Has the never-ending Italian transition come to a close or is there a need for more Institutional Reforms?
di Maria Elisabetta de Franciscis

1. Premises. In this, the sixtieth year since the approval of the republican constitution of Italy, there are just as many celebrative events as there are critical reflections. This paper wishes to be a tool for reflection and a critical assesment of the achievements thus far reached. There are no questions, in fact, that the constitution has proven to be a valid instrument to introduce and accompany democracy at all levels of the territorial structure. However, the turbolent political and institutional moment which Italy has been undergoing since 1994 has brought to the attention of all, the yet partially fulfilled constitution of 1948, and has generated a lively debate, albeit not always scholarly, on reforms and on the provisions for constitutional revisions. It is an understatement to affirm that the Italian parliamentary system has developed along pathological lines attributing too much power to political parties(1) which, in order to maintain their control, concentrated all decision making to the highest levels slowly transforming Parliament into a passive legislator.
Executive efficiency and a more active role for Parliament were two rather conflicting objectives of the reformers. The procedures to accomplish such goals could most likely vary due to reforms which each carried. Furthermore, the unfulfilled articles on decentralization(2) and the growing economic division between the northern and the southern parts of the country, coupled with the pressure brought upon the nation by the Maastricht Agreements generated the opinion that high levels of decentralization could be the panacea for all the misworkings of the system. It seemed all too natural then, that the XIIIth, XIVth and XVth legislaturs (1996-2008) were to satisfy all or in part the desires of the people. Whether the national leaders would opt for the semi-presidential, the presidential or the chancellorship model in order to reach the efficiency goal; whether they would decide to implement the constitution to obtain decentralization, or whether they would opt for a clearly federal solution was to determine whether the changes might be considered revisions or reforms and which procedures were to be followed.
Two levels of confrontation could be found therefore in Italy. The first one, more politically oriented, was focused on increased efficiency of the governmental system; the second one, more legally oriented, focused on the procedures to be followed in order to obtain the desired reforms. That which ties these two levels with a common bond is the interpretation of article 138 of the 1948 constitution, and that is, whether the desired changes could be considered reforms or should be considered revisions. The answer to this fundamental question would determine, in turn, whether Parliament could a) promote the modifications through the enactment of an ordinary law (reform); or b) it should follow the aggravated amending process (revisions according to article 138); or c) should the election of a Constituent Assembly be called(3).
Time and again during the last thirthy years the various political forces have been debating on the need for reforms, postponing however, the actual implementation of them until the ninties of the last century, when, more by the “force” of direct democracy (*referenda*) then by their political foresight, changes, at times radical, have begun to occur. The first one of these was the delegation of more powers, especially in the realm of fiscal autonomy, to the smallest of the administrative territorial subdivisions of Italy, the towns. With it, or as a consequence of it, came a new electoral law for mayors and town councilmen.Then the popular *referendum* of 1993 with which Parliamentarians received the moral mandate to rewrite the national election law from proportional to majoritarian(4) drastically reducing the role and the power which political parties had been enjoying since the 1946 Constituent Assembly. From these initial successes derived the complete turnover in both Houses of Parliament. Infact most of the 945 elected legislators who took office in 1994 were freshmen who were expected to begin to look more seriously to the necessity of implementing sections of the fundamental law which had been ignored and / or only partially and pathologically executed to revise entire segments of it in order to improve its standing with the people.
To this day, only the electoral law and the major innovations of the

regional powers remain the contributions of the lawmakers to solving, or better, attempting to solve the problems of the nation. The results of the general election in 1994 succeeded in forcing on the political agenda the constitutional debate yet Parliament opted for piecemeal changes rather than for a structural revision of the whole text. Twenty years later, in order to stop the never ending transition the newly elected Parliament must take into consideration modifying its present system of government; altering the original system of guarantees; either completing or reversing both the electoral and regional reforms.
The aim of this paper is to look at the various proposals which have been advocated and never accomplished confronting them with the original articles 5, 138 and 139 of the constitution and to attempt to provide a viable "solution model" for Italy. A summary analysis of the present system has, thus, been considered helpful to focusing on the future steps.

2. The Form of State. Article 5 represented the anchor to preservation and, at the same time the cause for revision since, while determining the form of state it had also remained partially unfulfilled. The opening words of this article, "*The Republic, one and indivisible*" clearly state the intention of the Founding Fathers to give birth to a unitary state. This is the anchor against the secessionist movement. Yet the unrestfulness expressed by the Lega Nord was based on the remaing parts of this article which did seem to have been voided of any serious meaning. Infact art. 5 reads "*The Republic, one and indivisible, recognises and promotes local autonomies; implements in those services which depend on the State the fullest measure of administrative decentralization; accords the principles and methods of its legislation to the requirements of autonomy and decentralization*". It is apparent then, that the intention of the drafters of the constitution of 1948, was to have a unitary state but one which would recognize the various geographic, historical, cultural and economic characteristics of each Region. It is further evident that the intention of the constituents was one of favouring decentralization, "*The Republic is divided into regions, provinces and municipalities*"(5) while sanctioning the unity (art. 5) by granting to the segments(6) residual powers in the administrative, legislative and fiscal realms which are predetermined in scope, nature and extent(7).
Notwithstanding the intentions of the Constituent Assembly, decentralization in any truly effective way came to Italy in 1968(8) too late and in much too weak a manner because of partitocrazia. The councils (original artt.121 and 123) of those Regions with ordinary powers(9) were elected by the people for the first time that year, but the power of the political parties had already impregnated all levels of society to such an extent that the choices of the former were to be nullified in the will of the latter. The resistance to innovations which the bureaucracy had already demonstrated in delaying the functioning of the Constitutional Court(10) coupled with that of the national political parties which saw in the segments the potential decrease of their powers, found a subservient Parliament which recalcitrantly and only partially, fulfilled the mandate to establish by law the limits of the legislative, administrative and financial powers of the segments.(11) Further proof of the pathological functioning of the system, within the sphere of the division of powers, could be found at the levels of the smaller segments: the provinces and the municipalities. The constitution clearly stated that "*The provinces and municipalities are autonomous entities within the limits of the principles laid down by the general laws of the Republic, which determine their functions*"(12). A law aimed at fulfilling the regulation of the autonomy of the municipalities was approved in 1990.(13) Whereas the fullest breath of the division of powers clearly expressed by the Founding Fathers(14) was never enjoyed by the population until the constitutional law of 2001. Hence the requests of the Lega Nord to reform the system advocating first a federal and then a confederal system through a secessionist process or a peaceful agreement such as that of Czechoslovakia.

3. The System of Government. The relationship between the executive and the legislative branches of government sanctioned in the constitution(15) allows the observer to define Italy as a Parliamentary Republic. The executive, infact, depends on a vote of confidence by each of the two branches of Parliament, in order to be invested in the powers of the office. The Constituent Assembly meant for the Council of

Ministers to be "responsible" to Parliament(16) not "dependent" on its vote albeit it did not secure completely the stability as was done in the German *Grundgesetz* of 1949 where a clause providing for a constructive vote of no -confidence had been included(17).

The only guarantee for stability sanctioned in article 94 of the italian constitution is the provision that "*an opposing vote by one or both the Houses against a government proposal does not entail the obligation to resign.*", yet, since 1948 the overwhelming majority of government crisis have been generated by a parliamentary defeat of a government proposal rather then by a motion of no-confidence which, would have had to "*be signed by at least one tenth of the members of the house*...."(18). Immediately after the expression of such a vote by either House, the President of the Council of Ministers would resign his mandate to the President of the Republic initiating a crisis. The "extra - Parliamentary" governmental crisis, not foreseen by the Constituent Assembly, became custom because of the political fragmentation of the legislative assemblies (due to the proportional electoral law) which, in turn, strenghtened the already strong political parties.

This pathological development was favoured by those elements which had been intended to guarantee a democratic political growth of the nation. The proportional electoral law had been chosen, infact, to safeguard the plurality of ideas for a people who had experienced two decades of authoritarianism. Furthermore the inclusion of a *Sperrklausel*(19) was deemed as limiting the newly acquired freedom of expression and of association(20). In order to achieve the same plurality of ideas multipartitism was encouraged by granting "*all citizens...the right to freely associate in parties*"(21) whose function was also sanctioned. Infact, parties of all ideologies were allowed to compete in an election provided they "*contribute through democratic processes to determining national policies*"(22). Again, the overbearing desire of the Constituent Assemblymen to avert the reoccurance of a dictatorship, prevented them from introducing those measures which could have limited the absolute power enjoyed by the parties, clearly differentiating Italy from Germany and Spain who had equally experienced the dictatorial regime. Infact the new constitution of Spain (1978) admittedly inspired by the Italian and German, in addition to the *Sperrklausel* and to the sanctioning of political parties, has provided for a preventive control on the nature, scope and charter of the parties but also a subsequent control as a safeguard from possible un-democratic takeovers(23).

The dependence on the policies of the political parties manifestly demonstrated by the innumerable governmental crisis was further evidenced by the very small margin of autonomy left to the President of the Republic in appointing the Premier since the former can only nominate a President of the Council of Ministers who can be assured the support of the majority in both Houses. Notwithstanding the multiparty system, the parties who could be relied on were at the most six, and of these, the Christian Democratic Party was unquestionably the strongest yet not strong enough to reach a majority vote. The weaker this party became (while remaining the strongest) more leverage was given to the smaller ones which were thus in a position to bargain or to "pull-out" of the majority provoking the extremely frequent "crisis". Foreign observers interpreted this high frequency of crisis as a sign of political instability, italians have always claimed that the system was much too stable preventing rather then encouraging political turnovers since the political parties who could join in a coalition and form a majority were always the same.

4. The request for changes. Throughout the last fifteen years the italian people appear to have experienced a sudden awakening of previously dormant democratic and moralistic sentiments while descovering a kiness for efficiency and parliamentary productivity. The effects provoked by this seemingly abrupt stirring was called by the international media the "peaceful revolution" of Italy, yet, those years could hardly be considered a tranquil time for the nation just as the "crises" of the past were not at all turbolent. While those years were not serene they were characterized by nonviolent protests against the system and this, in turn was what undoubtly influenced the media in their description of events. The "revolution" of Italy was physiolocial rather then pathological, its procrastination is undoubtely pathological. After fifty years of partecipatory democracy, of schooling and higher education, of exposion to media and other information tools, a majority of italians, older and

younger, physiologically came to learn and appreciate the potentialities of the fundamental law and, at the same time, ceased to ignore the deficiencies and the pathological evolution of some institutions. Thus the requests for changes.

The earliest request for more partecipation and for a direct line of responsability occured at the local level. Through a succesful popular referendum(24) infact Parliament was "encouraged" to enact law 142/1990 regulating the elections and administrative activities of the municipalities(25). The most evident and practical result of this reform has been the direct election of mayors. The system chosen is majoritarian ("winner-take-all) with a run-off election in case of a tie. Albeit this was the least urgent of the reforms, it was one which has proven fondamental for the development of the "revolutionary" spirit, infact, in most cases, it brought the people closer to the institutions breaking a custom of indifference.

After this experience, the negative effects of partitocrazia spurred the desire to limit the role of the national political parties in determining policies and duration of the central government. A more direct democracy was seen as a possible channel for greater partecipation and as a means to establish a "moral mandate" with parlamentarians since the constitution does not sanction this form of control.(26) The instrument chosen to achieve these results was once again to change the electoral law. Yet, since any reform or emendment would have had to undergo the scrutiny of Parliament and since members of Parliament also held membership in political parties, it was thought impossible to ever convince the parties to support a law which would have diminished their own power. Italians then decided to follow the procedure sanctioned by article 75, and they made recourse to a *referendum* in order to abrogate the proportional representation electoral law. The vote expressed was so clearly in favour of abrogating the existing law that Parliament would have had no other choice than to write a new one(27). However, there was no guarantee that the new law would be one which would narrow the distance between the people and their rapresentatives. Those groups which had sustained the possibility of rewriting the law had been very much aware of the risks of Parliament only slightly modifying the proportional system, and therefore decided to use the campaign propaganda to influence the drafting of the bill(28) and, although the political parties did not entirely follow the propaganda suggestions, they were forced, by the voters turnout, to write a law which was close to the people's desires(29).

The new electoral law which was implemented for the first time in 1994 forced the parties to form coalitions before the elections in order to conquer enough support in the proportional quota and to demonstrate that they were to reform multipartitism towards a two-party system. The 1996 elections helped narrow the field of contenders and each coalition nominated a candidate to the Presidency of the Council of Ministers before the official campaign started. No amendment to the constitution was however introduced and thusly no serious proposal to shift towards a pure parliamentary model was approved by the legislature. Therefore the procedures to appoint the President of the Council of Ministers and the necessity of a vote of confidence by both Houses are still in effect, although the President of the Republic has hastened the consultations which customarily preceede the nomination. Yet in the aftermath of the 1996 elections, not withstanding the acceleration in the consulting process, the government led by Prodi was not invested until well after a month from the closing of the polls.

It soon became apparent, that the "revolution" could not be brought to its full completion only through article 75 and that the XIIIth legislature of Italy(30) was to deal with more serious revisions in order for the nation as a whole, to complete the peaceful revolution in a conciliatory and expeditious manner.

5. Revisions or Reforms? The issues were multiple yet they can be summarized in the following ultimate questions: a) which segments of the fundamental law were to be altered in order to make the system more functional; and b) were the identified changes to be accomplished by the amendment procedure regulated in article 138 of the constitution or by other means. The unruliness of the many political parties forced the attention of all on developping and devising instruments which could limit the negativeness of their actions. Thus the need to normalize the behaviour of those parties which belonged to a coalition in order to

outlaw the extra-parliamentary crisis, inspired the reform of the executive branch. There were as many models being proposed as political parties although they all agreed on the desirability of a stronger executive. The three models which were taken more seriously into consideration in the next years were, the French semi-presidency, the German chancelorship, and the American presidency. It was unclear whether the popular election of the President was intended for the President of the Republic or for the President of the Council of Ministers and this in turn would determine if Italy was to abandon completely the parlimentary model or it was to modify its constitution only for those provisions which had proven to be negative.

There is no direct veto in the constitution to changing the form of government and therefore there are no limitations on Parliament if a majority decides to take initiative. However, from a perspective of constitutional law the legislative process should vary. If indeed the Italian paliamentary model (notwithstanding the pathological aspects) is one in which both the executive and the legislative are equal branches, then to move towards the British model, with an executive which can execute because of strict party discipline and a clear majority, will imply a reform of the system within the same model and thus the procedures for enacting ordinary laws could be followed(31). On the other hand, were Parliament to opt for the German or American model, the whole structure o f government would be revised and then the aggravated amending process should be followed (32). Furthermore, choosing either of these models would have also implied reforming the functions of the President of the Republic and altering the present checks and balances structure representing a radical revision.

Finally, the XIIIth legislature was to determine the correct means to reach a wider decentralization. The variety of succesfull models within Europe and in North America(33) could imply a change in the form of state and thus might have needed an aggravated process(34). Other, less drastic changes could have implied a simpler procedure yet one which could have provoked more restlesness with the supporters of decentralization who had threatened secession. Infact, Parliament could a) choose to fully implement the provisions of the constitution by ordinary law: this would be the constitutionally less traumatic approach, yet probably too little, too late for the northern area of the nation; b) choose to end the difference between Ordinary Regions and those with Special Statute by a constitutional law amending articles 116 and 131 thusly turning Italy, for all practical matters, into a federal state; or c) choose to follow the procedures in article 132 for the merging of Regions creating larger segments which could become more cost-effective. Of these, the former would be considered a reform while the latters, revisions.

Decentralization processes of the type mentioned would necessitate more revisions to fully comply with the representative form of government. Italy, infact is a bicameral parliamentary system, the only nation to have followed “perfect” bicameralism by which both Houses are perfectly equal having the same powers and competence. A highly decentralized state might, instead, look to the possibility of adopting the “imperfect” model whereupon the Senate would either be the Regional Chamber (United States or Germany) or it would be given very limited powers (Great Britain or Spain).

In a piecemeal fashion and thusly in a fully insufficient manner, the XIIIth(35) and XIVth(36) legislatures succeeded in revising the regional structure of Italy only partially appeasing the Lega Nord and bringing unhappiness to most others. In the end, infact, regions were allowed to write their Statutes; choose their form of government provided it did not conflict with the national one; further acquire administrative autonomy; were granted legislative initiative on most matters; were given freedom to choose the level of self-government within a general framework; and last but not leastly some level of fiscal independence.

During the five year tenure of the XIVth legislature an overwhelmingly stable majority failed to produce any further real reform but yet another electoral law and a reform of the reformed regional structure. The former endowed Italy with the least democratic and representative electoral law ever introduced in the country, while the latter failed to obtain the necessary approval of Parliament and, when subjected to confirmative *referendum* was judged unfavourably by the people’s vote. The extremely brief life of the XVth legislature and the continuous bickering of the government have impeded any further reform.

Since it all begun, some fifteen years ago, the changes to the electoral

law have indeed reduced the field of contenders yet not produced the desired stability while the answears to demands for decentralization have proven to have only partially relieved the central government without granting substantive autonomy to the Regions. The theory which holds that piecemeal changes do disrupt the existing *equilibrium* without necessarily assuring solutions to the problems has thus been proven correct. The newly elected XVIth legislature which will take office on the 29th of april 2008 is anew overwhelmingly made of freshmen on average in their fifties with very little or no experience in politics. Once again the nation gave them a clear mandate to introduce whichever reform is deemed useful to bring to an end this never ending transition and yet again the warnings towards the normative procedure which will be adopted need to be heeded.

6. Guarantees and Procedures. The procedures for amending the constitution were sanctioned when the composition of Parliament was to be fulfilled through a proportional law, thus the constitutional guarantee of an approval "*by an absolute majority of the members of each House in the second voting*" are no longer a guarantee with a bi-polar majoritarian system as it was with the original law by which almost all the parties in Parliament would have to agree on the amendment beeing *useful and opportune*. Article 138 provided further for the possibility to submit " *the said laws… to a popular referendum…*". However, such possibility is foreclosed were both Houses to approve the law by a majority of two-thirds in the second voting(37). The second guarantee against abrupt revisions of the constitution is nullified by the new electoral law.
Of further interest is the question of the time which must lapse between the two votes on an amendment, which should occur "*at intervals of no less than three months*"(38). In theory, both Houses could have voted in favour of an amending law and during the three months interval Parliament could be dismissed. Since Italy has adopted "perfect" bicameralism, that amendment could become, by the normative process sanctioned in article 72, an ordinary law. While this kind of law is inferior to constitutional laws it would be in contrast with it and, in theory, the choice of amending the constitution would fall on the Constitutional Court and not on the people.
Ironically, at a time in which the nation has been mostly aware of the need for revising the fundamental law Italy has been undergoing a period of transition, which does not seem the appropriate time for drastic decisions. Yet, precisely because it is a time of appearent changes something must be revised in order to leave the quicksands of the transition and reach a safeharbour. It will be fundamentally important then to carefully choose the next changes to be undertaken. Revising a constitution is equivalent to opening Pandora's box, reforming a constitution is adjusting the written constitution to the needs of society.

Notes

(1) This phenomenon has been known as "partitocrazia" and has been studied and discussed by the international scholarly community for the last twenty years. For all see, Joseph La Palombara, Democracy Italian Style, New Haven, Yale University Press,1987; and Political Science Quarterly, Special Issue: *Presidential and Parliamentary Democracies: Which Works Best?* Vol 109, n.3.

(2) Article 5 and Title V,artt 114-133 were at the source for the proposals and demands of the new "federalists" of Italy.

(3) The constitution does not contemplate procedures for a constituent assembly whose purpose would be that of overturning the existing regime. However, article 87 mandates the President to "call elections for the new houses and fixes their first meetings". Those who advocate more guaranties to protect the present constitution see an election exceptionally called with the proportional system as allowing the formation of an Assembly more representative of the people and, therefore are willing to delegate constituent powers to such an Assembly. As will be discussed in the course of this paper,this is not a very viable route and at present has been advocated only by the *Lega Nord*, a secessionist party.

(4) In fact the *referendum* choice of the Italians was largely (over 90%) in favour of the majority electoral law, however the political parties wrote a new law which allowed the Chambers to be formed only partially by the majority criteria and partially by the "old" proportional system.

(5) This was the wording of the original article 114. Further in this paper we shall discuss the new wording.
(6) "where the term segment applies to the parts of the whole, i.e. the states, provinces, or cantons..." Max B. Thatcher, *Toward a Theory of Federlism*, "1989" Rivista di Diritto Pubblico e Scienze Politiche, Anno IV, n.3-4/1994, pp.547-564.
(7) This is particularly true of financial autonomy, "*The regions are assigned... their share of State taxes, in relation to the needs of the region to meet the necessary expenditures to perform their normal functions.*" article 119, comma 2.
(8) Law 108, February 17,1968 disciplined infact the electoral process for the Regional Councils.
(9) It is the constitution which defined the difference between these and the other five, "*To Sicily, Sardinia, Trentino-Alto Adige, Friuli-Venezia Giulia and Valle d'Aosta are attributed forms and particular conditions of autonomy in accordance with the special statutes adopted through constitutional laws"* (original art. 116).
(10) On this subject, Maria Elisabetta de Franciscis and Rosella Zannini, "Judicial Policy Making in Italy: The Constitutional Court." in Mary L. Volcansek (edited by), *Judicial Politics and Policy-Making in Western Europe*, London, Frank Cass & Co.Ltd, 1992, pp.68-79.
(11) "*Regions may legislate within the limits of the fundamental principles established by the laws of the State.....*" original article 117; "*Regions have responsibility for the administrative functions in the areas listed...except in those.....which may be allocated by the laws of the Republic...*" original article 118; "*The regions shall be financially autonomous in the forms and within the limits established by the laws of the Republic*" original article 119.
(12) Original article 128.
(13) Law 142/1990.
(14) "*The provinces and municipalities shall also be units of state and regional decentralisation. The territories of the provinces may be further divided into areas having exclusively administrative functions for the purposes of decentralisation*" original article 129.
(15) "*The government must have the confidence of both houses.*". Article 94.
(16) This was done since the legislative branch is the only organ of the State which is directly elected by the people. By being responsible to Parliament, individually and collectively, the Council of Ministers is indirectly responsible to the people to whom "*Sovereignty belongs...*". Article 1.
(17) Article 67 of the Grundgesetz sanctions, infact, the Konstruktive Mistrauensvotum by which "*The Bundestag may express a vote of no confidence only when it elects by a majority of its members a successor and when it asks the Federal President to withdraw the powers to the Federal Chancellor. The Federal President must conform to the request and appoint the elected. Between the motion and the election must pass fortyeight hours*".
(18) Article 94, comma 5.
(19) A provision in the german electoral law of May 7, 1956 (BWG), limits the actual presence of political parties in the Bundestag to only those which have obtained at least five per cent of the votes expressed throughout the nation.
(20) Articles 18 and 21. Articles 13 through 28 are the italian equivalent of the Bill of Rights in Common Law countries and are by all considered not emendable.
(21) Article 49.
(22) *Ibid*.
(23) On this subject the Spanish constitution is closer to the *Grundgesetz* (art.21) then to the Italian one. The last comma of article 6 of the Spanish constitution, "*Their internal organizations and their procedures must be democratic.*" was, further developped by an organic law, 54/1978, whose article 2 disciplines the procedures to be followed by the political parties (registration, statute, finances) in order to be considered *persona giuridica*, procedures which are comparable to those for registration of business corporations. The organic law 54/1978 represents the only such regulation in western democracies and sets Spain afar from its neighbourgs. Gabriella Duranti, "Personalità giuridica dei partiti:

originalità del sistema Spagnolo" in *"1989" Rivista di Diritto Pubblico e Scienze Politiche*, Anno VI, n.1,1996, pp.71-93.

(24) The Constituent Assembly did not deem safe to sanction the possibility for the people to propose a referendum therefore the abrogative form only was contemplated: "*A popular referendum shall be held to abrogate, totally or partially, a law*".

(25) It includes provisions for administrative transparancy which is enfoced by instituting a sort of local ombudsman called difensore civico.

(26) "*Each member of Parliament represents the Nation and carries out his duties without constraints of mandate*" article 67.

(27) Eightythree percent of those who voted did so in favour of abrogating the law. Of further interest is the fact that the same question asked in the 1993 referendum had been proposed for a referendum in 1991 but then the Constitutional Court had found it inadmissable.

(28) The most used propaganda message was "If you like the British two party system with a clear winner and an opposition which could become the winner in the following election, than vote YES to abrogate the proportional law".

(29) A bicameral committee was formed in order to write a law which would please people without drastically damaging the political parties. The law provides for seventyfive per cent of each House to be elected with the majoritarian system, and the remaining twentyfive per cent to be attributed to the political parties, proportionally to the votes expressed by the people and provided they have polled more than 4.5 %.

(30) From May 9, 1996 to May 29, 2001.

(31) Article 72.

(32) Article 138.

(33) Canada and the United States of America.

(34) The meaning of article 5, was undoubtely for a unitary state. If a federal state is to be seen not as a sub-type of a unitary state, then the revision could imply amending through the aggravated process many articles of the constitution. If however a federal state is to be considered a sub-type of a unitary state, then the procedure described below (b) could be the most expedient and safe method to becoming federal.

(35) Constitutional Law n.1, november 22,1999.

(36) Constitutional Law numbers 2 and 3 of 2001.

(37) For an indepth analysis of the amending process see, Giuseppe Contini, L a Revisione Costituzionale in Italia, Milano, Giuffré Editore, 1971.

(38) Article 138.