ELECTORAL SYSTEMS IN COMPARATIVE PERSPECTIVE

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ABSTRACT: This lesson about electoral systems enforced on the democratic States is divides in two parts. In the first one (points 1. to 5.) the author presents the most important elements to classify methods and formulas, beginning from the classic distinction between majoritarian and proportional systems. The second part aims to show the complicated relationships among forms of government described by the Constitutions, nature, number and actions of political parties and electoral systems, fixing the exam on some important and significant States. In finish, some notes and considerations about the national electoral laws in force for the formation of European Parliament.
The leading statement of the author is that to judge an electoral system we need to put it into the concrete context of history, constitutional institutes and political system of each Country.

KEYWORDS: ELECTORAL SYSTEM; VOTES; SEATS; MAJORITARIAN; PROPORTIONAL; CONSTITUENCY; FORMS OF GOVERNEMENT.

1. FROM VOTES TO SEATS: THE VARIED UNIVERSE OF ELECTORAL SYSTEMS

First of all I would like to thank my colleagues who organized this Summer School for inviting me to participate with this conversation and with the debate that is going to follow. To me this is a precious occasion in order to compare theories which I am very interested in and, I would say, affectionate to, such as the theory about electoral systems and their influence onto forms of government; doing that, out of the usual sphere of jurists, constitutional lawyers and legal historians, is very stimulating also in order to examine mutual contribution that scientific and humanist doctrines can offer.

It is my intention to declare immediately the way and the target of my statement. In this particular perspective, the high qualified mathematic skills of the other relators and the specific scientific preparation of the audience suggest I should not enter this side of the subject, despite being rich of very interesting aspects, to, otherwise, concentrate my reflection on effects of electoral systems and on their role in the determination of forms of government, relatively to constitutional institutions. While reasoning about elections of wide political organisms, we must never forget that every technical or mathematical aspect plays a proper and functional role to the democratic principle; it is a mechanism aimed at allowing electorate (more or less extended; more or less wise, more or less active) to choose their own representatives, in collegial or monocratic organisms, exerting a public power, by constitution and by law organized and restricted.

Of course, after briefly defining the subjects of electoral system and electoral formula and after marking some compulsory elements of distinction on a technical-juridical point of view and political as well, I am going to present a focused analysis onto some particular institutions, chosen on the basis of their specific characteristics very useful to understand certain implications that electoral systems usually present.

Obviously my work is not going to exceed the ambit of democratic form of State otherwise we should introduce a series of other factors and unknown elements that would take us away from the purposes and the meaning that my lesson is aimed at.

Once achieved all these necessary elements, we are going to face the dramatic relationship among form of government in its formal way, form of government in a substantial way and electoral systems chosen by institutions, paying particular attention to system of political parties (generally as well as in details in some particular nowadays democratic systems).

In the end, if we have enough time (if not, the text is available on the website of the School) we are going to glimpse upon methods of election, State by State, for determining their members of European Parliament, according to limits due by the E. U. law.

2. THE INGREDIENTS OF AN ELECTORAL SYSTEM

In my opinion the distinction between the two most considerable meanings of the expression "electoral system" is still the most valid classification in use.

The first meaning, very wide and general, usually intends that complex of juridical laws issued by a specific institution to rule the electoral phenomenon, or rather all the operations made up for the election of an organism provided for the institution itself.

In this particular meaning "electoral system" embraces several aspects, including protection of

freedom procedures, vote privacy and equality (diffusion of voters certificates, polling station characteristics, scrutinizers activity, and so on), rules of electoral campaign, practice on raising funds of political parties and pre-conditions to candidate themselves to election and of course, all the operations following election: from the proclamation of winners to the check of powers in the Parliament.

But, we are certainly much more interested in the second meaning, that I am going to call <u>strictly</u> electoral system or, more usually, electoral formula. These expressions show the juridical-mathematical method adopted by institutions to transform votes into seats or, in case of monocratic organisms, into political-institutional office (for example in case of direct election of a President of Republic).

Exactly like what happens for food recipes, an electoral system is made of some absolutely compulsory ingredients, that I dare call basic or *constituent*, without those the system can't make its point, and it is also made of *variable* ingredients and *extra* ingredients.

The constituent ingredient, above all, of an electoral system is the choice made by the legislator (more seldom, by the norm of the Constitution) about its inspirational principle: majoritarian, proportional, mixed. No electoral system can avoid this basic and primary option: to adopt a totally majoritarian formula (for example, one of them is the well-known English *First-Past-The-Post*, as we are going to see), or a merely proportional (yet necessarily corrected "from" the stiffness of mathematics) or one out of the several possible variants of mixed systems.

Once made this choice, the legislator can use and mix the variable ingredients, he can proportion and combine them to achieve the desired taste of the system. Those variable ingredients show up at this point as options about dimensions of territorial subdivisions, single-member constituency, multi-member constituency, electoral ward with lists of candidates, more or less wide or narrow, accordingly to the dimensions of the electoral lists presented to voters in the voting-papers; as well as the decisions about legal or implicit threshold of barrage, as majority rewards (strengthening or conclusive), as well as ways of expression of vote: closed lists, flexible or preference lists.

Finally, like the best recipes, the extra ingredients of the electoral system, in its wide definition, ingredients that, looking at the quality of a democracy, are even more important than main course: primary elections, raising funds for candidates and political parties, equal access to the media, reserved representation share, (pink quotas, ethnic and linguistic minority), link to Parliament rules, procedures of guarantee to prevent possible corruption at election, and so on.

There are many ingredients and they are so varied and different by nature, and their implications are even many more, to understand them we must use discipline and good care in making a classification according to some usual categories, starting from those dividing majoritarian systems

from proportional and from mixed.

But to achieve a fair and correct approach by method to this classification I think it is important accept a basic premise: there is not an absolute good as well as there is not an absolute bad and this theory of electoral systems applies to democratic Countries on the whole. Every option fixed by the norms to their democratic system has to be considered and thought looking at the form of government and at the political system in force, otherwise working in the abstract, paying no attention to solid reality, can be extremely dangerous. Things can get even more complicated, despite being in a democratic system; values to be held and targets to aimed at might not be always objectively shared. To make an example: governance and representation cannot be disregarded, but they also very often might conflict to each other and therefore they need compromising. Then, my question is: How? Does a balance exist between them? Is it objectively and really valid to anyone? I doubt. Generally, political parties (and then, perhaps, those people who stand behind them) show up different opinions according to the consent they enjoy, the concept of barrage will make it clear, its determination and its threshold is a usual and controversial subject of reasoning and of arguing.

In consideration of these thoughts and many more that we are going to develop a laic and empiric attitude would be the best approach, with no apriority at all, because that would offer us a miserable and disgusting food.

So that it seems to me a good idea to place all electoral formulas, generally in force in democratic institutions, on an ideal segment, ending it on one side by the most strictly majoritarian system and on the opposite one by the most proportional system. The first one would be the English *First Past The Post*, and the second one would be an hypothetical proportional formula perfectly representing the relation between quantity of votes and quantity of gained seats (such as the Israeli knesset or the Italian system in force from 1948 until 1992 in Parliament). The remaining part of the segment would be taken, for one side, by more articulate majoritarian systems, like double shift (for example, the one for French National Assembly) or the Australian *Alternative Vote System* shading to less sheer proportional systems, less reflecting the votes-seats correspondence. Finally, in the central part of our segment, plenty of variants of mixed systems, combining in many different ways elements of both, majoritarian and proportional systems.

In my opinion the image of a segment works properly to emphasize the nature of different formulas, that must not be considered as single unity (philosophical monads), but manifold variants, mobile on a common land, with no substantial solution of continuity, in relation of minor or major degree of correspondence between gained votes (by a political party) and corresponding assignable seats on the base of the mathematical calculation proper of the chosen formula.

Following this order of reasoning, I would go on with a classification of electoral systems,

starting from the one we placed at one end of the segment: *First-Past-The-Post System*.

3. MAJORITARIAN SYSTEMS

3.1 *FIRST-PAST-THE-POST SYSTEM*

The traditional electoral system in force in the United Kingdom for the election of members to the House of Commons has got several good qualities, first of them: it is simple and it works well. The territory of the country is divided in to as many *constituencies* as seats to be assigned, for a total of 650, in each of them a competition takes place between candidates presented by political parties; since today to each constituency corresponds only one seat in Parliament, every political party can present only one candidate, differently from what used to happen in the past when many constituencies were multi-member. The principle of *plurality* applies to the competition, in fact in order to win, and to go to Westminster and get a seat, a candidate doesn't need to achieve at least 50% +1 of votes, he only needs one more vote than his competitor, second in the ranking. The winner becomes *MP* and the losers are out, since the system doesn't include any kind of proportional recovery of votes gone to losers, even for huge quantity (*the winner takes all*). At the end of the poll of every constituency all the results of single competitions are summed up and what appears is the new general view, the new outline, of the House of Commons.

3.2 *DOUBLE SHIFT AND RUN*

The *majority* principle rules electoral systems in force in France for the election of the President of the Republic and for the composition of the Lower House.

The President of the Republic has been elected since 1962 by a double shift electoral system. If none of candidates presented to the first shift gets an absolute majority, a ballot takes place among the first two of the ranking and the one achieving more votes will be elected. It is possible to define this method as a "closed" double shift and run; closed, in fact, because the number of candidates, only the two most awarded by the favour of voters, allowed to reach the second round is fixed, not paying attention at all to percentage of votes gained. Therefore every political party presents at first shift its own candidate, wishing he or she could reach at least the second place, in order to reach the ballot. At second shift political parties not having their own candidates are probably going to suggest people should vote for the closest (or at least less distant) to their positions, with the purpose of defeating the candidate more hostile to their political opinions.

The situation is very similar for elections at the National Assembly, but an "open" ballot applies to this case. It means that in every single-member constituency a first shift takes place with a

preliminary function of checking whether a candidate can gain absolute majority of votes. Very likely this is not going to happen, then all candidates who reach the threshold of voters (nowadays fixed at 12.50% of the Electorate, not voters, in every single constituency) are going to participate to the second shift. In this case it is not possible to know in advanced how many candidates would reach the ballot. They might even be eight, mathematically thinking, but obviously they are supposed to be many less, and that because of two reasons, first it is not likely that all electors go to the poll and second reason, because it is even less likely that all eight candidates achieve the same quantity of votes. Generally two or three candidates dispute the success between each other at the second shift, taking the chance, widely tested, to come an arrangement of withdrawal, while loser political parties, at first shift, could easily address their votes onto the most similar candidates.

3.3 *ALTERNATIVE VOTE SYSTEM*   (slide n. 1)

If majoritarian systems in force in the United Kingdom and in France are, of course, very well known, it is not the same, perhaps, for the *Alternative Vote System,* an interesting majoritarian device in force in the House of Representatives in Australia.

It is a method, included in the big "family" of single-member systems, working on the duty of voter to show the rank of preference of candidates presented on the list. In every constituency the winner is the candidate who gains the majority of votes (and generally where this method is in force the ¾ of seats are assigned in this way), that being stated, if it doesn't happen so, then at every reckoning the candidate who achieves the smallest number of first preferences for himself will be eliminated and the second preferences included in eliminated voting-papers will be assigned among candidates still competing. In the end the winner turns out to be the candidate who not only gained a lot of first preferences but also achieves many second ones. This system match immediacy of single shift with attribution of absolute majority of votes, or better, of the ranking of preferences: a *plurality* and *majority* formula at the same time.

4. PROPORTIONAL SYSTEMS

To set up a classification of proportional formulas a good standard of judgment would be to found the work on the dichotomy between *highest average system* formulas and *largest remainder system* formulas. Inside of every group, it is possible, then, to make up a kind of continuity regarding the degree of proportionality of each of them, or rather regarding the more or less effective skill in representing connection votes/seats achieved by every political party. At present time there are many proportional formulas in force in several democratic States, they are varied and

generally they take name by the person who devised them. Therefore we are forced to make a selection, in order to take into consideration only some of them, particularly those useful to understand, in a second time, implications of political systems that we are going to analyze in the next paragraphs. To do that more than words are going to be useful the numerical examples described in the slides.

First, let me indulge in a general consideration: while reasoning about majority systems we saw the basic philosophy, common to all of them, is the competition to achieve the target, in this case, of course, the seat; according to this philosophy, at least in every constituency, there are winning political parties and loser political parties. Otherwise, the proportional philosophy, that is given concreteness by varied formulas differently one from the other, can't be anything but photography of reality, or in other words the trend of correspondence between electoral consent gained by political parties and relations of strengthens inside an assembly (assuming that obviously proportional formulas don't work for monocratic offices). This remark nevertheless, means not to involve the statement about governance, representation and government stability, subjects that we are going to analyze next, because this last subject depends on many other variants beyond choice of electoral formulas.

4.1 *HIGHEST AVERAGE SYSTEMS* (or *Divisor Methods*) (<u>slides nn. 2-3</u>)

The principle of working of these systems consists in the individuation of a sequence of numbers, different for every system, that divides the electoral figure of votes gained by every political party.

As you can see from the slides, the original formula is a method by D'Hondt that provides a subdivision by a continue numerical sequence, including whole, even and odd numbers.

Methods by Sainte Laguë, the sheer and modified one, are a derivation of method by D'Hondt, different from this one in using only odd numbers to make a bit more proportional the system and, in the modified version, to rise the first divisor from 1 to 1,4 to make it more proportional but less than the "sheer" one. So, on an hypothetical proportionally rising scale, the method by D'Hondt would be first, then the modified Sainte Laguë's and last the sheer Sainte Laguë, as from the numerical examples in the slides.

Of course, it is fair and obvious to state that these calculations about the degree of proportionality (and, of course, this postulate is valid as well for the quotient principle) offer a mathematical and essential value, but their real correspondence must be verified empirically on every political system, considering that characteristics can change from one State to another.

4.2 *LARGEST REMAINDER SYSTEMS* (or *Quotient Methods*)

The mechanism at the basis of functioning of systems adopting the principle of *largest remainder system* is synthesizing in a formula: Q = (V/S), where the quotient to start from, in order to calculate seats due to every political party, in the ambit of the territorial subdivision in object, is the result of division of all votes expressed by the electorate by the number of seats to be assigned. In this case as well we can enjoy a guiding method, the method by Hare (<u>slide n. 4</u>), called also of "natural quotient", because the divisor of fraction is not altered by any corrective. Once obtained the quotient every list achieves as many seats as many times the quotient enters its electoral figure. The great defect of this system, not in common with the highest average systems, we have just analyzed, is the problem of remains, that is to say the surplus of votes, correctly expressed, but not helpful to gain a whole/full quotient to a list. Therefore institutions adopting this system must include side by side in their functioning a mechanism able to solve the problem of remains, a mechanism showing the ways to assign remaining seats after the attribution of full quotients. The most appreciated method is the one called of "*greater remains*" (<u>slide n. 5</u>) or as well of "*tallest remains*", in force sometimes at level of great national constituency, or in some other situations at a circumscription level. Yet there are two other methods, the one of *tallest average* (an application to the problem of remains of method by D'Hondt) and the method of *tallest figure* (that rewards the relative majority party).

In order to tone down the problem of remains two other methods of quotients, numerical variants of Hare's, have been worked up. These are: method by Hagenbach-Bischoff (<u>slide n. 6</u>), that increases by one unity the number of seats (S+1) and the method by Imperiali (<u>slide n. 7</u>) that increases by two (S+2). The common target of *correct quotient* and *more correct quotient* is to cut down the quotient and then the number of votes needed to obtain a seat. Quantity of remains turns out to be smaller even if the problem is not likely to disappear.

The proportionality degree in comparison with the previous group is inverted, the original method is the most respectful (always under the same conditions of other factors) of relation votes / seats, while the followed methods are less proportional but in favor of smaller parties.

4.3 *SINGLE TRANSFERABLE VOTE (STV)*

We have seen so far several proportional systems, very different from each other, but joined because they generally find application inside of systems that present a choice between competitor lists of candidates from political parties to voters.

The Single Transferable Vote, on the contrary, is a kind of proportional representation based on principle of preferential vote inside multi-member constituencies, where several different

candidates, even from the same party, run, each one against the others. Every elector expresses his/her vote in favor of one of candidates, then he/she ranks the others according to his/her own political feelings. At the poll the quotient is fixed (by the formula of +1 correction) and the candidate who gets over that figure is elected. Then another reckoning takes place, dealing out the second preferences of the candidate already winner and the preferences of last candidate in the rank (who is going to be excluded from the competition). These operations of re-assignment go on until in every single constituency as many candidates as the seats to fill would exceed the quotient.

It is a system rather complicate, but it presents a wide range of choices to voters, either about parties or about personal qualities of candidates, cutting down the quantity of wasted votes. It is also clear and obvious that the proportional degree of a system made like this, depends on *magnitudo* of constituencies, or on number of seats to be held in each of them. In Ireland, where the system has been in force (according to the Constitution) since the achievement of independence from the United Kingdom and has been widely appreciated by the electorate as much that twice, in 1959 and 1968, referendum for a constitutional review to introduce the FPTP were rejected, the small *magnitudo* has caused a small proportionality, but has warranted a certain stability of the political system, hinged, as it is, basically only on two political parties.

5. MIXED SYSTEMS

Going back to our hypothetical image of the segment where to place every electoral systems in force in democratic institutions, we saw at one of its two ends systems marked by sheer majority principle and competition while in the opposite side we saw lying systems searching for a better representation.

Now I would like to insist on the nature of most decisions made by legislators, they, in fact, generally accept in the electoral laws both majoritarian and proportional elements: these are called mixed systems. On a mere theoretical level, this category appears clearly to be residual in comparison with the other two just analyzed, and that because it includes all systems that (because of their real and intrinsic characteristic) can't be placed nor in the majoritarian nor in the proportional category. But, from the point of view of an empiric analysis there is no doubt that mixed systems are a very important subjects, either, as said, on a quantity level or for interesting hints offered to the search of a fair compromise between implementation of democratic representation and governance of political system. Nevertheless this category is also extremely heterogeneous avoiding every logic of ranking. Variability of criteria adopted by legislators to get that particular *mix* of opposite elements prevents from elaborating too strict schemes in which fix

every case. It would be possible to distinguish majoritarian mixed systems from proportional mixed systems, whereas the prevailing peculiarity might belong to the structure of the system or only to its results. For instance, to the first category used to belong electoral laws of the two Houses in force in Italy from 1994 until 2005, that provided election of 75% of members by the *plurality* and the remaining 25% by two different proportional formula (Hare e D'Hondt).

To the second category might belong the German system for the composition of Bundestag; according to this system half of members is elected in single-member constituencies by the *plurality* (first vote at elector's disposal, *Erststimme*); the other half of members through electoral ward with lists of candidates (second vote, *Zweitstimme*) by Hare's quotient (after giving up method by D'Hondt in 1987), but the total quantity of seats due to a political party is determined by the result obtained in this second part, therefore many experts refuse to set it as mixed system, considering it a mere proportional system. But things would be even more complicated if we pay attention to some systems formally proportional, but showing as results characteristics sometimes even more majoritarian than *plurality* themselves, because of varied elements of the system, like *magnitudo* of unities of territorial subdivision. The best example about that is the Spanish one.

Finally, I think it is fair not deal with mixed electoral systems as a proper and apart category, in fact their characteristics need a punctual analysis by group of solutions or, even better, institution by institution.

6. ELECTORAL SYSTEMS AND FORMS OF GOVERNMENT

6.1 *GENERAL CONSIDERATIONS*

While approaching a real and punctual analysis of relationship between electoral systems and forms of government, first I would like to introduce a preliminary, quite concise explanation about both terminology and concept. In the ambit of theory of form of government, it is suitable to make a distinction between the expression "form of government" in its formal meaning and the same expression but in its substantial meaning; in fact the first one gathers all relationships among constitutional organisms as it is provided by the norms of Constitution: a Parliament provided with one or two Houses, presence or absence of a fiduciary link between Legislative and Executive, presence at the top of institutions of a President as guarantor or, instead, bearer of his/her own political address, powers and methods of intervention of a Constitutional Court, and so on.

In order to understand the real dynamics of a constitutional system we should extend our glance to the meaning of the second expression, that side by side to juridical laws places two fundamental elements: system of the political parties and, of course, the electoral system. Then it could also be

asserted that the form of government of a democratic State is a resultant of a chemical reaction among these three elements: constitutional laws; number, characteristics and behaviors of political parties; role of electoral system for the most prominent political offices. When I talk about chemical reaction, of course, I mean to display the necessary and logical mutual dependences among these elements, because of them one is under the influence of other two and at the same time is influenced by them. In fact, only in order to make an example, the number of parties and their strong tie to the society depend on primary choice of form of government provided by Constitution. It is enough to considerate the importance of American presidential system in building the US two-party system of Democrats and Republicans; we can also considerate how important the direct election of the President of Republic was for the political geography of fifth French Republic. It is now evident the reason why two parliamentary forms of government as the Italian and the German one have obtained very different results in terms of stability and governance, because of electoral laws marked by general diverging characteristics and because of an outline of political forces in the Parliament extremely different.

The first attempt to classify the relation between electoral systems and number of political parties was made by a famous French political scientist, who since 1954 formulated two propositions late on called "Duverger's Laws".

1) *Plurality system aims at supporting the formation of a two-party political system;*

2) *Double shift majoritarian system and the proportional representation aim to build at a multi- party political system;*

These postulates by Duverger have been very prominent on the electoral systems debate and they have had the merit of marking the importance of electoral systems for constitutional and political studies. Yet they also have given rise to several critics, sometimes very harsh, aimed even at denying the scientific value of any mechanicalism applied to social sciences.

Giovanni Sartori's critics, in my opinion, have always been better balanced, faraway from denying, from the very beginning, the possibility of searching elements of regularity in the political environment, he focused the attention on theoretical and empiric weakness of those "laws". Whatever conversation about this subject should point out a necessary method premise on criteria of reckoning of political parties, totally absent in the laws by Duverger. Political opinions expressed by a population can be the most varied and gather one to another by tens of groups small and even smaller. In Sartori's opinion only political parties that detained a relevant power of coalition and/or of interdiction can qualify a political system. These characteristics depend on different factors, obviously starting from quantity of electoral favor and from great or small closeness to other forces present in the legislative assemblies. Expression like "two-party system" and "multi-party system"

must be read from this point of view. Because of this reason the British system is based on two parties even if in the House of Commons there are seven or eight parties. In fact only two parties compete for the government of the Country and they can, by turns, form a *one party government* (generally but this legislature).

Then, there is a second weak spot of laws by Duverger, in fact they don't pay attention to the context where an electoral system is supposed to work. The skill of a *plurality* system in producing a two-party system, thanks to a use of strategic vote, is linked to the skill in matching a political system based only on two protagonists, as it happens in the United Kingdom, while in a traditionally fragmentary social-political context the result would be different even opposite. As well as a proportional system doesn't necessarily produce a political outline characterized by a huge number of political parties, as German history after Second World War suggests.

Finally, the third weak spot depends on having joined double shift and proportional system in a partially common category, when empiric analysis of evolution of fifth French Republic shows perfectly the opposite reality, such as an increasing trend to a two-party system.

Now I think I should leave these general categories to get into the analysis of single realities; one method, in my opinion, more useful to comprehension of these phenomena.

6.2 *FPTP AND THE UK WESTMINSTER MODEL*

The Westminster model, in absence of a writing Constitution, is essentially based upon three pillars: *sovereignty of the Parliament*; a political system controlled by two parties that take turns in forming *one party government*; several *constitutional conventions* stratified along centuries determining constitutional dynamics. Well, for last 15 years these three pillars have suffered a series of hard hit, so strong that they can call in question the solidity of traditional form of government. The Sovereignty of the Parliament must now face several different points of erosion: the process always *in progress* of Devolution, particularly in favour of Scottish Parliament; the increasing role assumed by European Union and by European Court for Human Rights in Strasbourg; the recent (2005) establishment of the United Kingdom Supreme Court, not yet a Constitutional Court of justice, but certainly already a potential counterbalance as regard as the extra-power of representative Assembly.

In this regard, the *constitutional conventions* very recently had to record an historical defection. Until September 2011 the British Parliament did not have a fixed length. The combination rules of *Septennial Act 1715* and article 7 of *Parliament Act 1911* in fact ordered the 5 year term only as maximum length of every legislature. Therefore that period of time was only a chance of length and it was not a period fixed by law, as it happens in the European continental Parliaments, besides *the*

Scottish Parliament and the *National Assembly for Wales*, as well as in assemblies of local government of the Kingdom.

That peculiar characteristic of British Parliament could look like a formal and negligible detail in the bigger perspective of the form of government, but certainly it is not. Behind those ancient rules was hidden the History-making encounter engaged by parliamentary institution against Sovereigns in 17th century. The act in 1715, on one hand, settled the final victory of Parliament to protect its own establishment and on the other, from the point of view of a balanced government, maintained in the King's hands the power to anticipate dissolution. That complex period of time having its turning point in the *Glorious Revolution* completed with the *Septennial Act*, starting the royal-constitutional form of liberal State. Subsequent evolution of the form of government in a democratic and parliamentary way has gradually given the substantial power of dissolution to Prime Minister's area of determinations. It is precisely from this point of view that it was possible to appreciate the real importance of lack of a certain length. If during the Twentieth century the Prime Minister role gained more and more centrality inside the "Westminster model" that happened also thanks to the chance to make decisions about the best moment to declare the end of the legislature, through the usual *Advice* to the Sovereign. It appears evident how this prerogative ripened and was often exerted by virtue of the absence of a fixed term for the conclusion of legislature. During last ninety years the House of Commons very rarely was able to complete the 5 years that separate the first session from its formal dissolution by *Royal Proclamation*.

But on September 15th the *Fixed-term Parliament Act 2011* came in to force, strongly wanted by the Liberal Democrats component of present majority, this statute fixes the date of next general elections on Thursday 15th May 2015 and the following ones on first Thursday of May, every five years and, even more important, gives chance to call for early elections only in two specific cases.

The first one lies in the approval by the House of Commons, by qualified majority of 2/3 of its components, of a motion like this: "*That there shall be an early parliamentary general election*".

The second case takes into consideration the hypothesis that the House of Commons approves by majority a vote of no confidence towards the government ("*That this House has no confidence in Her Majesty's Government.*") and during the following 14 days the House itself is not able to get a vote of confidence towards a new Executive ("*That this House has confidence in Her Majesty's Government.*"); or, in very real terms, political forces can't form a new government able to obtain a vote of confidence from the Parliament.

It appears evident how deeply this constitutional innovation affects some mechanisms, particularly the conventional ones, being at the head of constitutional organisms, starting from the power of Prime Minister to orientate life of Parliament and, more generally, to capitalize in

electoral terms advantages of undertaken political choice. Not to talk about the stabilizing function in the British political system often played by the threat to appeal to early elections addressed by the Prime Minister to minority part of majority, interested in discordant behavior as to political line of the Cabinet.

Finally, even the FPTP electoral system, traditional bulwark of the Westminster model, suffered an attempt, despite being failed, of reformation. General elections that took place on May 6th 2010, after a 36 year long period of time, give, as result an *Hung Parliament,* which means a Parliamentary situation where no party can enjoy an absolute majority of seats and hence it is not able to form a government by itself. On the other hand, the *plurality* system is not obviously able to assure absolutely the normal condition. That, in fact, might not happen if the relative majority party, in this particular situation Tory, is not able to achieve a quantity of votes to get the result known as *Cube law*, characteristic of FPTP, that can insure the absolute majority of seats, while, besides, a third party, in this case Lib Dem, achieves a large number of seats, large enough to give it a determining power of coalition. Well, one of the points immediately demanded by Lib Dem to be included in the *Coalition Agreement* was, in fact, to start off the legislative *iter* to announce a referendum, asking the electorate to make a choice between maintenance of FPTP or its substitution with a form of AV System, even if sensibly different from the one in force in Australia. According to the Australian system, in fact, voters must display an order of preference of all candidates present on the voting-paper, under pain of invalidity. Law in the United Kingdom would have left up to voter the choice between displaying a single preference or placing in order of preference all candidates present on a voting-paper. It was a huge variant, particularly if considered in a political context where the voter is used to express a precise and direct vote.

Upon such a question/issue, for years controversial and debated in the United Kingdom, it could have been expected a more uncertain result from the referendum, with a smaller quota in favor of one out of the two options. On the contrary the final result was clear and sharp. The ''No'' to the change of electoral system prevailed by 67% of votes. The supporters of reform can't even complain a little participation since the affluence to the poll stations was close to 42% of electorate, even much higher than expectations.

However, leaving out of consideration this result, it is interesting to remark how during the campaign several critic voices raised against the peremptory character of consultation.

Particularly the constitutional lawyer Vernon Bogdanor, in an article on the *Guardian* of February 22nd 2011, stigmatized the fact that deals internal on Government coalition prevented the electorate from expressing itself upon a wider range of options concerning also choices of electoral systems classifiable as proportional. After having mentioned a qualified survey from September

2010, revealing the request of public opinion for a larger range of alternatives to express upon (a strong attraction among supporters of AV System too), he gave as good example of referendum procedure on these subjects the New Zealand case of early '90s. The precedent fitted very well since it took place in an institutional and electoral system based on the Westminster model. In 1992 New Zealand voters were asked two questions. First one very simply asked them whether the FPTP had to be maintained in force. The second was more complex: independently from the answer to the first question, voters were asked to declare which should be preferred among four indicated systems, three variants of proportional systems and AV System. The answer of electorate to the first question was mostly (by 85%) in favor of change, to the second question the 70% of voters choose *mixed-member system*, while AV System got only 6%. The following year a new referendum took place, submitting the alternative between conservation of FPTP or change to *mixed-member system.* Last one prevailed with 54% of votes, becoming then the electoral system in force in that country, starting from general elections in 1996, first after those referendum results, and helping in changing (in a strong way) to modify its form of government: end of two-party system, necessary resort to coalition governments, Prime Minister as *primus inter pares* not any longer *dominus* of the Cabinet, disappearance of *Shadow Cabinet*, role less notarial of General Governor (even if history and traditions avoided the change to a consociate democracy, maintaining some basic characteristics of Westminster model).

As we can see, it would have been a long and complicated consultation, but it would have offered to British citizens a wide range of choice, thanks to a very open outline.

6.3 *REASONS FOR GERMAN STABILITY*

If British form of government is universally recognized as unswerving and, generally, rather stable, same reasoning should be valid on Chancellorship, typical of German *Grundgesetz*, despite the fact that, as I already had occasion of reminding, we are talking about an institution based on a mixed electoral system, a *mixed-member system*, displaying proportional effects. And more, if we decided to use as stability index of political system the number of Prime Ministers or Chancellors respectively followed to another in London and in Bonn-Berlin, after the Second World War, we would discover that the German ones were less than the British (only seven: Adenauer, Erhard, Kiesinger, Brandt, Schmidt, Kohl, Schroeder, Merkel; against fourteen in Britain).

Considering these objective data, it is worth debating upon the reasons supporting political stability and governance of the Country. Particularly interesting and essential for our targets is to think of role played by the electoral system. From this point of view I think that the complex system organized by the German legislator has got, with no doubts, qualities that match perfectly the reality

it is dipped in, but this system shows as well paradoxical aspects like the surplus of mandates (*Überhangmandaten*), which a sentence of Bundesverfassungsgericht (BVG) in 2008 intervened upon, in order to declare them against the Constitution, giving the Parliament three years to provide a change of the electoral law. And indeed, in November of 2011, the Parliament has complied with approved a law aimed at mitigating the most distortive effects in the sentence complained. But, on July 25th 2012, the BVG has also declared the unconstitutionality of that law as it too would violate the principle of equality and equal opportunities for parties guaranteed by the Constitution. According to the BVG, in fact, too many mandates in excess allowed by law in favour of a single party distorts the proportional principle of distribution of seats. Therefore, the Court requires the Parliament to provide another law that limits these mandates to a maximum of fifteen.

However this mixed system form certainly presents some merits since allows political families to be represented in Parliament, to select 50% of elects through popular vote in single-member constituencies (*Direktmandate*) and to give political parties responsibility of selection of other 50% by electoral wards with closed lists of candidates.

Nevertheless we must recognize that all the characteristics of this mixed system can't be enough to warrant the stability that is universally ascribed to it. There are three other important factors determinant to build a Bundestag (the only branch of Parliament elected directly by the Electorate and that enjoys a relationship based on trust and confidence with the Chancellor) gathering a reasonable number of parties: initially only three (CDU, SPD and FDP), then starting from '80s four, after the admittance of Grünen, and at the present time five, by virtue of electoral success of the Linke.

The first of these three factors is inside the electoral law itself and is the threshold of barrage (*Sperrklausel*), fixed at 5% (or, otherwise, the achievement of three *Direktmandaten*), this factor can prevent the fragmentation of Chamber and then the difficult establishment of alliances of government able to enforce a Chancellor supported by absolute majority and holding the Chancellor action as chief in charge of the Cabinet during all the legislature.

Second is an historical-juridical factor and goes back to first decades of life of Federal Republic of Germany, at that time West Germany. Paragraph 2 of article 21 of Grundgesetz provides that: "*all parties, that because of their own targets or behavior of their own supporters are aimed at damaging or eliminating the fundamental democratic and liberal institution or are aimed at threatening existence itself of the German Federal Republic are unconstitutional. The Federal Constitutional Court is called to make decision on the unconstitutional issue*". On this law bases in 1952 the BVG decided the dissolution of new Nazi party *Sozialistische Reichspartei* and in 1956 made the same decision against the *Kommunistische Partei Deutschland*. Those decisions were

fundamental particularly because made in an historical period when the German political system was still shaping itself, impressing a strong centripetal push. In those same years at the congress of Bad Godesberg the SPD definitely gave up with Marxism and Anti-Capitalism to entirely embrace social-democratic reformism: that turning made possible to establish, after few years and after passing through a *Grosse Koalition* government as well, an advantageous alternation of political forces all loyal to the constitutional institution, at the head of federal Cabinet.

The third factor is juridical and consists in a stabilizing function played in the political praxis by several institutes provided in the Grundgesetz and particularly by constructive mistrust (*Konstruktive Misstrauensvotum*). In spite of several critics it was subjected, this rule represents a real main point of German constitution embodying its spirit. At the election by absolute majority of the Chancellor by Bundestag, between these two organisms a relation based on trust is established and in the logic of parliamentary regime this relationship is possible to fail, because of political problems emerging during the legislature, but without melting the Parliament as immediate consequence. Yet the Chancellor in office can be recalled by the President of the Republic only if the Parliament can elect another Chancellor, again by the same majority requested. That means even deep changes in the political address are possible, but opening an uncertain crisis, lacking a possible exit evident since the beginning, is not allowed, differently from what happens in other parliamentary systems like the Italian one. The fact that this institute has been enforced only once for over sixty years, must not deceive us. October 1st 1982 the *Bundestag* approved a motion of mistrust and the Chancellor in office Helmut Schmidt, expression of alliance between SPD and FDP, governing the Country for over a decade, was replaced by the Christian-democratic leader Helmut Kohl, supported by a new alliance between Christian-democratic and liberal. The deterrent power of constructive mistrust consists in a sober and extraordinary use by political parties and only as *extrema ratio*, for this reason its power is strong above all when it is not called out, precisely because political forces perfectly know they have to face the tie connected to it in order to get destabilizing operations of *status quo*. Indeed, as well as unfortunately, comparison with the Italian political history shows the correctness of this theory.

Therefore, in consideration of all these virtues I think we can postulate that stability and governance of German system depends essentially on good mix among constitutional institutions, electoral law, political praxis, all of them tending to the research for linearity and squaring, leaving small space to fantasy of tactics and of Byzantinisms, as it is imposed by German spirit.

6.4 *THE YOUNG SPANISH DEMOCRACY BETWEEN SHAPE AND SUBSTANCE*

A good, meaningful example of how relevant the choice of electoral system to consolidate, or even help to establish, a democracy is the Spanish system. After the end of Franco's dictatorship and after the approval of the democratic Constitution, at the end of 1978, Spain passed through few difficult years of transition, marked by a certain difficulty in putting in safety the political system with solid and deep-rooted political parties. Likely an unavoidable stage for a Country leaving a several decade long dictatorship that drove it to a condition of a huge military barracks. People were supposed to get used again to thinking freely, to conceiving their own political opinions, to taking responsibilities of decisions, in absence of a *Caudillo* who used to gather in his own hands all the State functions.

The Constitution of 1978, drew a monarchy-parliamentary system, showing a form of government for several aspects not far from German chancellorship and Italian parliamentarianism. In this frame, electoral law approved by a systematic law in 1985 played a very important role for the definition of political outline and for the correct functioning of mechanisms provided by the Constitution.

Spanish electoral system is likely to be the one that needs more than any other a distinction from formal appearance and its substantial running. Electoral institution for the Congress of Deputies, the only branch of *Cortes Generales* that maintains a confidence relationship with the Government, made up of 350 members, provides distribution of seats through the D'Hondt method with closed competing lists. It is, then, a formally proportional system, yet ruled by a less loyally dispenser formula. But this system is made interesting by the element of territorial subdivision. In fact, law provides that borders of districts match with the ones of the 50 provinces which is divided into the territory of the State (having a minimum number of 2 seats, but Ceuta and Melilla where seat is only one each). This choice involves two different consequences, first there is a huge disproportion relatively to the "cost of seats" between very crowded territories and other less densely populated provinces, but, second point, there is a strong and harsh selective effect. The average dimension of seats to be covered for each circumscription is equal to seven, then very low. That means, according to the D'Hondt method, that the cost in terms of percentage up to each political party is very high to achieve a seat. And consequently it would be as much higher as the number of seats ascribed to a single district is lower, and whereas. Now then, the real central element of Spanish electoral system shows up: the very high implicit threshold that parties must exceed, district by districts, valuable on the average around 11% of votes. Law provides as well a legal threshold, that turns out to be a subordinate element fixed at 3% and ends up to be in force only in huge city district as Madrid and Barcelona, but those, expressing 34 and 31 deputies each, have got a threshold lower than 3%, while all others have got a higher one.

These specific characteristics, of course, have affected the political system with their beneficial consequences, helping in punishing the extreme right and left, polarizing the system around two hinges the middle-left led by Socialists of PSOE and the middle-right gathered around the conservators of PPE, those parties can take turns at the head of the Country, sometimes by themselves sometimes with help of smaller allies, like regional parties, small but very close and tied up to the territory and therefore not cut down by the implicit threshold.

As we can easily see, we are facing a system showing proportional forms but behaving like a majoritarian system, as much that in doctrine it is called exactly this way: an "almost" majoritarian system.

6.5 *FRAGMENTARINESS OF ISRAELI SYSTEM*

On the opposite, on the side of proportional system, because of several aspects, we find the system in force in Israel. Hebrew State is for many reasons an *unicum*, starting from the proportional choice that is due not only in order to help the most correct representation of political forces in such difficult and peculiar context, but also it is due to historical reasons leading back to Zionist movement. The Zionist congresses at the end of 19th Century and early 20th, like the Assembly in representation of Hebrew Community (*Yishuv*) in Palestine, subjected to the British Protectorate, were institutions lacking legislative functions and then they weren't focused on choosing political address to be compared in the parliamentary dialectic. They were supposed to show the variety of voices composing that movement, marked by a plurality of different statements on ideological, political, strategic level. Then, the adoption of sheer proportional system was perfectly consistent with these elements, in order to give a representation to the widest range of different and heterogeneous natures of Zionism. The general lines were kept as well for the composition of Constituent Assembly in 1949 (after the UN resolution in 1948 that recognized the right of foundation of Hebrew State), as in the electoral law, of constitutional rank in the system of Israeli sources of law, for the Knesset. This proportional system, including the vote for competing list, adopted in Israel, is one of the sheerest in the world, also because it is perhaps the only one not providing any kind of territorial subdivision. National territory acts as a single district. The citizen-elector is given a voting paper with no chance to express preferences for candidates, but only to choose one of the lists in competition. Seats are assigned according to the formula by Hare, supported since 1973 by the D'Hondt method for calculation of distribution of seats from remains, while in the past the mechanism of higher rests was in force. In the end, law fixes a barrage of 1.5% of votes, that was only 1% until 1991. It is easy to postulate that this system, even after modifications, in the whole, prefers representation inside the Knesset rather than easing governance,

leaving to relationships among parties, particularly among famous political notables, very often coming from a brilliant military career (like Rabin, Sharon, Barak, Dayan), the task to find balances to give the Country a government address. The Knesset is one of the most fragmentized Parliament in the world, where almost all positions expressed by society find place, including a plurality of religious parties. Only far-sighted policy of leaderships and the possibility to involve all political parties as possible members of a coalition of government, allow, time by time, the conclusion of coalition agreements that make possible to hold the very delicate fortune of the Country.

6.6 *SEMI-PRESIDENTIAL GOVERNMENT AND DOUBLE SHIFT IN THE FIFTH FRENCH REPUBLIC*

You certainly realized that so far we have paid attention only to Parliamentary form of government. But I think some useful reasoning, in terms of comparison, can be proposed also about semi-presidential system as form of government, mostly in consideration of the relation of trust between Legislative power and the Executive one. In the case of France too it is possible to see the mutual influences among the actual constitutional structure, the outline of parties and the electoral double shift system. And more, if we look at the evolution of Fifth Republic, we can understand how substantial assimilation made by the second law by Duverger between majoritarian double shift and proportional systems, to establish political multiparty arrangements was denied by facts. Political parties, during Fourth Republic so divided and quarrelsome, gradually get used to effects made up by direct election, by double shift, of President and of Deputies, to compete in the most effective possible way in the different electoral sessions. The system of political parties in the Fifth Republic was defined for decades as bipolar quadrille, a system characterized by presence of four parties, allied two by two in a middle-left coalition and other two in middle-right coalition.

The Socialist Party (PS) on the left, from Seventies, thanks to the strong leadership of Mitterrand, was able to overturn the relation with Communist Party (PCF), making up in this way the conditions for a alternation at the head of government with moderate parties.

The opposite side for long time was characterized by the determining presence of two groups started up in the Seventies as *rassemblement* of different parties and small parties inspiriting to a liberal-moderate politics: l'Union pour la démocratie française (UDF), a Centre party, and Rassemblement pour la République (RPR), a New-Gaullist Centre-right party, generally the strongest in this political side.

After a first period dominated by the personality of De Gaulle, who embodied the attempt to display a French role on the international board even in time of "cold war" and of processes of irreversible decolonization, for several years political forces took turns at the head of Elisée

showing candidates who for their own personality were able to catch votes from different sectors of electorate.

So, after a short phase of Pompidou, in 1974 the election of the liberal Valery Giscard d'Estaing, speeded up the formal gathering of parties in the Centre-right into two different political subjects, sharing the common target of holding in the best way the policy of the President. As well as the victory of François Mitterrand in 1981, and again in 1988, ratified the hegemony of PS over the whole French *gauche*.

In 1995 then the leader of RPR, Jacques Chirac, won the Elisée and by doing that represented a great return for New-Gaullists at the head of the Country. In this last case, more than in other, the presidential election had a dragging effect on parties supporting Chirac. In fact, along the campaign for presidential elections the RPR, a portion of UDF and some smaller groups decided to gather in a new group strategically called Union pour la Majorité Présidentielle (UMP), and after that named Union pour un Mouvement Populaire, that represents most of the French right.

But then the question is: does that mean that in France exists only three or four parties? Not indeed. There are many more small parties as at the right as at the left. Those groups have a double choice: or they are able to participate in the alliances without conditioning it in a strong way or they place themselves on such extreme positions that they can't make deal with any other, never achieving to the National Assembly a representation proportional to the electoral force they enjoy in the country, that's because of the peculiar characteristic of the system that rewards alliances among similar forces. It is the case of the Front National (FN), a party inspired by Neo-Fascist ideology, led by Jean-Marie Le Pen in the past, now by his daughter Marine; the Front National in fact is supported by a huge quantity of votes, from 10 to 18% of voters according to circumstances, but it can't achieve an adequate parliamentary representation and then an effective role in the political game, because penalized by the strictness of double shift (it can have only three deputies at this moment), but also because the New-Gaullists, embodying the values of the *droit républicaine*, don't accept to make deals with this party.

It is obvious that this trend to simplification in the general political frame shows up during last years even more emphasized, particularly after the constitutional reform in 2000 that, while equalizing length of presidential mandate and the legislature of National Assembly, made very difficult the cohabitation to happen. The tendency to a strong simplification came out in both political fronts, in the moderate side, with victory achieved by Nicolas Sarkozy at the presidential election in 2007, when he was the undisputed leader of UMP, and at the following parliamentary elections of UMP too, and in the progressive one as well, with the recent success of Holland and Socialists in this year elections.

From what all above we can easily get a teaching: in certain and adequate conditions of institutional and political order the electoral double shit system doesn't only multiply parties, but it can even be more selective than the *plurality* system.

6.7 *THE ITALIAN CASE*

I would like to conclude this outline upon democratic institutions by some brief observations on the Italian case. To be more precise I would like to propose a single reasoning about a single consideration: when a political class shows itself inadequate toward gravity of problems that it is supposed to face it makes afford to leave responsibility up the constitutional institution and upon electoral rule.

The Italian political debate for about twenty years has been concentrated only on two subjects (leaving apart the "politics versus Bench" conflict): constitutional reforms and electoral law.

For over forty years parliamentary representation was based on proportional principle, adopting vote of list and Imperiali formula for the Lower House while for the Senate was in force the D'Hondt method, applied constituencies gathered on a regional level. Then, in 1993, the electorate through a referendum chose to leave proportional system for a majority system that was adopted with two different laws providing, in spite showing partially different characteristics, a strongly majoritarian mixed system. This new system was already in force during elections in 1994, in 1996 and in 2001, aiding in bipolarizing the political system. But suddenly in 2005, exactly when single-member constituency was accepted by electorate's frame of mind, the then Centre-right majority decided to remove those laws in order to approve a much more complex rule, difficult to place in the theory of electoral systems, for the confusing presence of varied elements tied to different principles and experiences.

For the Camera dei Deputati, in fact, was chosen a proportional law with closed competing lists, distribution of seats by Hare's formula and reckoning of higher remaining and a complex series of barrages: 10% for coalitions; 4% for not united lists; 2% for a single united lists but with sharing to repartition even of the most voted between lists that don't achieve 2%; 20% for lists of linguistic minority.

But the most important issue is certainly the majority reward at a national level for the coalition that gained most of votes, it works this way: if the coalition that achieved most of votes validly expressed wins at least 340 seats then it goes on with the repartition of seats to each list of coalition first at national level and then at a district level; if otherwise, the winning coalition doesn't achieve at least 340 seats then the law assigns those seats to this coalition and then divides the amount of electoral national figures of all lists of coalition by 340, gaining the electoral national quotient of

majority; then the law goes on in sharing the remaining 277 seats [630-12 (Italians abroad) = 618-340 = 278-1(Valle d'Aosta) = 277], first at national level and then at a district level.

A part from the higher thresholds of barrage, the most important variant regarding the Senate is that the majority reward is given at a regional level and not at national, in homage to the tie ratified by article 57 of Constitution.

A law extremely complicated, considered bad by all political forces included the ones that very strongly wanted it in 2005 and approved it in a very short time, no more than three months. As you certainly know during these weeks a lot of hypothesis of reform and (more or less) official meetings between all political forces bloom to achieve a reform of the law (if you want we can discuss those hypothesis during the debates): a desirable result, that would be appreciated by all observers, but a result that, once more, would move to electoral system attentions, merits and virtues of salvation that don't belong to it. In fact, as we have seen so far, electoral system is only a single element of a more complex building known as form of government meant in its substantial way. Every kind of solution, even the most clever, balanced and fair, can be sabotaged by a political system and by an unapt and inept leadership, unable to put interests of the Country before the ones of party. The democracies that run correctly are the ones where political forces are able to catch the spirit of constitutional systems they work in, they adopt an electoral system able to react at the Constitution positively, and they commit themselves in the contest to get the agreement, keeping those two elements as reference points to conform their action to. In Italy, instead, we are under the impression that political forces have as reference point their own interests and then they try to change other elements of the system to adapt them to their own interests: a vicious circle getting out of it is very difficult.

Just a last remark: this electoral law, so bad for Italian political system, yet could be an interesting object of analysis for the scholar of the applications of mathematical models to electoral systems, exactly for the complex interlacement between threshold of barrage and majority awards it presents. These two elements are thought to introduce deep distortions of the "natural" results in according to the expressions of vote by the voters, often causing also clear alterations in political parties' behaviors before the electoral moment, for example about alliances and apparentments. This topic produces some relevant unknowns able to change deeply the research of the balances, typical of Game Theory.

7. THE EUROPEAN PARLIAMENT

In the end I would like to simply analyze national electoral laws in force for the formation of European Parliament. On this subject it can be useful to remember that at European Union level there is a Decision of the Council dated 2002, aimed at giving a certain uniformity on this matter, also considering the then imminent widening in 2004. That act provides that doctrine of States members is marked by a proportional character and that this doctrine can fix a minimum threshold for attribution of seats; a threshold not supposed to exceed a maximum level of 5%; while the same doctrine allows the vote of preference to be conformed to the rule in force in every single State.

The outline of choices of the single Countries remains quite varied, yet respecting all those indications. Talking about electoral formula the range is varied, starting from sharing out of seats, according to the Italian, French and German method of natural quotient and higher remains, to Irish and Maltese STV, again from d'Hondt method, in force in most of the Countries, as well in the United Kingdom (but Northern Ireland where STV is in force), Poland, Spain, Austria and Belgium, to the Sainte Laguë in force in Sweden and Leetonia. For what concerns the *constituency* matter, most of the Countries adopts the single national constituency, but some others divide the territory in several districts, as many as 3 in Belgium up to 12 in the United Kingdom, passing through the 8 districts of France. Also reasoning about the kind of list, we easily find 10 Countries adopting the closed one, 11 different kinds of flexible list and a minority with 6 open list.

More articulate and delicate the reasoning about barrages. Starting from a first and general recognition it would appear that the number of States adopting a legal threshold of barrage results to be almost equal to the number of Countries not adopting it: 15 (including nowadays Italy) the first and 12 the second group. Where the threshold is in force it applies at a national level, but France, where it is calculated on a district level. These data must be also put in relation with other two very prominent parameters, the number of seats to be assigned for every State and dimensions of districts. It is, then, possible to notice that some very small Countries are entitled to only few seats, 6 for Cyprus, Estonia, Luxembourg, 7 for Slovenia or 8 for Leetonia; they don't provide a legal threshold, but an effective threshold around 10% applies them. There are a bit bigger Countries, as Belgium, or much bigger, as United Kingdom, that, by assigning seats on a district level, turn out to have a kind of implicit threshold floating between 8 and 10%.

All this assumption proves that among national electoral laws the problem of fighting fragmentation of political representation has always been noticed and faced by Strasbourg, through adoption of clear legal thresholds, or through some intrinsic characteristics of electoral systems, able to warrant, because of technical reasons, presence in the European Parliament only to a reasonable number of political parties. Almost all Countries try to prevent the exaggerate

fragmentation of political consensus also in the European Parliament, after having opposed it by laws in force on formation of national Parliaments. All of that, including several other determining factors, allowed the gathering at European level of political "families", able to catalyze inside of themselves, in a more or less homogeneous way, ideal affinities and common visions about perspectives of European integration. In a Parliamentary sphere this operation of rationalization has brought to build up some great and historical parliamentary groups, the Popular one, the Socialist one and the Liberal-democratic, and also some smaller but that however represent in Europe political thoughts sometimes very well tie in the continental public opinion, such as the Green parties or the radical right parties. Since years 2000, in the European institutions the idea of making stronger these ties has appeared a strong necessity, keeping together all components of these families, in order to make a strict relation of representation with citizens and in order again, to make a sharper role of Parliament towards other European institutions, starting from the Council. Then in the communitarian ambit, it has been started a process (let us think of rules upon "European political parties Statute and Financing"), turned to gather not only groups of national political parties, more or less wide and homogeneous, but real European political parties, able to represent in Parliament and on the whole in the Union, instances, visions, yearnings and interests common to communitarian groups of citizens, without paying attention to their own national origin. As it appears clear this process is far away from being concluded, in fact there is no doubt that it is in progress, showing implications widely depending on the destiny, in the next years, of the journey of reform of communitarian institutions, a journey began by the Treaty of Lisbon in 2009.

I would like to thank you for your attention.

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SOURCES FOR THIS LESSON

- BALDINI G. – PAPPALARDO A., *Sistemi elettorali e partiti nelle democrazie contemporanee*, Laterza, Roma-Bari, 2004.
- BLACKBURN R., *The electoral system in Britain*, Macmillan, London, 1995.
- BOGDANOR V., *Multi-party politics and the Constitution*, Cambridge University Press, Cambridge, 1983.
- BOGDANOR V., *The Monarchy and the Constitution*, Clarendon Press, Oxford, 1995.
- BOGDANOR V., *The Constitution and the Party System in the Twentieth Century*, in *Parliamentary Affairs*, n. 4/2004, pp. 717-733.
- BOGDANOR V., *AV is a paltry alternative for reformers*, in *guardian.co.uk*, February 22nd 2011.
- BOGNETTI G., *La divisione dei poteri*, Giuffrè, Milano, 2001.

- BUTLER D., *Governing without a majority. Dilemmas for Hung Parliaments in Britain*, Macmillan, London, Second edition, 1986.

- BUTLER D., *Electoral Reform*, in Parliamentary Affairs, n. 4/2004, pp. 734-743.

- CURTICE J., *So What Went Wrong with the Electoral System? The 2010 Election Result and the Debate About Electoral Reform*, in *Parliamentary Affairs* n. 4/2010, pp. 623-638.

- DE PETRIS A., *Il Tribunale Costituzionale federale e lo spirito delle leggi…elettorali. Commento alla sentenza BvF 3/11 del 25 luglio 2012*, in *Federalismi.it*, n. 17/2012, 5 September 5th 2012, pp. 1-20.

- DUVERGER M., *L'influenza dei sistemi elettorali sulla vita politica*, Ed. Cinque Lune, Roma, 1958.

- DUVERGER M., *I partiti politici*, Comunità, Milano, 1951.

- FISICHELLA D., *Elezioni e democrazia: un'analisi comparata*, Il Mulino, Bologna, 2003.

- FORDER J., *The case against voting reform. Why the AV system would damage Britain*, Oneworld Publications, Oxford, 2011.

- GAMBINO S., *Leggi elettorali e forme di governo*, in *Politica del Diritto*, n. 3/2004, pp. 409-452.

- GOLDSWORTHY J., *The Sovereignty of Parliament. History and Philosophy*, Clarendon Press, Oxford, 1999.

- GOTZ V., *Modelli di governo parlamentare razionalizzati. Esperienza tedesca: modello costituzionale e prassi*, in S. Gambino (edited by), *Democrazia e forma di governo. Modelli stranieri e riforma costituzionale*, Maggioli, Rimini, 1997.

- GROPPI T., *Sistemi elettorali e forme di governo. Il caso spagnolo*, in S. Gambino (edited by), *Forme di governo e sistemi elettorali*, Cedam, Padova, 1995.

- GROPPI T., OTTOLENGHI E., RABELLO M. A. (edited by), *Il sistema costituzionale dello Stato di Israele*, Giappichelli, Torino, 2006.

- JAMES P., *The German Electoral System*, Ashgate, Burlington, 2003.

- LAUVAUX P., *La dissolution des assemblées parlementaires*, Economica, Paris, 1983.

- LIJPHART A., *Electoral Systems and Party Systems. A Study of Twenty-seven Dmocracies (1945-1990)*, Oxford University Press, Oxford, 1994.

- LODGE G. and GOTTFRIED G., *The Right Alternative? Assessing the case for the Alternative Vote*, IPPR, April 2011.

- LOZANO MIRALLES J., *I meccanismi di razionalizzazione parlamentare in Spagna*, in S. Gambino (edited by), *Democrazia e forma di governo. Modelli stranieri e riforma costituzionale*, Maggioli, Rimini, 1997.

- MARSHALL G., *Constitutional Conventions. The Rules and Forms of Political Accountability*, Clarendon Press, Oxford, 1986.

- MARSHALL G., *The Constitution: Its Theory and Interpretation*, in V. Bogdanor (edited by), *The British Constitution in the twentieth century*, Oxford University Press, Oxford, 2003, pp. 37-42.

- MARTINELLI C., *Forme di governo e scioglimento anticipato del Parlamento*, in *Nomos*, n. 3/2004, pp. 87-111.

- MARTINELLI C., *Riforma della V Repubblica: la necessità di restituire vigore al ruolo costituzionale del Parlamento*, in www.astrid-online.it/rassegna, n. 83 (21/2008), 17 December 2008, pp. 1-6.

- MARTINELLI C., *Gli sbarramenti nelle leggi elettorali per il Parlamento europeo*, in *Quaderni costituzionali*, n. 2/2009, pp. 396-399.

- MARTINELLI C., *La Francia*, in A. Bardusco, F. Furlan, M. Iacometti, C. Martinelli, G. Vigevani, M. P. Viviani Schlein, *Costituzioni comparate*, Giappichelli, Torino, 2009, pp. 185-234.

- MARTINELLI C., *Le* constitutional conventions *per la* dissolution *della* House of Commons *nell'evoluzione della forma di governo britannica*, in *Giornale di Storia Costituzionale*, n. 18 / II semester 2009, pp. 255-291.

- MARTINELLI C., *Le principali riforme costituzionali alla luce del* Coalition agreement, in *Quaderni Costituzionali*, n. 3/2010, pp. 645-658.

- MARTINELLI C., *Elezioni e procedimenti elettorali in Gran Bretagna*, in www.astrid-online.it/rassegna, n. 111 (6/2010), 29 March 2010, pp. 1-14.

- OLIVIERO M. – VOLPI M. (edited by), *Sistemi elettorali e democrazie*, Giappichelli, Torino, 2007.

- PADGETT S. – BURKETT T., *Political Parties and Elections in West Germany: the Search for a new Stability*, S. Martin Press, New York, 1986.

- PASQUINO G., *Il modello Westminster*, in *Rivista Italiana di Scienza Politica*, n. 3/2002, pp. 553-567.

- PASQUINO G., *Varianti dei modelli di governo parlamentare*, in *Rivista Italiana di Scienza Politica*, n. 2/2003, pp. 295-315.

- PASQUINO G., *I sistemi elettorali*, Il Mulino, Bologna, 2006.

- SANDERS D., CLARKE H. D., STEWART M. C. and WHITELEY P., *Simulating the effects of the Alternative Vote in the 2010 UK General Election*, in *Parliamentary Affairs*, n. 1/2011, pp. 5-23.

- SARTORI G., *Ingegneria costituzionale comparata*, Il Mulino, Bologna, V ed., 2004.

- SIMPSON A. (edited by), *The Constitutional Implications of MMP*, Victoria University of Wellington, 1998.

- TORRE A., *Un modello parlamentare di razionalizzazione diffusa. Il caso britannico*, in S. Gambino (edited by), *Democrazia e forma di governo. Modelli stranieri e riforma costituzionale*, Maggioli, Rimini, 1997, pp. 461-501.

- TORRE A., *Costituzione e sistema elettorale in Gran Bretagna*, in S. Gambino (edited by), *Forme di governo e sistemi elettorali*, Cedam, Padova, 1995, pp. 209-297.

- TORRE A., *Interpretare la costituzione britannica. Itinerari culturali a confronto*, Giappichelli, Torino, 1997.

- TRUCCO L., *Democrazie elettorali e Stato costituzionale*, Giappichelli, Torino, 2011.