

Kupiszewski, Henryk

"Die donatio mortis causa", Pascal Simonius, Basel 1958 : [recenzja]

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or *Zweckverfügungen*. „Die Verfügung erfolgt bei unseren Vorträgen dergestalt, dass der Gewalthaber eines Kleinkindes dieses einer Amme (oder deren Gewalthaber) zum Zweck des Nährens und Pflegens aushändigt” — concludes the author. [H.K.]

Cl. Gorteman et J. C. van Oven, *Le papyrus de Strasbourg 248 et la locatio conductio rei suae* (*Revue d'histoire du droit*, t. 26 (1958) 3 fasc. pp. 316—327).

In the first part of this article Miss Cl. Gorteman examines the transcription of P. Strasb. 248 and suggests some improvements in reading of ll. 4—7 and 20. The second part contains remarks of Mr J. C. van Oven relating to the article of H. Kupiszewski on *Locatio conductio rei suae* (*Labeo* 3, (1957) pp. 344—353) — a legal commentary to the P. Strasb. 248. Mr van Oven criticizes the assertions of Mr Kupiszewski and expresses opinion that the *locatio conductio rei suae* had been an ancient practice in the Roman law. The P. Strasb. 248 shows only that this practice had survived till the VI-th century. [C.K.]

Joseph Modrzejewski, *Le mandat dans la pratique provinciale à la lumière des lettres privées grecques d'Égypte* (*Rev. hist. de droit français et étrang.* vol. 36 4^e serie (1959) N^o 4 pp. 465—484).

At the outset the author makes use of the private letters from the Roman Egypt to analyse the cases which on the ground of the Roman law originate a contract of *mandatum*. In the second part of his essay (*Les perspectives sociologiques*, p. 477 ff.) he investigates the resemblances and differences between the Roman *mandatum* and Egyptian “arrangements à l'amiable”. The former is based on *amicitia*, the latter on *homonoia*. A *mandatum* is invested with legal sanctions, an “arrangement à l'amiable” — signifies only moral obligation. [H.K.]

Pascal Simonius, *Die donatio mortis causa* (Basler Studien zur Rechts-wissenschaft 49. Helbing & Lichtenhahn 1958 Basel pp. XII+312.).

In this penetrating monograph devoted to the historical evolution and dogmatic forms of the *donatio mortis causa* in the Roman law

the author has taken into account all the papyri concerning this institution. Especially in the § 28, where there is discussed the question of *donati omortis causa* with the limited or excluded rights to demand the return, the author proved that in the legal practice of Egypt there was applied the following rule: *sed et sic donari potest, ut non aliter reddatur, quam si prior ille, qui acceperit, decesserit* (D. 39, 6, 13, 1; 39, 6, 35, 4).

In the further part of the work of special interest is the use of the papyri in the chapter which presents the post-classical and Byzantine „Umdeutung der klassischen Struktur” of the *dmc* (§ 61, p. 244 ff). [H.K.]

Mariano Amelotti, *La prescrizione delle azioni in diritto romano*.
Milano Giuffrè 1958 pp. 290.

This excellent monograph devoted to the problem of praescriptio in the Roman law-suit *per formulas* and in the *extra ordinaria cognitio* will be more widely discussed in the Polish scientific periodical: *Czasopismo historyczno-prawne*. We wish to draw the readers attention to Chapters 8—11 of Part III which treat about the *longi temporis praescriptio*. During the fifty four years which had elapsed since the publication of the essay written by J. Partsch, the institution of the *longi temporis praescriptio* has never been the subject of a special monograph. For a new and novel study of this institution M. Amelotti has especially been qualified, because he masters the modern methods of investigation of the Roman law as well as the methods usually applied by juristic papyrology and epigraphy. Chapter 8 of Part III of the work concerns the provincial origin of the *longi temporis praescriptio*. The author gives a keen analysis of the papyri BGU 267 and Strassb 22 which contain the first mention of this institution, and next he deals with its function and material requirements. In the subsequent chapters he discusses the processual nature of the *longi temporis praescriptio* as well as its historical evolution from Constantine to Justinian and finally compares with Justinian's reform. [H.K.]

Werner Kolitsch, *Praescriptio und exceptio ausserhalb des Formularsverfahrens* (*Sav. Zeitschr.* 76 (1959) pp. 265—305).

This fine monograph, dedicated to the origin of *praescriptio* and *exceptio* in the extraformulary procedure, will be of interest