Moderamen inculpatae tutelae: The Jurisprudence of a Justifiable Defense

Summary: The term “moderamen inculpatae tutelae” first appeared in an imperial constitution of the late third century. It described what action was permitted to persons who possessed property justly. There was no interpretation of the term or discussion of how a defense might be limited until the twelfth century, when the jurists attempted to define the boundaries of a justified defense of property and also what actions persons could take in defending themselves. The jurisprudence of a justified defense they created has remained the foundation of self-defense until the present day.

Key Words: Self-defense; moderamen inculpatae tutelae; criminal procedure; law of war; malfeasance; vengeance; ius naturale; ius gentium; Huguccio; Prospero Farinacci.

Parole chiave: autodifesa; moderamen inculpatae tutelae; procedura criminale; diritto di guerra; atto illecito; vendetta; ius naturale; ius gentium; Uguccio; Prospero Farinacci.

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