

Taubenschlag, Rafał

"West Roman Vulgar Law. The Law of Property", Ernst Levy, Philadelphia 1951 : [recenzja]

The Journal of Juristic Papyrology 5, 248

1951

Artykuł został zdigitalizowany i opracowany do udostępnienia w internecie przez **Muzeum Historii Polski** w ramach prac podejmowanych na rzecz zapewnienia otwartego, powszechnego i trwałego dostępu do polskiego dorobku naukowego i kulturalnego. Artykuł jest umieszczony w kolekcji cyfrowej bazhum.muzhp.pl, gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

LAW OF PROPERTY

Ernst Levy, *West Roman Vulgar Law. The Law of Property.* (American Philosophical Society, Philadelphia 1951).

The vulgarized law of the western part of the Roman Empire has hitherto met with slight, if any, attention. It has been obscured by the splendor of the classical jurisprudence which covers about the first two hundred and fifty years of our era. But human history, is not limited to climaxes. Developments of a lower level have often had an influence hardly less profound. The vulgar law is an outstanding case in point. One cannot hope to understand fully the earliest codifications of the Germanic world or properly judge the attitude taken by Justinian in compiling the *Corpus Juris*, unless one becomes acquainted with the main currents which molded the private law in the preceding period. And these currents were largely determined by a simplification and popularization in practice and doctrine of the ideas on which the artistic system of the classical period had been built. The process of vulgarization displayed its most marked traits in that long and eventful epoch which stretched between Diocletian and Justinian who, more than two hundred years later, became reviver.

The book pursues two chief purposes. One is to present the most distinctive features of those unorthodox rules in the law of property. Emphasis is on its fundamental concepts, the relation between private rights and public interest, the establishment of those rights and the remedies available to enforce them. The second objective is to explain the significance of the vulgar law for subsequent developments. While Justinian in the main steered a different course, early Germanic legislations were profoundly influenced by the vulgar law. This fact opens up a new approach to the much debated problem whether a given rule has Germanic or Roman roots. The potential Roman component, it is shown, cannot be looked for in the classical or the Justinian law which the Germanic peoples at that time did not know, but only in the vulgar law which they did know. Not everywhere are the sources plentiful enough to make an approach to the details of a rule of the vulgar law possible. But the principal lines of thought reveal themselves with sufficient and in places impressive clarity.

This review gives an idea of the value of this monumental work; and as it makes to a large extent use of the papyri (cf. index p. 295) it will be of high interest also for the papyrologists.