PART III

SACRED LAW, CIVIL LAW, AND THE CITIZEN
SACRED LAW AND CIVIL LAW

Olga Tellegen-Couperus

1. The Connection between Sacred and Civil Law

In the summer of 47 BC, two prominent Roman senators met on the island of Samos, off the coast of Asia Minor: Marcus Iunius Brutus and Servius Sulpicius Rufus. Brutus is best known as a politician and as one of the murderers of C. Iulius Caesar, Rufus as the top jurist of his time. In the previous year, both had been supporters of Pompey and both had fled to the East after the battle of Pharsalos when Pompey had been beaten by Caesar. Rufus had withdrawn to the island of Samos, where he awaited the pardon of and reconciliation with Caesar. Brutus had already been pardoned and was on his way back from Asia to Rome. He made a stop on the island of Samos, and there the two met. According to Cicero who described this meeting, they talked about law: Brutus asked Rufus many questions about the extent to which pontifical law is connected to civil law. Unfortunately, Cicero does not provide any details about the specific questions Brutus asked, let alone Rufus’ answers, but it is clear that the issue was regarded as relevant by both Brutus and Rufus.

This story is remarkable in that it seems to contradict the commonly held view that, already in the course of the Republic, civil law had become separated from pontifical law, i.e., from religion. Early secularisation is even regarded as one of the characteristics of Roman law. The story cannot be discarded as the odd one out, because in other places Cicero also quotes leading Roman jurists who stress the importance of being well acquainted with pontifical law. However, verifying the story is difficult because our knowledge of early civil law is limited and that of pontifical law problematical.

In the middle of the nineteenth century, Niebuhr suggested that, of old, the pontiffs as keepers of law and time used to record major events

1 Cicero, Brutus 42.156.
3 Cicero, De oratore 3.134; De legibus 2.47 and 2.52–53.