

**IVRA LXVII
(2019)**

NICOSIA G., D. 40.5.20, un testo da secoli incredibilmente ignorato: i settantotto anni di Pomponio e la sua discendi cupiditas [p. 1-5].

Abstract

D. 40.5.20 is an extraordinary text, which has been inexplicably ignored for centuries: the thought of Pomponius is here examined in light of data useful for Pomponius' chronology.

Keywords

Discendi cupiditas – sola vivendi ratio optima – octavus et septuagesimus annus.

FIORI R., La nozione di centuria dalle origini alla media repubblica [p. 7-39].

Abstract

The Roman *centuria* has at least three different meanings: division of the people, division of the assembly, division of the army. It is usually held that these three meanings coincided – i.e. that the people were divided in sections that were exactly reproduced in the army and the assembly – at the time of the centuriate reform, but the existence of the so-called *centuria 'niquis scivit'* shows that the *centuria* of the assembly was simply a polling station, not related to the other two kinds of *centuria*. The time when the meanings of *centuria* were coinciding is rather to be found during the first regal period, when the people, the army and the assembly were divided in thirty *curiae* of one hundred men each – that is in *centuriae*. This archaic structure was abandoned in the centuriate assembly and in the *centuriatio* of the citizens, but was retained by the legion, legally based on thirty *centuriae* still during the republic.

Keywords

Centuria – curia – centuriatio – Roman assembly – Roman army.

WOŁODKIEWICZ W., Plus ratio quam vis - Una sentenza universale [p. 41-47].

Abstract

“*Plus ratio quam vis*” – as a motto of the Jagiellonian University – was officially adopted in 1964 in the 600th anniversary of founding of the Jagiellonian University. The Latin maxim “*Plus ratio quam vis*”, was also the motto of the SIHDA 72th Session in Cracow in September 2018. This maxim is not a formula derived from sources of legal nature, but erotic one. Nevertheless, it is an universal maxim, which can be applicable also to university education and to law history. The maxim may refer to the rational quality of the created law and its development (*ratio*). Moreover, it can also concern to the issue of defence against physical and mental constraints (*vis*). It may also denote to the postulate of the rationality of legal education and the role of Roman law in it. The maxim comes from the elegiac poet Maximianus, who lived in the 6th century AD and was the author of the poem *Elegiae*. However, the maxim might have significantly earlier roots and perhaps comes from Gaius Cornelius Gallus, who lived in the times of Octavian August and Virgil.

Keywords

Jagiellonian University in Cracow – 72th SIHDA Session in Cracow – Maximian *Elegiae* – *Plus ratio quam vis*.

CORTESE B., Tra 'aequitas' e 'ius' nella causa curiana [p. 49-77].

Abstract

This study is intended to carry out some reflections on the relationship between *aequitas*, law and interpretation, starting with the well-known Curian cause. The doctrinal reconstruction of this judicial case has, for a long time, aimed at highlighting a relationship of opposition, of conflict

between law and *aequitas*. In fact, beyond the clash between the theses upheld in court, daughters of partisan interests, in the cause, and in its outcome, the action of correction and integration of the traditional civil *ius* by the *aequitas* finds concrete application, in a perspective that is not at all conflictual but of useful interaction. From this it seems to derive the opportunity of a general rethinking of the role of the *aequitas* in relation to formal Roman law, but also in the current policy of law a reflection on the need to review the spaces for interpretation and, where necessary, overcoming the law.

Keywords

Aequitas – successione testamentaria – sostituzione – volontà – atto di disposizione negoziale.
Aequitas – testamentary succession – substitution of heir – will – act of voluntary disposal.

NICOSIA G., *Errantis nulla voluntas* [p. 79-81].

Abstract

By *errantis nulla voluntas* and other analogous formulations the Roman classical jurisprudence expresses the result achieved each time thanks to the analysis of the cases.

Keywords

Voluntas errantis – *per errorem*.

PEACHIN M., *Rome's Emperor of Law* [p. 81-117].

Abstract

Kaius Tuori ha prodotto un nuovo tentativo di un racconto sintetico dell'aumento della giurisdizione da parte dell'imperatore romano: l'argomento è ampio e complesso, con Tuori che discute principalmente di vari tipi di "narrativa" che hanno funzionato per creare un imperatore del diritto. La presente discussione spera di delineare chiaramente la posizione di Tuori, e quindi di aggiungere qualche sfumatura a questo argomento, suggerendo anche indicazioni in cui la discussione potrebbe ora proficuamente muoversi".

"Kaius Tuori has produced a new attempt at a synthetic account of the rise of jurisdiction by the Roman emperor. The topic is expansive, and complex, with Tuori arguing principally for various kinds of 'narrative' having functioned to create an emperor of law. The present discussion hopes to delineate clearly Tuori's position, and then to add some nuance to this whole topic, while also suggesting directions in which discussion might now profitably move".

SCEVOLA R., *Centralità del diritto romano negli altri 'saperi': sulla metodologia e i contenuti di una recente opera* [p. 118-142].

Abstract

Comparison with other branches of knowledge – and not only those that have always been regarded as related or qualified as auxiliary sciences – allows to verify how important the contribution of Roman law still is, also in view of the widening horizons occupied by legal science. These horizons have become heavily obscured in recent decades due to normative choices aimed at meeting contingent needs, because of the surrender to the hermeneutical and historical foundations which constituted the best expression of that science. In a recent work by Luigi Garofalo, *Echi del diritto romano nell'arte e nel pensiero*, innovative analyses are carried out to grasp from different points of view the centrality of Roman law even within the other forms of knowledge. Considered the masterpieces of David, Rubens and Kandinsky, as well as the pages of Zolla, Sloterdijk, Agamben, Arendt and Gómez Dávila, the scholar proposes an original research methodology. It does not derive, in fact, the centrality of Roman law from (albeit meritorious) border investigations, which bring into contact different disciplines going to touch neighboring elements: on the other hand, starting from fields at first sight far removed from the Romanistic one, Garofalo brings out with

remarkable accuracy 'from within' other knowledge the founding role of Roman law. In this way, he sheds light on the large space reserved for the latter in various contexts, thus expressing its own reasoned disappointment for the huge depletion of contemporary legal science, due to the weakening of the Romanistic contributions.

Keywords

Roman legal science – Research methodology – Art – Philosophy – *Provocatio* – *Devotio* – *Iustitium* – *Homo sacer*.