

Taubenschlag, Rafał

"Herkunft und soziale Stellung der römischen Juristen", Wolfgang Kunkel, 1952 : [recenzja]

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Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

Fritz Schulz, *Classical Roman Law*. Oxford, At the Clarendon Press 1951.

This book — in contrast to most modern text books of Roman Private Law — is concerned only with Classical Law i. e. the private law of the period from Augustus till Diocletian. It aims to delineate the broad outlines of that law; to describe the legal institutions and to render them understandable as sociological phenomena. As the book quotes texts and sources supplemented with full also with papyrological bibliographies it will be not only for the romanists but also for the papyrologists of the highest importance.

Max Kaser, *Römische Rechtsgeschichte*. Göttingen 1950.

In this text-book § 35 is devoted to the national laws. The author emphasizes that also after the C. A. in the frontier districts of the Roman Empire there was applied a law which deviated in a considerable manner from the law practised in the very Rome and it appears that the local laws of various nations in the provinces operated strongly even after the grant of citizenship and that the Roman law slowly gained ground in these provinces. This peculiar phenomenon is chiefly observed in Egypt. As to the importance of the papyri the reference is also given on p. 66, 144, 185.

R. Taubenschlag, *Introduction to the Law of the Papyri* (Archives du droit oriental vol. VI).

Wolfgang Kunkel, *Herkunft und soziale Stellung der römischen Juristen* (Forschungen zum römischen Recht hg. von Max Kaser, Hans Kreller und Wolfgang Kunkel) 1952.

This study in Roman Law is also for the papyrologists of high interest. Chiefly of account are the lists of jurists on p. 269/70 and the discussion on the activities of νομοδοί and the Roman jurisprudence in Egypt (p. 355 ff). The author establishes on the ground of a carefully collected material that in Egypt during the second and the third centuries A. D. a pair of humble lawyers professionally made use of their knowledge of the Roman law and that amongst the suite of the governor there were Romans learned in law. One can hardly speak of an indigenous Roman provincial jurisprudence. This is not remarkable because Egypt, which up to the C. A. had only a very small number of Roman citizens in comparison to other

provinces and possessed a highly developed national law of an almost indestructible vitality, was certainly a particularly unfavourable country for an expansion and good knowledge of the Roman law. It seems that even in the postclassical epoch it has never played any important part in the history of the Roman jurisprudence, in spite of the fragments from the Gaius institutions and other legal works which were found there.

Giuseppe Ignazio Luzzatto, *Ricerche sull'applicazione delle costituzioni imperiali nelle provincie* (estr. dagli Scritti di diritto romano in onore di C. Ferrini pubbl. dalla Regia Università di Pavia 1943).

A careful scrutiny of imperial constitutions ascertains the fact that each province represented an autonomous legislative community. To understand the rôle and significance of the Roman Law in the whole Empire it is necessary to determine the local laws enacted in each Roman province. These conclusions correspond to those I had reached 20 years ago in my „*Geschichte der Rezeption des römischen Privatrechts*” for Egypt.

R. Taubenschlag, *The Roman authorities and the Local Law in Egypt before and after the C. A.* (Journal of jur. pap. V 121-142).

R. Taubenschlag, *Die römischen Behörden und das Volksrecht vor und nach der C. A.* (Sav. Z. 69, 102-127).

Fernand de Visscher, *La cittadinanza romana* (Ann. Sem. giur. Univ. di Catania III, 1949 p. 17 ff).

This article contains on p. 15/16 interesting observations on the C. A.

W. L. Westermann, *Concerning Urbanism and Anti-Urbanism in Antiquity* (Farouk I University Bull. of the Faculty of Arts vol. IV 1949 p. 81 - 95).

In this essay jurists will be interested in the author's remarks on p. 15/16: „By Caracallas decree most of the free inhabitants of the metropolies and villages throughout the Empire became Roman citizens. This resulted in these places in the establishment of Councils, selected by compulsory appointment from the ranks of the local well-to-do. Privileges and social advantages which