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An Historical Introduction to Private Law R. C. van Caenegem,1992-03-27 This book provides an introduction to the rise and development of present day private law

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J.G.A. Linssen,2001-10-01 Voordeelsafgifte is een relatief onbekende rechtsfiguur in het Nederlandse privaatrecht In diverse andere landen is er veel literatuur en rechtspraak over voordeelsafgihe Dit geldt met name voor Duitsland De Duitse literatuur en rechtspraak worden in deel 1 van deze studie beschreven en geanalyseerd In deel 2 wordt aandacht besteed aan het Nederlandse recht Daarbij wordt soms ook verwezen naar ontwikkelingen in Zwitserland Engeland Frankrijk en de Verenigde Staten In deel 3 van deze studie ontwikkelt de auteur mede op basis van de bevindingen in de eerste twee delen een zelfstandig en van het schadevergoedingsrecht ontkoppeld systeem voor de verplichting tot voordeelsafgifte Hij baseert dit op het leerstuk van de ongerechtvaardigde verrijking De ongerechtvaardigde verrijking zoals in 1992 geregeld in artikel 6:212 BW wordt kritisch besproken en op diverse punten worden fundamentele wijzigingen voorgesteld Het schadevergoedingskarakter van het Nederlandse verrijkingsrecht wordt verworpen evenals bijvoorbeeld de opvatting dat een actie uit ongerechtvaardigde verrijking een restactie of subsidiair hulpmiddel is Volgens de auteur gaat het in het verrijkingsrecht om afgihe van het concreet of abstract begrote voordeel dat is verworven door bijvoorbeeld het gebruiken

uitoefenen of exploiteren van aan een ander voorbehouden rechten en bevoegdheden Geconcludeerd wordt onder andere dat het Nederlandse verrijktingsrecht langs deze weg een dynamische werkingssfeer verkrijgt waarmee kan worden ingespeeld op de maatschappelijke en juridische ontwikkelingen rond beschermenswaardige en aan een rechthebbende voorbehouden rechten en bevoegdheden De zakelijke borgtocht naar Belgisch recht Raf Van Ransbeeck, 2005 **Recht als religie** Bart Wauters, 2005 Legal history review , 1995 *Revue internationale des droits de l'antiquité* , 1983 **De prijs van de liefde** Marianne Braun, 1992 For review see B S Hempenius van Dijk in Bijdragen en mededelingen betreffende de geschiedenis der Nederlanden jrg 110 afl 1 1995 p 125 126 **Subject Catalog** Library of Congress, 1979 *Library of Congress Catalogs* Library of Congress, 1980 *Officio iudicis cautiones interponi debere* , El objeto de estudio de la presente monografía se centra en el análisis casuístico de las stipulationes iudiciales en el procedimiento formulario del derecho romano La delimitación del objeto viene determinada por la concreta categoría jurídica procesal que se pretende analizar las estipulaciones judiciales cuyo surgimiento se enmarca en la fase apud iudicem desarrollada ante el iudex privatus del procedimiento formulario proceso propio del derecho romano clásico La presente monografía se divide en cinco partes diferenciadas Un primer capítulo en el que se lleva a cabo un status quaestionis doctrinal sobre la materia objeto de estudio Seguidamente nos encontramos un segundo capítulo de carácter introductorio en el que se muestra una radiografía general de las estipulaciones procesales en el procedimiento formulario centrándonos en el análisis de la clasificación de las stipulationes de Pomponio recogida en D 45 1 5pr Pomp 26 ad Sab y en las características de las estipulaciones pretorias y judiciales Seguidamente nos encontramos ante un extenso tercer capítulo que ocupa la centralidad del trabajo que está dedicado a determinar la base textual y a examinar cada una de las estipulaciones judiciales clásicas identificadas en las fuentes El examen individualizado de cada categoría se inicia mediante la identificación de las fuentes de cada concreta stipulatio sigue con el análisis de cada una de las fuentes divididas según la acción en cuyo procedimiento podía surgir y finaliza con un esquema sintético de la categoría que nos aporta una visión general de las finalidades de cada estipulación Una vez analizadas todas las stipulationes iudiciales detectadas en las fuentes la monografía desemboca en un cuarto capítulo en el que se analiza el fundamento formulario de las estipulaciones judiciales se detallan las previsiones formularias que las habilitan y se examina el concepto clásico del officium iudicis tomando en consideración la praxis judicial clásica y el papel de la jurisprudencia romana en relación con el surgimiento de las stipulationes iudiciales Finalmente un último apartado conclusivo expone los resultados obtenidos de nuestro estudio

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