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NICOSIA G., *Stricti iuris* [p. 1-12].

Abstract

The configuration of the *actiones* and of the *iudicia bonae fidei*, already known to Cicero, was deeply analysed by the Roman jurists, who though did not oppose to this any other general category of *actiones* and *iudicia*. It was only in the Justinian's law that the category of the *actiones stricti iuris* or *iudicia stricta* was configured. A different conclusion has caused misleading outcomes, including the arbitrary and erroneous restoration of G. 4.114.

Keywords

Actiones bonae fidei – iudicia bonae fidei – actiones stricti iuris – iudicia stricta.

TORRENT A., *Los Duoviri en la lex Irnitana. IV. La manumisión-venta de los servi publici en la lex Irnitana cap. 72* [p. 13-31].

Abstract

The manumission of the municipal slaves in the *lex Irnitana* was very special because it was an onerous act of the municipality: sale of the slave by a price approved by the two thirds of the *ordo decurionum* a *duovir* proposal. At the end of the sale of the slave will become a free man with Latin status, acquiring the municipality the *ius patronatus* on himself. This sale was a very regulated act submitted to the rules of transparency of the municipal irnitans performances.

Keywords

Manumission – sale – municipal control – proposal of the *duoviri* – *ius patronatus*.

ANKUM H., *Laudatio Krampe* [p. 33-42].

Abstract

Text of the speech written by the author in honour of Prof. Dr. Christoph Krampe.

Keywords

Krampe – works – scientific activity.

SANTALUCIA B., *La versione liviana del processo dell’Orazio* [p. 43-63].

Abstract

The *lex horrendi carminis* of Livy 1.26.6 was not originally part of the story of Horatius. It is, apparently, a later insertion of Livy, based on some quotations of the *lex* included in the speech of Cicero *pro Rabirio perduellionis reo*.

Keywords

Livy's sources – *lex horrendi carminis* – *perduellio* – Julius Caesar – Cicero, *pro Rabirio perd.*

PIRO I., *Fondamenti socio-culturali e linguaggio alle radici delle vicende matrimoniali romane* [p. 65-102].

Abstract

The osmosis “language-law” is of particular interest in the investigation of sociojuridical facts regarding the conjugal union. The author examines closely the descriptive entries and subentries of the phenomena of the betrothal and of the nuptials. Being in line with the story arising from additional witnesses typical of a more direct language (engravings, reliefs, frescoes), they allow to scrutinize the less explored turns of the phenomenon and reconstruct moments, links and lines blurred in memory.

Keywords

Language – *Sponsalia* – *Nuptiae* – *Conciliata* – *Conventa*.

FINAZZI G., *La delimitazione del concetto di possessio alla luce di alcune missiones in bona e in possessionem* [p. 103-223].

Abstract

In this paper the problem concerning the dogmatic construction of *possessio* in roman law, considered by some modern scholars as the results of *corpore possidere* and *animus possidendi*, is examined by the light of D. 41.2.3.23 (Paul. 54 *ad ed.*), in which Julius Paulus directs a very hard censure against the opinion of Quintus Mucius Scaevola, who had included among *genera possessionum* the situation described with the words *si quando iussu magistratus rei servandae causa possidemus*. Probably, the jurist of the late republican age thought about the *missio rei servandae causa* of the creditor in the goods of the debtor, recognizing to the first the standing to sue out the *interdictum uti possidetis*. Although in some provisions of *praetor's* edict the *missio* of the creditor gave rise to *possidere*, most likely since Labeo the point of view of Quintus Mucius was criticized from jurists who did not admitted the *possessio duorum in solidum* and the *missio* of the creditor *in bona debitoris* was considered a simply custody *rei servandae causa*, like the others conservative *missiones in bona* and *in possessionem* permitted by the *praetor*, such as *missio in possessionem legatorum servandorum causa* or *ventris nomine* and *missio in possessionem damni infecti ex primo decreto*. It's impossible to say if some jurists continued at first in sharing the old opinion, but later on it was completely dropped: Ulpian asserted that creditor *missus in bona debitoris* could not protect himself using the *interdictum uti possidetis* and Paulus considered Quintus Mucius assumption *ineptissimum*, because the *praetor* who *mittit in possessionem* the creditor *rei servandae causa* doesn't grant the *possessio* of *bona debitoris*, but only *custodiam rerum vel observationem*, that's to say custody and care of the goods of the debtor. As the jurist of Severian age argued his censure from an objective aspect, that he found in the reflection of preceding and contemporary jurists and not from the lack of *animus possidendi*, is very likely that he didn't attach absolute value to the conception of *possessio* as the results of *corpore possidere* and *animus possidendi*.

Keywords

Possession – intention to possess – custody and care of the goods of the debtor – defence of *missi in bona* – division *genus-species*.

PERIÑÁN GÓMEZ B., *Turpia legata* [p. 225-248].

Abstract

The present study focusses on a specific and strange practice in testaments, consisting in the provision of a legacy with the intention of offending the legatee, as reflected in Apul. *Apol.* 97. The basis of this work is a text of Pomponio, now in D. 30,54 pr. (*Pomp.* 8 *ad Sab.*), where it is affirmed that these testamentary provisions will be considered *non scripti*. This analysis allows to reflect on the illegitimate exercise of the own rights, as well as on the nature of legacies for the late classical jurisprudence.

Keywords

Testament – validness of legacies – Pomponius.
Testamento – validez de los legados – Pomponio.

GALEOTTI S., *Il Senato di Silla: continuità e discontinuità istituzionale oltre il mito della restaurazione oligarchica* [p. 249-298].

Abstract

Sulla took control of Rome in late 82-early 81 BC thanks to the battles he and his chief legate Pompeius Magnus won during the civil war, a war Sulla started himself. Since Sulla had the full support of the army, the Senate was forced to ignore the constitution and proclaimed Sulla *dictator* of Rome *sine die*. In 81 BC., the *dictator legibus scribundis et rei publicae constituendae* ordered an extensive legislative program which reorganized the judicial and legislative processes of the *res publica*, whose purpose and significance are still debated. Nevertheless, there is a general consensus that the Senate's role in Sulla's *res publica* was enhanced in comparison to earlier periods: Sulla aimed to restore Senate's position as the leading organ within Republican government by increasing its size, reclaiming the powers and spheres of influence that had been taken from it, and restricting the tribunate and Assembly. The main purpose of this paper is to interpret and describe the meaning of Sulla's Senate reorganization.

Keywords

Senatus – dictator legibus scribundis et rei publicae constituendae – Lucius Cornelius Sulla – Roman Republic – Civil wars – Magistrates.

NICOSIA G., *Le parole pronunciate dal mancipio accipiens: 'hunc ego... meum esse aio', o anche 'hanc ego... meam esse aio'* [p. 299-302].

Abstract

In most of the cases, we find that the *mancipio accipiens* pronounced the words '*hunc ego... meum esse aio*'; beside this, which was the norm, we find also cases where he pronounced the words '*hanc ego... meam esse aio*'.

Keywords

Mancipio accipiens – meum esse aio – meam esse aio.

MILAZZO F., *Iurare lege* [p. 302-321].

Abstract

The present paper belongs to a series of essays the author has devoted to the recurrent phenomenon of an oath on a statute or on statutes. The paper explains the *iurare lege* of Asc., in *Cornelianam* I. 51.25-26 S. as an oath of the same kind attested in *lex repet. Tab. Bemb.* 19. In particular, *Q. Metellus Nepos* had sworn on a *lex quaestionis* that he was not accusing *Curio Pater* on the basis of a mere defamation. This result brings the author to check the passages attesting this kind of oath and to reset their chronological order.

Keywords

Asc., in Cornelianam I. 51.25-26 S. – *Cic., p. Cornelio de maiestate* 1.9 – *lex repet. Tab. Bemb.* 19 – *Iurare calumniam.*

VALDITARA G., *Riflessioni sulla crisi della sovranità popolare* [p. 322-353].

Abstract

The sovereignty of the people is in a crisis, as well as the democratic principle. The sovereignty of the people was already a value in the Roman *res publica*. Such sovereignty, following from the Roman perspective, is meant in modern constitutions as sovereignty of the citizens. It is connected with the contractual idea of the State, which was already well expressed by Cicero and consistent with the Roman idea of *populus*, with the practice of secession and with the reconstitution of the State as a unity through the *foedus*. Thus, the State was, at its origins, born from a *pactum* among the citizens for two purposes: defence against outside menaces and internal order. Therefore, the existence of a State is legitimated if the State can guarantee, first of all, the reaching of such targets. Now the sovereignty of the people is thrown into a crisis by a certain model of Europe, by the role played by some international organisations, by the superfetations of the theory of human rights, by

the activity of huge sovereign wealth funds, by the more and more intruding jurisprudence of international and national courts damaging the role of the legislator. We need to find a solution to this crisis without denying representative democracy. The introduction of an authority with a veto power, like the *tribuni plebis* had, would be negative, because it could risk to determine a paralysis in the activity of the government. Nevertheless, if the State could not guarantee the reaching of its original targets, it would rather be right to call the fiscal pact into question. To enforce sovereignty of the people, we need some constitutional reforms.

Keywords

Imperium ac potestas populi – foedus – tribuni plebis – intercessio – secessio – sovereignty of the people – democracy – representative democracy.

Imperium ac potestas populi – foedus – tribuni plebis – intercessio – secessio – sovranità popolare – democrazia – democrazia rappresentativa.

MALAVÉ OSUNA M.B., *Los loca publica de las ciudades y su atribución, según Honorio en C.Th. 15.1.41* [p. 353-392].

Abstract

An imperial Honorio's law in the year 401, contained in C.Th. 15.1.41, assigns the *loca publica* in Italian cities to *curiales* and *collegiati*, but, at the same time, the legislator establishes that public buildings which had been declared of no use to the municipalities were given to individuals following a petition, in exchange for a *pensio*. The last part of the text describes the obligatory concession procedure, enumerating every power stratum involved: praetorian prefect, provincial governors and local authorities.

Keywords

Public buildings – municipalities – italian cities – petition – concession procedure.

Edificios públicos – municipalidades – ciudades de Italia – petición – procedimiento concesional.

MONTEVERDI D., *Le XII tavole e la questione dell'ambasceria* [p. 392-453].

Abstract

Are Livius' and Dionysus' (Liv. 3.31.8 e Dion. Hal. 10.51.5) narrations of the embassy sent to Greece and *Magna Graecia* to learn the laws reliable? For over three centuries, there have been many different answers to this question. For several reasons, the negative issues raised appear to be surmountable. The context of the story is substantially reliable, and the historiographical tradition leads us to believe that the purposes of the embassy were offering a set of knowledge aimed at providing the most balanced institutional solution and, once the new magistracy was instituted, giving the decemvirs an overview of the system in which the Greek legislations worked.

Keywords

Embassy – XII Tables – Decemvirate – Greece – legendary historiography.