

STUDI

parlamentari
e di politica
costituzionale

Abstracts of Articles

ALBERTO DE ROBERTO

The regulation after the new Title V of the Constitution

After the emanation of the new Title V of the Italian Constitution, the regulation is going to spread in regional reality and in local autonomies' world, in a way never seen before.

In this context, De Roberto's study aims to set the new forms of regulation in the general sources of the law, trying to verify which rules and principles, referred in the past to a State's regulatory power, could be also applied in the new regime.

PIETRO CIARLO

Strong Government versus weak Parliament: balancing of powers

The federalising process, which consists in the devolution towards local Governments and in the European integration, has determined a multiplication of the decisional centres and of the formal and informal procedures of coordination among the political actors. However, the negotiated and multilateral legislation causes the crisis of the idea of the Constitution as a normative tool. It comes out from the analysis of the division of competences between these actors. Therefore, the Constitution as rule of competences is in a state of crisis. In this Constitutional context, an important role is played by the executive power, that is the natural mediator between EU and the Regions. The consequence of this central position is the political strengthening of this organ. However, the increase in power of the executive, although not balanced by a weak Parliament, is softened by the influence of EU and Regions, in those matters in which there is a concurrence of powers between these levels of Government; on the contrary, in the matters of exclusive competence of the State, the power of the executive is not balanced and is urgent the necessity of creating new balancing devices.

GUIDO LUCATELLO*General law principles in the Italian doctrine of the period 1940-1942*

From the beginning of 1940 to the end of 1942, after that Minister Grandi announced the intention of integrate codes' reform with the statement of informing principles of Fascist legal system, a wide doctrinal debate concerning the qualification of those principles developed in Italy. Such debate had its crucial moment in the national Meeting, which took place in Pisa on May 1940.

The Author divides the doctrinal contributions into two groups: the first one contains the contributions appeared in the period from May 31, 1940 (Minister Grandi's announcement) to November 30, 1940 (presentation of Government's draft bill on juridical value of the Labour Chart) and the second one refers to the contributions of the following two years.

The contributions to the Pisa Meeting and the articles belonging to the first group deal with the problem of the logical or technical possibility, the legitimacy and the opportunity of a preventive formulation of the informing principles of legal system, as well as the problem of their efficacy. The doctrine examines also the criteria which should be used for the statement of such principles as well as the subjects the principles themselves should deal with.

Considering the essays appeared after November 30, 1940, the Author examines in particular the Chiarelli and Lucifredi's studies on logical-juridical status of general principles and the Crisafulli and Mortati's ones on the nature of the same principles.

Finally, the Author points out the disproportion between the large quantity of works on the matter and the importance of the question proposed by the Minister Grandi. In fact, according to the Author, that question answered mainly to political-legislative requirements, but it had short importance for the juridical science.

GIOVANNI SAVINI*Consultation instruments and procedures in law-making processes*

The American literature has showed that, under certain preconditions of transparency and equity, the participation of interest groups in the regulatory process can lead to very positive outcomes. Even the OECD and the EU have deeply recommended to adopt public consultation in law-making process.

The study, after an overview of the main doctrine, analyses the most interesting foreign experiences and the praxis settled in Italy, in conse-

quence of the failure of the national economic council (the CNEL). Afterwards, the study examines the nature and the performances of the new procedures which are implemented in Italy to make more transparent the participation of interest groups in the legislative process. These new tools are: the Parliament hearings, the Observatory for simplifications (at present under revision) and the consultation procedures in the regulatory impact assessment (RIA).

FIORAVANTE RINALDI

Reflections upon the use of placards billsticking in non electoral period

The essay aims to analyse the topic of electoral placards bill sticking in the light of the last political competition. Particularly the subject is inserted in the wider theme of the electoral propaganda and of the constitutional values balancing in order to sound, the opportunnness, as well as the constitutional lawfulness of possible further lawgiver's intervention.

The analysed period is the pre-election one in which the propaganda regulation shouldn't be very strong because it should be compatible with the opposing right to express one's own thought.