

# Taubenschlag, Rafał

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"Protopraxie und 'jus pignoris' im  
klassischen Fiskalrecht", F. Wieacker,  
"Festschrift Koschaker", I, 1939 :  
[recenzja]

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The Journal of Juristic Papyrology 1, 94-95

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- I. BIEZUNSKA, *Etudes sur la condition juridique et sociale de la femme grècque en Egypte gréco-romaine*. Hermaion fasc. 4, Leopoli 1939.

Not available.

- S. VON BOLLA, *Zum römischen Heimfallsrecht*. Sav. Z. LIX (1939), p. 546.

The right of diversion to a state or a community presupposes that the inheritance be without an heir. The author asserts that in the pre-Roman Hellenistic law, the Greek and the Oriental as well, precursors of the right of reversion are to be found. Such are the provisions in Dura-Europos and Gnomon Idiologu.

#### THE LAW OF PROPERTY

- S. CONDANARI-MICHLER, Bodem, pignus, *ὑποθήκη*. Festschrift Koschaker III (1939), p. 350ff.

This article contains some indications on maritime loan in antiquity (*foenus nauticum*). Remarkable is especially p. 357<sub>13</sub> where Pap. Rain. Inv. No. 19. 792 is mentioned which is not a *ναυτικὴ σύγγραφη*, mentions however a *ὑποθήκη* on ship and its appurtenances and freightage in connection with a maritime loan  $\delta[\acute{\alpha}]ν[ε]ον\ ναντικ(όν)$ .

- E. RABEL, *Real securities in Roman law. Reflections on a Recent Study by the late Dean Wigmore*. Repr. from Seminar, an annual extraordinary number of the Jurist vol. I, 1943.

This article, although mostly dealing with Roman law, contains some references to the papyri cf. the references to the multitude of freely devised types of real security, as we find disclosed in the Gr. Eg. papyri, including among other conveyances upon condition subsequent (p. 41), on the hypothec in Egypt (p. 47).

- F. WIEACKER, *Protopraxie und "jus pignoris" im klassischen Fiskalrecht*. Festschrift Koschaker I (1939), p. 218ff.

The author discusses the Ptolemaic precursors (U.P.Z. 112; Tebt. 5) of the Roman edict on *πρωτοπραξία* of Tiberius Julius Alexander, which establishes a *κατοχή* for all fiscal debts on the debtor's property, effective towards anyone. The *fiscus-κατοχή* does not prevent the debtor from disposing of his property *ἐν κατοχῇ* which, however, can be withdrawn. Later on the *πρωτοπραξία* was extended to Greek communities especially to those which were newly founded, and to women on the property of their husbands

by virtue of the imperial resp. prefectural legislation. In cases when private persons were involved, the *πρωτοπραξία* was effective when recorded in the *βιβλιοθήκη ἐγκτήσεων*.

A. SEGRÉ, *An essay on the nature of real property in the classical world*, New York, 1943.

s. below p. 134ff.

E. ZIEBARTH, *Niessbrauchsrecht* R. E. Suppl. VII, p. 567.

E. ZIEBARTH, *Pfandrecht* R. E. Suppl. VII, p. 981.

E. SCHOENBAUER, *Untersuchungen zum Publizitätsrechte im ptolemäischen und römischen Ägypten*. Arch. f. Pap. XIII (1939), p. 39ff.

The author deals with the principle of publicity in conveyances of immovables (*καταγραφή*), in acts of emancipation and marriage-contracts. As far as the latter is concerned, the author gives a review of the latest theories and lays down a series of theses, promising strict evidence in a subsequent article.

M. SAN-NICOLÒ, *Zu dem Schutze gegen damnum infectum bei nachbarlichen Verhältnissen im Liegenschaftsrecht der Papyri*. Sav. Z. LXI (1941), p. 402.

The author deals with P. Fouad 30 (121 A.D.), a counterfeit of Wess. Stud. XXII, 131. He considers it a non-processual *παραγγελία* to the proprietor, to repair his ruinous house, otherwise he will be responsible for any damage that may occur. This summons issued by the imperiled neighbor, and the threatened consequences for their disregarding, obtain a half official character, because the strategos accepts the *ὑπόμνημα* and serves it upon the neighbor. In this way the *παραγγελία*, like the summons to the *conventus*, is authorized by the strategos. The author expresses the view that the case relates to Greco-Egyptian law and is an application of *δίκη βλάβης*. The liability results from the non-fulfillment of the summons for the repairs of the ruinous house.

B. KÜBLER, *Ἔργα καὶ δυνάμει. Vi ac potestate*. Sav. Z. LIX (1939), p. 562.

According to the author the clause "*ἔργα καὶ δυνάμει*" means that the promise to pay penalty for breach of a contract is not only a phrase but can be executed. The expression derives from the language of the Roman jurists.

E. ZIEBARTH, *Sanktionsklausel*. R. E. Suppl. VII, 1200ff.