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FIORENTINI M.*, I Romani ed i paesaggi. Un rapporto conflittuale* [p. 3-87].

Abstract

In this paper the a. tries to assess whether the Roman cultural and legal experience have known a sensitivity towards the protection of landscapes, understood as a notion other than the environment, of which a first conceptual framework is sought as well. The research focuses on the consequences of economic action on rural, coastal, marine and urban landscapes, giving a substantially negative answer to the issue: in the Roman vision nature has very rarely a contemplative purpose and is seen, on the contrary, as a provider of economic utilities. It is therefore accepted the perspective of Dephine Acolat, who denied that the Romans had adopted aesthetic perspectives with regard to the landscapes.

Keywords

Landscape – environment – mines – environmental disasters – rainwater – *actio aquae pluviae arcendae* – riverine, coastal and urban landscapes – *fullonicae* – drainage systems.

HERMON E.*, Quelques considérations sur la réception du modèle de gestion fiscale du risque d'alluvionnement dans l'Empire romain: le cas du Nil* [p. 89-142].

Abstract

This essay shows how the socio-economic situation and the political willingness to standardize the law in the Late Roman Empire led to the modulation of the normative meaning of the Roman notions of river increments, using the Nile paradigm as a case study. For this purpose, we confront the historical evolution of Egyptian 'deflooding culture' of the Nile and its financial impact with the Roman model of flood risk management which relay on typology of river phenomena. Without having the holistic view of the Roman typology of river phenomena, this 'deflooding culture', managing by means of the metonymic effects to identify the manifestations of river phenomena, conjointly or successive, similar or distinct, on the state of the lands. These two management models, unfolded in the Late Antiquity by the imperial legislation C. 7.41.2 and C. 7.41.3 (NovTh. 20) through *Lex Romana Wisigothorum*, integrate characteristic elements of these two management approaches. This situation brings us to take conjointly into account the term *alluvio*/*abluvio*, expressions appearing coupled in the alluvial controversies of the *Gromatici*. This transversal investigation reveals a larger semantic field for the notion of *adluvio* that integrates *paludes* and *pascua*, considered by the juridical tradition as incompatible with the notion of *alluvio*, and identified as a *ius adluvionis*, different from the *ius alluvionis* based on the nature of the properties and which does not take into account the adverse impacts of floods on the affected lands. The main riverbed appears thus unequivocally as a space where material flooding impacts are present. Moreover, this situation allows conceiving also the notion of watershed in the framework of the issue area of flood management.

Keywords

Flooding financial management of flood risk in Egypt and Rome – 'the deflooding's culture' of Nile River – *alluvio*/*aluvio*/*abluvio* – *ius alluvionis*/*ius adluvionis* – *paludes*/*pascua*.

CERAMI P., ***Riflessioni sul genus negotiationis qualificato, nei scc. de aedificiis non diruendis, cruentissimum e tam foedum*** **[p. 143-168].**

Abstract

The author analyses the specific use of the locutions '*genus negotiationis*' and '*emere negotiandi causa*', and the related '*ratio*' of the adjectivisations '*cruentissimum*' and '*tam foedum*', in the *scc. Hosidianum* and *Volusianum* to denote the devastating effects of the specious demolitions of buildings carried out by real estate companies, sometimes also in agreement with landlords, on real estate properties, public safety and the socioeconomic order.

Keywords

Negotiatio – negotiatores – genus negotiationis – emere aedificia negotiandi causa.

NASTI F., ***Dalla monarchia alla repubblica: Pomponio lettore di Dionigi (D. 1.2.2.3, Pomp. l.s. ench., L. 178)*** **[p. 169-180].**

Abstract

In the *Liber singularis enchiridii* (D. 1.2.2.3) Pomponius links the fall of the *Tarquinii* and the end of monarchy with an otherwise unknown *lex tribunicia (Exactis deinde regibus lege tribunicia omnes leges hae exoleverunt ...).* An explanation of this expression is possible, according to the author of the article, and should be identified in the role of *tribunus celerum* played by Junius Brutus, as described in the fourth book of Dionysius of Halicarnassus *Antiquitates*. Starting from this passage, and thanks to the reading of other texts from the *Enchiridion* and the *Antiquititates*, it can be argued that Dionysius was one of the sources used by Pomponius for the description of the most ancient events in the history of the law at Rome. It was for the jurist a significant choice, whose consequences are outlined in the pages of the essay.

Nel *liber singularis enchiridii* (D. 1.2.2.3) Pomponio mette in relazione l'espulsione dei *Tarquinii* e la caduta della monarchia con una *lex tribunicia* altrimenti sconosciuta (*Exactis deinde regibus lege tribunicia omnes leges hae exoleverunt…*). Una spiegazione dell'espressione è possibile, secondo l'autore dell'articolo, e va individuata nel ruolo di *tribunus celerum* rivestito da Giunio Bruto, così come descritto nel IV libro delle *Antiquitates* di Dionigi di Alicarnasso. A partire da questo passo, e grazie alla lettura di altri passaggi dell'*Enchiridion* e delle *Antiquititates*, si può sostenere che Dionigi sia stato una delle fonti adoperate da Pomponio soprattutto per la descrizione degli eventi più risalenti della storia del diritto di Roma e delle magistrature. Si tratta di una scelta significativa le cui conseguenze vengono anticipate nelle pagine del saggio.

Keywords

End of monarchy – *lex tribunicia – Enchiridion sources.*

Fine della monarchia – *lex tribunicia* – fonti dell'*Enchiridion*.

SCHEIBELREITER Ph., ***Zu einem möglichen Aristoteles-Zitat im ius civile des Quintus Mucius Scaevola*** **(pontifex) [p. 181-220].**

Abstract

D. 46.3.80 (Pomp. 4 *ad Quint. Muc*.) refers to the principle that the conclusion and the solution of a contract shall correspond to each other. The wording of the short sentence, which can be understood as a quotation from Quintus Mucius Scaevola's *ius civile*, shows great parallels with a passage from the 9th book of the Nicomachean Ethics by Aristoteles. Based on this observation it seems possible to take a new perspective in interpreting the famous Latin rule.

Keywords

Contrarius actus – Quintus Mucius Scaevola – Aristoteles – Nikomachische Ethik.

DONADIO N., ***Da nemico di fazione a criminale pericoloso: percorsi di una strategia accusatoria dalla pro Roscio Amerino alle Filippiche*** **[p. 221-302].**

Abstract

In ancient Roman law there was no general notion of social danger similar to the concept of "pericolosità sociale" in the modern Italian legal system. Nevertheless in the Latin rhetorical tradition, and particularly in Cicero's oratory, it emerges the figure of the dangerous criminal. This concept came up first in the judicial oratory, and it was then adapted to the political invective for the *vituperatio* of the orator's enemies. This paper will analyze some of Cicero's speeches on recognizing the characteristics of the criminally dangerous person (an out-law person) in the Republican oratory tradition (predominantly, *audacia, scelus, furor, libido, crudelitas, avaritia*).

Keywords

Periculum – vitia animi – supplicium ultimum – fama – judicial oratory – political oratory – criminally dangerous person – *praedo-pirata – latro – monstrum vel prodigium*.

HERRERO MEDINA M., ***Gell. 1.22.7: Nec vero scientia iuris maioribus suis defuit*** **[p. 303-333].**

Abstract

En un fragmento procedente de la obra de Aulo Gelio se afirma que Cicerón consideraba que un jurista llamado Quinto Elio Tuberón había superado a sus *maiores*. Sin embargo, la ambigua información recogida en este pasaje no permite determinar a cuál de los dos juristas homónimos se estaba haciendo referencia. Esta incertidumbre ha dado lugar a un largo e intenso debate en el seno de la doctrina romanística moderna. El presente trabajo pretende arrojar algo de luz sobre esta controvertida cuestión a partir de un análisis pormenorizado del contenido de ese fragmento.

In a fragment from an Aulus Gellius' piece, it is supported that Cicero believed that a jurist named Quintus Aelius Tubero had surpassed his "*maiores*". However, the ambiguity of this information doesn't allow for determining whom they referred to. This uncertainty has led to a long and intense debate within the modern Romanistic doctrine. This work aims to shed light over this controversial topic through a detailed analysis of the content of this fragment.

Keywords

Jurisprudencia romana – *gens Aelia* – Quintus Aelius Tubero.

Roman jurisprudence – *gens Aelia* – Quintus Aelius Tubero.

FERCIA R.*, Sui presupposti funzionali dell'autoconcessione negoziale nella riflessione della giurisprudenza romana classica* [p. 335-389].

Abstract

This research aims to highlight the central nature of Tert. D. 41.2.28 in reconstructing the thinking of Roman jurists, by classical era, concerning cases in which an asset might have been granted under *conductio*, or *precarium*, to its *dominus*. It is clear, to this regard, how approaching the question forces one to examine the *id quod actum est*, which is to say, the practical intention of the parties, to establish whether a deed had been concluded *quasi proprietatis respectu*, or *quasi possessionis tantum respectu*. In the former case, the concession paid the price of a drastic invalidity that could be perceived in terms of the deed's tangible function, for example, in the hypothesis of the commodate or deposit of the *res sua*. In the latter case, however, it was considered valid and enforceable if and to the extent that, in principle, according to possessory title, the *non dominus* grantor was able to claim the position of *iustus possessor*, which would hypothetically make him *potior* in a *iudicium possessionis* with regard to the *dominus*. Outside of this case study, the validity and effectiveness of concession of property to the *dominus* emerges with a specific practical impact on the *conductio* (or *precarium*), concluded by the bare owner or equally, by the garnishee towards the usufructuary or attachment creditor respectively.

Keywords

Locatio conductio – precarium – object of a contract of lease – *rei suae conductio – rei suae precarium – oportere ex fide bona* – duties of landlords and tenants.

WACKE A.*, Quae vivus/viva praestabam. Unterhaltsfortzahlungsvermächtnisse nach Maßgabe lebzeitiger Zuwendungen* [p. 391-443].

Abstract

I Romani spesso fornivano agli schiavi che avevano liberato il mantenimento, l'alloggio e l'abbigliamento per tutta la vita. Imponevano la disposizione agli eredi, nel testamento, mediante fedecommesso, nella misura fino a quel momento osservata. Il testatore poteva modificare le sue assegnazioni durante la sua vita (entro limiti ragionevoli); i suoi eredi, tuttavia, erano vincolati all'entità delle ultime usuali assegnazioni. I responsi in materia dei giuristi tardoclassici sollevano questioni interpretative diverse, a volte complesse. Queste riguardano l'ammontare dei lasciti da perpetuare e le persone aventi diritto a riceverli. Dato il superamento della *quarta Falcidia*, i lasciti di mantenimento non dovevano essere ridotti; a questo proposito si può parlare di *favor alimentorum*. Tuttavia, poiché la *quarta* doveva rimanere invariata per l'erede, l'importo della riduzione attribuibile ai lasciti alimentari doveva essere ripartito tra gli altri legati. L'allentamento del requisito della forma testamentaria nel caso di mero richiamo, da allora, all'usanza degli alimenti da parte del testatore è notevole.

Keywords

Patroni – liberti – alimenta – fideicommissa – quarta Falcidia.

MARINO S., ***Senatus principi par est. I Glossatori e la forza normativa degli atti del senato romano*** **[p. 445-483].**

Abstract

The Glossators dealt intensely with the question of the normative power of the Roman senate, since it was closely linked to the bigger questions of the translation of the people's lawmaking authority to the emperor and of the autonomy of the collective bodies. According to what they derived from the Roman sources, they considered the ancient senate as holder of a lawmaking power and therefore the senatorial decrees as legislative acts, although subordinate to imperial legislation. The main discussion concerned the relevance of this power to their time.

Within the discussion, Azo's perspective in particular was very different from the one of a Senate making law on the emperor's authority. From his viewpoint, legislative power was embedded in the senate as a collective body originary legitimated by the people. Because of this legitimation, which was never revoked, its legislative function persisted as autonomous even after the transfer of people's power to the emperor.

With the gradual decline of the minority idea of a Roman emperor making law as delegate of the people, this theory, which particularly stressed the normativity peculiar to senatorial decrees, also faded. The analogy between senatorial and popular assemblies was maintained, but since neither operated any longer, senatorial decrees was increasingly simply regarded as a special source of legal norms subordinate to imperial law. The Legal humanism definitive historicized the question.

Keywords

Senato – potere normativo – glossatori.

Senate – lawmaking power – glossators.

CASCIONE C., ***Noterella sull'etimologia di consul*** **[p. 485-489]**

Abstract

Brief reflections of a legal historian on the etymology of Latin *consul*, based on a recent hypothesis of the linguist M. Pittau.

Keywords

Consul – Etymology – Roman Republic.

ASTOLFI R., ***Sabino e il consortium ercto non cito*** **[p. 490-492]**

Abstract

The author focuses on some specific aspects of the *consortium ercto non cito*. Thumbing through the opinions of Sabinus, Gaius and Paulus, it is possible to re-evaluate the role and the powers of the *heredes sui* in this field.

Keywords

Consortium ercto non cito – heredes sui – Roman succession law.

ASTOLFI R., *Sabino e le rubricae del ius civile* [p. 492-494]

Abstract

A brief discussion about Pers. *sat*. 88-90, in connection with Schol. *ad Pers*. 5.90 and with a passage from Gellius' *Noctes Atticae* (5.19.11-12), with specific regard to the *Masuri rubrica*, which seems to introduce a prohibition that restrains the freedmen's freedom.

Keywords

Masurius Sabinus – *rubricae* – *manumissio vindicta* – *adrogatio liberti*.

NICOSIA G., *Il 'Forcellinus'* [p. 495-496]

Abstract

The correct denomination of the Ae. Forcellinus' work.

Keywords

Totius Latinitatis Lexicon – *interpolatio Calepini* – Ae. Forcellinus.

DILIBERTO O., *Sullo stato dei nostri studi in tema di Legge delle XII Tavole* [p. 497-500]

Abstract

Brief presentation of the most recent publications on the Laws of the XII Tables: M. Humbert and M.F. Cursi (2018); Xu Guodong (with translation of XII Tables' text into Chinese) and D. Monteverdi (2019).

Keywords

Lex duodecim tabularum – *potissima pars principium est* – Roman Law in China.