

CESARE DELL'ACQUA

Forty years between political power and constitutional policy in Italy. Auto-da-fè or permanent transition?

The Author aims at offering a concise reconstruction of the Italian transition closely connected in the last fifteen years to the electoral question, which is preliminary to the definition of the constitutional matter.

Waiting for a politically shared agreement which substitutes the law no. 270/2005, a more realistic idea of the institutional reforms is emerging even thanks to the interpretation's contribution.

AUGUSTO CERRI

Some thoughts and reflections on the 40th anniversary of the Review "Studi parlamentari e di politica costituzionale"

Two basic inspirations are present in the relatively brief history of the Studi parlamentari e di politica costituzionale Review. A first consideration of constitutional law as related to political, historical elements, so that it is not interpretable without adequate account of conventions, customs, traditions; which is a noble and ancient approach still living. A second consideration of public law as correlated to social, economic, technical elements; and also focused to the external account of legislation and administration, from the point of view of efficacy, efficiency; and, e.g., from the point of view of a preventive or successive analysis of its impact on economics, habitat, etc.

The first approach was prevalent in the early years of the Review. The second one has been growing later and it is now very ample, but not exclusive or absorbing and it coexists not only with the first approach, but also with the classical analysis and interpretation of constitutional and administrative law.

These trends ensure the Review an original and very important role in the juridical culture of this country.

ALFONSO CELOTTO

The first 40 years of a cultural laboratory

The essay offers a comprehensive view of the first forty years of the "Studi parlamentari e di politica costituzionale" Review. It started in 1968 - the period of the constitutional thaw - characterised by the emerging of a new generation of jurists, who have abandoned the great theoretical constructions; have opened up new horizons of research; have widened the subjects of the studies and the methods of the analysis; have sought new values to use as reality's interpretation tools and as guidelines for legislative policy, with particular attention to foreign experiences.

In these forty years the Review has been a debate and information centre, addressed to scholars and to the parliamentary class, as well as political and cultural management. It has offered the possibility to compare the different opinions on the form of parliamentary government and on the political system transformations. It has been a cultural laboratory open to jurists (as well as economists and sociologists), politicians and representatives of different ideologies.

CARLO PAPPAGALLO

The meaning of a road: forecast, recurrences and some bet on the future

The Author outlines forty years of life and cultural and scientific output of this Review, and the main themes it dealt with: environment, constitutional and administrative reforms, local government, regulation and legislative drafting, Parliament, political parties, referendum, civil and human rights. Some of them are still on the stage or even more and more important; some others at sunset because of the deep social and political transformations in the Italian, European and global plots.

ANTONIO RUGGERI

Law-making dynamics and values in the perspective of a "multilevel" reconstruction of the sources of law

The aim of the paper is to show how, due to the enhancement of the principle of solidarity among EU Member States and the further acceleration of the European integration process, the reference to formal(istic) criteria in order to solve conflicts between sources of law is becoming ever less

suitable. On the contrary, it seems to emerge an alternative model based on axiological and substantial criteria. In fact, on one hand, this model consists of giving value-based protection not to the provision but to the norm, on the other, it takes into consideration how the norms satisfy the interests which they were adopted for.

In other words, there is a need to integrate constitutional provisions regulating the legislative process with value norms. In fact, the former have relevant semantic openings and a lack of expressive output that justify the need for them to be “impressed” and regenerated by the latter.

The final part of the paper addresses the issue of safeguards. In this regard, it is essential to find the right balance among sources of law in an institutional-political rather than jurisdictional context and this can be obtained by adapting existing provisions concerning the legislative process.

ARISTIDE SAVIGNANO

Genesis and evolution of Italian sources of law

The *statuto albertino* provided for a single source of law, the law approved by the Parliament. Uses and jurisprudence added later decrees which have the force of law and decrees requiring the approval of the Parliament, then formalized together with regulations. The Republican Constitution created other legislative bodies and new sources of law, that later on doctrine classified. But that system was very quickly revolutionized by sources of law resulting from the full affirmation of the national institutional pluralism inwards and from the larger incidence of the EU's sources of law outwards, besides from the appearance and the gradual affirmation of the “global law”. Hence, the absolute need of a radical review of the Italian sources of law which considers the EU law and the international connections allowing to clamp down on the overpowering legislative creation and on the loss of Parliament's centrality.

RENZO DICKMANN

Notes on the legislative proceeding under the *statuto albertino*

Under the *statuto albertino* the Parliament exercised almost exclusively the legislative power. As the suffrage spreaded and the political parties appeared it obtained new political functions. The framework offered by parliamentary rules shows an evolution characterised by continuity, which has been confirmed by the re-adoption of the rules of 1900-1920 by the republican Chambers at the beginning of their activity.

FEDERICO SPANTIGATI

Law, interests, resources

The Author moves from the idea of law as a category created by jurists to characterise "the must-be" in the society in order to reach the efficient use of the resources.

The law is created by history and it creates history itself. In a homogeneous society it plays the role of adapting the individuals' behaviour to the interests of the dominant class with a view to an efficient use of the resources.

In a pluralist society, on the contrary, what matters is the efficiency of the law in modelling behaviours and the criterion for juridical evaluation is represented by subjective interest.

NICOLA OCCHIOCUPO

"Society of knowledge" and strategic role of Universities

The Author highlights the new phase which Universities and higher education are currently going through as qualified "centers of knowledge" and "of information" and as the most important driving force of the human resources. Science and technology have had an enormous impact on various sectors of society, including telecommunications, medicine and environment. The hopes and preoccupations brought about by the scientific and technical revolution, in particular by advances in genetic engineering, are discussed. The moral, political, legal, economic and social ramifications of technological advancement are also considered. The Author discusses the necessity of an ethical approach to scientific knowledge, citing works by Pascal and Popper.

This incredible scientific and technological progress has led the European Council of Lisbon to fix as one of its objectives, a Europe with "an economy based on knowledge and, as such, the most competitive and dynamic in the world" and to develop an active and dynamic civil State "where human beings are the main resource". In keeping with this objective, European educational systems are given a central position and in this contest a pivotal role could be played by Universities. These centers of learning were born out of a market cultural fervor over 1000 years ago in Italy, then rapidly spread across Europe and have survived all the major upheavals since undergone by society. The Author highlights how Universities have maintained their initial role over the centuries as developers and transmitters of scientific, artistic and humanistic culture.

The Author also discusses his hope for serious reform in the higher educational system, which is currently undergoing a profound crisis, parti-

cularly in Italy. He cites a return to the multidisciplinary and interdisciplinary approach to learning and study as the only way to avoid that the different branches of knowledge exist as separate "monads". The Author also emphasizes the need to reconstruct the fragmentary nature of knowledge and to unify the divide that exists between science and the humanities. Universities must go back to being centers for the development and transmission of creative and critical knowledge, toward the full potential of the human being and human mind and the fulfilment of the multitude of material and spiritual needs which are both imminent and transcendental. The Author, moreover, notes importantly that the Italian Constitution establishes the duty of the State and its higher institutions to promote culture, as essential growth factor of the human condition, through its Universities.

GIUSEPPE VOLPE, FRANCESCA DELLO SBARBA

The administrative proceeding in the Italian constitutional history

The paper work aims to understanding the historical, political and legal reasons for the lack of insertion in the constitutional text of the citizen's right to participate in administrative activities.

The insertion of the above mentioned right in the category of the fundamental freedoms – in the first part of the Constitution and referring to the criterion of the progressive "socialità" – allowed to locate the constitutional fundamentals of the participated administrative proceedings in the art. 51 of the Constitution.