
Parliament and Congress:

Is the Grass Greener on the other side?

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Aristotle long ago observed that man is a "political animal." He could have added that man, by his very nature, notes the political status of his neighbours and, very often, perceives their lot as being superior to his own. The old saying "the grass is greener on the other side of the fence" can be applied to politics and political structures as well as to other, more material, dimensions of the contemporary world.

Legislators are not immune from the very human tendency to see how others of their lot exist in their respective settings, and, sometimes, to look longingly at these other settings. When legislators do look around to see the conditions under which their peers operate in other countries, they occasionally decide they prefer the alternative legislative settings to their own.

Features which legislators admire or envy in the settings of their colleagues include such things as: the characteristics of political parties (their numbers, or degrees of party discipline), legislative committee systems, staff and services available to help legislators in their tasks, office facilities, libraries, and salaries. This essay will develop the "grass is greener" theme in relation to a dimension of the legislative world which is regularly a topic of conversation when legislators from a number of different jurisdictions meet: the ability or inability of legislatures to check and control the executive.

The Decline of Parliament

The theme of the "decline of parliament" has a long and well-studied history.¹ It generally refers to the gradual flow of true legislative power away from the legislative body in the direction of the executive. The executive does the real law-making — by actually drafting most legislation — and the legislature takes a more "passive" role by simply approving executive proposals.

Legislators are very concerned about their duties and powers and over the years have jealously guarded them when

they have appeared to be threatened. In Canada (and indeed most parliamentary democracies in the world today), the majority of challenges to legislative power which develop no longer come from the ceremonial executive (the Crown), but from the political executive, the government of the day.

It can be argued that the ability to direct and influence public policy, is a "zero sum game" (i.e. there is only room for a limited amount of power and influence to be exercised in the political world and a growth in the relative power of the political executive must be at the expense of the power of the legislature). It follows, then, that if the legislature is concerned about maintaining its powers, concerned about protecting its powers from being diminished, it must be concerned about every attempt by the political executive to expand its powers.

Others contend that real "legislative power" cannot, and probably never did reside in the legislature. There was no "Golden Age" of Parliament. The true legislative role of parliament today is not (and in the past was not) to create legislation, but to scrutinize and ratify legislation introduced by the Government of the day. Although an occasional exception to this pattern of behavior may exist (with private members' bills, for example), the general rule is clear: the legislature today does not actively initiate legislation as its primary *raison d'être*.

Although parliamentarians may not be major initiators of legislation, studies have indicated a wide range of other functions.² Certainly one major role of the legislature is the "oversight" role, criticizing and checking the powers of the executive. The ultimate extension of this power is the ability of the legislature to terminate the term of office of the executive through a "no confidence" vote. Another role of the legislature involves communication and representation of constituency concerns. Yet another function involves the debating function, articulating the concerns of the public of the day.

Professor James Mallory has indicated the need to "be realistic about the role of Parliament in the Westminster system."³ He cites Bernard Crick's classic work, *The Reform of Parliament*: "...the phrase 'Parliamentary control,' and talk about the 'decline of parliamentary control,' should not mislead anyone into asking for a situation in which governments can have their

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legislation changed or defeated, or their life terminated... Control means influence, not direct power; advice, not command; criticism, not obstruction; scrutiny, not initiation; and publicity, not secrecy."⁴

The fact that parliament may not be paramount in the creation and processing of legislation is no reason to condemn all aspects of parliamentary institutions. Nor should parliamentarians be convinced that legislative life is perfect in the presidential-congressional system. In fact, some American legislators look to their parliamentary brethren and sigh with envy at the attractiveness of certain aspects of parliamentary institutions.

Desirability of a Congressional Model for Canada?

Many Canadian parliamentarians and students of parliament look upon presidential-congressional institutions of the United States as possessing the answers to most of their problems. The grass is sometimes seen as being greener on the other side of the border. The concepts of fixed legislative terms, less party discipline, and a greater general emphasis on the role and importance of individual legislators (which implies more office space and staff for individual legislators, among other things) are seen as standards to which Canadian legislators should aspire.

A perceived strength of the American congressional system is that legislators do not automatically "rubber stamp" approve executive proposals. They consider the president's suggestions, but feel free to make substitutions or modifications to the proposal, or even to reject it completely. Party discipline is relatively weak; there are regularly Republican legislators opposing a Republican president (and Democratic legislators supporting him), and vice versa. Against the need for discipline congressmen argue that their first duty is to either (a) their constituency, or (b) what is "right", rather than simply to party leaders telling them how to behave in the legislature. For example, in 1976 Jimmy Carter was elected President with large majorities of Democrats in both houses of Congress. One of Carter's major concerns was energy policy. He introduced legislative proposals (that is, he had congressional supporters introduce legislation, since the American president cannot introduce legislation on his own) dealing with energy policy, calling his proposals "the moral equivalent of war." In his speeches and public appearances he did everything he could to muster support for "his" legislation. Two years later when "his" legislation finally emerged from the legislative process, it could hardly be recognized as the proposals submitted in such emotional terms two years earlier.

The experience of President Carter was certainly not unique. Any number of examples of such incidents of legislative-executive non-cooperation can be cited in recent American political history, ranging from President Wilson's unsuccessful efforts to get the United States to join the League of Nations, through Ronald Reagan's contemporary battles with Congress over the size of the federal budget. The Carter experience was somewhat unusual by virtue of the fact that the same political party controlled both the executive and legislative branches of government, and cooperation still was not forthcoming. There have been many more examples of non-cooperation when one party has controlled the White House and another party has controlled one or both houses of Congress.

This lack of party discipline ostensibly enables the individual legislators to be concerned about the special concerns of their constituencies. This, they say, is more important than simply having to follow the orders of the party whip in the legislature. It

is not any more unusual to find a Republican legislator from a farm state voting against a specific agricultural proposal of President Reagan on the grounds that the legislation in question is not good for his/her constituency, than to find Democratic legislators from the southwestern states who voted against President Carter's water policy proposals on the grounds that the proposals were not good for their constituencies.

Congressional legislators know that they have fixed terms in office — the President is simply not able to bring about early elections — and they know that as long as they can keep their constituencies happy there is no need to be terribly concerned about opposing the President, even if he is the leader of their party. It may be nice to have the President on your side, but if you have a strong base of support "back home" you can survive without his help.

Are there any benefits to the public interest in the absence of party discipline? The major argument is that the legislature will independently consider the executive's proposals, rather than simply accepting the executive's ideas passively. This, it is claimed, allows for a multiplicity of interests, concerns, and perspectives to be represented in the legislature, and ostensibly results in "better" legislation.

In summary, American legislative institutions promote the role of the individual legislator. The fixed term gives legislators the security necessary for the performance of the functions they feel are important. The (relative) lack of party discipline enables legislators to act on the issues about which they are concerned. In terms of the various legislative functions mentioned above, congressmen appear to spend a great deal of their time in what has been termed the legislative aspect of the job: drafting legislation, debating, proposing amendments, and voting (on a more or less independent basis).

While many parliamentarians are impressed by the ability of individual American legislator to act on their own volition it is ironic that many congressional legislators look longingly at the legislative power relationships of their parliamentary brethren. The grass, apparently, is greener on the *other* side of the border, too.

Desirability of a Parliamentary Model

The "decline of congressional power" is as popular a topic of conversation in Washington as "the decline of parliamentary power" in Ottawa or London. Over the last several decades American legislators have sensed that a great deal of legislative power has slipped from their collective grasp.⁵ Many have decried this tendency and tried to stop, or reverse this flow of power away from the legislative branch and toward the executive.

One of the major themes in the writings of these congressional activists is an admiration for the parliamentary model's (perceived) power over the executive. Many American legislators see the president's veto power, combined with his fixed term in office, as a real flaw in the "balance of powers" of the system, leading to an inexorable increase in executive power at the expense of the legislature. They look at a number of parliamentary structures which they see as promoting democratic political behavior and increased executive responsibility to the legislature, including the ability to force the resignation of the executive through a non-confidence vote. The regular "question period" format which insures some degree of public executive accountability is also perceived as being very attractive.

Critics of the congressional system do not confine their criticism only to the growth of executive power. There are many

who feel there is too much freedom in the congressional arena. To paraphrase the words of Bernard Crick cited earlier, advising has sometimes turned into issuing commands; and criticism has sometimes turned into obstruction. This is not to suggest that congressional legislators would support giving up their ability to initiate legislation, to amend executive proposals, or to vote in a manner which they (individually) deem proper. This does suggest, however, that even congressional legislators see that independence is a two-sided coin: one side involves individual legislative autonomy and input into the legislative process; the other side involves the incompatibility of complete independence with a British style of "Responsible Government".

In 1948 Hubert Humphrey, then mayor of Minneapolis, delivered an address at the nomination convention of the Democratic Party. In his comments he appealed for a "more responsible" two party system in the United States, a system with sufficient party discipline to have *meaningful* party labels, and to allow party platforms to become public policy.⁶ Little progress has been made over the last thirty-seven years in this regard. In the abstract the concept of a *meaningful* two party system may be attractive; American legislators have not been as attracted to the necessary corollary of the concept: decreased legislative independence and increased party discipline.

While American Senators and Representatives are very jealous of executive encroachments upon their powers, there is some recognition that on occasion — usually depending upon individual legislators' views about the desirability of specific pieces of legislation — executive leadership, and perhaps party discipline, can serve a valuable function. Congressional legislators are, at times which correspond to their policy preferences, envious of parliamentary governments' abilities to carry their programs into law because MPs elected under their party labels will act consistent with party whips' directions. They would be loath to give up their perceived high degrees of legislative freedom but many of them realize the cost of this freedom in this era of pressing social problems and complex legislation. Parliamentary style government is simply not possible without party discipline.

A Democratic Congressman supporting President Carter's energy policy proposals might have longed for an effective three-line whip to help to pass the energy policies in question. An opponent of those policy proposals would have argued, to the contrary, that the frustration of the president's proposals was a good illustration of the wisdom of the legislature tempering the error-ridden policy proposals of the president. Similarly, many conservative Republican supporters of President Reagan have condemned the ability of the Democratic House of Representatives to frustrate his economic policies. Opponents of those policies have argued, again, that the House of Representatives is doing an important job of representing public opinion and is exercising a valuable and important check on the misguided policies of the executive.

Some Concluding Observations

The parliamentary model has its strengths as well as its weaknesses. The individual legislator in a parliamentary system does not have as active a role in the actual legislative process as does his American counterparts, but it is not at all hard to imagine instances in which the emphasis on individual autonomy in the congressional system can be counterproductive because it delays much-needed legislative programs.

The problem, ultimately, is one of balance. Is it possible to

have a responsible party system in the context of parliamentary democracy which can deliver on its promises to the public, and also to have a high degree of individual legislative autonomy in the legislative arena?

It is hard to imagine how those two concepts could coexist. The congressional and parliamentary models of legislative behavior have placed their respective emphases on two different priorities. The parliamentary model, with its responsible party system and its corresponding party discipline in the legislature, emphasizes efficient policy delivery, and the ability of an elected government to deliver on its promises. The congressional model, with its lack of party discipline and its emphasis on individual legislative autonomy, placed more emphasis on what can be called "consensual politics": it may take much more time for executive proposals to find their way into law, but (the argument goes) there is greater likelihood that what does, ultimately, emerge as law will be acceptable to a greater number of people than if government proposals were "automatically" approved by a pre-existing majority in the legislature acting "under the whip".

We cannot say that one type of legislature is "more effective" than the other. Each maximizes effectiveness in different aspects of the legislative function. Legislators in the congressional system, because of their greater legislative autonomy and weaker party discipline, are more effective at actually legislating than they are at exercising ultimate control over the executive. Legislators in the parliamentary system, although they may play more of a "ratifying" role in regard to legislation, do get legislation passed promptly; they also have an ultimate power over the life of the government of the day.

The appropriateness of both models must also be evaluated in light of the different history, political culture and objectives of the societies in which they operate. Perhaps the grass is just as green on both sides of the fence. ■

Notes

¹There is substantial literature devoted to the general topic of "the decline of legislatures." Among the many sources which could be referred to in this area would be included the work of Gerhard Loewenberg. *Modern Parliaments: Change or Decline?* Chicago: Atherton. 1971; Gerhard Loewenberg and Samuel Patterson, *Comparing Legislatures*, Boston: Little, Brown, 1979; or Samuel Patterson and John Wahlke, eds., *Comparative Legislative Behavior: Frontiers of Research*, New York: John Wiley, 1972.

²A very common topic in studies of legislative behavior has to do with the various functions legislatures may be said to perform for the societies of which they are a part. For a discussion of the many functions attributed to legislatures in political science literature, see Gregory Mahler, *Comparative Politics: An Institutional and Cross-National Approach* (Cambridge, Ma.: Schenkman, 1983, pp. 56-61.

³J. R. Mallory, "Can Parliament Control the Regulatory Process?" *Canadian Parliamentary Review* Vol. 6 (no. 3, 1983) p. 6.

⁴Bernard Crick, *The Reform of Parliament*, London, 1968, p. 80.

⁵One very well written discussion of the decline of American congressional power in relation to the power of the president can be found in Ronald Moe, ed., *Congress and the President*, Pacific Palisades, Calif.: Goodyear Publishing Co., 1971.

⁶Subsequently a special report was published by the Committee on Political Parties of the American Political Science Association dealing with this problem. See "Toward a More Responsible Two-Party System," *American Political Science Review* Vol. 44 (no. 3, 1950), special supplement.