STUDI
parlamentari
e di politica
costituzionale

Abstracts of Articles

AUGUSTO CERRI

Law and science: indifference, interference, protection, promotion, limitation

The scientific hypothesis is in some ways linked to the cultural framework of the researcher; even if it be always compared with the experience. However, it can never be verified, but only not falsified by a congruous set of experiments: that implies its inavoidable problematic nature, but also its independence by the cultural framework of the society, because the eventual falsification is not dependent by it. The problematic nature of scientific research requires reasonable criteria of evaluation, that are, already, beyond the scientific knowledge when the research touches essential human goods (the health, e.g.).

The problematic nature of the freedom of scientific research and also of the juridical framework that is necessary to its development hence arises. The scientific research is itself good and it is also useful to the common wealth. It must be preserved and encouraged, but it is unavoidably linked to the ruling of the society.

The connection between juridical rules and scientific laws (that are hypothesis not falsified by a congruous set of experiments) can be, sometimes, extremely complicated for example in the cases of technical rules and of judicial scrutiny of technical discretion; and it becomes almost dramatic in the so called "bio-ethics", that is in the experiments which involve human life and its conditions. The democracy, at all, is a succession of experiments whose effects are less reversible as usual; it suggests a juridical strict scrutiny of political choices in this context.

MICHELE BELLETTI

Fungibility and *interchangeability* between national and community acts: the contribution of Constitutional Court's case-law

Recent events related to the political and institutional evolution at european level have called the attention to a series of judgments of the

national Constitutional Courts. In particular the framework decision concerning the so-called "European arrest warrant" underlines the need to progressively align member States' constitutional systems. Referring to the sources of law and in particular to the relationship between national and regional sources, the process of european integration has already had radical effects. The essay deals with the fungibility and interchangeability of national and community sources of law so as to the respect of the so-called "riserva di legge" as much as possible.

MARIA GRAZIA GENOVESE

Constitutional judges independence and reform of parliamentary immunities

This study proposes an analysis of the evolution of the interpretation of the immunities of Italian Constitutional Court's members.

The most recent constitutional case law on parliamentary immunities shows a certain "self restraint" of the guarantees of immunity in the relationships among the powers of the State. The Court, in fact, passed from an external verification of the use of the power of the Chambers to an inside control, defining the criteria for the legitimate use of the parliamentary power.

The question of referring the definition of the content of the immunity to univocal criteria subsists, to greater reason, for the Constitutional judges. The Court, in a possible conflict of attributions with the Magistracy, would be "iudex in causa propria".

The reform of the art. 68 Cost. has some consequences upon the immunities of the members of the Constitutional Court. The literature proposes two versions of the applicability of the reform to constitutional judges; any way the autonomy and independence of a constitutional organ it is not an anymore "unicum without comparisons".