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**The Difficult Profession of
Minister of Public Administration**

SABINO CASSESE

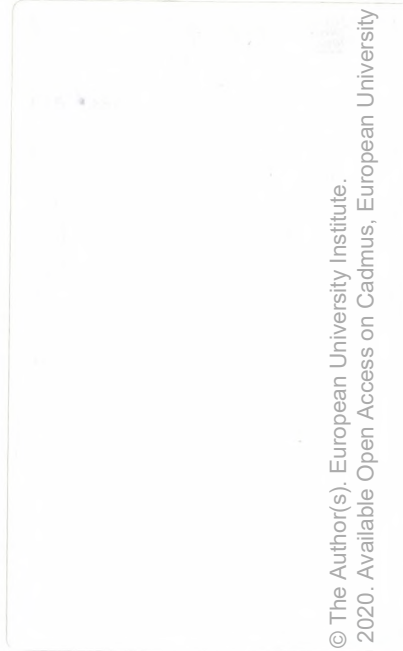
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Jean Monnet Chair Papers

The Difficult Profession of Minister of Public Administration

SABINO CASSESE

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1. The main directions taken

Starting in early 1994, and even more since May of this year, I have had the recurrent dream of Peter Schlemihl, that of having lost my shadow, the problem of administrative reform, which has been following me for over a quarter of a century now. I have not managed to lose it and here I am now to write of this subject again.

I would like to begin by reviewing the main directions taken by the Ciampi government in the field of administration.

In the Ciampi government's program, administrative reform occupied an unusual place as compared to the past. It was a question not only of reorganizing administration in the fields of agriculture and forestry, tourism and entertainment, state shareholdings, banks and local health departments, due to the results of the referendum of April 1993, but also of preparing "the actions to be taken by future administrations for their indispensable modernization" and reducing corruption in the administration. In the governmental program, the remedies to these problems were seen as simpler and more correct administrative procedures, more binding and logical ethical rules, and efficient controls.

The concrete action of the government, promptly proclaimed in all its amplitude and implemented at a fast pace, took five different directions.

The first of these was aimed at restoring sovereignty to the users and rendering public administration more reliable, prompt and comprehensible.

To put the administration at the service of the citizens, a "Public Service Chart", similar in some respects to the "Citizen's Charter", was adopted, later to be included in a government directive, stating standards of quality and quantity. This served as example to large organizations, educational institutes, local health departments and other public services, which have, in turn, established standards for their own activity. In the same direction, a series of experimental projects was promoted (in particular, the so-called "Hundred projects at the service of the citizens"), especially on the local level, aimed at renovating procedures, accelerating and simplifying government activity, making the administration "user-friendly", and bringing it closer to the citizens (in Rome, Milan, Siena, Arezzo, Bologna, etc.).

To speed up administrative activity, the law of 1990 on administrative procedures was relaunched (almost all of the Ministers approved the regulations on schedules and on responsibility; cases of silent assent tripled in number; the associations of local authorities committed themselves to implementing the law) and recourse to self-certification was facilitated and extended. Even more important, 70 regulations were deliberated which have simplified approximately 100 procedures, including those for the management of public expenditure, for purchasing supplies and services, for expropriation, for locating public works and for granting driver's licenses. This has resulted in an overall reduction of 14 years in administrative time (calculated only on the approved measures; this time savings could be doubled by implementing the rest of the law).

To make public administration more comprehensible, a "style code" containing instructions for communicating with the public was drawn up.

The second direction taken by the reform was designed to slenderize and simplify administrative structures. For this purpose, one ministry (that of the Merchant Marine), 13 inter-ministerial committees and over 70 collegiate bodies were abolished. In addition, numerous ministries were modernized, with the approval of the government regulations on internal re-organization (Ministries of Health, of the Budget and Planning, of Foreign Trade).

Reducing the number of state structures served to improve the organization of public services as well as to lower their costs, with services upgraded, not by assigning them to external organizations, as was done previously with the establishment of boards and authorities. In reorganizing health services and regulating the hiring of personnel, greater independence was conferred on local boards (authorities, government units). Parallel to their growing financial autonomy, these local boards were granted the freedom to hire personnel (and further developments would have ensued had the National Association of Italian Municipalities A.N.C.I. made proposals, rather than demands).

The goal of the third approach was that of making public administrations less expensive, by reducing both the fiscal charges they produce and the bureaucratic cost involved (thus affecting not only the costs registered in the State budget, but also those entered in family budgets). To attain this goal, the Ciampi government linked administrative reform and financial reconstruction.

In the Budget for 1994, approved in December 1993, regulations were introduced for the general reorganization of public administrations. Such orga-

nization consisted of merging ministries, reorganizing and privatizing public bodies, utilizing State employees more efficiently, determining work loads, selling public property, revising prices and fees for public goods and services, re-negotiating contract prices for the execution of works and the supply of goods and services.

This reorganization also involved schools and universities. For the school system, it reduced the number of classes and conferred autonomy on educational institutions. For the universities, it consisted of instituting financial autonomy, the most important university reform in the last forty years, as recently stated by the chairman of the board of the presidents of Italian universities.

The reductions in costs and the savings on expenditure resulting from these initiatives have been calculated at approximately 2600 billion lire (the initial assessment of the Department of Public Administration ranged between 5 and 6 thousand billion, but the more cautious estimate of the Minister of the Treasury was later accepted). In addition to the improved efficiency resulting from this program, the lower costs sustained over the mid-term should not be underestimated. In fact, more careful management of organizational, personnel and financial resources in an area such as that of public service, where waste has been the rule for years, can produce significant savings in a span of 3 to 5 years.

The fourth direction taken by the reform was designed to make administrative activity more neutral and more correct. To make it more neutral, the "legislative decree" (*decreto legislativo*) n° 29 of 1993 was implemented (while the scope of contractual negotiation was clearly specified by introducing the principle that, as regards labour issues, the contract prevails over the law) as regards the appointment of directors, the participation of extraneous persons in commissions for competitive examinations, external appointments of magistrates and, in general, separation between politics and administration.

To make administrative activity more correct, efforts were made to reduce not only corruption but also its ensuing costs. To fight against corruption, a "code of behaviour for State employees", an ethical code, was issued, too. Furthermore, the system of controls was changed, obliging each administration to establish offices of internal control, introducing controls on costs and benefits, also on a comparative basis (along with the obsolete legitimacy controls, substantially reduced) and modifying the functions of the Court of Auditors.

To curtail costs deriving from corruption, public administrations were required to re-negotiate contract prices. This was proposed not only in consideration of the high cost of corruption (assessed as around 10 thousand billion lire per year) but also in view of the striking disparity - observed by the Inspectorate of the Department of Public Administration - between the prices paid for the same goods and services by different administrative departments.

The fifth direction was that of bringing Italian public powers closer to Europe. A great step forward in this direction was taken with the approval, in February 1994, of the regulation allowing citizens of other European nations to accede to Italian public office. Other interventions regarded the management of EC Funds.

These directions of reform were not entirely unfamiliar to administrative policy and culture. On the contrary, many of them had been even embodied in previous laws (such as those of 1968 and 1970 on general administrative reform or those of 1970 and 1977 on public bodies), which had however never been put into effect. The concrete implementation of these laws appeared important. A good reform project must, in fact, draw inspiration from the fall-out from previous bills, breathe new life into them and, lastly, enforce them (linking them to new objectives). In so doing, the Ciampi government - an apolitical government of technocrats - took up again and implemented many projects promoted by politicians in previous years, thus finding political legitimisation in the tradition of reform ideals.

Called upon to collaborate in the overall design for reform were experts in administrative problems (jurists, administrators, experts in the science of administration, economists, historians, statisticians, etc.) in commissions, committees and working teams. No less than 500 persons were variously involved in the preparation of the 35 volumes published in 1993-94 by the Department of Public Administration. These volumes contain statistical analyses, sectorial studies, research on personnel, legislative proposals, etc. An essential contribution was made individually by a number of magistrates of the State Council and the Court of Auditors as well as by the consultation sections of the State Council, who expressed opinions on the numerous regulations designed to simplify procedures.

Among these external contributions, that of a group of young researchers from the University of Rome was of major importance. They dedicated themselves entirely, with great commitment and enthusiasm, to carrying out studies and planning reforms, giving this priority over other work. Their contribu-

tion has been fundamental. The very fact that there exists so much capacity and so much enthusiasm gives us great hopes for the future.

The result of this appeal to so many forces both outside of and within the State administration has been, if not the establishment of a new administrative culture, at least the integration of various disciplines, applied to the problems of public structures. A conspicuous amount of study and investigation, including the establishment of a data bank on administrative procedures, (including all the procedures of State administrations), was involved.

The depth and scope of the modernization program, which ranged from reorganization of ministries to procedures, from personnel to finance, from public functions to public services, can be better evaluated by comparing it with previous major reform efforts; for example, that of Lucifredi (1950), designed to decentralize government activity but achieving only the so-called bureaucratic decentralization; or that of 1968-70 (laws n° 249 of March 18, 1968 and n° 775 of October 28, 1970), aimed at reorganizing central and peripheral bureaus, simplifying procedures, reorganizing careers according to qualification, reducing them in number and modifying the salary scale of personnel. This program was however set up to operate in a mechanical manner and actually achieved only regionalization - 1970, 1972, 1977 - and reform of the Ministry of the Budget and Planning and that of State Economic Participation, reform of secondary schools and public administration, as well as of high civil service, a reform which was to remain half-finished). Lastly, comparison should be made with the "Report on the major problems of State administration", presented before Parliament on November 16, 1979 and followed by the Senate agenda of July 10, 1980, designed to restore efficiency to the administration and provide space for administrative techniques.

2. Politics as "the lesser of evils"

Jeremy Bentham, in his *Introduction to the principles of moral legislation* published in 1789, observed that "politics is like medicine: its only task is that of choosing between evils". Those who are convinced of the truth of this statement cannot analyze the work of a government taking into consideration only what it has done, without considering the difficulties encountered, what it has tried not to do, what it has prevented others from doing and, lastly, what it has been unable to do.

If the first aspect is not considered and if the adverse winds - to avoid a more highly abused metaphor - are not mentioned, the risk is that of presenting reformatory action as work carried out in a mechanical manner, at the full discretion of the government, which is free to do as it likes. If the second aspect is not considered, no account is taken of the negative decisions and it thus becomes impossible to appreciate, at the crossroads of decision, the validity of the various options. If the third aspect is not taken into consideration, it will be forgotten that political action includes, as Bentham taught, not only the "agenda" but also the "non agenda". It also consists, in fact, of preventing others from acting. Lastly, if the chances missed are not considered, the limitations of the action taken cannot be evaluated.

I will insist on all of these aspects, since they represent the non-visible side of government action. While some of them may fall under the heading of "assets" (in particular, the list of negative actions and impediments), others constitute "liabilities" (including failures and partial successes), and still others can serve to explain the decisions taken, the negative actions or the failures.

3. The Minister of Public Administration, staff office of the Prime Minister

Before going on, I would like to consider a question that has sometimes been asked: was too much attempted? I will "consider" this only, leaving to others the task of evaluation..

The first aspect: a non-parliamentary minister has the advantage of greater freedom, not being engaged in Parliament except for matters pertinent to his job. To this may be added the advantages of a minister who has never sought to have a political career and thus has no interest in being elected or re-elected. The members of previous governments instead had to devote much time to their constituency and their parties; those of the current government, to public opinion and the media. In comparison, a full-time minister has much more energy to dedicate to his public functions.

Second: the Minister of Public Administration is entitled on two accounts to act as staff minister of the Prime Minister. On the one hand, he is a minister - at least formally - without portfolio. On the other, he must take an interest in all aspects pertaining to public administration. In this sense, the premises for a

new role for this minister were established in 1993, with the change in organization of the Department of Public Administration. In the past it had been regarded as a “ministry of State employees”. With the reform adopted in 1993, it has been called upon to deal with not only with personnel, but also with administrative organization, procedures and innovations.

This particular position of the Minister of Public Administration requires him to carry out a series of tasks which may be considered marginal, such as - to give examples concerning myself - participation in decisions relevant to Rome as capital, to privatizations, to the formulation of a project for new legislation on radio and television, to licenses for telephone systems (GSM).

The principal tasks of the Minister of Public Administration, however, apart from his traditional sector of public administration, were two, the first relevant to preparation of the Budget, the second to stipulating government laws and regulations. I would like to say more of these two roles, since they are no longer linked to a person, but to the institution.

The fact that the Minister of Public Administration formed part of the group of ministers responsible for drawing up the Budget and the Supplementary Budget and following their passage through Parliament made it possible, in 1993, to formulate the Budget law and the Supplementary budget on new bases. In the past, they were preceded by the “circular” note sent out by the Ministry of the Treasury which, while calling for savings, specified no principles on which economy was to be based and set no quantitative objectives. In 1993, for the first time, a different procedure was experimented through which, also thanks to the assistance of the technical Committee on Public Expenditure, the costs attributed to each ministry could be listed (the budget is arranged by “tables” according to the ministries, but some tables also include costs from different ministries) and quantitative savings goals for major cost categories could be established. The other important aspect of this task consisted of stipulating amendments to the associated provision to the Budget, carried out mainly by the Minister of Public Administration with the Rapporteur, first in the Senate, then in the House.

The second task was that of drafting regulations. To give an idea of the importance of this activity, a few words should be said about the Council of Ministers and the “law-making force of bureaucracy”. The former is a poorly equipped collegiate body where, in general, brief duration in office and scanty knowledge of the administrative sector make ministers the slaves of their own staff members. Added to this is the fact that each minister, as soon as ap-

pointed, even when his term of office is brief, becomes the defender to the death of his own ministry and its actions. As a result, each sectorial minister has a dual relationship with his own structure. He depends on it for information and proposals; and he is the “attorney” for the sector he administers (the Minister of Agriculture for farmers, the Minister of Finance for tax-payers, the Minister of Labour for employees, etc.). What is lacking is someone to assume responsibility for the consistency of decisions, their inter-sectorial effects, and the general interest.

The ministers, in turn, depend on bureaucracy, which is a great producer of laws. De-legislation, in fact, encounters the resistance of bureaucracy, which wants to see its work written in laws. The same can be said for simplification of procedures, which takes work away from offices. Moreover, bureaucracy frequently recurs to laws because it does not wish to assume responsibility itself, through administrative acts, or because it encounters resistance from other administrations. Law thus becomes an instrument for shifting responsibility onto the shoulders of others, or for getting around inter-administrational difficulties. Lastly, bureaucracy lives on laws, since it has to interpret them by issuing circulars, which in some sectors (the Finance Ministry, for instance) has become a recognized job.

The functioning of the Council of Ministers and the attitude of bureaucracy explain the need for someone who concerns himself with the drawing up of regulations and the decisions which this involves. The Minister of Public Administration must therefore be attentive to the drafting of texts (“bureaucratese” is a real monster): I once happened to hear that a municipal council had to be disbanded because it had been infiltrated by racketeers, with the motivation “for irresponsibility enacted” stated by the vice mayor). In addition, he must be ready to act on the proposals of other ministers, to ensure horizontal coordination and consistent action of the government, apart from looking after sectorial interests. It is understandable that this role has put the Minister of Public Administration in the foreground, as it has put administrative reform on the political agenda. It is less comprehensible that this task should fall to one who is by profession a non-politician. This is eloquent testimony to the inadequacy of party-oriented politics.

In conclusion, having organized the work of the Department of Public Administration as a task of the Prime Minister’s staff has made it possible to reverse the old setup, which brought politics into the administration, bringing, on the contrary, the administration into politics.

I should add that none of this would have been possible without the initiative and the unflagging support of the Prime Minister. Mr. President Ciampi was convinced of the need to reform public administration. Like all of the best men who directly experienced the constituent era he had learned that the most daring idealism clashes against bureaucratic inertia or resistance. Convinced of this, Mr. President Ciampi guided reform with a style of his own, probably formulated during his years of directing the Banca d'Italia: inciting, encouraging, isolating major problems and thoroughly examining all aspects of them. If I were asked to specify the main traits of a statesman and a governor, these would be at the top of my list.

4. Difficulties encountered (The major problems)

We now come to the difficulties and resistance encountered. Both one and the other came primarily from those directly affected who, struck by the provisions adopted or by the “negative action”, opposed resistance, as is only natural. It is not so much this resistance that I wish to recall, however, as the effect it had on public perception of the problems, through a sort of piloted refraction of information.

It must be acknowledged that, in general, the media gave this work full coverage. This was due also to circulation of information, based on efficient formulas (in November 1993, the fact that bureaucracy could be considered a hidden tax amounting to 15 thousand billion lire; in the following December, the criticism of “bureaucratese” and the relevant proposals, stated in the “style code”). It should be added that, especially from some sides, only consensus was heard. This was true in particular of *Civiltà Cattolica* and *Avvenire*, during both the initial phase, May-June 1993 and the final phase, in January 1994, and *Il Sole-24 Ore* for the entire period.

It is just for this reason that the effects produced by the resistance of those directly affected appear even more singular. A few examples will suffice to shed light on how news can be manipulated.

In the latter half of January 1994, instructions to the ministries requesting respect for working hours, in application of laws existing for decades, became a “cappuccino circular”, evoking an unfair restriction of the right to take a coffee break, with consequent complains from both employees and coffee bars (note that the word “cappuccino” was not even mentioned in the measure adopted).

In February-March 1994, the National Association of Builders brought action against the obligation to re-negotiate public contracts, under the banner of the slogan “re-negotiation is paralyzing public administration” (an untrue statement, since what was blocking bureaucracy was its fear of assuming responsibility, after the frequent intervention of the law courts, especially criminal courts).

The national union of driving schools and automobile consultation studios promoted, in February 1994, a press campaign opposed to simplifying the procedure for granting drivers’ licenses. On February 5, *Il Giornale* entitled an article “Government opens the road to licensed offenders”; *Italia Oggi* on February 25, 1994 carried the headline “Habitual criminals at the wheel”. None of these headlines was in any way related to the proposed and later approved provision, considering that the Ministry of Transportation’s information system had already been connected for years to that of the Ministry of the Interior.

In the same month of February 1994, Confcommercio (the Union of trade enterprises), opposed to the introduction of the silent-assent principle for commercial licenses, by promoting a press campaign which induced *Il Tempo* to headline an article appearing on February 5, 1994, “Cassese favours far-west in trade”. An article with the same title appearing in *Il Giornale* of February 9, 1994, added in the sub-title “And the bakers are ready to turn off their ovens”, thus indirectly threatening that Italians would have their daily bread taken away from them.

The calculation, made at the start of 1994, that in the entire public sector, on the basis of 22,000 competitive examinations already authorized, 400 thousand competitions be started or were already in progress, was transformed during the electoral campaign into the announcement of 400 thousand new posts (while it was really a question of posts already occupied). This announcement, in turn, was taken as an electoral ploy in view of a candidature in the political elections.

Lastly, the attempt in April of 1994 to put into effect the results of the referendum on abrogation by abolishing the Ministry of Agricultural, Food and Forestry Resources, established in place of the Ministry of Agriculture and Forestry, was presented as an attempt to undermine the safeguarding of Italian interests in Brussels (while the absence of a ministry did not exclude the possibility of having a minister responsible for agricultural, food and forestry affairs and thus encharged with safeguarding Italian interests in Brussels).

In all of these events, it is hard to see how much consists of defending those directly affected the reform and how much, instead, of the tendency to create a fictitious public life where storms are stirred up over problems that may not even exist (and then accepting a solemn response, just as loud and meaningless as the storm). It is true then, as Umberto Eco has remarked, that any subject, once it has been taken up by the media, becomes part of a real world, since it is assumed that newspapers tell the truth. From that moment on it is widely discussed and critically analyzed, even if it is really non-existent.

A second kind of obstacles came from political parties, concerned that the activity of the department of Public Administration might affect the interests of the other ministries. The objections that had emerged in November 1993 were posed again, in the pre-electoral stage, on March 2, 1994, by the secretary of a party which, to block implementation of the mandate for ministerial reform, observed that "Sabino Cassese is very capable, but very Jacobin", because he wanted to carry out ministerial reform with the Houses of Parliament closed. But Parliament had already given the government a mandate. If there was ever a moment at which this mandate should have been and had to be exercised, it was in the transition from one government to another, considering the obvious difficulties of making changes in the organization of the ministries of a government in office.

In the third place the difficulties caused by the trade unions were much greater, originating from numerous factors. The first of these was the intense legislative activity carried out in regard to public employment, directed at amending "legislative decree" (*decreto legislativo*) n° 29 of 1993, which was the fruit of an agreement with the unions (giving rise to the need for consultation on two corrective decrees, n° 470 and n° 456 of 1993). This legislative activity made it possible to affirm the principle that the contract prevails over the law. That the unions failed to understand this (or preferred the dual discipline, consisting of both law and contract) must be considered shortsightedness (or hypocrisy).

The second factor involving friction was the attitude of the top management of the agency for the contractual representatives of public administrations. Entrusting the management of this agency to a single person - who was favoured by the trade unions - was not the best guarantee of neutrality for this organization nor of separation between governmental direction and union bargaining; moreover, it failed to satisfy the functional needs of this agency.

The third reason had to do with co-management. It is true that the unions had approved “legislative decree” (*decreto legislativo*) n° 29 of 1993, which obliged them to leave the collegiate bodies, but putting this commitment into practice turned out to be difficult. In December 1993 the Department of Public Administration had to step in again at least as concerned the competitive examination commissions, to which attention had been drawn by a decision of the Constitutional Court.

Further opposition was aroused by the positions assumed in regard to temporary personnel (against their being put on the permanent staff), to surplus personnel (determining the number of surplus persons and either dismissing them or temporarily suspending them from work, not a part of routine practice and subjected to new regulations in 1993), in regard to working hours (to be determined on the basis of the needs of the users rather than those of the State employees), to absenteeism in public offices (to prevent the abuse of fictitious illnesses, through which State employees can double their vacation time), as regards trade union leaves of absence and permits (whose cost has been assessed at 500 billion lire a year), as regards unemployment benefits (the so-called “*cassa integrazione*”) for state employees (consisting, in reality, of more careful application of the practice of temporary suspension from work).

Lastly, the resistance of the trade unions was aroused by the emphasis placed on the citizens. The unions realized that they could no longer consider the Ministry of Public Administration as the representative of State employees in the government and thus their spokesman. They realized that the Minister was listening, instead, to the interests of the users, assigning them priority over the interests of those providing the services.

In reality, the unions had no experience of ministers who operated over such a vast field without yielding or retreating and who refused to act as defender of public employment. A perfect example of this can be seen in the question of contracts (normally, the Minister of Public Administration acts as attorney for expenditure, requesting the funds for contracts). In the years when the political parties were embroiled in crisis the unions had become more aggressive, filling a political void, as if they constituted a third Chamber. On the one hand, they were conspicuously financed by the State (10 thousand State employees transferred produce, as has been determined, a cost of approximately 500 billion lire, six times higher than that of the political parties, abrogated by referendum in 1993). On the other hand the directors of some sectors, such as the postal and the welfare departments, were asking to participate in every minute decision, thus apparently defending great interests,

but actually maintaining the status quo (for example, in spite of public statements to the contrary, the two thousand Agensud -a state agency operating in Southern Italy- employees). All this was done allegedly on the basis of procedural democracy, but actually with a request for mixed commissions marked by rivalry, loquacity and verbal aggressiveness.

It is remarkable that this incessant conflict was interwoven with steady dialogue with the Minister, the like of which, I believe, had never before been sought and obtained by the unions.

In the fourth place, difficulties arose from functional conflicts with particular bureaucracies, in particular that of the Ministry of Labour, which tends to consider itself the “guardian” of employment, to the detriment of public administration, as regards placing personnel in State jobs. This led to numerous conflicts, starting in May of 1933, with regard to hiring State employees on a short-term basis, to assigning unemployment benefits to political party employees, to the hiring by public administrations of private couriers (who had known since the 1950s that they would lose their jobs), to reductions in pensions.

In the fifth place, difficulties came from the Ministry of the Treasury, accustomed to considering itself the true “guardian” of public office, in conflict with the Department of Public Administration, especially when the latter took an interest in the problems of public finance.

Giolitti maintained that a good minister of the treasury should be able to say no. But today the Ministry of the Treasury holds an ambiguous position, no longer that of “defender of the treasury” as opposed to the “advocates of spending” in accordance with the thesis of Wildavski manuals. On the one hand, it is interested in reducing costs of services and transfers; on the other, it must justify current costs, transfers to agencies, costs of supplies, expenses for bodies in liquidation, etc. This derives from the fact that in the absence of any true political leadership, the bodies of the State have become the main “clients” of the Ministry of the Treasury, which tends to respect the other administrations and their operating and personnel costs, thus defending the administrative machine, but without concern for its productivity (respecting in particular the big administrations such as the Ministry of the Interior).

Lastly, objections came from the magistrates of the Court of Auditors, opposed (though not unanimously) to the introduction of subsequent controls and to those of management, but interested (not unanimously) in reiterating the

“legislative decree” (*decreto legge*) of the Amato government on regional jurisdictions.

5. What I have not done and what I have kept from doing

Having described the difficulties, I will go on to discuss what I did not do, my “negative actions” as I call them.

According to program, I issued no more than one or two circulars in a year. This was because public administration suffers from paper-sickness. To give an example of this, a collection of the circulars issued in 1992 by the Department of Public Administration (with the exclusion of those concerning the health sector) occupied a volume of 1045 pages.

Still according to program, I did not confront the problem of high civil service. Although this is a subject of major importance, it required more time, even for the preliminary work involved, than the Ciampi government had before it.

Much longer is the list of “negative actions”, of blocking initiatives taken by others. These “negative actions” were all directed at preventing the improper use or abuse of public administration by politicians or union leaders.

The first abuse of public administration consists of a new type of privatization, recently discovered in Italy, which entails costs rather than returns. It consists of abolishing activities proper to the State and turning them over to private companies, while acknowledging the personnel involved the right to remain State employees, and obliging public administrations to find jobs for them. Although this formula allows public agencies to be transformed into private corporations, it leaves surplus personnel on the shoulders of the State. The attempt was made to carry out a procedure of this kind for the monopolies, but this was prevented. It was attempted for the postal service as well, and a remedy was found by transforming the company into a public body, without allowing personnel to opt for State jobs and with the provision that the public body would be transformed within three years’ time into a private corporation.

The second abuse of public administration consists of hiring on a permanent basis the employees of public bodies which have been abolished. In 1993-1994, following previous examples, it was proposed that the State administration should absorb the employees of Efim and of the National Cellulose and Paper Agency, and their subsidiaries. In this case too (February 1994) the Ciampi government was able to resist strong pressure exerted by those involved.

Another abuse of public administration consists of finding permanent jobs for the so-called *precari*, persons originally hired on a short-term basis, usually for political reasons. On this subject, after a long discussion in the government and in Parliament, legislative decree (*decreto legge*) n° 148 of May 20, 1993 was adopted, later converted into law n° 236 of July 19, 1993, providing that personnel hired on a short-term basis can be assigned permanent jobs in public administrations only after determination of the work load and after having passed tests or open competitions.

Even worse was the practice of giving jobs to persons extraneous to public administration such as the couriers mentioned above, which gave rise to heated discussions in June 1993.

Another abuse of public administration consists of ways for accelerating careers, variously defined as re-alignment, re-arrangement and reconstruction of career. Particularly involved in operations of this type are the Ministry of Finance and the various police forces, as well as those holding higher office. The Ministry of Finance, however, received a negative reply to its request, which involved skipping several career levels for all personnel. For the so-called equalization of the police forces, a process triggered by judicial decisions, the costs were minimized. For the higher offices, provisions were made in the first corrective decree to legislative decree (*decreto legislativo*) n° 29/1993, which led to the reformulating of Art. 57 and to blocking the practice of skipping to higher career levels.

These “negative actions” were accompanied by others, designed to oppose the centrifugal action of particular sectors or categories; for example, the general managers who wished to have separate roles assigned to their own departments, or the trade unions which wanted to participate in determining work loads.

Of all of these evils which - at least for a year - were in part avoided, the worst was undoubtedly that of giving permanent jobs to persons extraneous to the administration and to those originally hired on a short-term basis. It was

found that 70% of State employees had been hired, in the last 15 years, without having passed a regular competitive examination and thus without suitable selection, in spite of constitutional provision of the competition (art.97). Since, moreover, a large percentage of the persons seeking a place in public administration comes from the South, there is a surplus of personnel in that area, namely the double of the number of State employees in the North in proportion to the population. The consequences of all this on the efficiency of the institutions, or on society's opinion of public administration, which hires unjustly, without giving everyone an equal chance to accede to public office, are obvious.

Although these phenomena have always been familiar, they became acute in the early nineties when, with the dissolution of the political class, the agencies of the State were free to do as they wished, as were individual parliamentarians (of one of these it was said in Parliament that he cost the treasury 30 billion lire a day, for the initiatives he promoted in favor of one thing or another). Along with the trade unions, they took the place of the political parties.

6. What I have been unable to do

Under the heading "liabilities" are to be listed the failures (and the partial successes).

The former regard the re-establishment of structures abolished by abrogation in the referendums. I am referring to the Department of Entertainment and Tourism and the Ministry of Agricultural, Food and Forestry Resources.

The second failure concerned the reorganization of the judicial districts. This was a proposal which had slowly matured within the Ministry of Justice itself, but to which it was nonetheless opposed, fearing the reaction of the magistrates.

The third failure concerned the personnel of the former Agensud. According to the "Andreatta" legislative decree (*decreto legislativo*), these persons were supposed to either leave their jobs with retirement benefits or enter the public administration, but at the lowest career level, at salaries much lower than those formerly enjoyed. This did not happen however, and the issue is still open.

The fourth failure was that of the two laws passed by Parliament relevant to assigning unemployment benefits to employees of the political parties, and to absorption by the public administration of a certain number of employees of the parliamentary groups in the two Houses. In spite of the obstacles placed in the path of these provisions, it was possible only to set certain limits, through amendments, to this job-finding in the civil service.

Another failure was the one relevant to blocking automatic mechanisms action performed by the Parliament. This was proposed by the confederated trade unions, and I was the promoter of the initiative in Parliament. Once it had been approved in the Senate Committee, however, the confederated trade unions reacted negatively, perhaps because they realized that it concerned not merely judges and university professors but also the vast category of teachers. This led to the need to amend the decision of the Senate Budget Committee, and to subsequent retreat on this issue.

As regards surplus personnel too, not much could be done. Although the number of surplus State employees was estimated in various surveys as ranging from 80 thousand to 134 thousand, it was impossible to dismiss them in order to distribute personnel on a more rational basis.

But the greatest failure consists of not having managed, after having attracted public opinion, to stimulate the interest of the users, whose voice is unheard by the administration and by public powers in general. The activity designed to bestow sovereignty on the citizens and to reduce the expenses of the state machine had a cost and a benefit. The cost, consisting of the negative reaction of bureaucracy, has been paid. But this action, calling on the users to control the suppliers of services, should have evoked a stronger echo among the citizens themselves. Poorly organized, however, and little aware of their own rights and of the costs they have to pay, these citizens failed to make their voice heard (particularly important in a country where services, and not public ones alone, are of low quality and badly organized).

7. What remains to be done: the future of administrative reform

This survey would be incomplete without some mention of the future of administrative reform, of what still remains to be done.

The administrative issue reappeared on the political agenda last year. How can it be kept there now, so that interest in it remains alive? To this question I would like to give an answer, which is the following: if the administrative issue has become important due to its having been proposed in its essential terms, as social and economic problem, it must now be viewed, if it is to remain viable, under another aspect, that of constitutional reform.

No lengthy demonstration is required as proof of this assumption.

The administrative issue has long been restricted to the problem of employees. Since the 1980s, it has become a problem of functionality and efficiency of services as well. But only starting from 1993 have two aspects been noted, which are now clearly seen as priority, and which have awakened public opinion from neglect to interest.

The first aspect is the following: administrations should measure their own efficiency by the satisfaction of the users, who are the sovereigns of public service. Accordingly, they must respond to social demand and subject themselves to market testing. This is what I have called administrative issue viewed as social problem.

The second aspect is the following: public administrations must measure their own costs in terms of direct financial charges (those which are paid for by taxes) and indirect financial charges (those deriving from delays in tax collection, wasted time, inefficient services, etc.). The financial costs and the economic ones of the public administrations must be calculated and, if possible, reduced. This is what I have termed administrative problem as economic problem.

The “Public Service Charter” and the “Style Code” were the first step in this direction. The second step was the insertion in the budget for 1994 of an overall plan for modernizing the administration.

The first step has been implemented in various ways, in national and local public services. The second has produced remarkable results, considering that, in spite of the fact that many of its provisions have been suspended, the overall consumption of the Treasury, up to September, has remained below last year’s level. It may well be that Patrizio Bianchi was right when he declared, already on March 11, 1994: “We will discover that structural reforms such as those imposed by Sabino Cassese will let us save more than we had predicted”.

Now, however, after so much work, the importance of the administrative question seems to be fading into the background. The new government has eliminated the issue of administrative reform, has given it a low profile, as the Americans say, by deciding not to decide. The consequences are evident.

The first consequence consists of postponing or suspending the reorganization called for by law n° 537 of December 24, 1993. The Bill n° 777, now under examination by the Senate, postpones the terms of the mandate. But this second passage through Parliament is bound to be a rough one, for a general reason which was indicated by Luigi Einaudi in an article published in *Il Corriere della Sera* on June 29, 1921 :

“We should be skeptical of the government’s capacity to abolish sub-prefectures, prefectures, law courts, universities, commissaries, useless departments; but we should be much more skeptical about Parliament’s ability to put all of these great things into effect. Even those who believe that the government will do little are certain that Parliament would do less than nothing. Each of the offended interests would find its own champion in the House; and the coalition of defenders would effectively frustrate any effective action”.

With general reorganization postponed, centrifugal tendencies take on new force, leading to the splintering of initiatives, as clearly exemplified by the proposed reform of the Ministry of Public Works, the reorganization of the Ministry of the Environment, the new direction to be taken by Aima, etc. Other initiatives betray the purposes of the reform. The best example is that of the so-called privatization of sixteen welfare agencies, which has led to the intensification of public control over them.

In addition, ancient evils of public administration have re-emerged. To give only a few examples, legislative decree (*decreto legge*) n° 513 of August 27, 1994, converted into law n° 595 of October 28, 1994, provides in Article 3.1 for transferring personnel from the abolished National Cellulose and Paper Agency and its subsidiaries to State administrations, public bodies and regional governments. The conversion law of legislative decree (*decreto legge*) n° 643 of November 22, 1994, provides for reabsorbing into the public administrations not only the employees of EFIM (a large public holding) but also those of its financing companies, services and financial services (but this law was sent back to the Chambers in the presidential message of November 18, 1994). Legislative Decree (*decreto legge*) n° 515 of August 27, 1994, converted into

law n° 596 of October 28, 1994, stipulates in Art. 2.16 that municipalities with financial problems can establish labour relations through short-term contracts lasting one year, thus re-opening a chapter considered closed consequent to decree (*decreto legge*) n° 148 of May 20, 1993, converted into law n° 236 of July 19, 1993. The last version of the legislative decree (*decreto legge*) containing “urgent measures concerning the financial treatment of State personnel as regards public employment” extends to January 31, 1995 short-term labour contracts, which were supposed to terminate - according to the aforesaid 1993 law - in 1994. Future developments are heralded as well. The Secretary General of the Ministry of Finance, in an interview on November 18, 1994 with *Il Sole-24 Ore*, asked for recognition of the special nature of the qualifications of the Ministry of Finance and a salary supplement for the employees of the Ministry in relation to the tax revenue collected. These requests were followed by this comment: “I could call it my program, but also that of the unions. It is perhaps less that of the Public Administration, which necessarily takes an overall, unitary view”.

I have already said that, to get around this *impasse*, constitutional reform must be linked to administrative modernization. This is the only way to capitalize on the positive results achieved up to now and to find new paths, as fruitful as those explored in 1993-1994.

I will demonstrate this thesis in two points. The first concerns the ineluctable need for change in the formal Constitution of 1948; the second, the close links between Constitution and administration.

A reform of the formal Constitution is now indispensable, since the current system is no longer valid, now that a majoritarian electoral system has been introduced, without modifying the distribution of powers among public organizations.

Proof of this can be seen in two paradoxes. The first is that which has been created between the Constitution, calling for indirect investiture of the government (which is appointed by the President of the Republic and obtains the confidence of Parliament) and an electoral system moving toward direct investiture (the majority of the electoral body chooses the government, the middle term, consisting of Parliament, becoming less important; consequently, if the government falls, Parliament must fall as well).

The second contradiction is between a majoritarian system, entailing an “elective dictatorship” (i.e., that betrayal of mathematics which consists of

making 51 equivalent to 100), and the retaining of a Constitution and ordinary laws which guarantee the independence of judges, of the state television system, of the Bank of Italy, etc.

Now, while reform of the Constitution is assuming new importance, it is essential to remember that a better Constitution does not necessary and mechanically result in a more efficient administration. On the other hand, the general public tends to evaluate institutions on the basis of their overall efficiency, without distinguishing between top management and base organization. It will thus be necessary to constitutionalize public administration, as well as the plan for its modernization.

To implement this plan, five points are essential. The first concerns the place to be assigned to the law, in regard to decisions made by the executive. The sphere of laws should be reduced, restoring to them their function of framework-regulations, leaving space for the decisions of other bodies of the State.

The second is that of the relationship between politics and administration, with the consequent problems. The administrative bodies should be acknowledged a status of a separate order, based on principles of impartiality, legality and merit. In other words, the State should be organized as a group, with a holding company, sectorial and subsidiary holding companies, as in Sweden or the United Kingdom (this orientation is also known as “contracting out” and “outsourcing”, but all of these terms indicate the same thing - contracting services to external companies, since the essential ones are carried out much better).

The third point is that of the relationship between citizens and administration. It is important to constitutionalize some basic principles of the laws on procedure, to transform definitively the members of society from subjects to citizens (after all, the Constitution is the area designated to listing the rights of the citizens).

The fourth point is that of neutral powers and autonomous powers and the consequent reduction in central administrations. Decisions should be shifted to peripheral bodies, leaving to the center the task of assistance, rather than that of guide for the peripheral bodies. Care must be taken, however, not to multiply the levels of government by extending public powers, as is done by the promoters of Federalism. If between the State (federal) and the Regions, Fed-

erated States are inserted, the end result will be that of subtracting public powers from the citizens and rendering organization more confused.

The fifth point is that of checks and balances. To realize a polycentric constitutional organization, it will be necessary to build a solid foundation for the polyarchy.

To assimilate administrative reform and change in the formal Constitution, the scholastic axioms with which both scientific culture and public opinion are imbued must be abandoned. In the former, Constitution is distinguished from administration, just as in the latter a distinction is made between “high branches” and “low branches” of institutions.

Today public administrations are embroiled in a two-fold crisis of legitimacy. This is, firstly, a crisis in the legitimacy of investiture, concerning their capacity to listen to the demands of the general public.; and secondly, a crisis in the legitimacy of performance, concerning their capacity to satisfy, efficiently and fairly, the requests of the citizens. Society assigns importance to both aspects, as Robert Putnam has clearly demonstrated in recent research.

In the light of this diagnosis, the present situation is lamentable. Two examples are sufficient to demonstrate this. The recent case of the flood in the Piemonte region, where delays in sending out the alarm showed that public administrations tend to maximize interference but are then unable to communicate or - when they manage to do so - it is not to notify facts or events, but to discharge responsibility.

A second example is provided by the widespread corruption discovered in Milan. After two years, the repressive and corrective action is continuing, but few have asked the question of how further cases of corruption, certain to occur, can be prevented.

“Mistrust and discontent with the public administration are now a general state of mind, reinforced by emotional factors and wide-spread among the people. The negative phase is at its height. The struggle against bureaucracy, the hatred for its mechanisms, intricate and sterile, have become common-places. Wherever the State intervenes, it shows itself inadequate to its tasks. This is the firm conviction of everyone”. These prophetic words were written by Pietro Gobetti in issue n° 1 of “Energie nove”, dated May 5, 1919.

The work undertaken in 1993-1994 has provoked many reactions, but has also aroused great expectations. It is essential not to disappoint the latter and not to encourage the former, so that natural skepticism as to the capacity of legislative and governmental powers to carry out, with assiduity and constancy, a serious administrative reform, will not prevail.

8. Conclusions

In conclusion. Those who intend to reorganize administration must be prepared to confront widespread skepticism in regard to their efforts. If convinced, however, that a “good administration conditions the welfare of a nation”, they will have to take progressive steps forward, with great patience (the motto adopted by me during that period was *seid geduldig*: be patient).

For this patience I have received various rewards. One of these was given me and the Ciampi government by a Spanish friend, who likened our commitment to that of Turgot in 1774-1776, calling to my attention the chapter in Condorcet’s biography of the Badinters entitled *La vertu au pouvoir*. Another reward was given me by a seasoned parliamentarian who sent me the following note, during the parliamentary debate in the Senate on December 22, 1993:

“Dear Minister, I was thinking, while listening to ministers and former ministers, of your constructive and reconstructive work for this budget: painstaking, patient work, capable of providing true “inventions”, aimed toward a goal a bit further on. Not accompanied by incense and myrrh, but by seriousness, knowledge, experience. This was what a d.c. (Ndt: former Christian Democrat) with half a century of experience wanted to tell you; that he has known presumed builders and re-builders of the State; but very few real geniuses, who remind me of ‘the labourers in the vineyard’. One of these is yourself”.

I am frequently asked: won’t all of this fervent study and initiative be lost? (implying, was it worthwhile to commit yourself so strongly?) To some of these questioners I may reply in the words of Tocqueville, in one of his last papers, the speech to the “Institut” in 1852 on “political science and the art of governing”.

“Who has produced this French revolution, in a word:, the greatest event in history? ... Was it the politicians of the XVIII century, the princes, the ministers, the great lords? They almost always failed to accomplish what they intended, obtaining in the end a result they detested. The great artificers of this formidable revolution ... are the authors ... it was political science and, frequently, the most abstract science, which deposited in the spirits of our fathers all those germs of innovation from which have suddenly blossomed so many political institutions and civil laws ...”.

To others who ask I reply that - as shown in an excellent book by Dora Marucco - all of the changes of that turning point in our nation, the Giolittian era, were prepared in the preceding thirty-year period, by a myriad of ministerial committees which analyzed, discussed, selected and proposed reforms. We may therefore justifiably expect, in the century to come, either a revolution or a great politician-achiever.

I began by speaking of Peter Schlemihl and his attempts to get rid of his shadow. For having believed he could sell his own shadow, he lost his soul. Since this is the case, it turns out to be a good thing for me not to have given up my own.

Biographical Note

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He has published many books about the Italian public service, public companies and the bureaucracy. He is also the author of numerous white papers on the reform of the Italian administration. He has been Minister for Public Administration in the Ciampi government.

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