REVISTA INTERNACIONAL DE DERECHO ROMANO

Iván Siklósi, *A kincstalálás római jogi, jogtörténeti és modern jogi kérdésköre* (=*Treasure Trove in Roman Law, in Legal History, and in Modern Legal Systems)* Patrocinium, Budapest, 2016, 211 págs.

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1. As a recent *opus* after his two other monographs[1] published so far, the Hungarian Romanist in his middle thirties, *Iván Siklósi*[2] made a precious contribution to the complex of problems of the legal institution of treasure trove.

Albeit the analysis of the chosen issue seems not to be wholly new even among the outcomes of past few decades' Hungarian legal researches[3], the author is in Hungary undoubtedly and belike internationally[4] the first researcher who dedicated a

[1] See Iván SIKLÓSI, *A custodia-felelősség néhány kérdése a római jogban (=Some Issues of custodia-Liability in Roman Law)*, in: Publicationes Instituti Iuris Romani Budapestinensis Fasc. X, Budapest 2009, 144 p.; Iván SIKLÓSI, *A nemlétező, érvénytelen és hatálytalan jogügyletek elméleti és dogmatikai kérdései a római jogban és a modern jogokban (=Theoretical and Dogmatic Issues of Inexistent, Invalid, and Ineffective Juridical Acts in Roman Law, and in Modern Legal Systems)*, in: ELTE Jogi Kari Tudomány 23, Budapest, ELTE Eötvös Kiadó, 2014, 452 p.

[2] PhD (2013); Senior Assistant Professor – Department of Roman Law and Comparative Legal History, Faculty of Law and Political Sciences, ELTE, Budapest.

[3] See Károly VISKY, *Kincs és kincstalálás (=Treasure and Treasue Trove)*, in: Jogtudományi Közlöny 37 (1982) p. 125sqq; János ERDŐDY, *Le sense de l'expression du trésor dans les sources romaines comme la base des réglementations contemporaines*, in: Iustum Aequum Salutare 10/2 (2014) p. 134sqq.

[4] Recently see Alfonso AGUDO RUIZ, *Régimen Jurídico del Tesoro en Derecho Romano*, Universidad de La Rioja, Dykinson, Madrid 2005, 144 p.

whole monograph of such extent to the topic's Roman law investigation using the comparative method rather widely for analyzing the afterborne continental and Anglo-Saxon legal regimes' rules in the Middle Ages and in the modern era as well. The new book of *Siklósi* is not a simple composition of his preliminary Hungarian[5] and international[6] studies on the theme but an autonomous work providing his novel results, too.

2. The book is composed of three main chapters, the most corpulent first one of which is about the issue's rich Roman law analysis (p. 27–128), and the last of which deals with the contemporaneous laws' investigation (p. 143–175). The work's middle section (p. 129–142) offers a flamboyant contribution

[5] See Iván SIKLÓSI, *A kincstalálásra vonatkozó szabályozás fejlődése a római császárok rendeleteinek tükrében (=The Development of the Regulation on Treasure Trove Concerning the Constitutions of Roman Emperors)*, in: Jog–Állam–Politika 7/1 (2015) p. 27sqq; Iván SIKLÓSI, *A kincstalálásra vonatkozó szabályozás történetének főbb csomópontjai a középkorban és az újkorban (=Major Medieval and Modern Nodes in the History of Regulation on Treasure Trove)*, in: Jog–Állam–Politika 8/1 (2016) p. 77sqq; Iván SIKLÓSI, *A kincstalálás római jogi történetének főbb csomópontjai, különös tekintettel a Paul. D. 41, 1, 31, 1 töredékre (=Main Turning-Points in the Roman Law History of Treasure Trove in Consideration of the Fragment of Paul. D. 41,1,31,1)*, in: Acta Facultatis Politico-iuridicae Universitatis Scientiarum Budapestinensis de Rolando Eötvös nominatae 51 (2014) p. 181sqq.

[6] See Iván SIKLÓSI: *Treasure trove in Roman law, in legal history, and in modern legal systems: A brief summary*, in Journal on European History of Law 6/2 (2015) p. 97sqq.

with respect to the theme's Middle-Ages and Pre-Modern Era resources until the period of the great codifications.

Adjacent to the work's rotund Introduction (p. 15–26) and also such thick Theses otherwise Conclusions (p. 176–185), the book contains a filthy rich Index of the literary, legal and bibliographical sources of the *opus* (p. 186–200) and a résumé in English language (p. 201–210).

3. The monograph's numeric and statistical data are as follows. The book implies a total of 171 pages of scientific analysis using 439 footnotes, and the work is made up of a gross of 432.000 characters. The author's theses are based on some 220 bibliographical items published in 9 foreign languages including French, Spanish (also a Colombian one), Italian, English, German, Dutch, Brazilian Portuguese and Latin. It has to be told that the work's Index, albeit it is very spacious, does not even contain each and every sources — including the bibliographical items' and the primary sources' data as well — truly used by the author.

The work's ancient Greek and Roman primary sources mean 15 literary (non-legal) and 12 legal *opera*; the work encompasses a sum of 41 pieces of *loci* among the non-legal sources from e.g. *Aristotle*, *Plautus*, *Cicero*, *Horace*, *Tacitus*, *Suetonius*, *Calpurnius Siculus*, *Petronius*, *Gellius*, and 74 items of *sedes materiae* amidst the primary legal sources including e.g. *P. Strassb. 22*, *Codex Theodosianus*, *Liber Syro-Romanus*, *Paraphrasis Institutionum*

Theophili and also 53 fragments from Justinian's Digest. This enumeration is not exhaustive.

The list of Middle Ages' primary sources starts with *Cassiodorus' Variae*, and contains *Gratiani Decretum*, Diet of Roncaglia, *Sachsenspiegel* and *Schwabenspiegel*, *Constitutiones Regni Siciliae*, *Établissements de Saint Louis*, the so-called *Newe Reformacion der Stat Nurenberg*, and the register finally ends up in the *Coutume de Saintonge*.

Among the sources of the period lasting until the great European private law codifications, the author analyzed many treatises, particular codes and drafts — such as e.g. the Austrian *Tractatus de iuribus incorporalibus*, the *Codex Maximilianeus Bavaricus civilis*, the *Allgemeines Preußisches Landrecht*, and the Louisiana Purchase Treaty.

The number of analyzed regulations in older codified laws and drafts, and in the civil codes in effect is also something remarkable since the work's Index enumerates many articles and paragraphs of the French, Belgian and Luxembourg Code civil, the Austrian ABGB, the German BGB, the Swiss ZGB, the New Civil Code of the Netherlands (NBW), the former and also the new Italian *Codice civile*, the *Códigos civiles* of Spain and Portugal, and that of Brazil, Chile, Argentina (the former and the one in effect as well), Puerto Rico, Colombia, Peru, and also such *Código civil* as that of Macau. From the Anglo-Saxon and the mixed legal regimes, the work investigates the Louisiana

Civil Code and the Code Civil of Québec, and such US-American laws in Acts as the Antiquities Act, the National Historic Preservation Act, the Archaeological Resources Protection Act, and the Treasure Act in England.

The analysis of the law of the author's native land is also meaningful. The work picks from the last decades of the 19th century until the first decade of the 21st century many Hungarian drafts of civil code, former laws and also many laws in effect, and by nature the older (1959) and the new Hungarian Civil Code (2013) as well.

This rich foaming of legal and non-legal sources allows the reviewer to assume that the agile regard of *Siklósi* embraced also two other kinds of legal sources such as the law opposite to profane laws, i.e. the Canon Law, and also the law as against codified laws which is the case law and the 'laws' appearing in the case-by-case judicial decisions. However, these lack. But the author has voluntarily and expressed abstained from the analysis of these (cf. p. 23–25): Since the choice was his right, we are to mention this fact but cannot criticize it.

4. With respect to the most meaningful part of the work, which is the Roman law chapter, we can state the followings. The author examined his theme's secondary literature (see e.g.

Pampaloni[7], *Perozzi*[8], *Rotondi*[9], *Bonfante*[10], *Schulz*[11], *Appleton*[12], *Lauria*[13], *Nörr*[14], *Mayer-Maly*[15], *Scarcella*[16], *Busacca*[17], *Marchi*[18],

[7] See Muzio PAMPALONI, *Il concetto giuridico del tesoro nel diritto romano e odierno*, in: Studi giuridici e storici pubblicati per l'VIII centenario della Università di Bologna, Roma 1888, p. 101sqq.

[8] See Silvio PEROZZI, *Contro l'istituto giuridico del tesoro*, in: Monitore dei Tribunali. Giornale di legislazione e giurisprudenza civile e penale 31 (1890) p. 705sqq.; *Tra fanciulla d'Anzio e la Niobide. Nuovi studi sul tesoro (art. 714. cod. civ.)*, in: Rivista di diritto commerciale 8 (1910) p. 253sqq.

[9] See Giovanni ROTONDI, *I ritrovamenti archeologici e il regime dell'acquisto del tesoro*, in: Rivista di diritto civile 2 (1910) p. 310sqq.

[10] See Pietro BONFANTE, *Corso di diritto romano. La proprietà*, II/2, Torino 1968, p. 127sqq; *La vera data di un testo di Calpurnio Siculo e il concetto romano del tesoro*, in: Mélanges P. F. Girard, I, Paris 1912, p. 123sqq; *Scritti giuridici varii II. Proprietà e servitù*, Milano 1918, p. 904sqq.

[11] See Fritz SCHULZ, *Fr. 63 D. 41, 1 (Zur Lehre vom Schatzerwerb)*, in: Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung 35 (1914) p. 94sqq.

[12] See Charles APPLETON, *La trésor et la « iusta causa usucapionis »*, in: Studi in onore di Pietro Bonfante, III, Milano 1930, p. 3sqq.

[13] See Mario LAURIA, *Dal possessore del tesoro all''inventor'*, in: Labeo 1 (1955) p. 21sqq.

[14] See Dieter NÖRR, *Ethik von Jurisprudenz in Sachen Schatzfund*, in: Bullettino dell'Istituto di Diritto Romano 'Vittorio Scialoja' 75 (1972) p. 11sqq.

[15] See Theo MAYER-MALY, *Der Schatzfund in Justinians Institutionen*, in: P. Stein / A. D. E. Lewis (ed.), Studies in Justinian's Institutes in Memory of J. A. C. Thomas, London 1983, p. 109sqq; „*Thensaurus meus*", in: Studia in

Knütel[19], *Heras Sánchez*[20], *Ortega Carillo*[21], *Agudo Ruiz*[22], *Klingenberg*[23]) carefully, and did not omit to precisely criticize

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honorem Velimirii Pólay septuagenarii, Szeged 1985, p. 283sqq; *„Ducente fortuna"*, in: R. S. Bagnall / W. V. Harris (ed.), Studies in Roman law in memory of A. Arthur Schiller, Leiden 1986, p. 141sqq.

[16] See Agatina Stefania SCARCELLA, *Una nuova concezione del tesoro alla luce del C.I. 10.15.1*, in: Atti dell'Accademia Peloritana dei Pericolanti 58 (1989) p. 188sqq.

[17] See Carlo BUSACCA, *Qualche osservazione sulle innovazioni introdotte dai 'Divi Fratres' nel regime giuridico del tesoro*, in: Studi in onore di Angelo Falzea, IV, Milano 1991, p. 133sqq.

[18] See Eduardo Cesar Silveira MARCHI, *A 'fanciulla d'Anzio' e o instituto do tesouro*, in: Index 25 (1997) p. 365sqq.

[19] See Rolf KNÜTEL, *Arbres errants, îles flottantes, animaux fugitifs et trésors enfouis*, in: Revue historique de droit français et étranger 76/2 (1998) p. 206sqq; *Von schwimmenden Inseln, wandernden Bäumen, flüchtenden Tieren und verborgenen Schätzen*, in: R. Zimmermann / R. Knütel / J. P. Meincke (hrsg.): Rechtsgeschichte und Privatrechtsdogmatik, Heidelberg 1999, p. 569sqq.

[20] See Gustavo Raúl DE LAS HERAS SÁNCHEZ, Adquisición del tesoro en el Fuero de Cuenca: bases romanas y evolución posterior, in: Actas del II Congreso Internacional y V Iberoamericano de Derecho Romano. Los derechos reales, Madrid 2001, p. 53sqq.

[21] See Antonio ORTEGA CARILLO, *El concepto romano de tesoro y el artículo 352 del Código civil*, in: Estudios jurídicos in memoriam del profesor Alfredo Calonge, II, Salamanca 2002, p. 739sqq.

[22] In addition to his monograph (see Fn. 3 above) see Alfonso AGUDO RUIZ, *La definición del tesoro en las fuentes jurídicas romanas*, in: Revista electrónica del Departamento de Derecho de la Universidad de La Rioja 4/2006, p.

its considerations — sometimes with a duly moderate yet clearly perceptible humour — by the authentic method of encountering them with the primary sources either.

The author attempts to answer such basic although yet convincingly unsettled questions as: What is regarded as treasure in the classical era: Solely money or also other movables of any value? Is the treasure trove an autonomous way of acquiring ownership? How is the sources' colourful terminology to be understood? After etymological examination of "*the[n]saurus*" in Greek and Latin texts, the author stated that it had first appeared in non-legal writings of Rome and "*thesaurus*" as a legal term emerged later. *Siklósi* observed that the term had also been used in a non-technical sense even in our legal texts, such as e.g. Pomp. D. 10,4,15; Ulp. D. 10,2,22 *pr.*; Iav. D. 34,2,39,1; Pap. D. 41,2,44 *pr.* (p. 58–63).

As the pre-classical period's laws based upon *Brutus* and *Manilius* held that treasure is an *accessio* of the land (Paul. D. 41,2,3,3), *Siklósi* states that the detailed rules as well as the notion's fundamental definition was elaborated by the jurists of the classical era, esp. in Paul. D. 41,1,31,1. Concerning *depositio*

153sqq; *El concepto de tesoro en derecho romano*, in: Scritti per Gennaro Franciosi, I, Napoli 2007, p. 31sqq; *La adquisición del tesoro en época clásica en derecho romano*, in: Revista electrónica del Departamento de Derecho de la Universidad de La Rioja 11/2013, p. 7sqq.

[23] See Georg KLINGENBERG, *Der „Angeber" beim Schatzfund*, in: Gedächtnisschrift für Theo Mayer-Maly, Wien 2011, p. 237sqq.

pecuniae and such fragments as Paul. D. 47,9,4,1; Paul. D. 50,16,5 *pr*.; Herm. D. 50,16,222, the author holds that treasure in its technical meaning shall be interpreted generally as movables of great value — even in classical era albeit our post-classical legal sources behave sometimes misleadingly. *Siklósi* expresses that, according to the exegesis of the debatable phrase of "*iam dominum non habeat*" and another locution of "*cuius non exstat memoria*" appearing in the Paulian *sedes materiae*, the treasure is to be construed as an object, the actual ownership of which cannot be clarified at the moment, therefore it cannot be held as *res nullius*. Thus, its acquisition is not *occupatio* but *inventio*, which, according to the author, is institutionalized in classical law as autonomous *modus adquirendi*, at least it is such from the time of Hadrian.

The strongest and widest subtitle of this chapter (p. 63–94) scrutinizes a complex source from *Paulus* compiled under D. 41,2,3,3, which is called by the author "a hard nut to crack" dealing also with some core issues of the theory of possession (*Besitzlehre*) and usucapion. The detailed systematic exegesis of text's clearly isolable parts (p. 66–76) shows us the differences between the standpoints of the Proculian School (scil. *Neratius*, *Proculus*), that of the pre-classical *Brutus* and *Manilius*, and also that of the Sabinian School (*Sabinus* and "others"). After these (p. 76–80) the author evaluates the interpretative problems of the text, which is followed by the enumeration of the new

works of greater importance — especially that of *Backhaus*[24] and *Knütel*[25] (p. 81–86). After these issues, the next sub-chapter clearly and accurately encompasses the defensible and verifiable standpoints of the Roman jurists of pre-classical and classical era with respect to that of *Paulus* concerning our primary sources (p. 86–89). This is then followed by a valuable substantial explanation on the effects of these variable standpoints of the Roman jurists to such theoretical questions of the analyzed subject as the theory of possession and that of the acquisition of property (p. 89–94). I summarize here the author's main standpoint, and, if I can, I will give another view, too.

As an introductory core issue or a "prelude" (p. 89–90), *Siklósi* states that according to our primary sources, "*corpus*" may have had two different meanings such as "genuine", in other words "standard" or "full" *corpus* and "ingenuine", so to speak "substandard" or "not full" *corpus*. The distinction depends on the diverse matters of facts of each case. According to this, an ingenuine *corpus* occurs when the landholder, i.e. the land's

[24] See Ralph BACKHAUS, *„Casus perplexus". Die Lösung in sich widersprüchlicher Rechtsfälle durch die klassische römische Jurisprudenz*, München 1981, p. 146-149.

[25] See Rolf KNÜTEL, *Von schwimmenden Inseln, wandernden Bäumen, flüchtenden Tieren und verborgenen Schätzen*, in: R. Zimmermann / R. Knütel / J. P. Meincke (hrsg.): Rechtsgeschichte und Privatrechtsdogmatik, Heidelberg 1999, p. 571-574.

possessor and in this very case the owner of the land, too, knows that the treasure, which is not held as the land's accession by classical jurists, exists but he leaves it in the soil thus *corpus possessionis* is realized through the possession of the soil. If the treasure is in fact grabbed, it will be truly possessed thanks to the realization of a genuine or "full" *corpus*. Since Proculians held that the conditions of a treasure's possession are satisfied through the "ingenuine" *corpus* but Sabinians as well as *Paulus* conceived the opposite, and the *animus* is required by both schools and also by *Paulus*, as a consequence, *Siklósi* sees that the notion of *corpus* seems to be unclear. On the contrary, I see that the notion of *animus* can be used in a wider or in a narrower sense, since the twofold meaning of *corpus*, according to *Siklósi*, depends on the knowledge of the soil's possessor about the treasure: if it solely makes the treasure's yet not acquired possession achievable by the mere ken of its being, thus it does not "retain" the possession (!), the phrase "*solo animo retinetur possessio*" may be understood in another sense of "*solo animo adquiretur possessio*" (so to speak), which may open the gate for the proprietary acquisition, too. After this prelude, *Siklósi* schedules the diverse legal regimes of treasure trove as an independent *modus adquirendi* from the pre-classical era until the late classical *Paulus* with respect to the different chronological strata of the text (p. 90–93). His conclusions, which are based on his previously summarized standpoint, are correct. This conceptual scheme has three pillars: The one is the

case, if the treasure is used in professional legal meaning (*Siklósi* holds this version true); the other theoretically possible way is, when the thing in the soil is not a treasure but a lordless movable; and the third way of thinking is that of *Paulus*, which seems to be a *sententia media*, according to which the movable in the soil is neither *theasurus* nor *res nullius*. In the final résumé of his own standpoints, *Siklósi* emends and rectifies his initiative concept of the twofold *corpus* encompassed above the previous trifold conceptual scheme, since he, on the basis of the Sabinian and the Paulian points of views, says (p. 93–94) that the ignorance of the landowner about the existence of the treasure means the lack of the *animus*, which obviously excludes the possibility of acquiring possession. With respect to this minor correction, we may ascertain that a concept of the *corpus*' twofold character is merely virtual, and it can be maintained solely within the Proculian standpoint with the adjustment of the truly duplex nature of *animus* (see above in this section) but not that of *corpus*.

Some other questions, like the treasure trove by a slave or a *filius familias* after Tryph. D. 41,1,63 *pr.*–3 (p. 94–98), or that of a treasure invented by the husband in his dotal land concerning Ulp. D. 24,3,7,12 (p. 98–107), were also thoroughly exegized.

The next-to-last, thick chapter (p. 107–125) deals with the imperial constitutions related to treasure trove, especially with that of Hadrian (*Hist. Aug.; Vita Hadr.* 18,6) held to be the most meaningful thanks to its *media sententia* character compared to

the different prior opinions of classical jurists. The author examines the Hadrian-constitution's afterlife, thus its fundamental modifications by *Marcus Aurelius* and *Lucius Verus* on the basis of Callist. D. 49,14,3,10 and D. 49,14,1 *pr.*, and its partial renovation by emperors *Zeno* and *Leo* in 474 AD (cf. CTh. 10,18 and C. 10,15) as well. *Siklósi* also analyzes a constitution of *Alexander Severus* (*Hist. Aug.; Vita Alex.* 46,2), according to which, a part of the treasure belonged to the finder, but when the treasure was too precious, a part of it belonged to the imperial authorities. *Siklósi* calls this law "obscure" and states that its background and exact content is uncertain. Although the author examines the standpoints e.g. of *Bonfante*[26] and *Busacca*[27], he ignores to schedule a theory based upon merely speculative assumptions.

The Roman law chapter's last subitem (p. 125–128) analyzes the Justinianic law, which implemented solely the Hadrian-constitution (Inst. 2,1,39), and partially saved the constitution of *Gratianus*, *Valentinianus*, and *Theodosius* from 380 AD (CTh. 10, 18, 2), and which abstracted away the constitution of Leo and Zeno. *Siklósi* discovers that the cited paragraph of the Institutions consists of seven different cases, which were

[26] See Pietro BONFANTE, *Corso di diritto romano. La proprietà*, II/2, Torino 1968, p. 135.

[27] See Carlo BUSACCA, *Qualche osservazione sulle innovazioni introdotte dai 'Divi Fratres' nel regime giuridico del tesoro*, in: Studi in onore di Angelo Falzea, IV, Milano 1991, p. 154.

accurately systematized in the book (p. 127sq). The author states that Justinian's Institutions was a legal source, therefore it seems to be more precise about the Hadrian-text than the *Historia Augusta*. At last, the author mentions that the contemporaneous Ostrogothic Kingdom had another legal solution since Theodoric the Great surrendered the treasures to the *aerarium* (*Cassiodorus' Variae*, 6,8,6).

5. The middle chapter of the book (p. 129–142) deals with the colourful Middle and New Ages' regulations of treasure trove until the period of the great codifications. Here, I have no corrective standpoints concerning the author's conceptions, thus I summarize his views.

Siklósi states that, as compared to classical and Justinianic law, utterly new regimes were created concerning treasure trove in the Middle Ages, although Justinian's rulings were sometimes equally in force, like in the case of the *constitutio* starting with *"Regalia sunt hec"* of Frederick Barbarossa (1158; *const*. I,175), in which Justinian's regulations echo. On the contrary, the Constitutions of Melfi by Frederick II (*Constitutiones Regni Siciliae* 3,35) in 1231 gave the whole treasure to the *fiscus*, and likewise in the law-book called the "Mirror of the Saxons" (*Sachsenspiegel* 1,35), *"al schat under der erde begraven"* — i.e. every treasure hidden in the ground — belongs to the Emperor, so long as the *Schwabenspiegel* 347 ceded one fourth of the treasure to the finder. The legal solution of the 13th century French customary law (*Établissements de Saint*

Louis I,94) was that the king got the treasure if it consisted of gold, while silver treasures belonged to the baron (*'seignor'*), who had the so-called high justice (*'grant joutise'*) in their lands.

On the basis of *Coing*[28], the author points out that not only in the medieval legal sources but even in the modern era, similar regulations can be found. He states that in Roman-Dutch law, Justinian's regulation was in force regarding the works of *Grotius*[29], *van Leeuwen*[30], and *Vinnius*[31]. Concerning the 17th century French *droit coutumier* based on *Les loix civiles dans leur ordre naturel* by *Domat*, *Siklósi* states that one third of the treasure belonged to the finder, one third to the landowner, and one third to the baron (*'Seigneur haut Justicier'*), and if the finder was the landowner himself, the half belonged to him, the half to the baron. The regulation of the Bavarian Maximilian's Civil Code (CMBC in 1756) and that of the Prussian ALR (1794) echoes Justinian's treasure trove system but also shows the influence of medieval legal rules.

[28] See Helmut COING, *Europäisches Privatrecht*, I, München 1985, p. 300sq.

[29] See Hugo GROTIUS, *Inleiding tot de hollandsche rechtsgeleerdheid*, Graven-Haghe 1631, p. 18.

[30] See Simon VAN LEEUWEN, *Het Rooms-Hollands-Regt*, Amsterdam 1708, p. 115.

[31] See Arnoldus VINNIUS, *Institutionum imperialum commentarius*, Amsterdam 1665, p. 176.

6. Thanks to the research's most delicate and colourful territory drawn by the diligent author, the flamboyant last chapter of the book (p. 143–175) is foaming in the richness of data (see the enumeration of primary sources above in Point 3).

Siklósi examined each legal system by using a thematic approach based on the following trifold classification: *(a)* legal regimes based on Roman law tradition, which show the existence of a direct or even an indirect effect of the Roman legal solutions regarding treasure trove (p. 143–158); *(b)* legal systems, which also belong to the Roman tradition, yet they offer a different legal solution concerning treasure trove (p. 159–168); *(c)* legal systems, which has developed in the lack of the Roman law tradition's effects (p. 168–175). The author used the chronological order only within this scheme, thus his method clearly shows the receptive dependences between the "donor" codes and their "successors".

Since I have here opposite views neither to the author's points of views nor to the way of choice of the examined legal systems, I sum up *Siklósi*'s standpoints concentrating solely on the major legal regimes following his trifold classification depicted above.

(a) Siklósi fixed that the Justinianic regulations of treasure trove, and the famous definition by *Paulus* as well, survive directly or even indirectly in many civil laws in effect. The Art. 716 of French *Code civil* clearly echoes the subsequent fate of the

Roman law tradition, though the *Code* achieved a symbiosis of earlier *droit écrit* and *droit coutumier*, it preferred the solution of the previously mentioned. Obviously correctly, the author sees it reasons in outcomes of the Revolution, which revoked the earlier French customary law. Thanks to the worldwide effects of the *Code*, the Roman law tradition preserved by the French legal tradition has survived in all legal systems inspired by the *Code civil*. In this context, *Siklósi* enumerates Chilean *Código civil* of 1855, Louisiana Civil Code of 1870, Spanish *Código civil* of 1889, and Québec Civil Code of 1994. After the subitem concerning the French law (p. 145–147), the author introduces the Austrian ABGB of 1811, which maintained a solution until 1846, according to which one third of the treasure belonged to the treasury, but since then, ABGB has been based on Justinian's rules (p. 147–148). Since the final version of the German BGB of 1900 can be held as a result of Pandectist legal scholars as well, the liberal Justinianic regime of treasure trove got easily into it, as also into those legal regimes, which were based on the German as well as the French) tradition (p. 152–153); *Siklósi* shows among these the Italian *Codice civile* of 1942, the Portuguese *Código civil* of 1966, the Brazil *Código civil* of 2002 and some others, too (p. 154–158).

(b) The second paragraph of this chapter analyzes the Swiss ZGB of 1907 (p. 159–160), and the Hungarian legal system (p. 160–168). Albeit the ZGB had a great international effect, the Swiss legal regulation concerning treasure trove, according to

which the treasure belongs to the owner of the property, in which it was found, while the finder has only a claim for an equitable fee, had no influence on any later codifications. As for the treasure trove system of the Hungarian Civil Code of 1959, a socialist legal approach was institutionalized, according to which the treasure ought to be offered to the state. If the state fails to claim the object, it shall become the property of the finder; otherwise the finder shall be entitled to a finder's fee proportionate to the value of the object found. If the object found is a relic of great value or historic importance, its ownership may be claimed by the state. The New Hungarian Civil Code of 2013 sustained the same rules. In contrast to this, the previous Hungarian private law gave one third of the treasure to the finder, one third to the owner of the property in which the hidden treasure had been found, and one third to the Treasury.

(c) The last sub-chapter (p. 168–175) concentrates on the Anglo-Saxon laws and the Scots Law. English law, which has separately developed compared to continental civil laws, has maintained its old legal tradition concerning the rules of treasure trove as well. According to the old common law and the novel *Treasure Act* of 1996, the treasure belongs to the Crown or to the franchisee, if there is one. In Scots Law, which belongs to the mixed jurisdictions, happens to be the same. According to the principle of "*quod nullius est, fit domini regis*", treasure, as a kind of "*bona vacantia*", belongs to the Crown. In

the United States, the legal solutions concerning treasure trove are quite heterogeneous. Since Louisiana and Puerto Rico (this one as an unincorporated US territory) belong to the so-called mixed legal systems, their rules on treasure trove are based on Roman law. As for the case law of treasure trove, it is quite diverse in the Member States. The principle of equitable division can also be found in the legal literature. As for treasures of great importance, federal acts are to be applied (see their enumeration above in Point 3).

7. As a conclusion *Siklósi* settled that the Hadrianic concept of treasure trove, although it is to be evaluated in its own time and context, is currently amended with numerous "public law elements" even in those legal systems which are based on the Roman law tradition. The author sees its reasons in the great scientific and cultural importance of these days' treasure troves. He is obviously right: Thus, a solely private law approach seems to be unsustainable today. Therefore, the ruling of treasure trove demands a complex approach, because treasures could be regarded as a part of the national heritage or as an element of the common heritage of mankind. Modern regulation of treasure trove is therefore to serve this fine purpose – finishes *Siklósi* his scientific contributions.

At last, we may express our hope that the worthwhile and meritorious book of *Iván Siklósi* will get the deserved support for publishing it in a universal technical language, which would make the author's valuable efforts easily accessible for the

widest professional audience of Romanists, legal comparatists as well as historians.