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ABSTRACTS

GIACOMO D'ANGELO

Note esegetiche in tema di acquisto del possesso da parte del pupillo

The author deals with the well-known problem concerning the so-called direct acquisition of possession by a *pupillus* in classical law. An examination of the sources on the subject, substantially genuine and mostly from Paul, shows that there were disputes among jurists and suggests distinguishing between two categories of *pupilli*: on the one hand the pupils *infantes* and *infanti proximi* and on the other the pupils *pubertati proximi*.

As for the former, the oldest opinion was probably that they colud not acquire possession because they were incapable of conceiving the conscious will to possess (*animus* or *intellectus possidendi* or *affectio tenendi* or *sensus accipiendi possessionem*), but later, on grounds of utility, they were allowed to begin to possess with the *auctoritas* of the tutor (*tutore auctore*), who exceptionally made up for the pupil's total lack of *animus possidendi*.

As for the latter, some jurists (as Ofilius, Labeo, Nerva filius, Venuleius and Paulus), relying on consideration of possession as *res facti*, admitted that they could begin to possess by themselves, while other jurists (probably of the Sabinian school), relying +on consideration of possession as *res iuris*, required for the same purpose the tutor's authority.

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ROBERTO FIORI

Le *res sacrae* nel *ius divinum: consecratio, dedicatio* e *profanatio*

The study of the *res sacrae* in Roman law has often been conducted from the point of view of the *ius humanum*. This essay deals instead with the rules of the *ius divinum*, and especially with the procedures through which a *res* became *sacra* and ceased to be so – that is, *consecratio*, *dedicatio* and *profanatio*. The sources show different procedures for the *loca sacra* and for all the other *res*: as to the former, solemn forms of consecration (and probably also *profanatio*) were envisaged; for the latter, consecration and *profanatio* were both informal. Furthermore, the sources attest to a different regime for the consecration of *res* and the *consecratio bonorum*, as well as to distinct meanings of the terms *consecratio* and *dedicatio*.

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ELENA GIANNOZZI

La loi '*Lecta*' du Digeste (D. 12.1.40) aux Basiliques (Bas. 23.1.42): les destinées d'un fragment difficile de Paul

A long excerpt from book 3 of Paul's *Quaestiones* concerning the credit law was inserted in Justinian's Digest under the title *De rebus creditis* (12.1.40). This famous fragment has long been known as the '*Lecta*' law. It has attracted the attention of the doctrine in Western Europe since the time of the gloss. If Western legal doctrine has been analyzed extensively, the interpretation given to Paul's text by Byzantine doctrine has been less studied by contemporary historiography. The Basilica reveal, however, that the Byzantine jurists were also interested in Paul's fragment. This article aims to fill this gap in our knowledge by shedding light on the interpretation given in the East to the text of the Digest.

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ORAZIO LICANDRO

Gaio, Giustiniano e i *dediticii* perduti. Indagine tra diritto e politica attraverso papiri, epigrafi, pergamene e tradizione manoscritta

This paper deals with the question of the identification of *peregrini dediticii* through a comparison of *P. Giss.* 40.I, the *Gaius* Veronese (*ms.* XV 13) and late antique sources.

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SARA LONGO

La *litis contestatio* formulare nelle *Institutiones* di Gaio

In the face of the vast variety of interpretations suggested for Gai 3.180, proving that the question about the foreclosure/extinguishing effect of the formular *litis contestatio* is still widely open in the doctrine, a new interpretation of Gaius is suggested. This interpretation, concerned to distinguish Gaius' opinion from that of the *veteres*, aims at making clear the essence of the statement '*tollitur obligatio litis contestatione*', the meaning of '*litis contestatione teneri*' referred to the defendant and the well known old jurists' rule, concerning in particular the '*condemnari oportere*'.

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CARLO PELLOSO

Sul rapporto tra nossalità e vendetta a partire da Gai 4.75-76

The relationship between noxal surrender and revenge has been a theme of enduring fascination. Traditionally, scholars have often portrayed these two concepts as inextricably linked, with noxal surrender serving as a residual form of vindicatory retribution against the offender. Starting from Gai 4.75-76, the article intends to challenge this conventional understanding and to suggest a more nuanced and 'rationalistic' view of the dynamics at play. Indeed, it argues that the purpose of noxal surrender, considered both as a legal duty and as an option within the civil trial, went beyond the primeval sphere of mere revenge to include elements of penalty limitation, compensation, and social order. By deconstructing the traditional link in question and overcoming the idea of linear evolutionism, the article ultimately seeks to open a new avenue to explore the multifaceted nature of Roman law, society, and legal procedure.

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LEO PEPPE

Riflessioni intorno al *topos* della cittadinanza. L'esperienza giuridica romana

In recent years, the issue of Roman citizenship has been the subject of numerous and innovative studies, in which citizenship has often been regarded in the plural. An examination of the sources highlights an apparently little varied terminology, which in fact is elusive with respect to modern categories because it reflects a legal and social reality of differentiated individual statutes. In the long duration of the Roman juridical experience, normative interventions followed one another (primarily the *Constitutio Antoniniana*), as well practices, that gave rise to a rich casuistry. But it is possible to try to make a unitary image of Roman citizenship.

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ROMAIN GOUDJIL

Le concept de sécurité juridique dans les discours juridiques impériaux byzantins (VI^{e}-XII^{e} siècle).

This article aims to analyse the imperial discourses contained in Byzantine Law in order to understand if there was in Byzantium any use of the concept of Legal Certainty from the Justinianic period to the 12th century. The constituent elements of this concept (clarity, accessibility, reliability and predictability of the law) are examined to assess the level of legal certainty promoted by the imperial power. The emperors emphasised their own achievements regarding the clarification of the law and the way they made it more accessible, for legal practitioners at least, while they are unable to build any stable discourse on Legal Certainty in practice.

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FRANCESCA REDUZZI

Matrimoni negati: D.16.3.27 e Papiro Cattaui

The Author analyzes a case relating to the marriage between a free woman and a slave and a sum of money deposited as dowry included in Justinian's *Digest* (16.3.27, Paul. 7 *resp.*); the problem of the marriage is intertwined with the institution of the depositum irregulare and finds light through the comparison of the marriage ban for soldiers and the papyri attesting the attempt to attribute a dowry to the soldier under the guise of a deposit

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MARIA MICELI

In tema di 'interpretazione casistica' e scienza del diritto

The work constitutes a tribute to Professor Vacca, to her significant and prestigious scientific production, but also to the fundamental contribution offered to the legal community, also in carrying out important institutional tasks. The article concerns some works in which Vacca - starting from his valuable works on jurisprudence, on case method and on precedents - has proposed some interpretative lines of great interest and importance not only for their intrinsic value, but also as they are linked to issues of great importance for the current dimension of law. These are, in particular, reflections on the important and now decisive role assumed by interpreters within the multilevel legal system, on the crisis of law, due among other things to the separation between science and practice, and, finally, on analysis of the casuistic and prudential method of Roman jurisprudence as a model of science founded on the inseparable synthesis between the theoretical elaboration and the practical application of legal rules.