

# Taubenschlag, Rafał

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"Apokrimata : Decisions of Septimius Severus on Legal Matters", text, translation and historical analysis" by W. L. Westermann ; legal commentary by A. Arthur Schiller, New York 1954 : [recenzja]

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Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

ween a Greek and an Egyptian woman. There is however as the editor points out also the possibility that Heron is a name assumed by an Egyptian in order to facilitate his dealings with the foreign community.

*Apokrimata: Decisions of Septimius Severus on Legal Matters. Text, Translation and Historical Analysis* by W. L. Westermann. *Legal Commentary* by A. Arthur Schiller (New York, Columbia University Press 1954).

P. Col. 123 appears to be a complete copy of the decisions rendered by the imperial bureau (cf. A. A. Schiller, *Chronique d'Egypte* XXX, No. 60 [1955] 345. A reedition of the text by H. C. Youtie see *l.c.* 327 ff.). The new readings in v. 21 and 40 make it perfectly clear that the scribe copied the subscripts to a group of petitions which were posted on three successive days, Phamenoth 18th, 19th and 20th.

I. Subscript Number 1 v. 5—7 concerns probably tax arrears including penalties and criminal fines. The question asked by the official Ulpus is whether the indulgence affects Alexandrians and Egyptians. The term *δωρεά* strengthens the view that a time limit to the benefaction of the emperor was indicated. The imperial *responsum* was based upon a previous general amnesty which Severus here declared applicable in the case either of the class of Alexandrians or that of Egyptians (cf. on amnesty my *Law*<sup>2</sup> 551; on Alexandrians *ibid.* 571 ff., 583 ff.; on Egyptians *ibid.* passim v. index).

II. The significance of the 2nd rescript lies in the fact that it is also to be found as the first of the two rescripts published as P. Amh. 63. The context of the rescript itself gives little opportunity for legal comment. The sense is clear, however: "Artemidorus, you have waited too long to complain of the decision for you accepted the findings". It must be remembered that the person to whom the prescript was directed was familiar with the circumstances of the case. The bureau *a libellis* to whom the petition had been submitted also knew these circumstances. Today we possess the brief answer only; hence the meaning of this rescript is enigmatic.

III. The shortest of the rescripts refers to administrative findings "obey the findings made".

IV. This rescript deals with the procedure to be followed as a result of the sale of mortgaged properties (πραῖσις τῶν ὑποθηκῶν), cf. the remarks by F. Casavola, *Labeo* I (1955) fasc. 1, p. 93 ff.

V. The rescript V is completely in line with the jurists' interpretation of the *senatusconsultum Velleianum*. The imperial bureau answers it is perfectly proper for a woman to borrow money (cf. Casavola *l.c.* 97 ff.).

Rescript No. VI can be translated: "The decisions concerning inspections have commonly given consideration to Egyptians". The addressees are assured by the emperor that in litigation relating to inspections, the courts will not fail to bear in mind the position of Egyptians. A series of decisions has laid down this principle and it is binding in similar cases in the future (cf. Schiller, *Chronique d'Egypte* XXX No. 60 [1955] 335).

In the rescript No. VII the imperial chancellery replies to the petitioner that "Some time ago we forbade priesthoods through the maternal side (of the family) to come down in succession". It is possible that this rule was a departure from earlier practice (cf. Schiller *l.c.* 337).

Rescript No. VIII may be translated as follows: "To Proclus, son of Apollonios. It is not right that heirs written (γεγραμμένοι κληρονόμοι — a literal rendition of *heredes scripti*) (in the will) should be deprived of possession. Those entrusted with (the supervision of cases) shall take care to cite the accused persons if the matter is in the order of trials". The petitioner is seeking to deprive the heirs of their possession of the inherited property. The basis for his claim is the allegation that the testament under which the heirs have possession "is falsified". The heirs named in the will cannot be deprived of possession on this mere allegation. A final determination of that matter is required. The subscript provides that the regular criminal procedure — through the *accusatio falsi*, the prerequisite to the successful completion of the civil suit for possession of the property — be followed under the guidance of the officials to whom it is entrusted (cf. Schiller, *l.c.* 342 ff.).

IX. Temporary sicknesses do not excuse from civic liturgies and those physically sick are subject to liturgical services if they are able to undertake the care of their own affairs.

X. The rescript is an answer in the negative to a request for a legal ruling on the substitution of money payment for grain in the performance of private obligations.

XI is a significant rescript. It has provided further evidence for illegal tax-farming operations in the age of the Severi. It throws new light on the activities of the pretorian prefect. It has afforded confirmation of a complex development in the edictal action against *publicani*.

XII. From the opening clause of the rescript it is learned that the petitioner has given up (ἀποστάς) his paternal inheritance. This refusal of Isidorus to accept the inheritance was made when he was a minor, for the rescript goes on to say that the petitioner was not entitled to the benefits accorded those in minority status. The petitioner had undoubtedly changed his mind and wished now to enter into the inheritance in spite of the debts or other obligations which may have been outstanding. In this respect the minor could change his mind. But the benefits of the *lex Laetoria* ceased with the completion of his twenty-fifth year. The most likely basis for the denial of the benefits of the minority by the emperor is that the age of twenty-five had been passed. The major point made in the petition was the assertion, to use the words of the rescript "that the patrimony had been proscribed". Isidorus presumably declined to accept the inheritance in the first place because it was overburdened with outstanding debts. As heir these would be his responsibility. Since no other heir or intestate successor appeared the creditors would seek to have the estate sold in order that their claims might be satisfied. On the "law of sales" (law pertaining to bankrupt sales) cf. Schiller *l.c.* 344 ff. (see also my *Law*<sup>2</sup> 218<sub>4</sub>, 688).

XIII. A guardian, acting in the interests of his wards, wished to recover possession of the property which had been wrongfully occupied by other persons. The property was situated in a locale other than his own residence and he was therefore unable to institute and carry through the necessary litigation. He petitioned the emperor in order to be informed of the proper measures to be taken. He was told by the rescript that if he requested supplemental tutors resident in that locality, as the imperial law permitted, those tutors could in normal fashion apply for the designation of a judge to hear the case. Suit could be brought against the person in the possession of the property in the name of and in the interests of the wards.