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Summary

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Federalism and Forms of Government. The Inappropriateness of Model Differentiation. The Good (and Persistent) Reasons for Constitutional Law 1/1999

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Constitutional Law 1/1999 for ordinary regions (and the successive 2/2001 for special regions) represented a fundamental turning point in Italian regionalism. It established the principle of direct popular election of the President of the region, which is connected to a prize of majority in the regional counsel, according to the so-called *neo-parliamentary* model. Any interruption of the fiduciary relationship upon the resignation of the President or approval of a lack of confidence motion would bring about new elections. That would present an extremely serious determent to potential crises. The reform also provides for the possibility for the regions to derogate that choice with their own charters, returning to the conciliar election and the substitution of the majority. Despite attempts to avoid the regulations of the legislature government using such derogation in an explicit and surreptitious manner following the old assemblyist legacy, direct elections have been put in place everywhere, guaranteeing similar and unprecedented standards of governablity in all the regions.

Key words: Federalism, Italy

Preface- Why there are Subtitles on the Two Theses?

Before penetrating into the main argument, it is necessary to clarify the general parameters of our country's constitutional transition from a comparative point of view.

The Italian Constitution of 1948 functioned perfectly with regard to the ends it addressed at the moment it was drafted. It can even be said that for an

extended period, it was victim of its own success, in that it brought about incisive reform (for a comprehensive interpretation see Ceccanti-Vassallo, 2004).

It was a pact between parties that were torn apart by the Cold War, based on weak governments. These governments were in office for short periods of time and limited themselves, continually seeking agreements with the leftist opposition, which had been excluded from the governments for international reasons, in order to guarantee that the entire country felt represented within the system.

Nevertheless, once the Constitution had brought all of the parties together, problems did arise with dire consequences. As the fateful year of 1989 drew near, the problems that had not been addressed in the text, or had been eluded in its interpretation, re-emerged. Often the finest and most courageous innovators, who recognised the problems in time, were indeed the constituents themselves, who were aware of the original historical conditioning.

In that context, unlike in the principal European democracies which regularly practiced two-party systems and alternation, the theme of agreements between territories (and not just between parties), resurfaced. Without any practical results, the reform of the second Chamber of Deputies (*Camera*) as well as other elements, brought back this theme from the 1970's, when the PCI (Italian Communist Party) was brought closer and eventually included in the majority in government. During the 1976-1979 legislature, the PCI accepted NATO and the European Union, supporting the DC (Christian Democrats) governments from the outside by abstention. Meanwhile the ordinary regions, which were mostly governed by the same PCI, received significant administrative competence. The centralisation of the State suffered its first cracks due to the evolution of form of national government.

Effective consequences of a far different weight came about, caused by the change in the political landscape connected to the new election laws of 1993. These sought to drive things in the opposite direction from the two-party system between party coalitions. The passage of Constitutional Law (*legge constituzionale*) 1/1999, which broadened statutory autonomy, together with the direct election of the Presidents of the Region connected to the majority of seats held in the Regional Counsel (*Consiglio Regionale*), created conditions for a more efficient management of the regional legislative competency. These

were then extended by the Constitutional Law 3/2001 to levels that far exceeded the classic figure of the regional state. Nevertheless, in the absence of a clear federalist construction at the institutional level, i.e., without an authentic federal senate, the promise of a strongly incisive reform has remained primarily on paper alone. The Parliament has continued to lay down the law for the entire 2001-2006 legislature, almost as though the reform of legislative competence constitutional hegemony never existed, and the Constitutional Court has substantially backed up this constitutional hegemony (as shown by Groppi 2005).

An enormous gap arose between the federalism promised by the reform of 2001 and the traditional and "real regionalism" practiced until 2006. If Italian politics had been able to follow a healthy, practical logic, it would have acted according to the standards of constitutional reforms typical of the European federal states. It would have federalised the Senate and made the legislative competence flexible through the use of a proven model, for example, section 72 of the German Fundamental Law (*Grundgesetz*).

Instead, the majority in government decided to proceed unilaterally, unloading its own contradictions into a text that will be voted on by the electors in a referendum in June 2006. However, at the moment, it is not likely to be approved. It is the logic of "*strabismo constituzionale*" (cross-eyed constitutionalism). On one hand, it has apparently granted solemn proclamations on the exclusivity of the regional legislature on education, health, and the local police, to make the *Lega Nord* (the separatist Northern League) happy. While on the other hand, it has granted powerful, and far more efficient, instruments for recentralisation, in order to please the political forces rooted in the south amongst the most fearful voters (Alleanza Nazionale and the UDC). Thus, instead of filling a complementary role in the relationship between the central and autonomous powers, the senate has, above all, the responsibility of opposing the government. The senate blocks the government's ability to fulfil its political role, due to exploitation of the abnormally long list of subjects the senate can veto.

The transition of the type of state remains suspended, even though, as will be explained below, since 2000, the regions have begun to enjoy a stability and efficiency of the executive powers which had been unheard of before. This is true at least in Italy, as they were analogous to those found in other European democracies. Based upon this solid foundation, it seems possible that the regions could take on a more active role, becoming the protagonists

of transition. With the new legislature, this possibility could re-launch a more mature transition to federalism, after the likely defeat of the current reform. This could be accomplished even with the new protocols for revision, which derogate, just the once, from the rules defined in section 138 of the Constitution. The prospect of a possible convention, similar to the one which brought about the Constitutional Treaty for Europe, has been raised by numerous, different voices. Its purpose would be to stimulate the production of a proposal, produced by diverse and numerous contributors, which should then be approved by the parliament. Hopefully, such approval would achieve the strong majority, which has been lacking in this phase.

In order to underline this regional stability and efficiency, which is in fact, the only truly positive development in the midst of so much uncertainty, I have chosen to enrich the clear, unbiased title which was assigned to me ("Federalism and forms of government") with a subtitle that clearly sets out the two theses that I will argue. It would be elusive, and therefore unacceptable, to reproduce here the entire series of comparative details and the reconstruction of the Constitutional Law number 1/1999 (which is discussed, amongst others, in Barbera 1999, Ceccanti 2000, Fusaro 1997, 2002 and 2004, in addition to other cited texts), and thereby avoid explaining my own view (contrary to those of others) regarding two cardinal points of the present constitutional and political debate. Two principal choices were put into action by Law 1/1999 (and then confirmed in Law 2/2001 by the majority with regard to the special and autonomous regions), i.e., the partial differentiation of forms of governments (in an oscillating band within the parliamentary government, as defined in the classification presented in Ceccanti 2002) and, at the same time, a preference which has been agreed upon as a temporary, transitional measure and the standard solution of the *neo-parliamentary* (New Parliament, a recent Italian political trend) founded on governments of legislature. What should we think of these choices except that it derogate in favour of a form of parliament tending towards assemblyism?

From my point of view, as I will explain, the differentiation, even if it has already become regular, is excessive. This is because, besides constituting a comparative anomaly, it risks damaging the traditionally more instable regions, which are grappling with the new competence assigned to them after the reform of the Fifth Title. The only exceptions which are justified are those of Alto Adige and Val D'Aosta, due to the ethno-linguistic divergence present in

these areas. So, despite all the solid reasons of the various criticisms of Constitutional Law 1/1999 regarding some of its inelasticity (the last being the timely exposition of Di Giovine 2003), it is unnecessary to do anything beyond introducing some limited corrections. Withdrawing from the adoption of the *neo-parliamentary* model, in the present conditions of the party system, would bring about the fatal restoration of the assemblyism form, rather than a balance between inelasticity and flexibility. That reform, in its abstract form, was highly objectionable. However, it is actually a historical and concrete response that permits the stability and efficiency of governments, which replaces the current fragmentation of the weak two-party system. As long as this last characteristic remains unmodified, and that is not likely to last long, foregoing the *neo-parlamentarian* crutches, and above all the "*simul stabunt simul cadent*" (united we stand, united we fall) mentality, means falling backward in the transition. What's more, the effect will be unevenly distributed through the territory. Like the voters of Friuli-Venezia Giulia, who defeated the regional referendum on whether to go back and revoke the development of the popular direct election of the region's president, I believe that road should not be taken.

The "Institutional Mimicry" of Forms of Government in Decentralised States: Differentiation is not a Virtue

The relationship between federalism and forms of government, at least at this phase of the drafting of the regional states, carries the problem of judging whether or not to consider constitutional autonomy as part of the subject of forms of decentralised government. Over the last decade, most have subscribed to this view, above all when dealing with comparitivism, in the search for analogies and differences (from Mezzetti, Groppi and D'Ignazio 1991 to Lauvaux 2004 and Olivetti 2002, the latter having the most complete bibliography).

Still, after reading all of the possible differences, it is not possible to gather all of the data together, indicating each and every author that has commented on our debate. The analysis of Comparative Law is, in itself, automatically rescinding, in as much as in institutional material, we are not forbidden from inventing "new" solutions. Even so, the idea that federalism (or strong regionalism) would necessarily entail the exclusive choice (or at least the

preference) for the differentiation of the forms of government of the federated entity has no solid comparative references in other countries that have a markedly decentralised state. What is commonly referred to as “Institutional mimicry” dominates over the form of central government:

– where there are already existing and strict provisions in the Constitution for content (Austria, sections 95 to 106, but even more so Spain 152.2 for the Community with quick access to autonomy; “the institutional autonomous organisation shall be based on a legislative assembly elected by universal suffrage in accordance with a system of proportional representation which assures, moreover, the representation of the various areas of the territory; a Governing Council with executive and administrative functions, and a president elected by the Assembly from amongst its members and appointed by the King, responsible for directing the Governing Council, which constitutes the supreme representation of the respective community as well as the state’s ordinary representation in the latter. The president and the members of the Governing Council shall be politically responsible before the Assembly“);

– or also just due to the effect of the approval procedure that often occurs as a result of the national parliament (Austria sec. 99, Spain sec. 146, but more so Belgium, sec. 118, which suspends a special law, enforced from 16 July 1993 on, which defines in detail the election process and composition of the assembly as well as the community and regional governments) pushing in itself towards a notable homogeneity;

– where such formal obligations are minor but where the homogeneity is imposed the same (USA, where in section 4 sub-section 4 binds the states to operate only a republican form of government; Germany sec. 28.1: “principles of a state of law, republican, democratic and social” and the existence of an assembly directly elected by universal suffrage, by free, secret and equal vote; Spain for the Community with slow access as per sec. 143).

For this reason, in the most solid contributions of public comparative law, including foreign ones, there is mention of a “strong resemblance between the regional and central structures” due to the regulations. However, it is due even more to the fact that “the game of political parties is reinforced and confirmed by such tendencies” (Grewe-Ruiz Fabri 1995, 1995, 334 2nd), as “mimicry”, “homogeneity” for “structural principles… application..[and] “successive development” (Ruiz-Rico Ruiz 1996, 387).

The argument of the irrefutable mimicry would be incomplete though if we did not discuss its concrete successes. These are its strengthening of the logic of a legislative government, at the level of federated states and regions, with the "practically direct election" of the head of state, in which the regional counsellors (or deputies) are elected as a "epiphenomenon of the presidential election" (Solé Tura 1985, 282).

Is it mere coincidence that it is this way? Does it not have something to do with the demanding clauses that, beyond differentiation, impose a guarantee of equality with regard to rights in the entire territory (Germany 72.2, Spain 149.1.1)? Could the grand ends of the Constitution of the social state be guaranteed with completely different regional constitutional structures and radically different political party systems from one region to another?

With such awareness (also comparative in nature) the *Corte costituzionale* (Italian Constitutional Court) (sentence 304/2002), interpreted the reference to the "harmony with the Constitution" in sec. 121 of the Italian Constitution (as modified by the Constitutional Law 1/1999), as very strongly binding the Charters. This, the Court says, "strengthens the need for timely respect for every disposition of the Constitution, since it aims not only to avoid contrast with the single provisions in it, from which it cannot generate harmony, but also to avert any danger that the charter, even while respecting the letter of the Constitution, eludes the spirit of the same." Silvio Gambino has exemplarily annotated this strong reference to "harmony", demonstrating its profound meanings, including the opposition to "recessive threats", which have "particularly problematic consequences with regards to the guarantees of unitary and social citizenship" (2003, 7). Although, in my modest opinion, in a manner incoherent with such premises, he reproposed in his conclusion sound support for the constitutional and political reasons of the form of government of the Calabrian state, which were later overruled by the Constitutional Court.

One of the two must be chosen. Either a strong vision of "harmony" is used and then a substantial uniformity of the forms of government is held up (the deviation from the *neo-parliamentary* does not mean the charter assumes constitutional value, but simply that the Constitution limits itself, leaving space for the charter) or a weaker version needs be proposed, which would then permit a more ample differentiation to become more easily defendable (as has been soundly upheld many times by, amongst others, Beniamino Caravita; I

remain in disagreement with regards to his premises, but recognise his iron-tight logic).There is no *foedus*, no drive for a real political unity, if the institutional incentives (first of all, the laws on forms of governments and electoral systems) provoke dissimilar results within the territory. As Barbera writes, “it is a good and righteous thing to hope for parties organised on a federal basis, but it would not be as auspicious to support the decline of the national organisation of political subjects,” (1999, 573). Differentiation also harms one of the main strengths of the decentralised arrangements, which other countries justly seek to avoid: the need to compare the conduct of the different regional governments in order to verify, in an experimental manner, the efficiency of various political solutions. Perhaps successively, those with positive results will be employed on a larger scale, requiring as a precondition the homogeneity of the forms of government and legislative competence. To compare the variable political elements, you need to have invariable structural constants in order for the evaluations to isolate the reasons the choices made succeeded or failed.

In reality, the principal motivation which pushes various authors, even if they are well aware of this comparative data, to uphold the tendency towards differentiation of the forms of government at this phase has nothing to do with federalism. Instead, it is due to the fears of the transition of the forms of national government. These are fears of anomalies linked to the “B factor”, i.e., the intersection between political, economic and media power. That intersection has become personified in the figure of Silvio Berlusconi, the current *Presidente del Consiglio* (Italian Premier). Silvio Gambino, with admirable intellectual honesty, explicitly declares as much. Leopoldo Elia does as well, although in a more subtle manner. In the introduction to Marco Olivetti’s book, he writes in this key, though he does not put it forward as a particularly important motivation. In the introduction, he speaks of the need to “at a national level, render the chosen electoral body more shrewd,” with regards to the future form of government (Elia 2002, XIV). Beyond the different judgments one may have on the prognosis of the national system and on the consequent diagnosis for overcoming the indubitable anomalies (is not the consent of the Premier in a conflict of interest an anomalous substitute for the constitutional and prerogative proof of the weakness of the previous legislature? Can it not be overcome with that, with a new system physiology?), these positions create risks. Primarily, they may produce a series of heterogeneous ends. In fact, it

seems to me that there is not a shadow of a doubt that, in the 2001-2006 legislature, the principle institutional counterbalance of the government in office was represented by the *Presidenti delle Giunte* (Presidents of the Regional Counsels) and their *Conferenza* (groups of such presidents). Permit me to indicate that the weakening of their stability and efficiency does not entail, in itself, an immediate consequence on the reforms regarding the national form and instead, ends up weakening the guarantee of pluralism within the system.

Fear of the "B factor" increased and drew in many other scholars after the political elections of 2001. However, it was the real motivation, in 1999 as well, behind the insertion of that limited possibility to deviate from the *neo-parliamentary* form. This rested not only on comparative reflections, or on a generic federalist inclination (otherwise the same supporters would have logically moved for a radical modification of the second Camera as well, as they had in other systems, beginning with the German one, which is addressed in Lanchester 2002), but on a national political evaluation. This, in itself, is completely legitimate. Whoever held, for various reasons, that consolidating bipolarization did not deserve to be stabilised, tried to obtain a partial guarantee for a possible return to that model. Barbera defined this model as the hope "to find some peripheral Vandeé" willing to resist against the transition of the majority (1999, 573).

Similar considerations decisively exclude another choice of the declination of the statutory autonomy today excluded by Law 1/1999 which, in a presidential form of logic, would suspend the direct election but would like to be able to eliminate the fiduciary relationship established as obligatory. In the United States, this form of government, associated with an integral majority system in the legislative branch, is already subject to criticism with regards to efficiency (hidden to many external observers of the geopolitical importance of the country) and irresponsibility (Fabbrini 1993). Its transposition into the Italian context, so steeped in historical assemblyism, would certainly bring about deadlocks (also due to the fact that there is far less material with which to negotiate) and micro-consociationism of every type. This would only seemingly be mitigated by the irrevocability of the elected president. Moreover, it would be a grave error to ignore the teachings that have resulted from the crises of the past years in the forms of consociational government outside of Italy. These brought consociationism to a level of direct involvement in the government and summit political forces. They achieved certain stability within the government, but maintained a weak ability to make decisions and impute

responsibility. For some time the “magic spell” of the Swiss directorial model has dropped into crisis, and over the last few years the crises in the large Belgian, Dutch and Austrian coalitions, with the emergence of populist drives, have indicated a doubtless crisis of the model.

In the end, Italy’s originality lies in the simultaneous transition of the form of government and the type of state. However that does not mean that other countries have not undergone similar transitions. Countries with a stable majority have witnessed the emergence of powerful regionalist drives in the Constitution to temper the majority vertically without destroying it (France and England). Countries with a traditionally decentralised, proportionalistic-consociative base have felt the need for a form of national government where the responsibility is more clearly immutable.

It would be foolish to derogate to this homogenising drive for performance of the forms of government and types of state, which is evidently influenced by the common European constituent process, an uncommon treatment.

Constitutional Reform in Process: an Incorrect Link Between Federalism and Form of National Government

The interweaving after the double transition (of the forms of government and the type of state) presents another problem connected to our theme which has already been mentioned: that of the relationship between the form of the national government and federalism through the second Chamber. Here, the principle risk of the constitutional reforms in progress is the halt of the form of national government due to the erroneous introduction of federalist petitions, due to the poorly devised competence of the Chamber and Senate. The new senate, in fact, which is denominated as the “federal” Senate, loses its fiduciary powers but maintains a wide range of veto powers. It would be opportune in any case to introduce a possible final reading upon request by the Premier, following the deliberation of the Cabinet (*Consiglio dei ministri*), in order to avoid dispossessing the parliamentary majority, which holds the electoral mandate. This reading would regard the impact of extremely delicate issues of a political nature which are without a shadow of a doubt the principles of the concurrent legislations, upon which the veto powers hinge. It would be quite strange for a country which, based on the proposals of the current majority, seems split between models. It half resembles England, with electoral campaigns in

which a political mandate is granted to the majority and a Premier for some questions. In our case, those would be the competencies exclusive to the state. While the other half of the government resembles the United States, in which other issues are voted on. In our case, those include the principal fundamentals of the current legislative issues, from education and health to the energy policy, in such a way that they are not bound to the government or to any majority that might be in place.

In the previous point, there is a certain dread of the risk that differentiation could be a Trojan horse against the stability and efficiency of the regional governments, diminishing their power to counterbalance the vertical power of the national government. Here, the danger is logically the opposite: the fear of an unacceptable weakening of the national government in the name of a mistaken federalism (it is not by chance, here as well, that this is completely unprecedented in comparative terms).

The Two Lines of Attack against the Neo-parliamentary Form and the Possible Modifications for a "Compatible Flexibility" within it

There were two lines of attack against the *neo-parliamentary* introduced with Constitutional Law 1/1999, for ordinary regions, and Law 2/2001, for some of the special regions. The first proved to be an explicit attack and in its own way coherent with the choice of the centre-right from Fruili (together with the *Rifondazione Comunista*) to recede from the direct election. Its electoral defeat in the referendum rendered it substantially unviable. The second line (heralded by the removal reform of the Marche region, quickly censured by the Constitutional Court, reproposed more organically by the region of Calabria and then rejected again by the Court), is unlike the first, indirect. I will not enter here into the dispute regarding its constitutionality, which was convincingly resolved by the Court. Instead, I will enter into the question of its merit. On one hand, it reproposed a direct election (with the restriction of a counsellor's mandate under penalty of automatic dissolution). This was obviously a smokescreen for the possible opposition referendum, in order to obtain the consent of the citizens who would certainly not be pleased by the loss of the right to directly select their own regional governments. On the other hand, it weakened the president, taking away decisive dissolution deterrents and pushing him to float in an

inefficient stability or, sooner or later, to resign. Upon that resignation, waiting to take his place, would not be the leader of the opposition, as in other normal countries, but his own vice-president, who would have been given that power. However, there is already a long history of presidents who were Apppointed then "overturned", including in the 1995-2000 legislature in Calabria, shortly before the direct election. Furthermore, that the dissolution is a deterrent and not a power to be used lightly or carelessly is shown not only by theory or centuries of constitutional experience or more recent parliamentary democracies, but closer to home, the experience of all(!) fifteen of the ordinary regions, the regions of Sicily, Fruili, Sardinia and the autonomous province of Trento. It literally confirms what Bagehot had already argued for England in 1867: that the fear of dissolution "is the secret which keeps parties together … Efficiency in an assembly requires a solid mass of steady votes; and these are *collected* by a deferential attachment to particular men, or by a belief in the principles those men represent, and they are *maintained* by fear of those men—by the fear that if you vote against them, you may soon not have a vote at all yourself." (1995, 150; original edition 1867).

Beyond the charters, is there something which the national legislator can do to modify Law 1/1999, without modifying the heart of the system, to modify the connection between direct election and the power of dissolution (without touching the automatism of the resignation-early elections)? The criticism of excessive inelasticity for the cases of early elections where a death or permanent disability has occurred is founded. The switch in level from local agencies to region is also a qualitative switch that can prompt a larger dose of flexibility. In such a case, we could foresee in the near future, instead of an early election, the council election of a new president "based on electoral results", and therefore inside and on behalf of a substantially unmodified majority. If that law is violated, the presidential dissolution would occur as per sec. 126.1 for actions against the Constitution. There is a third type: the possible incompatibility that may crop up. I think that here, though, we must take into consideration only those particular incompatibilities that might derive from a dissolution carried out in the most positive sense of its role. Hence the elected president can be called to a relevant role of government at a higher level (of minister or European commissioner). There is of course the commitment to the voters and this cannot be easily abandoned, so much so that it would permit such a switch at any moment. This need may find a solution together

with the setting of a limit of consecutive mandates. It is in fact more than reasonable that the limit of two terms is extended to the presidents of the region, rather than eliminated for mayors and provincial presidents. The objective concentration of power is necessary because the voter's responsibility is imputable. The justification of both is limited in time. Consequently, one can predict that once the second part of the legislature is past, the president nominated to one of these offices declines with the council election in favour of a successor chosen "based on electoral results". These three innovations would introduce a "compatible flexibility" to the model and, at that point, the possibility of deviating from the direct elections would be eliminated. In the end, the legislative competence are identical and the underlying socio-cultural conditions are also the same. Only in Val d'Aosta and the province of Bolzano, as above stated, are there significantly deep ethno-linguistic divisions that could motivate proportionalistic-consociative structures, according to the traditional politological reflection (Fabbrini 1994). Besides, the fact that Law 1/1999 has already presented direct election as a rule and its elimination as a derogation shows that, as is written in the paper by Franco Bassanini's centre-left think tank, the Astrid work group, direct election "is the most consistent with the political-institutional acquisitions of the last few years, and also, probably, the most suitable for dealing with the notable extension of regional duties and responsibilities derived first, from the Bassanini reform and now, from the implementation of the new title V. New duties and responsibilities which would be difficult to face without stable regional governments and a cohesive majority … If this notable increase in regional competence had been introduced without the prior revision of the form of government, the state of worry would have been far more serious, since relevant power would have been transferred to bodies structurally unfit to manage them" (2002, 9 2nd).

In this same line, the bipartisan Vizzini-Bassanini law project was inserted (Act of Senate n. 2556 of 28 October), which for the presidents "chosen" by the voters (language stretched in order avoid any possible sidestepping of the logic of direct election in the course of the legislature) confirmed the "*simul..simul*", except for cases of death, permanent disability and the government offices mentioned above, with the possible replacement by the vice-president or a cabinet member. The logic would be totally different from that of the Calabrian charter, where the vice-president could have taken over in the case of resignation as well, contributing to the instability even with the

mere threat of substitution. The absence of a reference to the electoral mandate left one puzzled, but above all the possibility of the substitution due to a resignation caused by the engagement of a government office could happen, even and the beginning of the legislature. Regardless, no new element intervened for the rest of the legislature and, after the launching of 9 new charters, the 2005 elections seem to have positively stabilised the situation. In the face of such enormous uncertainty, this is a fact of no small regard.

Where to Creatively Exercise Autonomy

If they really want to experiment with innovative solutions in statutory autonomy, in a virtuous competition within the standards of the *neo-parliamentary* system, the range of choices from which possible multiple possible solutions can be selected is very wide (Astrid 2002, Fusaro 2004). I limit myself to indicating only three priorities. Balance means first of all the recognition of the conciliar opposition as such (and not only a separate conciliar group or one of various minorities that are substantially on the same level). They must recognise its counter powers, and relative leader, according to the modality and imagined time period (even if this has yet to be made concrete) on a national level, as happened in the most complete manner in the Tuscan charter and in a more incomplete manner in other charters. Secondly, it would mean overturning the logic of the transitory electoral system (the so-called Tatarellum), which unifies the coalitions into regional lists (where instead the political dimension is more general and at could flow into party lists for 60% of the whole), without ignoring the possibility of a certain level of differentiation within the principle municipalities, for medium and large regions. It would also mean separating the coalitions from the territorial element nearest the citizen which, nonetheless, remains the provincial one, and is far too widespread (where instead single member majority colleges could work better for the remaining 40%). Balance would be guaranteed by the strengthening of the coalitions (60-40 instead of 80-20) and the increased capacity for general, political representation of the elected offices upon a regional base (with respect to the fading of the little lists, in which I have the sensation that the elected officers are often unknown to the majority of people) and representation on a smaller scale (the colleges). The choices actually taken by the regional legislators implied minimum alteration to the Tatarellum

system. The sole exception was Tuscany, which worthily eliminated the vote of preference, dissolver of the parties, balancing that choice with a pioneering law on primary elections within parties and coalitions, experimented soon after in the beginning of 2005.

Thirdly, the role of political minorities spread through the instrument of the proactive referendum linked to a popular legislative initiative needs to be evaluated. If there is a lack of consideration by the regional counsel after a certain period of time, with a new collection of voter's signatures (quantitatively superior to the original initiative) on some issues, a proactive referendum could be called on that text, requiring a more reasonable participation quorum than that in the former sec. 75 of today's Constitution. Between the physiological drop in participation and the encouraged absentionism, the request is transformed into a boomerang or mere propaganda, destined to certain defeat. It is too precious a counter power to allow it to die from a lack of quorum, as happened meritorially in the Tuscan charter, where the quorum was moved to a sliding number slightly higher than the number of voters in the preceding regional elections.

Conclusion: Pillars of Salt, or the Nostalgia of Powerlessness

If what has been stated above is plausible, we must return to the basic mental stance that we should adapt within a transition, which strictly weaves together the form of government and federalism, ending with the majority and a decentralised state. There is a precious biblical text that discusses how one should deal with transition. Genesis reminds us that God chose Lot and his family, saving them from the ruin of the city. He tells them to trust in him and abandon the city without ever looking back. It was not only important to get out, but above all to avoid becoming immobilised by worries about what was being left behind. Lot's wife is not able to resist and when she looks back is transformed into a pillar of salt. It was a precious mineral, but useless. The temptation to not fully abandon that which must be left behind is therefore punished in a form which in many ways is paradoxical: with a sentence of perpetual immobility. Upon the completion of the transition, the frightening risk that we will meet the end of Lot's wife looms over us: looking back toward the oligarchic nostalgia, which denies the voting citizens the decision of the

legislature government. This, which in more recent years Maurice Duverger indicated as a psychological behaviour by the French political class regarding the unease for the repeated alternations, due to a political game in which the voters rediscuss the coalitions of the government and the opposition. He called it the *"nostalgia or powerlessness".*

As was written with some confidence by an authority that something must be relevant in that biblical text, the regional counsel for social and labour problems, Justice and Peace of the Episcopal Conference of Umbria (*la Giustizia e la Pace della Conferenza Episcopale dell'Umbria*), "the different tendencies which weaken the position of the president of the region … seem, to us, to run the risk of bringing back the institutional debate, abandoning the capacity for executive decision making and transparency with regard to the voters" (2002, 2).

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