

STUDI

parlamentari
e di politica
costituzionale

Abstracts of Articles

CESARE DELL'ACQUA

Nomopoiesis of basic rights

The formation process of basic rights is characterized by a systemic nature and a capacity to involve the main forms of exercise of the sovereignty of the State. However, this process requires the predetermination of appropriate criteria, as the qualitative criteria defined by the Italian Constitutional Court are inadequate. On the other hand, the legislative power has not given adequate attention to the process in question, so, according to the Author, the only correct way to tackle the problem is to refer to a quantitative evaluation of the different levels of freedom connected to the exercise of the human rights.

GIOVANNI BIANCO

Method and analysis in the juridical-constitutional study of political power

The essay deals with the study of "political power" category from a juridical-constitutional point of view. To this end the Author gives particular attention to the correlation between juridical science and other sciences as well as to "political power" in the strict sense of the word: this power, according to the Author, coincides with the rôle of the political forces in the advanced pluralistic societies. Particular attention is also dedicated to the crisis of the democracy as a government system and to the decline of the sovereignty of the State in the age of economic globalization.

ANTONIO IANNUZZI

Topicality of the "check" of Chambers regular composition

The inadequacy of the electoral rules, due to the underestimated complexity of the mechanisms for composing the political representation, seems to be the cause of an apparently undecidability on the issue of the «non-assi-

gned seats» in the Chamber of Deputies. Moreover, that inadequacy represents the starting-point for a critical analysis on the checking duty on the regular composition of the Houses of Parliament.

In the essay, the Author upholds the theory of a sole jurisdiction of the election Committee in the exercise of checking power on the proceedings. He states, as consequence, a gap in the proceedings of the seats that have to be assigned, thus owing to the disapplication of the ending rule, contained in a decree (D.P.R. 14/1994), which has been considered illegitimate by breach of the absolute legal reserve ex art. 48 Cost. This gap can be filled by referring to some principles able to lead to a reaffirmation of the rule contained in the disappplied decree.

The Parliamentary question has, however, followed different routes and it has come to the declaration of the full legitimacy of the Chamber of Deputies, even if it is composed of a number of Members which is lower than the plenum provided in the art. 56 Cost.

IDA NICOTRA

The new bill on political parties in Spain

The Spanish legal system has recently passed a bill on political parties which has changed entirely the existing system, passed in 1978. This change has been caused by the need to find a legislative solution to some aspects of Eta's terroristic activity. In fact Batasuna nationalist party is, in any sense, Eta's political arm. The main novelty of the bill is the introduction of a judicial "trial", designed to dissolute the party movements which collaborate with subversive groups aiming at destroying democracy with violence. It cannot also be ignored the risk that a Supreme Court sentence, designed to dissolve the Batasuna party, could trigger another spiral of violence.