

Roma Communis Patria

Prof. Dr. Emanuele Conte
(Università degli Studi “Roma Tre”, Roma)

The Renaissance of Roman Law has been seen by the historical school as a pure scientific happening, based on the discovery of the book of the Digest by a "genial man" (H. Kantorowicz) and the study of Roman law by the school of the glossators in Bologna. The city of Rome plays actually a limited role in this vision, and the hypothesis of a legal school at Rome, made by Fitting, has been totally rejected by the scholars. In fact both, the real city and the myth of Rome, did play an important role in the process of renewal that marked the European civilization in the 12th Century. The papal Curia made a clear choice for Roman legal procedure during the schism of 1130-40, while in Bologna Bulgarus had just founded his school. Roman procedure and Roman ideas of private law started very early to be used in practice by the papal curia . But also the myth of Rome played a crucial role in the shaping of the institutional world of the 12th century. Rome as a real city proudly rediscovered his ancient roots, and Rome as eternal idea was used in public law to restore the supreme sovereignty of both, the Pope and the Emperor.