

# Kupiszewski, Henryk

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## "Das römische Privatrecht", Max Kaser, München 1971 : [recenzja]

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the notion of a historical reconstruction of Roman law in which he has been co-operating, the author abandoned the traditional trend of presenting the history of Roman civil procedure in three parts. He felt sufficiently justified to deal with cognitive procedure separately for the period of the Principate and, separately, for the period of absolute monarchy.

As far as his source material is concerned, the author took into consideration inscriptions and papyri only in so far as they may be useful to reconstructing Roman civil procedure. We are anxious to call special attention of readers of our *Journal* to this matter.

[Warszawa]

Henryk Kupiszewski

Max Kaser, *Das römische Privatrecht*. Erster Abschnitt: *Das altrömische, das vorklassische und klassische Recht*. Zweite neubearbeitete Auflage. pp. XXX + 833. C. H. Beck'sche Verlagsbuchhandlung. München 1971.

The first edition of this book appeared in 1955. R. Taubenschlag (*JJP* 9/10 p. 484 f.) commented on its high importance for juristic papyrology.

The second edition has been completely rewritten. Taken into account have been the yield of Romanist research accrued during the 16 years since the first edition was published. From a meritorious point of view it seems appropriate to call attention to the following subject-matter.

The author is adherent of the trend assigning to the works of classical jurisprudence, transmitted by the Justinian compilation, a higher degree of authenticity than used to be the rule up to then. He proclaimed the theoretical vindication of his attitude to texts of classical scholars for the first time at the congress of Società Italiana di Storia del Diritto, held at Venice in 1967 (cf. *Atti del Congresso Intern. La critica del testo*, p. 291 ff.), and afterwards in his monograph: *Zur Methodologie der römischen Rechtsquellenforschung* (Wien 1972). He restricts the range of interpolations and elaborations of texts to such he considers rationally justified. In consequence the author vindicates to classical Roman law many legal opinions, notions and phenomena heretofore ascribed to East-Roman law schools or to Justinian's compilers. He also pays more attention to controversies in opinions held by jurists of the classical period.

[Warszawa]

Henryk Kupiszewski