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**OMAGGIO A
WITOLD WOŁODKIEWICZ
NONAGENARIO**

**Quaderni camerti di studi romanistici
International Survey of Roman Law**

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International Survey of Roman Law

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2019

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International Survey of Roman Law

Direttori Luigi Labruna, Cosimo Cascione

Sotto gli auspici
della Scuola di Giurisprudenza dell'Università di Camerino
e del «Consorzio interuniversitario Gérard Boulvert
per lo studio della civiltà giuridica europea e per la storia dei suoi ordinamenti».

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Abstracts

a cura di Paola Santini

Ulrico Agnati, «Sulla tolleranza: cristiani e altri» (p. 61-82)

Review article of Tessa Canella, *Il peso della tolleranza. Cristianesimo antico e alterità*, «Storia, 86» (Brescia, Morcelliana, 2017) p. 360. – The paper deals with religious tolerance, politics and law in the Roman empire and in the Germanic kingdoms. The main focus is on the Christians' attitude towards 'others'. Tessa Canella recently published a book which analyses several ancient sources on the subject; her research represents the main reference for the present discussion.

Parole chiave: Roman law, christianity, religious intolerance, late antiquity. Diritto romano, cristianità, intolleranza religiosa, tarda antichità.

* * *

Alessandro Adamo, «Un'anabasi identitaria: l'Avvocatura, oggi e ieri» (p. 229-250)

Review article of Fausto Giumetti, '*Per advocatum defenditur*'. *Profili ricostruttivi dello 'status' dell'avvocatura in Roma antica*, «Abbrivi. Nuova serie, 4» (Napoli, Jovene, 2017) p. xviii, 215. – A problematic history of legal profession from ancient Rome to contemporary Italian regulations.

Parole chiave: *patronus*, *advocatus*, *honorarium*.

* * *

Zuzanna Benincasa, «Dalla *res nullius* alla selvaggina come *fructus fundi*» (p. 83-102)

The paper examines the texts of Digest in which the question of considering *venatio* and *reditus venationis et aucupii* as *fructus fundi* is raised. These texts are deemed to be controversial since according to the principle of *ius gentium*, wild animals were a property of no one (*res nullius*) and could be captured by anyone at which point they became the property of the captor, independently if captured on the captor's own property or on another person's. Only wild animals kept enclosed in game preserves (*vivaria*) were deemed to be a property of the landowner and thus constituted the revenue gained regularly and constantly from the farm. In this context Roman jurists discussed about the right of an usufructuary to hunt on the land given in usufruct and also to organize game preserves on it, in order to maximize profits obtained from the land property.

Parole chiave: Hunting, Roman law, usufruct right, *fructus fundi*.
Caccia, diritto romano, usufrutto, *fructus fundi*.

* * *

Pierangelo Buongiorno, «Roma dinanzi ai Germani» (p. 313-320)

The paper aims to trace the evolution of the Roman perception of the complex relations with the Germans. In this perspective the a. examines some texts of the jurisprudence about *postliminium*, showing how the defeat of Varus in Teutoburg marked a watershed in the Roman perception of the Germans as 'indomitable' *hostes*. In the second part of the paper the a. discusses the recent book of Umberto Roberto, *Il nemico indomabile*, stressing some aspects (first of all the myth of the 'German' freedom in the Modern Ages).

Parole chiave: *Postliminium*, Germans, Roman jurisprudence.
Postliminium, Germani, giurisprudenza romana.

* * *

Luigi Capogrossi Colognesi, «Figli delle origini: i *liberi* tra poteri familiari e *res publica*» (p. 15-22)

Review article of Monica De Simone, *Studi sulla patria potestas. Il filius familias 'designatus rei publicae civis'*, «Dipartimento di Giurisprudenza. Università degli Studi di Palermo. Monografie, 12» (Torino, Giapichelli, 2017) p. 398. – The a. deals with development of family and Roman political community from the perspective of *liberi* as continuation of the two groups, with important references to the history of the studies.

Parole chiave: *Liberi, familia, patria potestas, res publica*.

* * *

Luigi Capogrossi Colognesi, Luigi Labruna, Marek Kuryłowicz, «Opinioni al Magnifico Rettore dell'Università di Varsavia concernenti il Prof. Dr. Witold Wołodkiewicz» (p. 3-12)

Publication of three official letters sent to the Rector of the University of Warsaw in occasion of the honorific graduation as *Doctor iuris* of Prof. Witold Wołodkiewicz.

Parole chiave: Storia della scienza giuridica, diritto romano, Witold Wołodkiewicz.
Legal tradition, Roman law, Witold Wołodkiewicz.

* * *

Cosimo Cascione, «Uno strano dubbio a proposito di fonti delle obbligazioni: 'diritto romano o classico'?» (p. 490-501)

On a doubt in the textual tradition of the 'Relazione al Re', a sort of official interpretation published with the Civil code of 1942, dealing with the deletion from that law of the institutes of *quasi*-contracts and *quasi*-delicts.

Parole chiave: 'Relazione al Re', italian Civil code, art. 1173.
'Relazione al Re', Codice civile italiano, art. 1173.

* * *

Pierangelo Catalano, Paolo Siniscalco, «Nota informativa per il XXXIX Seminario internazionale di studi storici 'Da Roma alla Terza Roma' *La dottrina della Terza Roma: aspetti teorici e realtà sociali*» (p. 551-552)

Данная Информационная справка была составлена организаторами Международных семинаров исторических исследований «От Рима к Третьему Риму» по случаю XXXIX семинара по теме: «Учение о Третьем Риме: теоретические аспекты и реалии социума», прошедшего в Риме, на Капитолии, 15-16 апреля 2019 года. Авторы предлагают рассмотреть (не только по отношению к Третьему Риму, но и к Древнему Риму и к Константинополю - Новому Риму) книги итальянской и российской серии материалов Семинаров «От Рима к Третьему Риму». Основные документы по теме «Учения о Третьем Риме» опубликованы в сборнике «Идея Рима в Москве. XV-XVI века. Источники по истории русской общественной мысли», под редакцией П. Каталано и В. Пашуто (Herder, Рим, 1993 г.).

Parole chiave: XXXIX Семинар, учение, Третий Рим, Москва.
XXXIX Seminario, dottrina, Terza Roma, Mosca.

* * *

Maria Floriana Cursi, «Il concorso della colpa del danneggiato nel risarcimento e la rilevanza penale dell'azione aquiliana» (p. 165-194)

The paper aims at highlighting the peculiarity of the Roman idea of contributory negligence, in comparison to modern Civil law. In Roman law the actions for damages had a penal nature, i.e. their characteristic feature was the cumulative solidarity of the penalty: therefore, except the case when the victim had caused the damage in full, the wrongdoer was always liable for the whole compensation, even if he was only partially at fault. In modern Civil law, on the contrary, since the actions for damages have lost their penal character, in cases of contributory negligence the proportional partition of the damages between the parties is considered the most equitable solution.

Parole chiave: Concorso di colpa, *lex Aquilia*, danno, azione penale.
Contributory negligence, *lex Aquilia*, damage, penal action.

* * *

Valeria Di Nisio, «Una questione di ‘lana caprina’? *Pilus* e *pili* gaiani» (p. 408-414)

Short legal and philological reflections on the different meanings of *pilus* in D. 22.1.28.1 (Gai. 2 *rer. cott.*) and Gai 4.17, also in comparison with Varr. *rer. rust.* 2.11.11.

Parole chiave: Gaius, *pilus*, *pili*, *lana*.

* * *

Maurizio d’Orta, «Dall’*humanitas* ai diritti umani. Storia di valori e categorie» (p. 521-545)

The work is divided into three parts (§ 1; §§ 2-4; § 5). The first one (§ 1) aims at investigation the nature of human value and legal category used as mean of arrangement of the matter. The second part (§§ 2-4) is divided into three paragraphs and the value of *humanitas* is investigated in a literary and juridical sense. The solutions given by the jurisprudence of the classical age are examined. The third part (§ 5) concerns the modern conception of human rights which acquire constitutional dignity and obtain universal nature.

Parole chiave: *Humanitas*, human rights, legal category.
Humanitas, diritti umani, categoria giuridica.

* * *

Raffaele Farina, «San Costantino Imperatore e la pace» (p. 563-566)

Речь, с которой выступил Кардинал Фарина в качестве председателя Вступительного заседания, на XXXIX Международном семинаре исторических исследований «От Рима к Третьему Риму» по теме: «Учение о Третьем Риме: теоретические аспекты и реалии социума». Семинар был организован в Риме, на Капитолии, 15-16 апреля 2019 года Исследовательским центром «Джорджо Ла Пира» Национального Совета по Научным Исследованиям Италии в сотрудничестве с ИРИ РАН. Автор вспоминает о своем участии в VIII Семинаре «От Рима к Третьему Риму» (1988 г.) по теме «Концепции мира» с докладом о «Константине Великом и его идеологии мира». С тех пор прошел 31 год и автору часто приходилось возвращаться к идеологии мира

Императора Константина (особенно в 2012-2013 гг., по случаю 1700-летия Битвы у Мульвийского моста и Миланского эдикта). Вывод к которому он приходит следующий: без Императора Константина не было бы ни Нового Рима (Константинополя) ни Третьего Рима (Москвы).

Parole chiave: Святой Константин, Император Константин, мир, Семинары 'От Рима к Третьему Риму'.
San Costantino, Imperatore Costantino, pace, Seminari 'Da Roma alla Terza Roma'.

* * *

Francesco Fasolino «L'evasione dalla condanna ai lavori forzati» (p. 371-393)

The essay aims to investigate the applicable legal regime in case of evasion of the penalty for forced labor, distinguishing between condemnation *ad metalla* and *in opus publicum*, highlighting, in particular, on one hand, the wide discretion of magistrates and imperial officials in the repression of the escape during the execution of the sentence and, on the other hand, the interventions of the jurisprudence, in particular of the Severian age, in order to highlight and correct the distortions of the practice in relation to the principles of the legal system.

Parole chiave: Evasion, *coercitio*, jurisprudence.
Evasione, *coercitio*, giurisprudenza.

* * *

Thomas Finkenauer, «Die Entwicklung der Interpolationenkritik» (p. 483-489)

Review article of *Grademwitz, Riccobono und die Entwicklung der Interpolationenkritik / Grademwitz, Riccobono e gli sviluppi della critica interpolazionistica. Methodentransfer unter europäischen Juristen im späten 19. Jahrhundert / Circolazione di modelli e metodi fra giuristi europei nel tardo Ottocento*, hrsg. von Martin Avenarius, Christian Baldus, Francesca Lamberti, Mario Varvaro (Tübingen, Mohr Siebeck, 2018) p. viii, 331. – A piece of history of Roman law tradition, underlining the importance and critical points of interpolationism.

Parole chiave: History of law, Roman law tradition, interpolationism.
Rechtsgeschichte, Römische Rechtstradition, Interpolationenkritik.

* * *

Joaquín Garrido Martín, «Derecho romano como ‘Muster juristischer Methode’: el modelo científico de Puchta» (p. 443-482)

The essay approaches the scientific model as was presented by Georg Friedrich Puchta in the context of the methodological renewal that characterized the early nineteenth century Germany. In this spirit of *Modernisierung*, the figure of Savigny's emblematic disciple stood out. Puchta developed a Law of Science (*‘Recht der Wissenschaft’*) that had a great reception among most important jurists of the century (Thöl, Gerber, Jhering, Goldschmidt). Legal analogy was of particular importance among the instruments that served this scientification. However, the legal science of the time combined a high technical character with an almost absolute absence of methodological rules. The rejection (very clear in Puchta's doctrine) of the nascent methodology (Thibaut) can be better understood from the core idea that defines this legal philosophy: that history is the essence of law, and hence that only a rich historical legal knowledge, and not aprioristic methodological rules, can serve as *methodus*.

Parole chiave: Pandectist studies, legal analogy, legal hermeneutics, Georg Friedrich Puchta.

Pandectística, analogía jurídica, hermenéutica jurídica, Georg Friedrich Puchta.

* * *

Ella Hermon, «L'espace de liberté de l'eau' de Rome à nos jours» (p. 144-164)

The essay examines how, based on Roman definitions of riverside (*ripa*), the ‘process of flood risk production’ begins in Rome by identifying areas vulnerable to this risk – *ripa, litus, palus* –, designated globally by the concept *Riparia*. Indeed, the Roman lawyers, Ulpian and Paulus, build a complementary binary model that allows to identify ‘a space of freedom’ for hydromorphological evolution in general. For this purpose, they implement an analog approach to the identification of this ‘space of freedom’ compatible with each of these vulnerable areas to flooding, and are taking into account the paradigm of public rivers to initiate a resilient management of this risk. These definitions can already configure two cases – the *inundatio* opposite to the *alvei mutatio*, compatibles with the model of crisis management, namely prevention, and post-crisis state.

Parole chiave: Flood risk; vulnerable spaces: *ripa, litus, palus*; definitions of *ripae* and resilient risk management; *inundatio* and *alvei mutatio*.

Risque d'inondations; espaces vulnérables: *ripa, litus, palus*; définitions de *ripae* et modèle résilient de gestion du risque; *inundatio* et *alvei mutatio*.

* * *

Maciej Jońca, «*Decollatio*: new materials, new perspectives» (p. 339-347)

Negli ultimi decenni le posizioni scientifiche relative alla *decollatio* (decapitazione) nella letteratura giuridica sono state fortemente influenzate dalle visioni ‘sistemizzanti’ di Theodor Mommsen contenute nel suo *Römisches Strafrecht* (apparso nel 1899). Seguendo la tendenza del suo tempo, Mommsen ha scritto della decapitazione al fine di creare una sorta di sua definizione giuridica. Molte sono le ragioni che inducono a mettere ora in discussione questo metodo e ad accettare alcune nuove prospettive. Prima di tutto l’a. prende in considerazione la storia delle ‘emozioni’ e le indicazioni linguistiche. Finora anche le prime fonti cristiane (sia letterarie che iconografiche) non sono state esplorate in modo sufficiente.

Parole chiave: *Decollatio*, pena capitale, diritto penale romano, iconografia cristiana.
Decollatio, death penalty, Roman criminal law, christian iconography.

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Agnieszka Kacprzak, «*Pactio ex senatusconsulto Claudiano*» (p. 47-60)

In spite of the vivid interest, which the *SC. Claudianum* does not cease to arise in the scholarship, many aspects thereof remain unresolved. One of them is the function of the *pactio ex senatusconsulto Claudiano*, of which Gaius informs us in his *Institutiones* (Gai 1.84). Particularly disputable is the impact of the *pactio* on the *status* of children born by a free woman who lived with a slave upon the agreement with his owner. Opinions of scholars fluctuate from the interpretation of this agreement (*pactio*) as a type of ‘sale’ of children’s freedom by a woman in exchange for the preservation of her freeborn status, to the idea that the *pactio* did not concern the *status* of children at all, since they were born slaves by virtue of some other regulation. In the article it is argued that the *pactio* in question was necessary in order to ground a quasi-matrimonial relationship, a *contubernium*, between a free woman and a slave, thus making it possible to recognize her children as descendants of her slave-partner. Based on this recognition the *SC. Claudianum* made them follow the *status* of the latter. Hence, they were born slaves as their father. This construction resembles that of the *lex Minicia*, which made children follow the status of their peregrine father despite the lack of *conubium* between their parents.

Parole chiave: *Cognatio servilis*, *contubernium*, *pactio ex senatusconsulto Claudiano*, presumption of paternity.
Cognatio servilis, *contubernium*, *pactio ex senatusconsulto Claudiano*, presunzione di paternità.

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Umberto Laffi, «Prefetti del pretore e prefetture» (p. 251-257)

Review article of Annarosa Gallo, *Prefetti del pretore e prefetture. L'organizzazione dell'agro romano in Italia (IV-I sec. a.C.)*, «Documenti e Studi. Collana del Dipartimento di Studi Umanistici dell'Università di Bari Aldo Moro. Sezione storica, 68» (Bari, Edipuglia, 2018) p. 318. – Moving from a review of Annarosa Gallo's book, the paper discusses some problems connected with the administration of justice in the *ager Romanus* in Italy, from the fourth to the first century BC.

Parole chiave: *Praefecti, praefecturae, iurisdictio*.

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Andrea Lepore, «Norma e interpretazione» (p. 502-515)

Review article of Alessandro Corbino, *Rigore è quando arbitro fishia. Il mito della legalità* (Napoli, Jovene, 2018) p. 101. – The paper analyzes the importance of the interpretation of a juridical norm for the qualification of a case, that always changing from case to case, as well as the decisive influence of the culture of the jurist that goes to realize it. The dynamic path of the interpreter appears marked in this direction, who should not be limited trivially to 'reading' a single rule, but has the task of perceiving the legislation to be applied as a whole, with respect to the case placed to its attention, deducing it from the entire system, drawing on all the sources available to it.

Parole chiave: Rule, interpretation, sports law.

Norma, interpretazione, diritto sportivo.

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Francesco Lucrezi, «Daniela Piattelli (1940-2019)» (p. 590-593)

Obituary of Daniela Piattelli. Student of Edoardo Volterra, will be remembered for her excellent research in the field of the law of the Near Ancient East, above all the ancient Jewish law. Her main contribution may be found in the following three areas: first, the importance of the ethical value of law. For this she emphasized themes connected to the 'weak', such as foreigners, women, and slaves. Secondly, she paid special attention to free debate amongst free thinkers. According to her theory the classic Roman jurists were similar to the Talmudists, since both created law through contradiction, discussion, and confrontation. Thirdly, she concentrated on the historic dimension of law. According to her ancient law cannot be studied in isolation but must be viewed in comparison to modern law. This is in line with the notion that modern law cannot be understood without reference to its roots. For this reason she refers to the Hammurabian code as well as the Universal Declaration of human rights and the democratic Italian Constitution in her scientific works. God Bless her memory.

Parole chiave: Near Ancient East, Jewish Law, Jurists, Talmudists, Daniela Piattelli.
Vicino Oriente antico, legge ebraica, giuristi, talmudisti, Daniela Piattelli.

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Adalberto Mainardi, «Messaggio dal Monastero di Bose» (p. 553-556)

Приветственная речь, поступившая из Монастыря Бозе в адрес организаторов XXXIX Международного семинара исторических исследований «От Рима к Третьему Риму» по теме: «Учение о Третьем Риме: теоретические аспекты и реалии социума», организованного в Риме, на Капитолии, 15-16 апреля 2019 года Исследовательским центром «Джорджо Ла Пира» Национального Совета по Научным Исследованиям Италии в сотрудничестве с ИРИ РАН. С 2000 г. в Монастыре Бозе организуются ежегодные Международные Экуменические Конгрессы православной духовности. Эти встречи объединяют католиков и православных, монахов и мирян, богословов и ученых из других областей. Автор статьи, монах Монастыря Бозе и научный секретарь вышеуказанных Конгрессов, подчеркивает, что комплексный научный подход Семинаров «От Рима к Третьему Риму» всегда служил примером для Международных Экуменических Конгрессов православной духовности, организуемых в Бозе.

Parole chiave: Третий Рим, Семинары, Монастырь Бозе, православная духовность.
Terza Roma, Seminari, Monastero di Bose, spiritualità ortodossa.

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Alessandro Manni, «D. 48.19.28.3 (Call. 6 *de cogn.*) e la sanzione dei recidivi» (p. 348-370)

The paper analyzes of the text in D. 48.19.28.3 (Call. 6 *de cogn.*) concerning the criminal punishment of some persons (ordinarily calling themselves 'young', *qui volgo se iuvenes appellant*) that, in turbulent cities, join the clamors of the mob. Callistratus mentions this case in regard of the limits of whipping (*ictus fustium*), a corrective measure normally reserved to the *liberi tenuiores*.

Parole chiave: Criminal repression, *ictus fustium*, repetition of the offence, purpose of punishment.
Repressione criminale, *ictus fustium*, recidiva, funzione della pena.

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Rosaria Mazzola, «Voto segreto e disordini politici nella tarda repubblica. Note a Sisen. *Hist.* frg. 118 P²» (p. 258-284)

In the last half of the second century of the Roman republic, a gradual change was introduced in the voting assemblies. Three *leges* (cd. *leges tabellariae*) introduced the secret ballot, first for elections then in legal case and legislative bills. The aim of this paper is to analyze the frg. 118 P² of Sisenna' *History*, both in a juridical and philological perspective, in connection with the context of the political struggles of the end of the Roman republic.

Parole chiave: *leges tabellariae*, *cista suffragiorum*, Sisenna.

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Carla Masi Doria, «Dieter Nörr: ricordi italiani di un romanista senza frontiere» (p. 585-589)

Obituary of the late authoritative romanist: the human and scientific path of Dieter Nörr through Roman law and European cultural tradition from an Italian point of view.

Parole chiave: Roman law scholarship, method, Dieter Nörr.
Tradizione romanistica, metodo, Dieter Nörr.

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Carla Masi Doria, «Storicità del diritto, legalità, interpretazione. A proposito di un 'rigore' ... trasformato» (p. 516-520)

Reflections on history, interpretation and law between Roman antiquity and today's regulation of football.

Parole chiave: History of law, interpretation, rules of football.
Storia del diritto, interpretazione, regole calcistiche.

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Felice Mercogliano, «*Civis Romanus sum*» (p. 291-306)

Review article of Giuseppe Valditara, *Civis Romanus sum* (Torino, Giappichelli, 2018) p. viii, 220. – The monograph by Giuseppe Valditara focuses on the evolution of the identity of Rome, starting from its origins as an open and multi-ethnic city up to the Dominate. In particular, the main theme is represented by the granting of the Roman citizenship, interpreted in a meritocratic and utilitarian – even though non-discriminatory – key. Especially, it would have been the *utilitas publica* (intended by Valditara as the modern national concern) to drive the processes of inte-

gration, assimilation and restrictions concerning citizenship. In this subject, the ‘Sovereignty over the territory’ exercised by Rome would have moved to a restrictive stance in the IV and III century BC., and to an even stricter policy during the II and the I century BC. Therefore, *civitas sine suffragio*, expulsions of foreign migrants and the problem of the *ius migrandi* are gradually taken into account with particular attention, before reaching a conclusion regarding the meaning and the affirmation of the Roman identity, achieved between the Republic and the Principate.

Parole chiave: Roman citizenship, romanization, immigration, identity.
Cittadinanza romana, romanizzazione, immigrazione, identità.

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Felice Mercogliano, «Betti, le fonti di obbligazione, il negozio giuridico» (p. 201-206)

An interpretative hypothesis about the writings by Emilio Betti entitled *Delle fonti di obbligazione in diritto romano classico*, now edited as «the Heidelberg manuscript» (from the discovery site). The relationships with his master, Gino Segrè, are briefly retraced, particularly in respect of the law of obligations and of the legal transaction, in order to observe a process of progressive independence gained in this regard by Betti. This gradual detachment has prevented the publication of the work at first, but, at the same time, it allowed him to develop his theoretical structure independently, distancing himself from the Pandectists’ view.

Parole chiave: Emilio Betti, Gino Segrè, law of obligations, legal transaction.
Emilio Betti, Gino Segrè, obbligazioni, negozio giuridico.

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Donatella Monteverdi, «*Tabula picta*» (p. 103-135)

The essay focuses on the reasons of the ostensible singularity of the regulation of the *tabula picta*, to show its coherence instead with the general logics used by the Roman jurists – and Gaius in particular – to evaluate the existence of the requirements to attribute the ownership of things that were the result of modifications or transformations of others.

Parole chiave: *Tabula picta*, roman jurisprudence, *dominium*.
Tabula picta, giurisprudenza romana, *dominium*.

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Mauro Osses Ardiles, «Antonio, Antonino, Antoniniano» (p. 415-417)

Brief reflection on the use and meaning of the Italian adjectives 'antonino', 'antoniniano', those qualify jurists and imperial measures.

Parole chiave: 'Antonio, Antonino, Antoniniano'; jurists; Italian adjectives.

'Antonio, Antonino, Antoniniano'; giuristi; aggettivazioni della lingua italiana.

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Michele Pedone, «A proposito delle nuove acquisizioni testuali in tema di *manumissio inter amicos*» (p. 23-46)

The *manumissio inter amicos* has been investigated by scholars of Roman law with a peculiar emphasis on its formal features, on its relationship with other typologies of enfranchisement and on the advantages of its inheritance discipline on the side of the ex-master. Epigraphists and papyrologists, in turn, have mostly focused on the aspects concerning social history and access to citizenship. The paper aims to discuss the legal profiles of the topic relying on papyrological sources, in an attempt to gather some information from the structure of the documents, from the personal characteristics of the enfranchised people, from the fiscal aspects implied by the act. A section of the article is dedicated to the legal nature of the *redemptio* featured in the papyri, i.e. the practice of paying a 'ransom' to redeem the slave's freedom. The concluding remarks try to balance the results of the research with the problems of representativeness and geographic lopsidedness of papyrological finds.

Parole chiave: *Manumissio*, juristic papyrology, *redemptio*, *Latini Iuniani*.
Manumissio, papirologia giuridica, *redemptio*, *Latini Iuniani*.

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Pierfrancesco Porena, «I Germani, Arminio, Teutoburgo: audaci riletture moderne» (p. 307-312)

Review article of Umberto Roberto, *Il nemico indomabile. Roma contro i Germani*, «I Robinson / Letture» (Bari-Roma, Laterza, 2018) p. viii, 391. – Analysis of the pages by U. Roberto on the myth of the freedom of the Germans, as it was interpreted in Germany, Italy and Europe between 1500 and the Second World War. The relationship between modern nation-states, especially Germany and Italy, and the legacy of Rome raises the question of the indisputable greatness of Greek-Roman civilization and its painful and problematic disappearance. The story has fed different

readings of the characteristics of the Germans. The schizophrenia of the role of Rome and the Germans in judging ancient civilization and in the construction of modern Europe remains an unresolved issue. At the center of the reflection is the myth of Arminius in German culture: the virtues of the hero would be the root of the independence and primacy of the German people. The failure of the provincialisation of Germany beyond the Rhine, strongly desired by Augustus and the branch of Drusus, was a break-up. The history of ancient Rome with its multi-ethnic empire and its heavy civilization and of the free Germanic populations across the river Rhine is the history of an impossible fusion, of a failed interpenetration. Roberto's book asks in watermark about a key element of current affairs: to what extent can the nation and the global world be reconciled?

Parole chiave: Arminius, battle of Teutoburg, German identity, legacy of Rome.
Arminius, battaglia di Teutoburgo, identità tedesca, eredità di Roma.

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Francesca Reduzzi Merola, «Schiavi senza nome in un mimiambo di Eronda» (p. 13-14)

In honor of prof. Witold Wołodkiewicz short considerations on a slave in the 5th Heronda's mime.

Parole chiave: Slaves, Heronda, depersonalisation of slaves.
Schiavi, Eronda, spersonalizzazione dello schiavo.

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Kaj Sandberg, «The *senatus consulta* between Roman *respublica* and principate» (p. 285-290)

Review article of *Rappresentazione e uso dei 'senatus consulta' nelle fonti letterarie della repubblica e del primo principato / Darstellung und Gebrauch der 'senatus consulta' in den literarischen Quellen der Republik und der frühen Kaiserzeit*, a cura di / herausgegeben von Andrea Balbo, Pierangelo Buongiorno, Ermanno Malaspina, «Acta Senatus. B. Studien und Materialien, 3» (Stuttgart, Franz Steiner, 2018) p. 530. – Considerations on many aspects of *senatus consulta* between Roman *respublica* and principate, through the literary sources.

Parole chiave: *Senatus consulta*, *res publica*, literary sources.
Senatus consulta, *res publica*, fonti letterarie.

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Paola Santini, «Aspetti del paesaggio agrario negli *auctores divisionis*» (p. 136-143)

Review article of Elena Tassi Scandone, *Terre comuni e pubbliche tra diritto romano e regole agrimensorie*, «Pubblicazioni del Dipartimento di Scienze Giuridiche. Università degli Studi di Roma 'La Sapienza', 123» (Napoli, Jovene, 2017) p. xxxii, 191. – Discussing the recent monograph of Elena Tassi Scandone, the a. focuses on the *ager compascuus* especially in the light of the gromatic sources.

Parole chiave: *Ager compascuus*, *limitatio*, *dominium ex iure Quiritium*, gromatic sources.

Ager compascuus, *limitatio*, *dominium ex iure Quiritium*, fonti gromatiche.

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Paolo Siniscalco, «Le Sacre Scritture nell'Epistola di Filofej» (p. 557-562)

Доклад прозвучал на XXXIX Международном семинаре исторических исследований «От Рима к Третьему Риму» по теме: «Учение о Третьем Риме: теоретические аспекты и реалии социума», организованном в Риме, на Капитолии, 15-16 апреля 2019 г., Исследовательским центром «Джорджо Ла Пира» Национального Совета по Научным Исследованиям Италии в сотрудничестве с ИРИ РАН. В докладе исследуются библейские корни Послания старца псковского Филофея Мисюрю Мунехину, где впервые говорится о Москве как о Третьем Риме. Название глав: 1. Источники; 2. Некоторые предварительные замечания. Кратко о теме и об авторе «Послания»; 3. Первая часть «Послания»: рассказ о сотворении мира из Книги Бытия и шесть тысячелетий; 4. Не от звезд, а от Бога все зависит; 5. Ангельские силы и их деяния во благо человека; 6. О христианских царствах и об их участи; 7. Вторая часть «Послания»: об евангельском рассказе о пасхальном ужине; 8. Центральная часть «Послания»; 9. Третья часть «Послания»: борьба женщины со змеем.

Parole chiave: Священные писания, послание, старец Филофей, Третий Рим.

Sacre scritture, epistola, monaco Filofej, Terza Roma.

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Laura Solidoro, «Nossalità e potestas: esigenze processuali come fattore di trasformazione del diritto sostanziale» (p. 207-217)

Review article of Giacomo D'Angelo, *Il concetto di 'potestas' nell'editto 'de noxalibus actionibus'. Per una ricostruzione della fase 'in iure' del processo nossale classico*, «Dipartimento di Giurisprudenza. Università

degli Studi di Palermo. *Annali del Seminario Giuridico. Monografie*, 13» (Torino, Giappichelli, 2017) p. 150. – In this essay the a. discusses the recent publication by G. D’Angelo, which faces the topic of the configuration of *potestas* (material disposability of the slave / complex, material and juridical power) as a premise for the passive role in noxal actions, with the connected problem of the modalities and contents of the *interrogatio in iure*; then the a. evaluates the analysis carried out by D’Angelo of some texts, not considered in previous literature, as an enforcement of the notion of edictal *potestas*, in which conveyed factual and juridical powers. After a re-reading of the reasons that, according to D’Angelo, brought to this (non-ordinary) settlement, the a. explains her thoughts about the possibility (denied by D’Angelo) to define the *potestas* as a ‘procedural law position’.

Parole chiave: *Potestas*, procedure, noxal actions.
Potestas, processo, azioni nossali.

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Anna Tarwacka, «Le prestazioni delle prostitute alla luce delle commedie di Plauto» (p. 195-200)

Plautus’ comedies point to the fact that the rental agreement regarding the use of prostitute services could have varied scope. At least three cases can be distinguished: a one-off service, a long-term rental contract with a guaranteed amount of time reserved for the customer (e.g. three nights a year), and a contract for exclusive use of a given prostitute for a specified period of time. In order to describe those contracts Plautus uses metaphors concerning public-law issues, namely terminology related to *locationes censoriae*, i.e. contracts for the lease of state revenues.

Parole chiave: *Locationes censoriae*, prostitution, *locatio conductio*, Plautus.
Locationes censoriae, prostituzione, *locatio conductio*, Plauto.

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Armando Torrent, «*Quaestiones de lege Iulia de adulteriis coercendis*» (p. 321-338)

The *lex Iulia de adulteriis coercendi* prescribed the immediate death of the adulterers taken *in fragranti domo mariti vel patris*. Based on the *paterna pietas* Papinianus prescribed the disapplication of the *poena capitis* to the *filia adultera*.

Parole chiave: *Lex Iulia de adulteriis coercendis*, Papinianus, *paterna pietas*.

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Caterina Trocini, «Cronaca del XXXIX Seminario internazionale di studi storici 'Da Roma alla Terza Roma'» (p. 581-583)

XXXIX Международный семинар исторических исследований «От Рима к Третьему Риму» по теме: «Учение о Третьем Риме: теоретические аспекты и реалии социума», прошел в Риме, на Капитолии, 15-16 апреля 2019 года. Семинар был организован Исследовательским центром «Джорджо Ла Пира» Национального Совета по Научным Исследованиям Италии в сотрудничестве с ИРИ РАН и с поддержкой Римского университета «Ла Сапиенца». Председателями Вступительного заседания были Кардинал Раффаэле Фарина, Заслуженный заведующий библиотекой Римской Католической Церкви, и Протоиерей Владислав Цыпин, Председатель Историко-правовой комиссии Русской Православной Церкви. Работы второго и третьего заседаний прошли под председательством Директора ИРИ РАН Юрия Петрова, Директора Центра евразийских исследований Римского университета «Тор Вергата» Риккардо Кардилли и профессора Римского университета «Ла Сапиенца» Франко Валлоккия. В заключении Вступительного заседания выступил Проректор Московской Духовной Академии Александр Задорнов.

Parole chiave: XXXIX Семинар, Рим, Третий Рим, Москва.
XXXIX Seminario, Roma, Terza Roma, Mosca.

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Caterina Trocini, «Per una prospettiva giuridico-religiosa» (p. 547-550)

Международные семинары исторических исследований «От Рима к Третьему Риму» с самого начала, с 21 апреля 1981 г., имеют поддержку Римского университета «Ла Сапиенца». Национальный Совет Исследований Италии поддерживает Семинары на основе Договора о сотрудничестве с Российской Академией Наук, благодаря деятельности Исследовательского отделения «Джорджо Ла Пира». В 1983 г. Римский городской совет единодушно постановил учредить организацию Семинаров по случаю официального празднования Дня основания города Рима Римской Мэрией. В течение этих почти сорока лет в Семинарах участвовали представители православного и католического духовенства. Юридическо-религиозная перспектива, характеризующая Семинары, усилилась в последние годы. Особенно она проявилась на XXXVIII Семинаре по теме «Универсальная империя, города, торговля: от Рима к Москве, к Нерчинску» (Капитолий, 20-21 апреля 2018 г.) и на XXXIX Семинаре по теме: «Учение о Третьем Риме: теоретические аспекты и реалии социума» (Капитолий, 15-16 апреля 2019 г.).

Parole chiave: Семинары 'От Рима к Третьему Риму', юридическо-

религиозная перспектива, XXXVIII Семинар, учение о Третьем Риме.
 Seminari 'Da Roma alla Terza Roma', prospettiva giuridico-religiosa, XXXVIII Seminario, dottrina della Terza Roma.

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Fabiana Tuccillo, «*Quod quisque iuris*: spunti dal diritto tardoantico e bizantino» (p. 418-427)

Starting from the *epistula* 47 of Demetrius Chrysolora – which seems to express an idea of justice inspired by the principle of mutual equity in relation to the judge's behavior – the aim of this article is to connect the text of the letter with other byzantine legal (and patristic) works. The author hypothesizes that there would have been a certain line of continuity with the Roman experience and especially with D. 2.2.1.1 (originally from Ulpian), also through the *medium* of *Matth.* 7.12.

Parole chiave: *Aequitas*, Demetrius Chrysolora, *Hexábiblos*, *edictum quod quisque iuris*.

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Mario Varvaro, «A proposito di *translatio iudicii*» (p. 218-228)

Review article of Friederike Erxleben, *Translatio iudicii. Der Parteienwechsel im römischen Formularprozess*, «Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte, 112» (München, Beck, 2017) p. viii, 311. – The paper critically deals with the *translatio iudicii* in the Roman formular procedure, newly faced by the author of the book.

Parole chiave: *Translatio iudicii*, formular procedure.
Translatio iudicii, processo formulare.

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Giorgio Vespignani, «Il matrimonio di Zoe Paleologhina con Ivan III di Mosca tra dottrina politica e realtà sociale» (p. 567-573)

Доклад прозвучал на XXXIX Международном семинаре исторических исследований «От Рима к Третьему Риму» по теме: «Учение о Третьем Риме: теоретические аспекты и реалии социума», организованном в Риме, на Капитолии, 15-16 апреля 2019 года Исследовательским центром «Джорджо Ла Пира» Национального Совета по Научным Исследованиям Италии в сотрудничестве с ИРИ РАН. Брак великого князя Московского Ивана III (1472 г.) по племяннице последнего византийского императора Софии Палеолог позволил впервые говорить о преемственности с Римской империей.

Породнившись с византийской императорской династией, Московский князь символически получил от своей супруги права государей, павшего под турками Второго Рима и открыл новую страницу в истории Русского государства как Третьего Рима. Символом преемственности Московской Руси от Византии стало принятие в качестве государственного герба Московской Руси двуглавого орла, который считался официальным гербом Византии при последней династии Палеологов.

Parole chiave: Брак, София Палеолог, Иван III, Москва.
Matrimonio, Zoe Paleologo, Ivan III, Mosca.

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Maria Zabłocka, «La legge delle Dodici Tavole nella ricostruzione di Hotoman» (p. 429-442)

The first attempts to reconstruct the the Law of the Twelve Tables during the Renaissance were made by Aymar du Rivail and Alexander ab Alexandro. Their work cannot be called a reconstruction in the proper sense of the word. Johan Oldendorp was the first to pay attention to the systematics of the Decemvirs' collection. However, his reference to the systematic of the Twelve Tables was purely formal, because in fact the fragments were arranged according to the ciceronian system of *De legibus*. Franciscus Hotomanus arranged the fragments in the order *ius sacrum-ius publicum-ius privatum* too. When reconstructing the text, Hotomanus for the first time proposed a twofold way of presenting the text. Where he was sure of the words of the Law, he quoted them in large letters (caps) with the use of verbs in the imperative. In the cases only probable, when he had doubts, he wrote the text in lowercase using verbs in the presumptive mode. On the basis of the text quoted by the a., it can be noticed that the arrangement of fragments related to particular issues is logical. Sometimes the proposals of Hotomanus seem more appropriate than the order of fragments proposed by modern reconstructions. One could say that the only drawback of this palingenesis is the lack of division into twelve tables.

Parole chiave: Law of the Twelve Tables, reconstruction, Hotomanus.
Legge delle Dodici Tavole, ricostruzione, Hotomanus.

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Jan Zabłocki, «Parole e costumi in cui è racchiuso il senso delle leggi» (p. 395-407)

The article presents the discussion described by Aulus Gellius in *Noctes Atticae* (Gell. 20.1). It allegedly took place between philosopher

Favorinus from Arelate and lawyer Sextus Caecilius and concerned the humanitarian nature of the XII Tables. For the philosopher, an example of the inhumanity of this act was the rule: *Si morbus aevitasve vitium escit, [qui in ius vocabit] iumentum dato. Si nolet arceram ne sternito* (tab. 1.3) which allowed to place ill and handicapped person on top of an animal and carry him to court but forbade to deliver a vehicle to him. The lawyer argued that force could have been used against a refractory defendant, who avoided the initiation of the trial, but the provision cited by the philosopher regarding an ill and handicapped person ordered, according to the original meaning of the words, to provide an ordinary, not comfortable, vehicle. Referring to the interpretation rule he expressed in the sentence: *in verbis et moribus sententia legum comprehensa est* (Gell. 20.1.6), he justified his position by the fact that one should take into account the meaning of the words at the time of issuing the act, and the rule should be interpreted based on a wider context and historical background.

Parole chiave: Aulus Gellius, *Noctes Atticae*; humanity of the Law of the Twelve Tables; *verba et mores*.
Aulo Gellio, *Noctes Atticae*; umanità delle leggi decemvirali; *verba et mores*.

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Vladislav Zypin, «La Terza Roma nella storia e nell'attualità (apologia della dottrina del monaco Filofej)» (p. 574-580)

После падения Константинополя (1453 г.) и в связи с женитьбой великого князя Ивана III на принцессе из византийского дома Палеологов Софии (1472 г.), а также перенесением императорских регалий в Москву, но главным образом вследствие того, что освободившееся от монголо-татарского ига Московское княжество стало единственным независимым и самодержавным православным государством, на Руси складывается учение о Москве - Третьем Риме, которое было сформулировано старцем Филофеем. После венчания на царство Ивана Грозного (1547 г.) и учреждения патриаршества в Москве (1589 г.) учение старца Филофея приобрело статус официальной доктрины. В наше время, когда в стране преодолеваются идеологические выверты прошлых эпох, учение старца из Елеазарова монастыря становится особенно актуальным. Москва и ныне воспринимается миллионами людей, отвергающих проект однополярного мира, как своего рода Третий Рим, способный подорвать планы строителей глобальной империи.

Parole chiave: Учение, Москва, Третий Рим, Филофей псковский.
Dottrina, Mosca, Terza Roma, Filofej di Pskov.

[a cura di PAOLA SANTINI]

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