

Time for a Parliamentary Experiment

Steve Charnovitz

There is a serious flaw in the system of government followed in the United States. Whenever the congress and the president disagree—the rule rather than the exception these days—the result often is that important decisions are delayed and meaningless compromises made. By settling for decisions based on the lowest common denominator, this system of divided government keeps perennial policy problems perennial.

Consider the large amount of time and energy the president must devote to haggling with congress. To some extent, today's disputes stem from the fact that different parties control the house and senate. But the disputes go deeper than that. They are rooted in the view that every congressman is an independent actor with no need to follow the dictates of the president or the dicta of his party. Even under a president whose party controls both houses of congress, the government often seems paralyzed.

Governmental deadlock also occurs at the state level. For example, in mid-1983, the Pennsylvania and California state governments temporarily ran out of money as a result of a political standoff over their annual budget. In both cases, these states had Republican governors who could not come to terms with Democratically controlled houses of the state legislature.

Although there are many causes for the stalemate at the federal level (for example, complex issues and fractious interest groups), the chief cause may be a deficiency in our political institutions. Put simply, the president does not have the clout he needs to discipline congress into supporting his programs. True, the president can veto. But this veto power cannot force outcomes and, if used too often, would throw the government into disarray.

The virtue of the present division of power is that the president must enlist the support of an independent congress in order to accomplish his legislative program or get his budget approved. This procedure protects the public against laws that are hastily considered or that do not enjoy wide support.

But the other side of this arrangement is that it stalls "good" as well as "bad" laws. A newly elected president with a mandate for change soon finds he must laboriously broker each initiative with numerous congressional committees. While the hallmark of American government is independent executive, legislative and judicial

branches, this separation of power can sometimes lead to a power vacuum. Is there a better way? Can we increase the president's leverage to achieve his goals without making the presidency dangerously powerful?

For many years, political sages have expressed growing doubts about America's governability. One keen analyst, Lloyd Cutler, Counsel to President Carter, took a brave first step in suggesting some remedies. In an article in *Foreign Affairs*, Cutler raised the possibility of grafting parliamentary provisions on to the United States constitution. Some specifics he discussed include having Presidential and Congressional candidates run together as a team, empowering the President to call for new congressional elections and allowing congressmen to serve as cabinet members.¹

The American Founding Fathers specifically rejected the British parliamentary system as a model. Yet it should give us pause to reflect that most of the other democratic governments of the world, including our neighbour to the North, have parliamentary institutions. A parliamentary system for the United States could reduce the occurrence of presidential-congressional stalemate, the appointment of cabinet ministers who take months to learn their jobs, and the hiatus that accompanies biennial election periods. A parliamentary system would make the government more accountable by making the government more workable.

Despite these potential advantages, incorporating parliamentary institutions into the federal government would probably be politically impossible. Even if done incrementally, there would be a predictable broad-based opposition to going from a familiar system that sometimes works to an unfamiliar system that might not work. Fortunately there may be a way out of this dilemma, a way to test parliamentary forms on American soil without taking national risks.

In a famous Supreme Court dissent in 1932, Justice Louis D. Brandeis remarked "It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country."² While it is hard to imagine the federal government attempting a parliamentary conversion, one can imagine a reform-minded state trying it.

Such a state could amend its constitution to adopt one or more of the following procedures: (1) the legislature selects the governor from among its members, (2) the governor appoints his cabinet at least partly from the legislature, (3) the candidates for governor and legislature run together as teams, or (4) new elections are held if the governor loses a major vote in the legislature.

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What would such an experiment tell us? After all, the states are very different from the federal government in their size and scope of responsibility. It is this very difference in responsibility that makes such an experiment plausible. At the very least, I believe one would get some evidence on the following three questions. First, does reducing the independence of the governor and the legislature facilitate agreements between them? Second, does making the legislative process flow easier lead to fewer laws that must soon be amended? Third, what are the difficulties in transition from the present system to a parliamentary one? These lessons would help develop a public opinion on the value of an American parliamentary system.

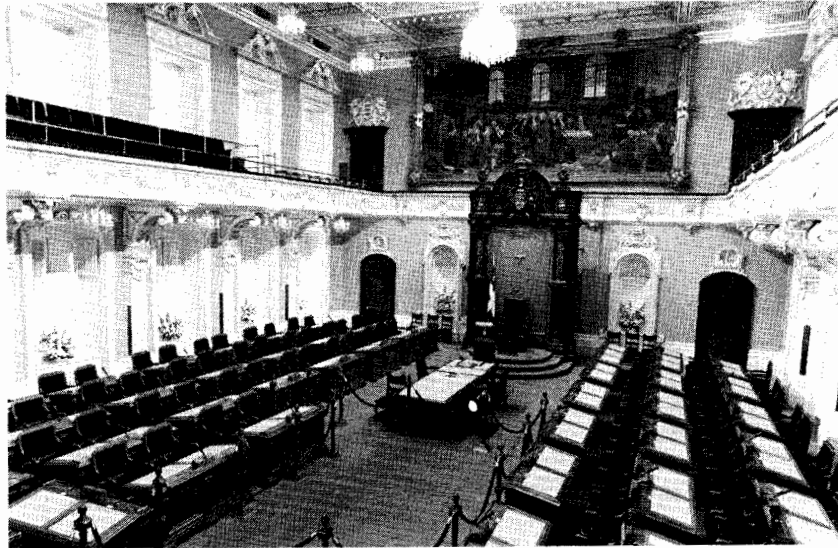
Checks and balances are a virtue, but in excess they can lead to political anomie. A parliamentary system may or may not improve the functioning of government. Still, the method seems worth trying here. Which courageous state will lead the way?

Notes

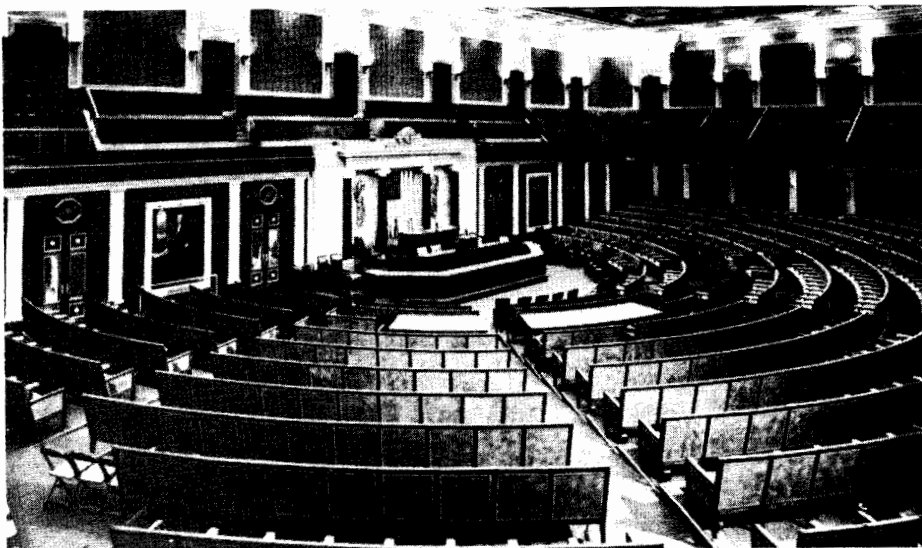
¹ Lloyd N. Cutler, "To Form A Government" *Foreign Affairs*, Fall, 1980.

² *New State Ice Co. v Liebmann*, 285 U.S. 262, 311 (1932).

Parliament



or Congress:



Does it really matter?