.1093/cr/50.2.501

Request Permissions : [Click here](#)

LAWYER-QUAESTORS

T. HONORÉ: *Law in the Crisis of Empire 379–455 AD. The Theodosian Dynasty and its Quaestors*. Pp. xii + 320, 2 discs. Oxford: Clarendon Press, 1998. Cased, £45. ISBN: 0-19-826078-4.

This book reflects the culmination of over a decade's work by Honoré on the legislation of the Theodosian Age. Indeed, five of its thirteen chapters have appeared in earlier versions elsewhere, though they have evolved since. In the dedication 'to the unsatisfied', H. challenges the remaining sceptics of his now well-established method whereby, rejecting the concept of a blanket 'chancery style', he analyses the combination of vocabulary and syntax-components of legal texts to reveal the intellectual and moral personalities of their authors: in this instance the quaestors who acted as the formal mouthpiece of the later Roman emperors. From the first known examples in the 350s, the quaestors were naturally members of the imperial consistory, but their functions grew (to include, from the 370s, drafting legislation), as did their dignity, eventually ranking alongside retired praetorian prefects. Discerning changes in style, H. detects that most quaestors took office in December/January (though I am dubious of the link that H. suggests with the timetable of the urban magistracy of the same name) and held it for one to two years, but some for as many as four. Known career patterns are varied: the odd one came from the traditional western senatorial aristocracy and a couple were appointed on purely literary merits, but most rose through the imperial *scrinia*. A successful quaestor, of whatever background, could expect to proceed to a praetorian prefecture within a few years.

As with the second edition of *Emperors and Lawyers* (Oxford, 1994), the printed analysis is supplemented by H.'s entire textual corpus on accompanying discs. This derives principally from the Theodosian Code, whose literary merits H. champions. Having sorted his texts into separate 'eastern' and 'western' sequences, listed chronologically (E1–997 and W1–656), H. assigns them, where possible, to quaestors, similarly sorted and listed (E1–30 and W1–19). The sequences are not as symmetrical as the book's title might suggest, the eastern sequence running from Theodosius I to II (A.D. 379–450), the western from the year of Gratian's death to that of Valentinian III's (A.D. 383–455). Of the individuated quaestorships, on the basis of traditional prosopography H. is able to put names to nearly fifty per cent, offering certain identifications for thirteen and possible identifications for eleven more. He gives each quaestor, whether named or not, a rating for literary ability, reflecting a good or poor attempt at a high or a plain literary style; though, perhaps through oversight, E24, guilty of verbal clusters, is given no rating. By a combination of prosopography and verbal traits H. also distinguishes those whom he considers are identifiable certainly or probably as Christians (fourteen) or as having received a technical legal training (twenty), drawing particular attention to the correlation of the two (ten are both).

In conformity with their general rôle, quaestors were responsible for the style but not content of laws, though they might contribute their own opinion as members of

the consistory where that of a lawyer would clearly carry weight. Within the constraint of adopting a suitably dignified tone, H. discerns four approaches: copying out a proposal with minimal change, recasting it in their own words, affectation of a haughty majestic persona, or impersonation of an emperor's peculiar idiolect. For instance, the quaestors of Theodosius I characterize him by an uncommon fondness for *tamen*. Letters 39 and 40 of the *Collectio Avellana* are an exception. Here the indignant tone and violation of conventions betray the authentic voice of the emperor Maximus without quaestorial smoothing. H. concludes that proportionally more lawyer-quaestors aimed at a plainer literary style and succeeded in composing more accurately. Still, technical legal training and rhetoric were far from mutually exclusive. Indeed, the fact that two-thirds of the quaestors attempted literary distinction indicates the continued prestige of a high style, even if slightly more than half failed. Eloquent orators without legal training tended to lack the self-confidence to interpret imperial enactments for themselves, but H. still reserves the highest praise for the incisiveness of one such: Nicomachus Flavianus. Nor was style without consequences for content; a sophisticated but technically vague style allowed greater scope for judicial interpretation, but H. stresses that such looseness should not be confused with 'vulgarization'.

Although legal training was not a formal prerequisite for even such an acknowledged avenue of advancement as practice at the bar of the praetorian prefecture, H. detects it with increasing frequency amongst his quaestors. Distribution of these lawyer-quaestors was not even, however, since they were primarily a Constantinopolitan phenomenon. From the first quaestor of Theodosius I, lawyers were a regular feature in that court, while H. only manages to identify five for the west, the two most significant of whom (the first in 389 and that of 425–27) he argues were imposed on the young Valentinians II and III by their older eastern colleagues. H.'s novel identification of this last as Antiochus senior, chairman of the first Theodosian Code commission, is of considerable consequence; it links Antiochus' experiences in the more chaotic western realm, where he was responsible for issuing a 'mini-code'—including a definition of *leges generales* and the so-called 'law of citations' (to resolve conflicts of juristic opinion)—with the inspiration for the Theodosian project. This H. sees as the prime achievement of the lawyer-quaestors, so that a description of its structure forms a natural digression in H.'s eastern sequence (a chapter arguing for a lawyer's authorship of the *Historia Augusta* is a less natural interruption to the western sequence). Arising from this, H. raises the question of whether the 'rule of law' ethos propounded by the lawyer-quaestors contributed to the east's survival of the 'crisis of empire', which in H.'s terms comprises the struggle of the Theodosian regimes with the problems of a state-within-a-state posed by the barbarians and to some extent also the church. In answer, H. contends that the *lex Romana* and *lex Christiana* were better integrated in the east than in the west. I am not sure that this is really demonstrated, but there was a striking, and perhaps not simply coincidental, convergence in the approach of the two, which combined the delineation of a corpus of authoritative texts with a drive to iron out inconsistencies.

My only substantial complaint is that the practices of author and publisher combine to render what would be an admirably precise and efficient system of cross-referencing—by chapter number and number(s) of the footnote(s) corresponding to the relevant section of the main text—extremely irksome because of the absence of chapter numbers from the running heads. Otherwise this book represents another triumph for H., providing important new insights, whether or not one accepts the significance of the rôle of lawyer-quaestors in the survival of the east. For H. has

undoubtedly demonstrated that the Theodosian era saw technical expertise (at least in law) join the traditional claims of wealth, family, and liberal education in the competition for public advancement.

University of Nottingham

R. W. BENET SALWAY