

Contro la “silenziosa, ignobile piccolezza di carattere e di spirito”: appunti su libertà, morale e diritto in J.F. Stephen

CARLO SABBATINI

Against the “quiet ignoble littleness of character and spirit”: Notes on Liberty, Morals and Law in J.F. Stephen

Abstract: The purpose of this work is to investigate the assumptions of the “legal moralism” of J.F. Stephen (1829-1894) a lawyer, essayist and judge of the Victorian England, focusing the interest on the span that precedes the publication of *Liberty, Equality, Fraternity* (1873). To this end, the moral and religious bases of Stephen’s conservative liberalism are investigated, to show how these assumptions take form in his idea of social bonds, governed by conventional morality and law. The influence of imperativism leads Stephen to conceive the latter through the paradigm of criminal law, whose scientific foundation belongs to a jurisprudence, in which the author tries to combine the analytical approach of J. Austin with the historical one of H.S. Maine. This structure is used in the essay to highlight the feedback through which the law protects and provides a relative stability to the moral, which in turn constitutes a factor of gradual change of the other.

Keywords: Liberalism, Criminal law, Jurisprudence, Religion.

notizie di POLITEIA, XXXIV, 129, 2018. ISSN 1128-2401 pp. 114-133