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SURVEY OF THE LITERATURE FROM 1939 UNTIL 1945

SOURCES

FR. VON SCHWIND, *Zur Frage der Publikation im römischen Recht mit Ausblicken in das altgriechische und ptolemäische Rechtsgebiet.* Münch. Beitr. zur Papyrusforschung und antiker Rechtsgeschichte XXXI. München 1940.

This work is divided into three parts. The first part deals with the publication of the Roman sources of the law, the XII Tables and other *leges*, the *plebiscita*, public treaties, edicts and *senatusconsulta*. The author's thesis is that the publication of the law presupposed its validity and this idea was adopted by the Romans for the above mentioned sources of the law. In the second part the author discusses the publication of the Roman law in the provinces, particularly in Egypt. Here the author discusses the way in which the edict had to pass from the governor to the place of its placard, the placard itself, the officials charged with the latter, the place of its hanging out, the manner in which the hanging out took place, the material and the language of the placard, the duration of the placard, as well as the constitutive efficacy of the publication. An appendix treats of the same problems in the Ptolemaic law and its relation to the Roman law. The third part is devoted to the imperial constitutions. In this part, the author points out that the *Codex Theodosianus* adopted for the imperial constitutions the Greek idea on the constitutive efficacy of the publication.

E. VOLTERRA, *L'efficacia delle costituzioni imperiali emanati per le province e l'istituto dell' expositio.* Studi di stor. e dir. in onore di E. Besta I (1939), p. 117ff.

The Egyptian papyri of the Roman period show that there was no legislative unity in the Roman provinces before Theodosius and Justinian in the field of private law. Thus, for instance, the imperial legislation (Gnom. § 4.38.107) introduced provisions for exposed children in Egypt, quite different from those in Italy. Consequently, if we find in a constitution issued before Theodosius, provisions different from those enforced in that time in Italy, we can assert that this constitution was applied only in a particular Roman province such as Egypt, Syria and so on.

E. SCHOENBAUER, *Rechtshistorische Urkundenstudien, Die Inschrift von Rhosos¹ und die Constitutio Antoniniana.* Arch. f. Papyrusforschung, XIII, (1939), p. 177ff.

The author deals with three problems: whether Caracalla granted

citizenship to all citizens of the Empire (who were not citizens) or whether he excepted some groups from this grant; secondly, whether the C.A. was considered by the Greeks a brutal measure to a raising in rank; thirdly, whether the large numbers of citizens who were now called Romans, had to live exclusively according to the Roman law or not. His answers are: (a) Caracalla granted citizenship to *peregrini* belonging to the Empire. (b) The grant was considered a distinction. (c) The residents of the city-communities, even as Romans, enjoyed the right of applying their local law before the native authorities, but also the right of applying the Roman law before the Roman authorities. The author finds an analogy for the last idea in the inscription of Rhosos, in which Marcus Antonius and Octavian, granting citizenship and exemption from taxes to the head of the Navy, Seleukos from Rhosos, entitled him to choose between the Roman and the Greek systems of law.

A. SEGRÉ, *Note sull' editto di Caracalla*. Rend. d. Pont. Accad. Rom. di Archeologia, vol. XVI (1940), p. 194ff.

The C.A. granted citizenship to all inhabitants of the Empire but left unaffected the *status civitatis* (!) of the various classes of the population, so that the rural Egyptians continued to be *λαογραφούμενοι* and inferior to the metropolitans, who were not considered *dediticii* before the C.A. The new citizens under the C.A. were Romans *sui generis*. They retained their *status civitatis* (!), and unlike the older Romans they had no *tribus*.

H.I. BELL, *P. Giss 40 and the Constitutio Antoniniana*. Journal of Egyptian Archaeology, vol. XXVIII (1942) p. 39ff.

This is a criticism of Segré's article. There is a good deal to be said against Segré's view that the C.A. granted citizenship to all the inhabitants of the Empire, although no restoration of the clause following the grant can as yet be regarded as established. There is no evidence that metropolitans and nome inhabitants, though assessed for poll-tax at different rates, were of a different *status*, and not alike Egyptians. Segré's view that the Aurelii were citizens *sui generis* does not clear up as yet unsolved problems of poll-tax in the third cent. A.D.

¹ The latest edition of that famous inscription is given in S. Riccobono's *Fontes Iuris Anteiustiniani. Pars I Leges* (second edition, Florence 1941) No. 55, p. 308-315, with a Latin translation by N. Festa. This new edition of *Fontes* has been enriched by some papyri, as SB. III 6944; Oslo III 73; Giss. I 40 col. I; Oxy. XII 1406; Columbia Inv. 181-182 and the most important provisions of the Gnomon Idiologi. As we learn from Riccobono's Preface, in preparing the new edition intensively collaborated A. Berger who is responsible for the adaptation of all documents inserted for the first time into this collection.