

Taubenschlag, Rafał

"Neubabylonisches Pfandrecht", H. Petschow, "Abhandl. der Sächsischen Akademie der Wiss., phil.-hist. Kl.", Bd. 48, 1956, H. 1 : [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, gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

of the joint ownership in the Greek law. The author makes also use of the papyri and of the papyrological literature (p. 112, 117, 139, 140, 142).

M. Kaser, *Eigentum und Besitz im älteren römischen Recht*. 2te Aufl. mit Nachträgen (*Forschungen zum röm. Recht* hg. von M. Kaser, H. Kreller u. W. Kunkel, 1 Abh.) (1956) 397 pp.

This fundamental work is also very interesting for a papyrologist although it lies beyond the sphere of papyrology (the papyri are quoted only on p. 205₉). Noteworthy are especially the statements concerning the development of private land-property (p. 224—230), the right of assent (p. 99₅₂, 166, 168₇), the right of possession (p. 87 ff.), the provincial land (p. 222 ff., 322₆). They can contribute to our understanding of analogous institutions in the law of the papyri.

Z. V. Oudaltsova, *K voprosu o melkom svobodnom zemlevladyeni v Italii nakanune vizantyskogo zavoevanya* (*Vizantyskiy Vremennik* XI [1956] 29—54) (in Russian).

This article is a contribution to the problem of small landed property in Italy in the epoch before the Byzantine Conquest and can be also of use for historians of law and papyrologists as well.

H. Petschow, *Neubabylonisches Pfandrecht* (Abhandl. der Sächsischen Akademie der Wiss., phil.-hist. Kl. Bd. 48, H. 1; Berlin, Akademie-Verlag 1956) 186 pp.

This excellent monograph gives a detailed presentation of the New-Babylonian lien and brings interesting parallels with the law of the papyri, as regards the dead pledge, the general hypothec, the antichretic pledge, the forfeiture pledge etc. The question is, whether it is due or not to speak about the influence of the Oriental Law on the law of Greco-Roman Egypt (p. 5, 6). As far the special and general pledges are concerned (p. 146), right is to be considered as the right endowed with real effect. Probably, however, it is not identical with the *ius in re aliena*, but signifies rather a form of property in the sense of property held by functionally limited shares. On the other side it was still no more a compen-

sation-pledge, established by agreement (with rare exceptions) neither a forfeiture pledge. Accordingly to its cautionary character it lets untouched the liabilities of the debtor resulting from the *u'iltu* and even the liability of the sureties, as accessory liabilities. In this way the Babylonian and Assyrian laws in their last epoch developed, in contrast with the old cuneiform law, into a quite modern institution. It is noteworthy because the ancient Greek and Greco-Egyptian hypothec was considered as a forfeiture pledge or as a compensative pledge not accompanied by the personal responsibility of the debtor. It is not possible to establish when the development toward the cautionary pledge was accomplished.

Treating of the *antichresis* (p. 117) the author takes the papyri Lond. III 1168 and Dura 10 into account.

R. Taubenschlag, *Rechtsverhältnisse an der Grenzmauer im Rechte der Papyri* (*Studi in on. U. E. Paoli* [1956] 683—684).

This article deals with the question of the relationship between the neighbours concerning the property of the boundary-wall. Generally, the boundary-wall was subject to joint-property of the neighbours, but in the Byzantine period this wall could be owned exclusively by one of them. In other cases the *servitus oneris ferendi* on the neighbouring lot could be constituted.

OBLIGATIONS

H. J. Wolff, *Die Grundlagen des griechischen Vertragsrechts* (ZSS 74 [1957] 26—72).

This excellent monograph, although dedicated to the ancient Greek law, will also be of great interest for the papyrologists, all the more that it uses not only the papyri but also discusses many questions and aspects of this field (*πράξις καθάπερ ἐκ δίκης* p. 36; *μισθωσις* p. 39; *δίκη καρποῦ* p. 43; *ὁμολογεῖν* p. 53 ff.; *δίκη βλάβης* p. 67 ff.).

R. Taubenschlag, *La γηροκομία dans le droit des papyrus* (RIDA 3 sér. III [1956] 173—179).

The law of the papyri as well as other laws of Antiquity knows the *γηροβοσκία* or *γηροτροφία* or *γηροκομία*, being the obligatory