

Abstract

Werner Eck, *Senatus consulta in lateinischen Inschriften aus den Provinzen*

The article analyses a corpus of thirteen *senatus consulta* known by Latin inscriptions found in the Roman provinces. It begins from some considerations based on the *senatus consultum de Cn. Pisone patre*, concerning the political effects produced by frequent non-publication and the marginality of the number of them that were made accessible to the community by public diffusion. Then it examines form (language, date, number and name of senators belonging to the assembly) and content of *senatus consulta* belonging to the corpus taken into consideration. Finally it concludes emphasizing the dominance of the Imperial power in the process of their formulation, until the second half of the second century A.D.

L'articolo analizza un corpus di tredici *senatus consulta*, noti attraverso iscrizioni latine provenienti dalle province romane. Inizia con il formulare alcune considerazioni generali basate sul *senatus consultum de Cn. Pisone patre*, relative agli effetti politici prodotti dalla frequente mancata pubblicazione dei provvedimenti e dal marginale numero di essi accessibili dalla loro pubblica diffusione. Prende, poi, in esame taluni aspetti del corpus analizzato, quali forma (lingua veicolare, data, numero e nome dei senatori partecipanti all'assemblea senatoria al momento dell'emanazione) e contenuto dei provvedimenti. Infine osserva che, sino alla seconda metà del secondo secolo d.C., nella formulazione dei provvedimenti senatori si percepisce una dominante centralità del potere imperiale.

Parole chiave

Senatus consulta, Latin inscriptions, Roman provincial law.

Senatus consulta, iscrizioni latine, diritto provinciale.

Daniela Tarditi, *Il senatus consultum de Bacchanalibus: l'epigrafe e le sue disposizioni*

The essay deals with *S.C. de Bacchanalibus*, by investigating the epigraphic testimony and the rules. The paper also focuses on the celebration of that rite in the region of *Bruttii* and analyses the repression of the Bacchanals in *ager Teuranus*.

Cet essai traite les *S.C. de Bacchanalibus*, en analysant les témoignages épigraphiques et les aspects préceptifs. Le texte insiste également sur la célébration des bacchantales sur le territoire des *Bruttii* et approfondit le pouvoir de disposition des organes centraux romains vers les adeptes célébrant les bacchantales dans l'*ager Teuranus*.

Parole chiave

S.C. de Bacchanalibus, *Bruttium*, *ager Teuranus*.

S.C. de Bacchanalibus, *Bruttium*, *ager Teuranus*.

Salvatore Marino, *Studio sulle proposizioni relative e condizionali nel linguaggio legislativo romano. Parte Prima: Basi della ricerca, linee di tendenza, prime testimonianze*

This Paper is the first part of an investigation of the language of the ancient Roman legislation with particular focus on the conditional and the relative clauses. The conditional clause is a typical feature of the normative language and the relative clause has a peculiar important role in the Roman legislation. This paper tries to create the first basis of the investigation. It begins with a general introduction in the normative language with attention to the types of norms expressed in it and with the discussion of the relationships between language and law from the perspective of the Roman culture. It continues with a brief description of the historical development of the normative

proposition into both elements of relative and conditional clauses. The necessary references to the ancient Near Eastern Laws, as well to the ancient Greek and Italic legislation are also presented. Finally the Paper tries to give a key of interpretation of the later evolution with an analysis of the first examples of the older Roman normative language.

Die vorliegende Studie ist der erste Teil einer Untersuchung der römischen Gesetzessprache mit besonderem Augenmerk auf dem Konditional- und Relativsatz. Neben dem als kennzeichnendes Merkmal der Normensprache wohl anerkannten Konditionalsatz spielt der Relativsatz eine bedeutende Rolle in der Sprache der römischen Gesetzgebung. Dieser erste Beitrag bietet die Grundlagen der Untersuchung. Zunächst wird eine Einführung in die Sprache der Gesetzgebung gegeben mit Fokus auf die Arten von Normen, die sie ausdrücken kann und auf das Verhältnis von Sprache und Gesetz in der Wahrnehmung der römischen Kultur. Beschrieben wird dann die erste Entwicklung der Normensprache mit den jeweiligen Elementen des Konditional- und Relativsatzes. Die wichtigsten unentbehrlichen Hinweise auf die Entwicklung der altorientalischen, althellenischen und altitalische Gesetzgebung werden im Folgenden vorgestellt. Schließlich versucht man den Interpretationsschlüssel für die spätere Entwicklung darzustellen mit einer Untersuchung der ersten Beispiele aus der älteren römischen Gesetzgebung.

Parole chiave

Language of ancient legislation, relative clause, conditional clause.
Gesetzessprache der Antike, Relativsatz, Konditionalsatz.

Salvo Randazzo, *Viabilità pubblica, economia e diritto nelle pieghe del Teodosiano*

The paper deals with the relationship between *iura itinerum* and the public interest. It also investigates the *cursus publicus* and viability in the light of the *Codex Theodosianus*, and analyses their structural and functional profiles.

Cet essai traite les *iura itinerum* (observée du point de vue de l'intérêt public), le *cursus publicus* et les routes, à la lumière du *Codex Theodosianus*, dans ses profils structurels et fonctionnels.

Parole chiave

Roads, *itineraria*, *Codex Theodosianus*.
Voirie, *itineraria*, *Codex Theodosianus*.

Laura D'Amati, 'Parentes alere': *imperatori, giuristi e declamatori*

The *Alimenta* requirement was of legal importance for the family, according to the prevailing doctrine, only during the principality, developing through *cognitio extra ordinem* and the imperial constitutions. The analysis here focuses on the obligation of children towards their parents, where two rescripts are fundamental: those of Antoninus Pius and *Divi Fratres*, as well as two *sententiae* attributed to Hadrian, the authenticity of which seems to be accepted today. But, besides the later imperial provisions, the jurists of the first principality were already theorizing about the feeding of parents by their children. In such a context, to better understand the transition from moral duty to legal duty, the author has focused on the world of rhetorical literature, as this has often been the subject matter of rhetoricians. One of the most common provisions in the schools of rhetoric is the one which requires children to provide food for their *parentes*, under pain of being chained. Because lawyers had a thorough rhetorical training, both this rule and the arguments put forward in the demonstrative part of their rhetorical speeches may have played a decisive role in further legal theorization.

L'exigence alimentaire a été rendue juridiquement pertinente dans la famille, selon la doctrine dominante, seulement pendant la principauté, se développant à travers la *cognitio extra ordinem*

et les constitutions impériales. L'analyse a porté sur l'obligation des enfants envers leurs parents: en particulier il y a deux rescrits fondamentaux de Antonin le Pieux et *Divi Fratres*, ainsi que deux *sententiae* dues à Hadrien, dont l'authenticité semble être acceptée aujourd'hui. Mais, au-delà des interventions impériales successives, déjà les juristes de la première principauté ont théorisé les moyens de subsistance des parents de la part de leurs enfants. Dans un tel scénario, pour mieux comprendre la transition du devoir moral à l'obligation légale, l'auteur a abordé la portée de l'enquête dans le monde de la littérature déclamatoire, étant le sujet traité par les rhéteurs à plusieurs reprises. L'une des normes les plus courantes dans les écoles de déclamation est celle qui exige aux enfants l'obligation de fournir de la nourriture à leurs parents, sous peine d'être mis dans les chaînes. Puisque les juristes avaient reçu une formation rhétorique approfondie, et cette règle et les arguments avancés dans la démonstration des diatribes ont pu jouer un rôle décisif dans les élaborations successives.

Parole chiave

Alimenta, parentes, declamations.

Alimenta, parentes, déclamations.

Lucio Parenti: *Uno ius controversum in tema di operis novi nuntiatio*

This essay analyses two texts (D. 39.1.23, Iav. 7 *ep.* and D. 4.7.3.3., Gai. 4 *ad ed. prov.*) which appear to sharply contrast each other. Both fragments deal with an *operis novi nuntiatio* notified to a land seller and a building constructed by the land buyer. The contrast concerns the extension of the ban to the purchaser. The paper refuses 1) the attempt to level out the opinions of Iavolenus and Gaius, 2) the thesis that their decisions concerned different cases, 3) the thesis that justifies their contrast in the light of the differences between Italic and provincial jurisdictions. The author believes that question was a case of *ius controversum*: the words '*quasi*' and '*dicitur*' could suggest that Gaius was referring an opinion he did not share.

Mit Bezug auf die *operis novi nuntiatio* finden wir zwei Stellen in den Digesten – Javolen D. 39.1.23 und Gaius D. 4.7.3.3 –, die sich anscheinend widersprechen. Obwohl derselbe Tatbestand in beiden Stellen diskutiert wird (jemand, demgegenüber eine *operis novi nuntiatio* vorgenommen wurde, hatte den Grundstück verkauft, wo der Käufer dann gebaut hatte), bei Gaius sieht so aus, der Käufer hatte nicht aus dem Inderdikt; bei Javolen hingegen doch. Die ältere und immer noch herrschende Auffassung, die die Widersprüche zu mildern versucht und die Entscheidungen einander anzupassen, ist ebenso wenig überzeugend wie die andere Behauptung, es handele um zwei verschiedene Tatbestände. Auch nicht annehmbar ist die Behauptung, die Widersprüche auf der Basis eines Unterschiedes zwischen Italischem und Provinzialem Recht erklären zu können. Es ist dagegen wahrscheinlich, dass es mit Bezug auf diesen Fall *ius controversum* gab und, dass Gaius ja der Vollständigkeit halber über die Entscheidung hinsichtlich der *actio in factum de alienatione iudicii mutandi causa facta* berichtet hat, sie trotzdem nicht zu eigen machen wollte. Sein Bedenken kann man dem «*quasi*» in Zusammenhang mit «*dicitur*» entnehmen.

Parole chiave

Operis novi nuntiatio, actio in factum de alienatione iudicii mutandi causa facta, emptor.

Operis novi nuntiatio, actio in factum de alienatione iudicii mutandi causa facta, emptor.

Michele Pedone, *Lo ius controversum di D. 13.5.27: alcune osservazioni a margine di un'antica disputa*

After being shrouded in mystery for a long time, the *receptum argentarii* (the promise of payment issued by a Roman banker) has been partially unveiled by Lenel's researches on the original structure and contents of the Roman sources. Among the texts about the *receptum* identified by Lenel,

a pivotal role is played by D. 13.5.27 (Ulp. 14 *ad ed.*), which shows a doctrinal dispute between Labeo, on the one hand, and Pomponius and Ulpian, on the other hand. The essay investigates the reasons underlying this *dissensio*, examining the principal scholarly theories and aiming at the formulation of new ones, thus attempting to clarify the relation between *receptum argentarii* and *voluntas domini*, in particular as far as the Roman banker's recourse is concerned.

Le *receptum argentarii*, la promesse de paiement émis par le banquier romain a longtemps été une institution mystérieuse, dont seulement la *Palingénésie* de Lenel a finalement permis une redécouverte partielle. Dans le contexte des sources sur le *receptum* isolé de Lenel, un rôle central est joué par D. 13.5.27 (Ulp. 14 *ad ed.*), qui est marqué par une divergence de vues entre les juristes: Labéon, d'une part, et Pomponius et Ulpian sur l'autre. L'article vise à reconstituer les raisons de ce *dissensio*, compte tenu de la conjecture déjà avancée par la doctrine et d'essayer d'en formuler de nouvelles conjectures, pour tenter de clarifier la relation entre *receptum argentarii* et *voluntas domini*, en particulier pour l'exercice du recours par le banquier romain.

Parole chiave

*Ius controversum, receptum argentarii, negotiorum gestio invito vel ignorante debitore, contem-
platio domini, recourse.*

*Ius controversum, Receptum argentarii, Negotiorum gestio invito vel ignorante debitore, Contem-
platio domini, recours.*

Luca Ingallina, *Osservazioni su D. 3.5.20, Paul. 9 ad ed.: un famoso caso di rapimento*

The paper aims to recall the famous case reported in D. 3.5.20, Paul. 9 *ad ed.*, where the kidnapping of three Romans by the Lusitanians is described. The case will be discussed from an historical-juridical perspective, having regard to the doctrinal contribution, in order to suggest a peculiar interpretation.

L'essai a l'intention de renvoyer l'affaire rapporté dans D. 3.5.20, Paul. 9 *ad ed.*, qui décrit la célèbre histoire des trois Romains enlevés par les Lusitans. On revient sur le cas sous le profil historique et juridique, ayant à l'esprit la contribution de la doctrine, afin de proposer une interprétation particulière.

Parole chiave

Kidnapping, Lusitanians.

Enlèvement, Lusitans.

Mario Varvaro, *La storia del 'Vocabularium iurisprudentiae Romanae'*

A close examination of the intersection of printed and unpublished sources allows, in a comprehensive manner, to reconstruct the history of the project of the *Vocabularium iurisprudentiae Romanae*. Within this unitary framework the idea that interpolationism was based on a lexical motive, and not on a juridical one, is discussed.

Eine eingehende Überprüfung von gedruckten und ungedruckten Quellen ermöglicht es, die Projektgeschichte des *Vocabularium iurisprudentiae Romanae* vollständig zu rekonstruieren. In diesem Rahmen wird die Vorstellung erörtert, nach der hinter der zeitgenössischen Interpolationenkritik ein wesentlich lexikalischer, nicht aber juristischer, Beweggrund zu erblickten sei.

Parole chiave

Index Digestorum, Vocabularium iurisprudentiae Romanae, text criticism, interpolation criticism, Theodor Mommsen, Otto Gradenwitz, Preußische Akademie der Wissenschaften, Savigny-Stiftung.

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Giancarlo Vallone, *La costituzione feudale e gli intenti dei baroni*

The paper investigates, in the light of the latest historiography, the concepts of constitution, sovereignty and State in the history of feudalism during the Kingdom of Naples and their relationship with the Crown of Aragon. In particular, it focuses on the role of Gian Antonio Orsini, prince of Taranto, in the age of the Conspiracy of the Barons.

L'essai explore, à la lumière de l'historiographie plus récente, les concepts de constitution, de souveraineté et d'Etat dans l'histoire de la féodalité dans le royaume de Naples et leur rapport avec la Couronne d'Aragon, en se focalisant en particulier sur le rôle de Gian Antonio Orsini, prince de Tarente, près de la Conjuration des Barons.

Parole chiave

Gian Antonio Orsini, feudalism, sovereignty.

Gian Antonio Orsini, féodalisme, souveraineté.

Eliana Augusti, *Tra comparazione e globalizzazione: dialoghi di storia del diritto*

The paper analyses the current state of the history of law, examining how it has changed since 60s. The essay focuses on its new taxonomies and space of narration, in order to rewrite legal history and to endorse the special identity of the discipline and its methodological system, through a comparative approach too.

O presente artigo se interroga sobre o estado atual da disciplina, percorrendo de modo problemático os nódulos da mudança. Uma vez interiorizadas as novas taxonomias e perdidas as referências características da espacialidade, a história do direito pode repensar-se. Consciente da sua especialidade e do rigor da sua estrutura metodológica, a história do direito pode, assim, abrir-se de modo produtivo às sugestões oferecidas pela história do pensamento, pelos estudos comparatistas e pelos estudos sobre a globalização.

Parole chiave

Legal history, global history, comparative approach.

História do direito, história global, comparação.