

# A SURVEY OF THE QUEBEC CITY CONFERENCE ON THE PARLIAMENTARY SYSTEM

By Christian A. Comeau  
(Research and Documentation)  
Parliamentary Relations, Quebec National Assembly

Last October a conference was held in Québec City on the theme of "The British Parliamentary System: An Anachronism or a Modern Reality?"; the participants were about a hundred legislators from Canada, the United States, Belgium, France, Senegal and Jamaica. Ten speakers, mostly university professors, described the general or particular problems encountered by the parliamentary system. Within a few weeks, the complete text of the addresses and discussions at this conference will be published by the Assemblée nationale. In the meantime, we offer a summary of the principal points of view put forward by the speakers in the plenary sessions.

(Note: Quotations from speakers have been translated.)

## PLENARY SESSION THURSDAY, OCTOBER 12, 1978.

MR. CLÉMENT RICHARD, M.A.N. PRESIDENT OF  
THE ASSEMBLEE NATIONALE DU QUÉBEC

In his opening speech, President Richard said that though Canadian legislators had regular opportunities to discuss parliamentary activities during seminars or special conferences, it was only rarely that they were able to raise questions about the role of representative assemblies.

Foreseeing a certain surprise, or even shock, at the general theme: "The British Parliamentary System: An Anachronism or a Modern Reality?", the President said that the startling question had been selected in order to provoke a variety of responses from ardent defenders, virulent

critics and patient reformers of the system. President Richard concluded by saying that even though the British type of parliament that we had inherited was one of our richest possessions we must not hesitate to question unceasingly its day-to-day workings in order to adapt it to the new and different roles our legislators may wish to take on. "Let us then not fear to question this type of parliamentary system, whatever kind of conclusions we may come to, for I believe that we must allow ourselves that whiff of oxygen within a parliamentary system whose flexibility has always been one of its trademarks."

MR. ROBERT BURNS, M.N.A.,  
MINISTER OF STATE FOR PARLIAMENTARY  
AND ELECTORAL REFORM,  
GOVERNMENT OF QUEBEC

Mr. Burns explained his task as minister for parliamentary reform and defined the fundamental role of Parliament as that of trying always to strengthen the sovereignty of the people, from which Parliament springs.

Affirming his faith in the capacity of the parliamentary system to meet change, Mr. Burns wished to show that the form must not be confounded with the substance, nor the incidental with the essential.

"To those who say that a system going back to the reign of John Lackland cannot meet the needs of a modern North American French-speaking state, I reply that they are confusing two very different things: the elements which constitute any parliamentary system of the British type and the way a specific Parliament selects to make these elements palpable and suited to the society to which it belongs and to its historical context. Principles which have always been considered immutable in the British parliamentary system are, in reality, only particular expressions of it in a given context.



Plenary Session: Left to Right - Messrs. André Chandernagor, Robert Burns, Speaker Richard, Messrs. Michael Rush and Floyd M. Riddick

The minister, in support of his thesis, referred to numerous examples of structural differences between various assemblies, all within the British tradition.

Mr. Burns then summarized his task, which consists principally in enhancing the member's role. The initial achievements have been: the televising of the debates and improvements in the internal operation of the Assemblée to modify the Parliamentary calendar. These reforms were carried out, Mr. Burns said, by collaboration between the President, the Opposition and the backbenchers.

The minister, who has plenty of projects up his sleeve, announced that he was thinking seriously about creating special Parliamentary committees with special operating rules, provided with support staff, and not requiring the presence of a minister. He also announced that it was necessary to have a law stipulating the right of free access for all, and particularly for members, to the information available in departments and government agencies.

In concluding, Mr. Burns expressed the wish that within the framework of the C.P.A. documentation service a specific sector be organized for electoral and parliamentary reform.

MR. ANDRÉ CHANDERNAGOR  
MEMBER OF THE FRENCH NATIONAL ASSEMBLY  
SOCIALIST GROUP

SUBJECT: THE FRENCH PARLIAMENTARY SYSTEM

Mr. Chandernagor's address was entitled: "The French Parliamentary System in Theory and in Fact". According to Mr. Chandernagor, the fact that the parliamentary democracy as we know it has evolved so differently in Great Britain and in France shows to what degree the form, role and functioning of Parliament are intimately linked with a people's history and culture.

For, although both types originated in the feudal system, the results were different: "The Norman king, strong from conquest, was the all-powerful distributor of lands and fiefs, whereas the Capetain king stood out only with difficulty among his peers who had made him king. The former's initial power led to the gradual formation of an alliance between the people and the barons, while the latter in order to resist the claims of his vassals, built with popular consent, in the course of centuries, an increasingly centralized and ever more powerful state as a bulwark against seignorial claims.

This continued until, faced with the excesses of royal absolutism, under pressure from the 18th century philosophers, the example of England, and the American example, the Revolution swept away the king's power and set up a new order."

Describing his compatriots as unrepentant logicians, Mr. Chandernagor explained that they then tried to establish the new revolutionary power on the separation of powers, a theory which acquired the status of a dogma. The revolution overreached itself. The new power, that of the Assembly, eliminated the royal power only to assume greater powers itself. This attempt at a separation of powers ended in the concentration of power in the hands of one man with the creation of the First Empire.

The Third Republic restored a new democracy which was marked by distrust of individual power. The government was nothing more than an executive committee of the Assembly, which kept it on a short leash. Although some think that at that period France was closest to the British parliamentary system, Mr. Chandernagor thinks otherwise. He holds that, in practice and judging by results, the French parliamentary system has been closer to the British since 1958 than in the earlier period. Mr. Chandernagor stated that, if one looked at the consti-

tutional texts, the differences from the British system appeared immense, but "texts give a misleading impression of the real exercise of power, and constitutional theories do not usually help much either."

Thus, Mr. Chandernagor wished to show that, if in constitutional theory the British Parliament had all power, except that of changing a man into a woman, whereas the French Parliament was limited in its powers by the Constitution, the actual day-to-day practice of parliamentary government in the two countries was not that different."

According to the speaker, the real power in most western democracies is held by the Government and not Parliament. Parliament and the Government are no longer opposed powers as in the royal period, but rather juxtaposed, with the executive power being dominant in inaugurating proceedings, even in the House.

In France, this system is embodied in a two-headed executive authority which looks like a republican monarchy. The 1958 Constitution also tried to set up a true parliamentary system with a government supported by a majority in the Assembly. The Assembly has stabilized; in spite of appearances, the same groups have been in power for 20 years. Between the First Republic and the Fifth Republic, France passed from nine parties to six, then to five, then to four, grouped in pairs in coalitions.

This bipolarity bears some resemblance to the British two-party system.

Another characteristic of the French system is the double majority; a presidential majority and a parliamentary majority. So long as they correspond, all goes well. But what happens if they don't? Mr. Chandernagor thinks that such a possibility would accentuate the parliamentary nature of the system.

According to Mr. Chandernagor, there are two possible interpretations of the Constitution. One makes the Government the President's concern; the other gives the Prime Minister individual authority thanks to Parliament's support. The speaker favours the latter interpretation, under which the President may in the last resort appeal to the supreme authority, the people, either by a referendum or by dissolution. However, a presidential defeat could bring about his resignation. Mr. Chandernagor thinks that "only a more parliamentary application of the Constitution would permit more effective operation of the system."

The speaker vigorously denounced what he called "legal abuses" inflicted on Parliament at the beginning of the Fifth Republic, designed to check its actions and its control over the Government. However, since 1973, considerable progress has been made in strengthening parliamentary privilege following an informal consensus between the Government and Parliament. He mentioned that certain abuses had ceased, while new practices were being followed and new parliamentary services had been set up.

M. Chandernagor concluded by saying that the evolution of the French Parliament had been characterized in recent years by three factors, namely:

- the unanimous will of Parliament to provide itself with better tools for its work;
- the desire of this President of the Republic to make relations between the majority and the opposition more relaxed;
- the emergence of a more composite majority, having aroused competition for influence between the two majority parties, which has enlivened Parliament.

"Analysis of the political situation shows that, if the left lost the last battle, it was not because of the method of voting, but owing to its divisions. As for the centre, if one day it must exist on its own, it will have to stand on its own feet and not count solely on new electoral methods."

Mr. Chandernagor concluded by saying that although the parliamentary system based on a coherent majority was not without its faults, it remained "the least undesirable compromise possible between state efficiency and the liberty of the citizens, in a world where so many systems tend to sacrifice blithely, and often to no purpose, the latter to the former, liberty to efficiency. (It is then no small achievement.)"

Even if the French Parliament satisfactorily fulfils the normal functions of a Parliament under a parliamentary majority system, it is apparently threatened by two tendencies: the emphasis on the presidential nature of the system in the name of the separation of powers which, according to the speaker, is impossible in France and results in resistance to progress or in an impasse, and secondly, the change in electoral methods demanded by the left and centre parties, a demand which the speaker brushed aside by saying:

MR. FLOYD RIDDICK  
 RETIRED PARLIAMENTARIAN  
 ADVISER TO THE UNITED STATES SENATE

SUBJECT: THE UNITED STATES CONGRESS

Mr. Riddick presented, rather than a critical analysis, a detailed and sometimes very technical study of procedures in the United States Congress and particularly in the Senate.

Mr. Riddick first emphasized certain American practices which differ from the British system, sometimes the same word reflecting different realities. He gave as an example "Parliamentarian", which, in Congress, is an official who advises the Speaker of the Senate or of the House of Representatives on procedural matters and is not a member of Parliament.

Constitutionally, the two assemblies share the lawmaking procedure equally. The Constitution provides for two exceptions to this rule: the House of Representatives has the initiative in the matter of money bills, and the Senate has exclusive jurisdiction over appointments and international treaties. In practice, that jurisdiction does not prevent the House from following international affairs closely. Thus, referring to the Senate Foreign Relations Committee, an American representative who was chairman of the House Committee on Foreign Affairs was accustomed to say that "the difference between the Senate and the House in foreign policy is that the representatives have affairs while the senators have relations". But since the committee has been renamed the International Relations Committee, both houses now have relations.

The Constitution explicitly provides that each House is responsible for determining its own procedures; according to the description given by the speaker, Congressional procedure is complex and awkward.

Each House regularly passes motions enacting new rules or amending existing ones. During recent years, the Congress has even frequently enacted administrative legislation such as the Congressional Budget Act, establishing specific rules of procedure for different types of legislation. The House of Representatives has to re-enact its Rules at the opening of each new legislature, whereas the Senate's Rules date from 1884,

although they have frequently been amended. The houses are bound by precedent as well as well as by sacrosanct traditions.

Thus the Senate uses the same procedure for dividing the senators into three groups as was used in 1789, when there were only 13 states in the Union and the 26 senators were elected by the state legislatures.

Mr. Riddick said that, in spite of a common basis, procedures in the Senate and in the House of Representatives were as different from each other as either was from procedure in the House of Commons at Westminster.

One of the principal differences is that in the House of Representatives any amendment to or discussion of a bill must be directly related to the bill and to the part of the bill in question. This rule of pertinent debate, which our parliamentarians are equally familiar with, applies to the Senate only in a few unusual cases. Also, there is a time limit of one hour on representatives' speeches, while senators enjoy the privilege of being able to exhaust themselves or their hearers, whichever happens first.

Furthermore, most of the controversial subjects submitted to the House of Representatives are subject to special rules set by the Committee on Rules and passed by a simple majority of the House. These special rules may vary from case to case.

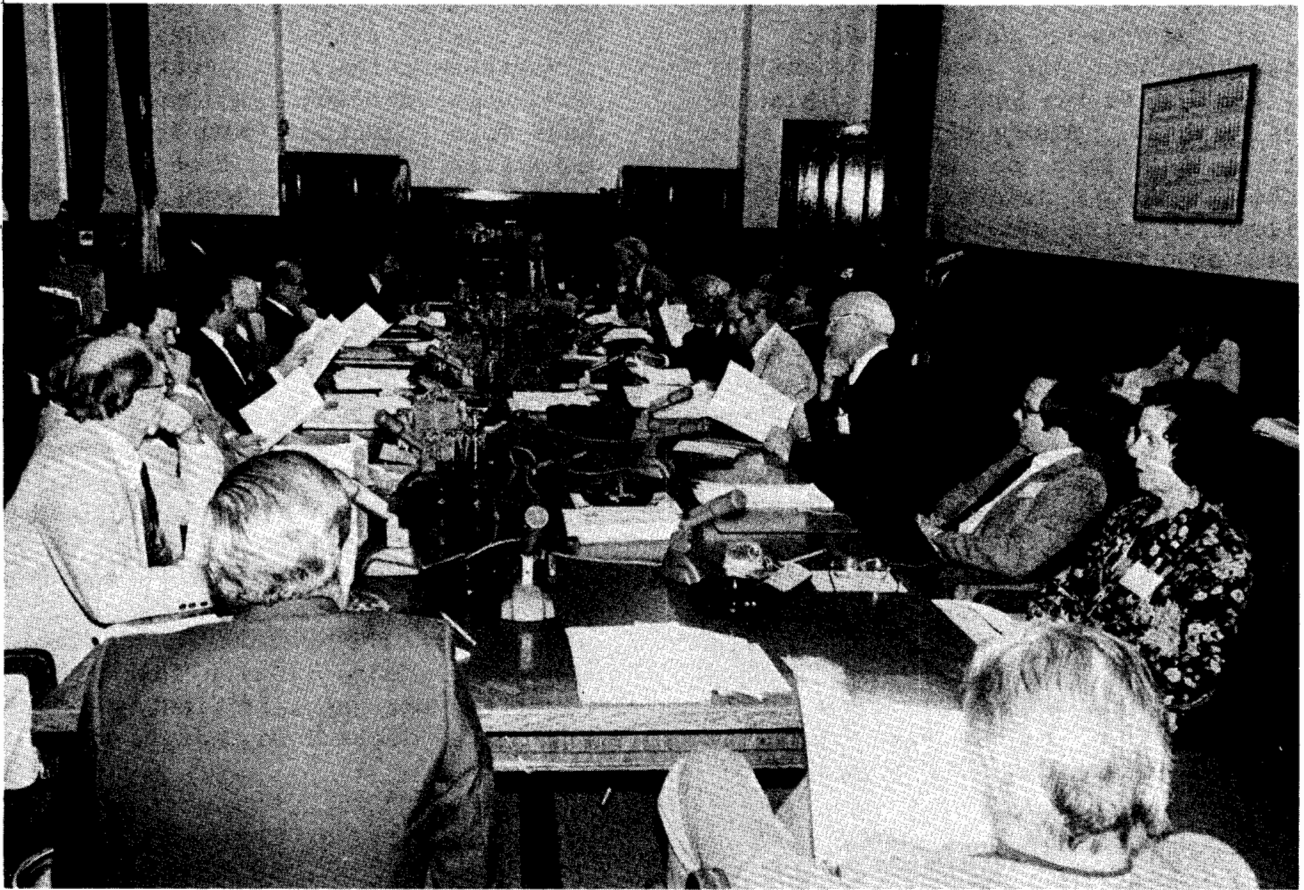
Unlike our usual practice, the division of debating time is not proportional between the parties, but is divided equally between "pro" and "con", this being due to the absence of party solidarity. In fact, it is rare that the result of a vote reflect party standings.

During his 25 years as an official of the Senate, the speaker experienced the establishment of the "seniority system". This system based on seniority practically ensures that a representative or a senator who is appointed to a committee may retain that position as long as he wishes. Changes in the majority in the House only displace the most recent arrivals, those at the bottom of the list. This system has created an extreme job specialization among members and given certain of them a great deal of political power. Considering the fact that a committee has life and death powers over legislation, the procedure for submitting bills to the different committees favours a stranglehold on parliamentary work by those who take advantage of the seniority system. The Speaker of the House is responsible for assigning bills to committees. The houses have the right of final decision in this matter, but the question must be specifically raised. Thus, in practice, a representative or a senator present at a session may well not know what bills have been submitted that day and to what committee they have been sent. This information is only published the day following the submission or sending. The administration has learned to get along with this system.

On this subject, Mr. Riddick told this story: One day, the Treasury Department prepared a bill designed to provide financial assistance to Lockheed Aircraft. Mr. Riddick was asked to which Senate committee the bill would be referred. After examining the bill, he informed the inquirer that according to established procedure, it would be studied by the Committee on Commerce. Since the administration found that that committee was not sufficiently "sympathetic", they decided to redraft their bill.

Several months later, Mr. Riddick received a new bill which had been so reworked that only after careful scrutiny of the two texts did he recognize it as the same bill. Considering that the new approach was more sweeping, it was necessary to send the bill to another committee. In this way a bill whose real purpose was to give financial assistance to an aeronautics company was studied by the Committee on Banking, Housing and Urban Affairs.

Mr. Riddick concluded by affirming that Congress was a unique legislative body. "I have seen the two Houses fight a pitched battle for two years to change the name of a street in the District of Columbia, while a law of national significance which would affect the daily life of almost all the citizens, entered the legislative procedure at noon and by 4 p.m. the same day had been passed by the two Houses, printed in various forms; it was submitted to the President that evening for his signature."



One of the workshops in session.

MR. MICHAEL RUSH,  
 PROFESSOR OF POLITICAL SCIENCE  
 UNIVERSITY OF EXETER  
 UNITED KINGDOM

SUBJECT: THE BRITISH PARLIAMENTARY SYSTEM

After thanking his hosts, the Québec section of the C.P.A. and the Assemblée nationale, Mr. Rush went right to the point by stating his definition of parliamentary government: a form of government in which the executive is constitutionally responsible to the assembly from which it is drawn.

The sole purpose of this constitutional arrangement is to try to limit the exercise of power; it represents, according to Mr. Rush; a type of representative government where the interests of the people are normally represented by Parliament rather than directly by referenda, citizens' legislative initiatives or "recall". From this point of view, this type of government is not unique; other forms could also be described as representative, but they can be distinguished from parliamentary government by the absence of any constitutional responsibility of the executive to the assembly.

Professor Rush thinks that through the long period of history during which the British system grew, there were three interrelated factors which played and still play a preponderant role, namely: the party system, ideology and the electoral system.

He described the British party system as being competitive bipartisanship. The bipartisanship is not derived from the existence of two parties only, but from the absence of any political force composed of third parties. On the average, according to the speaker's figures, in the postwar period, the Conservative and Labour parties accounted for 73% of the candidates, 97% of the members and 88% of

the votes. The 1974 election showed a deviation from this tendency, but it is too early to say whether this indicates a permanent trend. It is a competitive system, since it is generally recognized that elections are free from manipulation, that they offer a distinct political choice, and above all, that both political parties have a reasonable hope of assuming power.

According to Professor Rush, the last statement is very important. Since both parties are confident of an alternation in power in a near future, neither has an interest in or a desire for profoundly modifying the system. The regularity of the alternation principle influences and restrains political ambition. The opposition watches its future and the majority protects its record, since one day, not too far off, their roles will be reversed.

The second factor, ideology, is more difficult to identify. Polls indicate that the British see little difference between the two major parties. It is noticeable that, once in power, a party is subject to pressures which it cannot entirely control. No matter which party forms the Government, there is some continuity in economic policy. The superficial analyses are thus often contradicted by the facts. For example, the Conservatives, the defenders of private enterprise, have nationalized numerous industries, whereas Labour have often taken a hard line towards the unions.

In spite of that, Mr. Rush thinks that there are real differences. These differences exist mainly owing to the fact that the politicians themselves have strong convictions about the existence of two distinct ideologies and they act in consequence. Thus, whatever compromises circumstances may impose on a government,

there is no compromise between the two parties, and each proclaims that its own program and its own policies offer the only real solutions to the country's problems. The parties always hesitate to express agreement with each other.

The third factor, the electoral system of single-member one-ballot voting - or to put it familiarly "winner takes all" - tends to impose bipartisanship and to increase the effect of the party system and of ideology on Parliament.

Those are the three factors which, more than any other, control the exercise of parliamentary government, that is, representative and responsible government. Is it possible under these conditions to speak of a responsible government?

Mr. Rush said that the last time a British government had had to resign following a no-confidence motion was in 1927 (1), and that Parliament had been dominated by Disraeli's advice to his supporters:

"Damn your principles, stick to your party".

When the referendum on Great Britain's entry into the Common Market was held, cabinet ignored party lines, thus making it impossible to apply the principle of responsible government.

In fact, responsible government is not in question; everyone wishes to retain it, but everyone recognizes that its application is too often subordinated to the demands of party solidarity.

During the 1960's, the winds of reform swept over the British Parliament and significant changes were made, particularly the creation of specialized parliamentary committees and increased services to members. However if, in Professor Rush's opinion, the committees have not been a failure, it must be acknowledged that they have not lived up to expectations. The government's indifference towards the committees' recommendations creates much frustration particularly since members are not agreed about the relevance of the committees. Several see only an attempt to submerge ideological divisions and force a consensus. This was the opinion of an opposition member, the spokesman on defence matters, who, upon being told that a Defence Committee would provide him with more factual information, replied "I find that facts confuse my arguments."

The improvement in members' working conditions, which in Mr. Rush's opinion remain inferior in several respects to those of their Canadian colleagues, is more widely accepted. This type of reform cannot by itself bring about major changes.

The introduction of the referendum procedure into the British system represents a much more substantial change. On the other hand, the speaker reminded us that it was a two-edged sword: if you agree to let the people decide, you cannot complain that they have made the wrong decision, and then say as Brecht did of East Germany: "The people have failed: the government has therefore decided to elect a new people." Taking as

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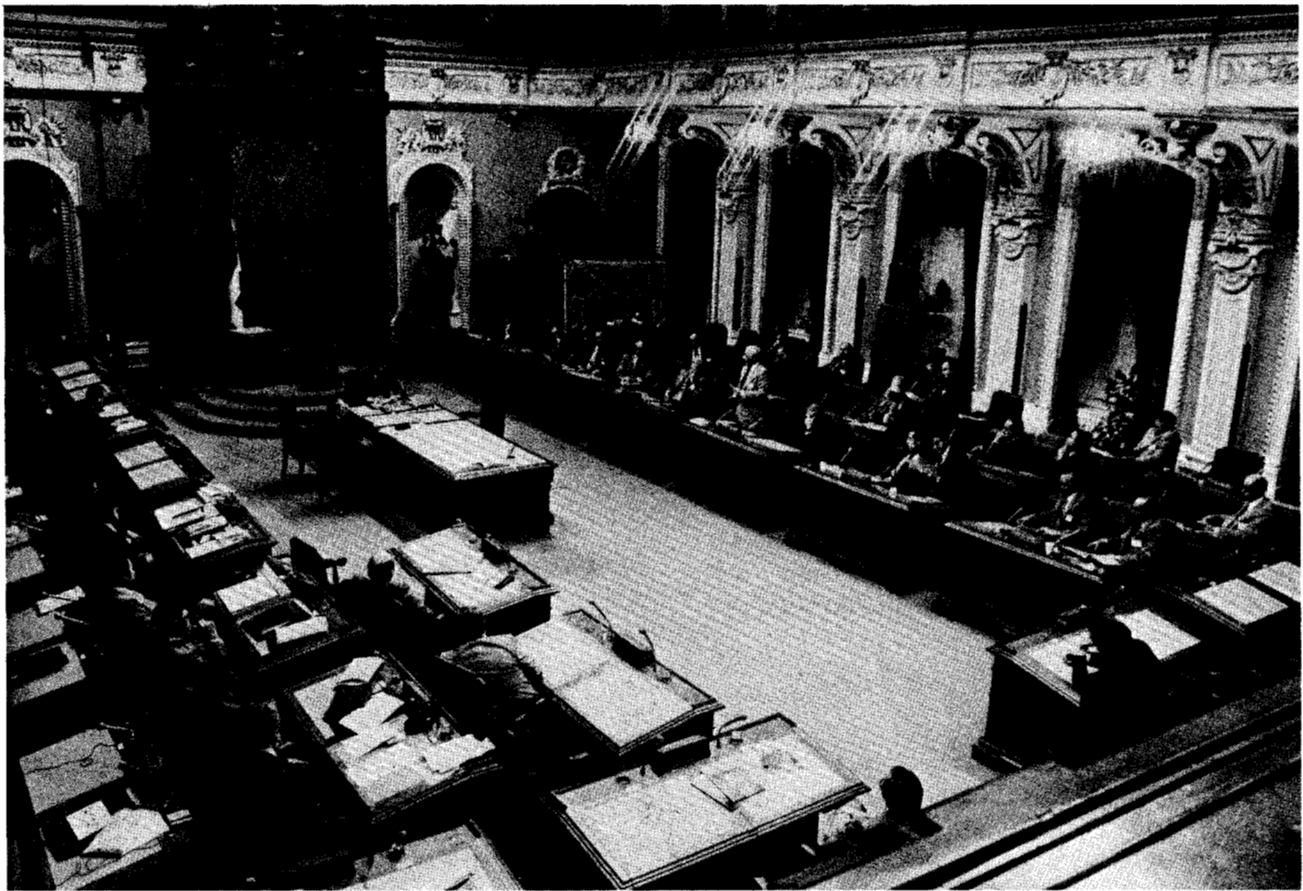
(1) Recent events oblige me to bring Mr. Rush's text up to date. On March 28, 1979, Mr. Callaghan's Government fell after a no-confidence motion was carried by one vote. However, it was only a relative defeat since the minority government had been in power for more than 4 years. The parliamentary majority, created by the absence in hospital of a Labour member, only advanced the end of the Government's term of office by a few months.

an example the referendum in Scotland and Wales on devolution, Mr. Rush feared lest a negative vote have serious consequences on English political life, especially in the case of Scotland (1).

In conclusion, Mr. Rush said that, although 20 years ago little change was predicted, and 10 years ago moderate constructive improvements were foreseen, today the future seemed uncertain. Changes in institutions do not accomplish much unless they are followed by a change of attitude. The enhancement of the back-

bencher's role will not succeed unless the members are prepared for a new role and unless the government wishes it.

Mr. Rush also thinks that too often reforms in institutions are aimed only at problems whose origin may not be in the institution. Finally, the speaker reproached British politicians for two faults, namely: profound mistrust of foreign models and a tendency, aggravated by profound inertia, to minimize or even deny difficulties existing in the parliamentary system.



Last Plenary Session in the Chamber (Salon Bleu)  
of the Quebec National Assembly

(1) This address was delivered four months before the referendum was held.

SATURDAY, OCTOBER 14:

MR. LÉON DION  
PROFESSOR OF POLITICAL SCIENCE  
LAVAL UNIVERSITY  
QUÉBEC CITY

SUBJECT: THE PARLIAMENTARY SYSTEM, AN  
ANACHRONISM OR A MODERN  
REALITY?

SUMMARY AND CONCLUSION:

Mr. Dion was given the difficult task of summarizing and criticizing the various views expressed during the conference. In a typically professorial manner, the speaker touched on three points: the values proposed by the democracies, democratic institutions, and paths for reform.

1. Values:

For Professor Dion considers that Parliament is the "noble side of power", because it symbolizes and embodies the great values which can be cultivated, defended and promoted by political societies -- democracy". Consequently, the subject should be approached by asking how modern parliaments make it possible to pursue such values.

"The sole purpose of any parliamentary reform must be the promotion of democratic values. When we speak of the crisis of democracy, or of the eclipse of parliaments, we are speaking primarily of a crisis of values."

Parliament is a necessary, but inadequate, condition of democracy, said Professor Dion. We could paraphrase these words by saying that there can be no democracy without Parliament, but that Parliament is not in itself a guarantee of democracy.

Although the parliamentary system rests on majority rule, "it can only grow so long as particular groups do not permanently dominate society as a whole". In spite of its defects, majority rule offers the closest approximation to equality and liberty:

"It's better to count heads than to chop them off."

Modern democracies are representative and parliamentary. In other words, the people delegate their sovereignty to their representatives who meet as a college to deliberate and discuss. No doubt to the great satisfaction of the parliamentarians present, Professor Dion described Parliament as the "locus of real sovereignty in a democratic society".

This truth is qualified by observation of the reality which limits that "more formal than actual" sovereignty. Sovereignty is the goal of a struggle between the powers, which are not, despite Montesquieu, balanced. As Mr. Chandernagor said earlier, "one power drives out another". As soon as one power is uppermost, it tends, impelled by its own momentum, to preserve and extend its powers.

2. Democratic Institutions

The essential feature of democracy is representativeness. It is an election, an imperfect procedure in itself, which ensures that the representativeness is legitimate. "As a general rule, candidates, and still more those elected, are not characteristic of the population. They are better educated, their income is higher, they are in occupations which are superior to those of the mass of voters."

Professor Dion also reminded us that the dilemma of the member's mandate has never been resolved, and that the question is still being asked whether a member is an agent on behalf of particular interests or the people's delegate in general. Another imperfection of the system is that electoral representation is based primarily on geographical, and not on sociological, boundaries. If solutions to this problem have been contemplated, such as the economic and social chamber proposed by De Gaulle, they have never been applied "because people are generally afraid that the cure will be worse than the disease".

There must be representativeness at the political party level which "constitutes a requirement of the democratic parliamentary system on condition that there is pluralism". Party discipline, which is often denounced, is not, in Professor Dion's opinion, a major obstacle to representativeness. According to him, most parliamentarians willingly submit to it because, without party discipline, the individual member "would have to rely on his own means for arriving at a personal conviction in each of the many debates which are held in a session."

Also, party discipline supports the strengthening of the executive power vis-à-vis the legislative power. The speaker attributed this transfer of powers to various causes such as the world wars, the economic crisis and increasing governmental recourse to science and to specialists. The result of this phenomenon has been a sort of chain reaction leading to the growth of administrative power. ...Modern governments, though democratic, have become, along with their administrations, executives as powerful as, or even more powerful than, the absolute monarchs of the anciens régimes of the seventeenth and eighteenth centuries who were ousted by revolutions.

However, the executive power is itself threatened by the rise of a new power alleged to be non-political, the technocrats of the public and private administrations.

This situation generates tension between the Government and Parliament, bearing on the idea of efficiency appealed to by ministers and civil servants and on that of liberty claimed by Parliament: "This contradiction is generally resolved in favour of efficiency, that is, against democracy."

### 3. The Paths of Reform:

If we regularly and justifiably boast of having flexible political institutions, this quality itself contains a danger: "because, if modern political institutions are so malleable, how can they be at the same time guarantors of democracy?"

This capacity for change, which is characteristic of Parliaments, works in favour of the reforms in progress throughout the world, so numerous and diverse that they appear haphazard. In the British type of parliamentary system, there are three restrictions on these reforms: party discipline, ministerial responsibility and the government's legislative initiative.

Professor Dion is the advocate of increased power and activity for parliamentary committees, particularly for effective control of delegated legislation and of the administration. Another important path of reform mentioned by the speaker was the elimination of barriers between members and sources of government information. This would encourage specialist assistance for parliamentary

committees, a reduction in party discipline, and the establishment of a policy of consultation for parliamentary committees, which would enable members to "counter by their own information the civil servants' assertion that only they were in a position to really know the actual needs of individuals and groups". Finally, the parliamentary committees could, on their own initiative, undertake research and inquiries which could possibly lead to white papers on matters calling for legislation.

In conclusion, Mr. Dion stated that "any really useful reform of Parliaments

must come through public opinion". "The quality of Parliaments corresponds and will correspond to that of the civic culture of the citizens". Any improvement in that would make the population more demanding and more critical towards the attitudes and behaviour of politicians and the functioning of institutions.

"That is perhaps the real meaning of the current reform: to act at the same time on institutions and men so as to create between them a dialectic of change which would act at the same time on levels."

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