

PARLIAMENTARY CONTROL AND POLITICAL GROUPS IN THE THREE EUROPEAN REGIONAL COMMUNITIES*

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The endeavor to give Europe a "new look" after World War II by leading its countries to a workable form of union has found its first practical expression in three international Treaties of a special kind, concluded between the Federal Republic of Germany, the Kingdom of Belgium, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, and the Kingdom of the Netherlands. The first, signed in Paris on April 18, 1951, and put into force on July 25, 1952, set up the European Coal and Steel Community (E.C.S.C.). The other two, signed in Rome on March 25, 1957, and put into force on January 1, 1958, resulted in the European Economic Community (E.E.C.) and the European Atomic Energy Community (Euratom).

In the traditional manner of multilateral agreements under international law, these Treaties came into being as the outcome of negotiations between the Governments concerned, but their aim is to find new forms whereby a new order can be established in Europe. They endow the three Communities with a federal structure, having central executive organs, representation of the Member States, a common Parliament, and a Supreme Court.

The executive organ of the E.C.S.C. is the High Authority, which corresponds to the Commissions of the other two Communities. The federal element is reflected in a Ministerial Council for each Community, in which each country has one representative. The Court has jurisdiction for all three Communities and renders decisions in first and final instance. Parliamentary and political control is exercised for all three Communities by the European Parliamentary Assembly.

I

It is to the Assembly that we propose to devote our particular attention here. We shall try to show how and why it was founded—for it is by no means self-evident that a predominantly economic union should have a parliamentary organ—to examine the juridical position conferred upon it by the Treaties, and finally to demonstrate how it has developed in practice.

The foundation of the Council of Europe on May 5, 1949, did not lead to the creation of a genuinely parliamentary institution for the fifteen member countries of that organization. All that the founders managed to set up was a Consultative

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Assembly, which was powerless vis-à-vis the Committee of Ministers. The demand for a Parliament with "limited but real powers" was not met until the Treaty setting up the E.C.S.C. was signed.

The E.C.S.C. Treaty created a parliamentary body known as the Common Assembly and stipulated that it should represent the peoples represented in the Community; that it should have seventy-eight members selected by the national Parliaments from their own ranks; and that, under certain conditions, it could force the resignation of the High Authority. Under the Treaty, then, this Assembly had no very far-reaching prerogatives. Hence, it was claimed that it was "democratic only in appearance" or "at best a stunted growth, lacking real parliamentary powers." Such criticism clearly rests on the traditional concept of a parliament, whose most striking characteristics include the right to legislate and the right to control the budget. In fact, the Common Assembly was invested with neither of these rights. It should be pointed out, however, that the legislative aspect is already covered, at least provisionally, by the Treaties. The important thing is to realize that the absence of legislative powers does not also mean the absence of the right of control.

Although the E.C.S.C. Treaty contained few express provisions concerning the Assembly, it, nevertheless, offered that body the opportunity for dynamic development, since it followed the customary principle of constitutional history on the European continent, which decrees that constitutions shall lay down only the essential organizational and structural provisions governing the parliamentary organ, allowing the latter to decide as a sovereign body upon its internal structure and rules of procedure. In drafting and subsequently applying its procedural rules, the Common Assembly discovered how to ensure for itself an authority, and hence control rights, which at the outset it had certainly not been intended to possess in that degree. Its members at all times staunchly defended the notion of the body's sovereignty. Once sovereignty and independence were recognized, they succeeded in obtaining rights not provided for in the E.C.S.C. Treaty, but at the same time—and this is the crucial factor—not expressly forbidden. In this way, they arrived at the establishment of standing committees and the creation of political groups, and also reinforced their powers of control. The Assembly early decided to hold not only the prescribed regular sessions, but also extraordinary meetings several times a year. Thus, and through committee activities, parliamentary control became a permanent feature and found a logical complement in the deputies' right to put written questions to the Executive. In the field of budgetary control, too, the Assembly was able to gain the right to a limited degree of influence.

The rigid procedure surrounding the vote of no confidence in the High Authority was mitigated in the following manner: the Assembly did not reject or approve the Authority's general report *in toto*, but couched its opinion on the various sections in the form of resolutions reflecting the outcome of the discussions in the competent Committees. Lastly, considerable importance attaches to a proceeding that might be termed the "Government Policy Statement." After it had been informed officially

of the resignation of Jean Monnet, first President of the High Authority, the Assembly expressed the wish, immediately after the appointment of his successor, for a statement of the High Authority's political intentions. Monnet's successors in the presidential office acceded to this desire, and their statements were always followed by debates in the Assembly.

The history of the Common Assembly has here been given only in its broad essence, but it shows that the members approached their task as experienced parliamentarians and convinced Europeans. When, on the entry into force of the Rome Treaties on February 28, 1958, the Assembly resolved its formal dissolution and its transformation into the larger Assembly of the three Communities, it was able after six years' activity to present a clean and positive balance-sheet and to bequeath a substantial heritage to its successor.

II

The new Assembly representing the three Communities met for the first time on March 19, 1958. Of its own sovereign volition, it christened itself the European Parliamentary Assembly. Its members are 142 in number. Germany, France, and Italy each sends thirty-six representatives; Belgium and the Netherlands, fourteen; and Luxembourg, six. If the population figures of the six countries are compared, it is at once evident that the smaller States are relatively more strongly represented than the large. The seats had to be distributed in this way, however, as otherwise the different political parties and shades of opinion in the small countries would have been inadequately represented both in the Assembly and in the Committees. Incidentally, though, this question is of scant importance, because the European parliamentarians do not sit as national delegations, but are associated in political groups. They are representatives of the peoples, not of the States.

One of the Assembly's first decisions was to take over the Rules of Procedure of the former Common Assembly *mutatis mutandis*. In view of the much wider field covered, the number of Committees was raised to thirteen:

1. Committee on Political Affairs and Institutional Questions
2. Committee on Commercial Policy and Economic Cooperation with Third Countries
3. Committee on Agriculture
4. Committee on Social Affairs
5. Committee on the Internal Community Market
6. Committee on Long-Term Policy Investment and Financial Questions
7. Committee on the Association of Overseas Countries and Territories
8. Transport Committee
9. Committee on Energy Policy
10. Committee on Scientific and Technical Research
11. Committee on Worker's Safety, Health, and Welfare

12. Committee on Administration of the European Parliament and the Budgeting of the Communities
13. Committee on Legal Questions, Rules of Procedure, and Immunities

The first eight of the above Committees are each composed of twenty-nine members of the Assembly; the remainder, of seventeen. Membership of the large Committees should, as far as practicable, consist of seven German, seven French, seven Italian, four Netherlands, four Belgian, and two Luxembourg representatives. On the remaining Committees, there are four German, four French, four Italian, two Belgian, and two Netherlands representatives, and one representative of Luxembourg. Some of the Committees are identical with those of the former Common Assembly.

The special task of the Committees is to guarantee the permanency and effectiveness of parliamentary control. Thus, their activity is not confined to preparing the debates and resolutions of the Assembly—although this is, of course, one of their tasks. Their permanent character is intended to ensure that the Assembly will not simply play a passive role nor be obliged to take cognizance of the acts or decisions of the executive bodies only after the event. The members of the High Authority and European Commissions are under a duty to explain certain problems to the Committees and give them any other information they may need. In addition, the Committees may ask for the attendance at their meeting of any person whom they consider it advisable to hear.

The Assembly has been granted one of the attributes of parliamentary sovereignty in that it is entitled, through the adoption of a vote of no confidence, to secure the resignation of any of the executive organs. The Executive concerned then resigns in a body, but its reconstitution is a matter for the six Governments, which are not prohibited by the Treaties from reappointing the dismissed Executive *en bloc*. Compared with the E.C.S.C. Treaty, however, the Rome Treaties provide a way out of this dilemma: Whereas the High Authority can be called upon to resign only once in the course of a year—on the basis of its general report—votes of no confidence in the E.E.C. and Euratom Commissions are permissible at any time. The result may be that the Assembly gains a say in the appointment of the Commissions, in as much as it can go on moving and adopting votes of no confidence until the Governments finally accede to its wishes.

A further effective means of exercising parliamentary control consists in the members' right to put written or oral questions to the executive organs or to the Councils of Ministers. The institution thus questioned is admittedly not obliged to answer, but it is under a certain moral pressure, because all questions still unanswered after a definite period—a month in the case of the executive organs, two months in that of the Councils—are published in the *Official Gazette* of the European Communities. The fact that to date none of the many questions put

has remained unanswered leads to the conclusion that the power of public opinion has been correctly assessed on all sides.

The Rome Treaties have introduced an important innovation by recognizing that the Assembly has the right to be heard by the other organs. The Common Assembly had no such right *vis-à-vis* either the High Authority or the Council of Ministers. Nevertheless, by laying constant stress on its sovereign powers, it had succeeded in inducing the High Authority, at least, to give considerable weight to parliamentary opinion when making its decisions. An indisputable right was not, however, created by this practice. It is, therefore, all the more significant that the new Treaties give the Assembly an explicit right to be heard: the E.E.C. Treaty names eighteen and the Euratom Treaty eleven cases in which its opinion must be sought. These cases are predominantly connected with the extremely important questions of the harmonization and assimilation of European legislation.

Thus, having a statutory right to be heard, the European Parliamentary Assembly is recognized as possessing, in addition to its power of control, a consultative function, though not the power to make decisions. The Ministerial Councils of the E.E.C. and Euratom are entitled, in formulating their own decisions, to disregard the suggestions and proposals of the Assembly. There is no provision of the Treaties that could prevent them from so doing. But Treaties are not meaningless, and the express introduction of a consultation procedure undoubtedly implies that its outcome must have some binding effect, at least to the extent that the Councils of Ministers would be required to give reasons for not heeding the Assembly's views. The insertion into the new Treaties of the principle of consultation may well be the springboard whereby the Assembly can launch out into legislative functions. Its development along these lines is primarily a matter for the Assembly itself, which, by exercising skill and prudence and taking a leaf from its predecessor's book, can strengthen its position and give added weight to its counsels.

The Common Assembly of the E.C.S.C. had no direct connections with the Council of Ministers under the Treaty; so far as the E.C.S.C. Council is concerned, its relations with the Parliamentary Assembly, too, will remain unchanged. Under the E.C.S.C. Treaty, the High Authority is the "centre and soul" of its Community, a fact that already emerges from its coming first in the list of the Community's organs. It was responsible to the Assembly, whose meetings were only rarely attended by representatives of the Council of Ministers. This lack of contact and of the possibility of discussion with the Governments was regretted and criticized by the Common Assembly. It was not until the occasion of its session in Rome in November 1957, that the E.C.S.C. Council of Ministers offered to meet the Assembly and give concerted replies to its questions by holding a Round Table. This get-together was a useful one, but the Ministers made it clear that they had no wish to create a precedent and that the Round Table meeting was in no sense to be taken as affecting the institutional structure of the E.C.S.C. Treaty. Under that instrument, the Assembly's interlocutor remains the High Authority alone.

The Rome Treaties open up other prospects with regard to mutual relations between the Parliamentary Assembly and the Councils of Ministers. It is true that the concept of consultation does not automatically imply an obligation to discuss; yet, it would quickly become a dead letter if the intention were to give it a limitative or, as it were, a passive interpretation. Consultation by means of correspondence or as a matter of daily routine must not become the rule. The object is not to keep postal administrations, messengers, and office assistants on the run, but to infuse life into the Treaties. Now that the Rome Treaties have brought about a shift in the institutional emphasis by according the Councils of Ministers precedence over the Commissions, it would seem to be in keeping with democratic and parliamentary usage that the Councils should step as often as possible into the limelight of publicity.

III

The formation of Committees is in itself inadequate to maintain a Parliament's capacity for work. One of the factors making for parliamentary activity that is in line with democratic conditions is the possibility for like-minded deputies to associate for purposes of planned cooperation, so that their common political convictions may find expression in a united front. This aim is met by the formation of political groups. Without such groups, a Parliament would resolve itself into a collection of individuals. Like the Committees, the political groups are not an end in themselves, but simply a means of helping the work of Parliament along. From that angle, the idea of forming political groups on a supranational basis was already raised in the Consultative Assembly of the Council of Europe, but was abandoned because of manifold objections. The Common Assembly again took it up and soon put it into practice. The Rules of Procedure were supplemented by a provision to the effect that members might form groups in accordance with their political allegiance; the formation of a group would be deemed to be complete as soon as the President of the Assembly had received an official declaration on the subject, together with the group's title, the signatures of its members, and the names and functions of its officers.

The same Rules apply to the European Parliamentary Assembly, where the minimum membership of a group is fixed at seventeen. To settle the financial problems posed by the existence of the groups, each of the latter is granted from the Assembly's budget a fixed equal basic subsidy, to which is added a further sum in respect of each member. These funds are placed at the disposal of the groups as such and not, for instance, of the individual members. It was in these conditions that in June 1953, the Christian-Democrat Group, the Socialist Group, and the Group of Liberals and Associates were formed. All were duly organized and set up permanent secretariats. In the European Parliamentary Assembly, the members of each group sit together in a body.

The foundation of supranational groups sounds well-nigh revolutionary to

European ears. On closer inspection, however, it will be recognized that the large parties in Europe—especially in the countries of the Six-Power Community—have, for all their national differences conditioned by history or politics, corresponding features that are unaffected by frontiers. Where there is the basis of a common program, it becomes simpler to harmonize divergent opinions—although even so, this is not always easy. Years of regular collaboration in a group lead, however, to a certain community of thought in which opposing views seek to meet each other half-way and a clash is avoided. Nevertheless, agreement on the broad lines should not blind us to the fact that on individual points, considerable differences of opinion may arise at times within the parties, even where their members have had decades of contacts with their counterparts in other countries. It is especially in matters of detail that the influence of the three supranational groups is bound to be most felt, for their task is to be “transformers” in which a multitude of very similar or very dissimilar opinions must first be converted into a foundation for thinking on the European scale.

The Groups are able to master this task the more easily in view of the absence from their domain of any national delegations. Admittedly, the latter designation is customarily used, for “home consumption,” as it were, when the people’s representatives from one particular country are referred to as a body, but it receives no support either in the Treaties or in the Rules of Procedure. Hence, just as there are no national delegations, so it is impossible to form any sort of national group, not only because this would run counter to the very philosophy of the Assembly, but also because the Rules allow the formation of groups only in accordance with political, and not national, allegiance. It is superfluous to add that the absence of national delegations or groups in no sense means the abandonment of the expression and free play of national characteristics. Europe’s wealth and well-being must be based not only on a properly ordered economic life, but also, and essentially, on the manifold springs of its culture, of which the different languages are just as much a part as are variations of temperament, talents and traditions.

IV

The three European Communities represent attempts to arrive at a new order, but they do not in themselves spell its achievement. There are many ways of accomplishing European union, but the task is not simply to discuss ways and means and to seek for a single ideal form, which, to tell the truth, does not exist. The task is rather that of making a start, of overcoming inertia. Even the United States of America began from an initial nucleus of only thirteen States. The establishment of the E.C.S.C. in 1952 introduced a new process that has gone ahead more rapidly than could at first be foreseen. To urge that process further is the supreme task of the Parliamentary Assembly. Experience has shown that despite its limited prerogatives, it is well equipped to do so. The necessary coordination of the three Communities presupposes a degree of political good will that has long

since grown up among its members. On all sides, there is an abundance of good will to achieve that coordination; all that is lacking, in some quarters, is the driving force. Parliaments are the dynamic element by which the political flywheel is kept in constant motion.

The rights of the Parliamentary Assembly are still limited, but to the workings of its political and economic imagination and to its keen search for constructive opportunities, no bounds are set. From these premises, it has drawn the proper conclusions, and it has succeeded in off-setting its lack of rights by the indisputable weight of the moral authority that it has from the outset been at pains to acquire. That authority is especially powerful in that it can count upon the European peoples' desire for unity—a desire that must one day be followed by greater European-mindedness on the part of their Governments, whether they will or no! The Assembly is still wanting in many respects: it has no permanent headquarters, its political groups have as yet no prepared programs. But none of this should lead to discouragement. The institution is a new one, its foundation has been revolutionary for Europe. The history of parliamentary government shows that all popular representations have at some time been regarded as a necessary evil and that they have had to fight hard for uncontested recognition of their position. We should be guilty of unfair dramatization if we claimed that for the European Parliamentary Assembly, too, the storm signals have been hoisted. On the contrary, the path has been made smooth for its gradual evolution into a real Parliament. Clearly, the decisive step must be the institution of European elections, and the time when these will take place cannot be predicted. True, in May 1960, the Assembly adopted a draft agreement on European elections, consisting of twenty-three articles, but the last word on this matter lies with the Governments and the Parliaments of the six countries, which have to ratify the agreement.