

# Taubenschlag, Rafał

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"Introduction à l'histoire du droit romain dans ses rapports avec l'Orient", E. Volterra, "Archives d'histoire du droit oriental", vol. IV : [recenzja]

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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](http://bazhum.muzhp.pl), gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

Hans Kreller, *Römische Rechtsgeschichte* (2-te, erweiterte Auflage, 1948 CB. Mohr, Tübingen).

The book is divided into three parts. The first part bears the title „The popular laws of Greeks and Romans in their natural development” (till about 200 B.C.), the second „The Formation of the Roman Classical Law.”, the third „The most important rules of the Roman Classical Law for to-day’s Law”. In the book there is made only a scarce allowance for the papyri (p. 15), nevertheless also the papyrologist will be interested in it and particularly in the first part of the book.

Wolfgang Kunkel, *Römische Rechtsgeschichte*, Scherer-Verlag, Heidelberg 1948.

Likewise this text-book is divided into three sections as that one of Kreller. The first section deals with the period beginning with the early times till the middle of the third century B. C., the second one with the law of the Roman great power and world-embracing empire from the middle of the third century B. C. till the middle of the third century A. D., the third one with the law of the Roman later period. The problem of the „Reichsrecht und Volksrecht” („The imperial Law and the local Law”) is dealt with on the pages 49-53, 145-6.

E. Volterra, *Introduction à l’histoire du droit romain dans ses rapports avec l’Orient*. (*Archives d’histoire du droit oriental* vol. IV pp. 117-159).

The author remarks that almost all the ancient authors have studied this problem without taking into consideration the different epochs when the East would have exercised its influence upon the Roman law. Thus he is obliged to exhibit in the first part the results to which the different authors arrived without making a distinction between the law of the Roman Republic and the law of the Empire (1-146). On the contrary in the second part he lays great stress upon making a very clear distinction between these two laws. In fact it is the matter of two problems which ought to be studied separately. The first one (p. 146) is to know whether the quiritarian law has its origin in the juridical system of the East, at least what influence these latter have exercised upon the juridical institutions of the Roman people. The second problem consists in the determination what juridical elements of the East had been assimilated by

the Roman law in the last phase of its evolution and the recognition of these elements in Justinian's Codification. The author justly remarks that in these studies one ought above all to know the nature of the examined text, the territory and the persons to that it should be applied, to determine if it contains indeed a rule of the Roman law or a rule suitable for the population of the empire: subsequently to establish the relation of it to the provincial law and to inquire why the compilers have bestowed it with a general value admitting it into their codes. In this study the author makes use of the rich papyrological literature and that is one of the reasons of having reviewed it here.

Claire Préaux, *Sur la réception des droits dans l'Égypte greco-romain* (*Revue internationale des droits de l'antiquité* IV p. 349—359)

In this essay the author asserts that the reciprocal influences do concern almost exclusively only the Greek law and the native law and that these influences have not been very deep. The cases of influences bear witness without doubt to a process of reception, but they don't permit to assure that they are the result of a will for unification. One doesn't find in the Greek traditions the principle, according to which the victor imposes his law upon the vanquished. There is rather to be found the principle of the law of personality, which prevails in the juridical life and preserves on the same soil the integrity of different laws. The fact, that in the moment they come into contact, the Greek and the native laws are more or less on the same level of development, opposes to a prevailing influence on each other.

G. I. Luzzatto, *Appunti sul ius italicum* (*Revue internationale des droits de l'antiquité* V pp. 79—110).

Although this study disregards the papyri it deserves nevertheless the attention of the papyrologists with regard to its interesting inferences concerning the C. A. on the page 108-9, and in particular that „from the investigation of the *ius italicum* there results an indication, that the question of the perseverance of local laws after the *Constitutio Antoniniana* does not seem possible to be resolved according the uniform criteria as the prevailing opinion accepts. Before and after the *Constitutio Antoniniana* problems concerning the grant of the Roman citizenship and problems concerning the local laws have given rise to a number of particular solutions, of which