

V. The difficulties in the Second Chamber of the States General relating to the respective powers and activities of committees and individual members

Communication by Mr William de BEAUFORT, Netherlands, Moscow Session (September 1998)

Mr DAVIES called on Mr de BEAUFORT, Clerk of the Second Chamber of the States General of the Netherlands, to speak to the Association on the difficulties experienced in his Chamber relating to the respective powers and activities of committees and individual members.

Mr de BEAUFORT noted the fact that in the House of Lords the President had explained they had recently decided not to publish a report just before a public holiday taking account of the practices of the press and the media. He felt in a somewhat similar situation, speaking as he was just before lunchtime. In the past days they had talked a lot about the administration of parliaments. It was, however, also useful sometimes to dwell on the difficulties experienced in parliamentary procedure. That subject should not be left only to academics. He had some examples from the Second Chamber of the States General and he would be interested to hear if any others had any comments on similar difficulties.

It was important to know that the Second Chamber was a directly elected body, which met in plenary for 30-35 weeks per year, from a Tuesday to a Thursday. The Second Chamber had permanent committees, one for each department of state. On the Wednesday morning one could therefore have a permanent committee meeting on, for instance, the subject of national education, which would be attended not only by all the members of the committee but also by representatives of the most important political parties found in the Chamber. That committee might decide in a closed hearing to write a letter to the Ministry of Education asking for an explanation of the budgetary difficulties

which had been mentioned in the press with regard to the acquisition of computers for primary and secondary schools. Six days later, on the next Tuesday, in the plenary an individual might take the floor in the Tuesday debate and ask the Speaker, who was a woman, to refer to the competent minister a question regarding those same budgetary difficulties mentioned by the press. The custom would be that the Speaker would then suggest that the minutes of the exchange between the member and the Speaker be sent to the relevant minister. Thus the minister would get the same request through two different channels. The request from the committee and the minutes of the exchange in the Chamber itself.

Then there was another example. On a Thursday morning, the Committee on National Defence might decide to invite to an open meeting all experts from military research centres and representatives of military unions for two weeks time to look into possible savings in the national defence budget. The secretary of the committee would then organise the meeting. But the next Tuesday, five days later, a question might be asked orally of the Minister of National Defence, asking if he wished to reduce the number of submarines supplied to the Navy. The question obviously related to the committee's interest.

A further example was, say on a Monday, the Committee on Financial Questions might produce a report on Draft Reform of Fiscal Provisions. This would contain hundreds of questions and comments for response which the Ministry would have to respond to in two weeks' time for discussion of the bill. But two days later, on the Wednesday, an MP could send a written question on a specific point of taxation, for instance, the reimbursement of VAT payable by hospitals. That would be a very detailed question but part of the issue being discussed by the committee.

All these examples implied difficulties and frustrations for members of the committee who had decided on a particular course of action but not publicised it. Once their decision had been taken members of the committee did not want to engage in the plenary on this issue since it would interfere with their own procedures.

There was also frustration for the Speaker and the Clerk. When a particular debate happened in the plenary or a question was asked, they immediately felt that parliamentary procedure was not taking place in the most correct way, yet they had no warning of such questions and the matters being raised and so the problem was difficult to avoid. There was also frustration for the secretary of the committee who could not intervene in public sessions and a frustration for the relevant minister who did not know how to react to the same question when it reached him or her through different channels. Whom was the minister to answer and when? The result was that they received the same answer twice,

which was published twice. There was evidently a conflict between different ways of thinking. The member of parliament and parliament itself were there to express society's criticisms, to sort out those criticisms and opinions which were serious, determine the view of the majority and thus improve the standards of government in the country. In order to do this, all parliaments had committees which ordinarily worked most efficiently. That was one way of seeing things. Another, however, was to say that parliament was there to symbolise the conflicts within society. It was like an arena where people fought to gain public attention and gain support from the public for their point of view.

One could also talk of conflict in another way. The constitution of most countries gave rights on an individual basis and people voted on an individual basis. Repressing the right of the individual MP could thus be considered to be anti-constitutional and anti-democratic. On the other hand, constitutions also tended to create parliaments which worked on a majority basis.

There was a third way in which there was a conflict here. The major political parties wanted everything in parliament to work in an orderly fashion and were very prepared to work through the permanent committee system. Many members indeed said that most of their work was done within the framework of the committees. The members of the smaller parties, however, with less than six seats, did not have the possibility of working on all committees and they therefore wanted to use the plenary to ask questions.

There were therefore three conflicts between different standards or ways of thinking. The question was how to resolve these conflicts. In the Netherlands they were trying to organise proceedings so that the Speaker and Clerk might be better informed of what was happening in the various committees. It was very difficult to keep abreast. A second solution was to force committee chairmen to attend the plenary and intervene before any decision was taken pre-empting committee activity. Or, a third possibility was the vetting of all written questions. Another solution was simply to accept that there was no solution. The parliamentary proceedings simply involved doing things twice and that was something that had to be accepted. He was most interested in the views of other colleagues on this matter.

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Mr DAVIES thanked Mr de BEAUFORT for his communication. He noted the House of Lords was not faced with these difficulties although it seemed to him that the final option of accepting that there was no solution was the one that

he would personally support. He thought it could be resolved by commonsense. A member might be persuaded not to ask a question through the intervention of a committee but it was not possible in the United Kingdom Parliament for a question to be obstructed on the grounds that it was already being considered in a committee of the House. They did not have as many committees as in some other parliaments.

Mr THINEN (Finland) said that it was often said that parliament worked better without members. The explanation for the problems raised by Mr de BEAUFORT was that they were simply dealing with politics and there were many ways of acting politically. Furthermore that was a good thing. Parliament should provide a number of channels especially for the opposition which had to supervise and scrutinise the activities of government and indeed cause difficulties for the government. This was something that had to be accepted even if it was sometimes a troublesome aspect of the democratic political system.

Mr HONTEBEYRIE (France) thanked Mr de BEAUFORT for his very interesting communication although what he had to say would be in line with the comments of Mr DAVIES and Mr TIITINEN. Mr de BEAUFORT had spoken about the oversight function of parliament with regard to government activity. This function was available both to individuals and committees in the Assemblée nationale. Deputies could question the government to obtain information or scrutinise government activity in written or oral questions on Tuesday and Wednesday afternoons. There were furthermore six permanent committees in France. They had powers to request information and scrutinise government. They could ask questions and call people before them for evidence. This was not a question of conflict though they did sometimes have similar situations in the Assemblée nationale where both individuals and committees took initiatives with regard to a very topical matter. No-one had the authority to restrict this. Only the political groups could consider that the actions of one of their members was not appropriate. In the six committees of the Assemblée nationale, all political groups were represented and no authority could stop them acting as they saw fit. It was important therefore to see this not as a conflict but as a strengthening of the oversight functions of parliament. If a question became very topical or important, then it would be considered in parliament and if the same question was asked in a number of fora it was often the case that the answer was not always in exactly the same form. The form would depend on the proceeding and context, whether it was a written or oral question, whom the question was asked by, etc.

Mr CAVERO GOMEZ (Spain) said that efficiency was not always part of the functioning of the parliament. Sometimes one might be able to advise MPs to do things in a more appropriate way but it was often difficult. In the Spanish

Senate, two different principles applied. It was up to the majority to decide on legislation but with regard to the control and oversight function of parliament that was the responsibility of the minority. This was not easy when the majority was in charge of the committees. The second principle related to individual initiatives in parliament. This was that in cases of doubt the Bureau preferred to decide to let the initiative go ahead rather than obstruct it. The Senate also had the recent experience of its members tabling, at the same time, both ordinary written questions and questions for oral answer in committee. The member would get written information from the government and then use that information in the committee to pursue their questioning in a more precise fashion. The Bureau had, however, considered this procedure to be permissible.

Mr OWUSU-ANSAH (Ghana) said he did not consider the matter to be one of conflict but of duplication of functions. He thought that all in parliament were looking for common solutions. It was important to look in such cases at standing orders. If they did not deal with the issue then maybe the Speaker's attention should be drawn to it. If the Minister was in the Chamber he could always say that a certain question preempted an answer to questions already sent to him. It might also be possible to use the Clerk of Committees in this matter. In Ghana the letters of a secretary of a committee had to be signed by the Clerk of Committees. He was therefore in touch with what was going on and communicated that to the Clerk of the House. The Clerk would then brief the Speaker and sit by the Speaker so as to draw attention to the link between issues arising in the Chamber and the activities of committees. He was sure that this was a common question in parliaments.

Mr LANZ (Switzerland) thanked Mr De BEAUFORT for his communication. He had also encountered this problem in the Swiss Parliament. Sometimes a number of committees put questions on a similar theme. He found Mr de BEAUFORT'S analysis to be excellent. Mr de BEAUFORT had said that parliament had two tasks. One of legislation and one of representation. It was inevitable that conflicts in society would be visible in the plenary and not much could be done about it. As for solutions, it was important that good information got from the committees to the Secretary General. This made it possible for informal discussions to be held between the Secretary General and the member who wanted to put a question down. That member might be persuaded not to ask the question because a more substantive reply was being prepared although it was not possible to stop the member if they insisted. There was of course the possibility of looking at all questions before saying whether a particular one would be permissible but by the end of a parliamentary session the number of questions would overwhelm the Secretary General. There was also the danger of being accused of acting politically. It was possible to have two similar

interventions but from different stand-points. Therefore it was difficult to say no to one and yes to the other. In short, he did not think there were rigid procedures to be applied in this case but more information was always useful.

Mr HAHN (Israel) spoke of his experience in Israel. Often if an issue had been raised in the media then there was competition within parliament as to who would bring it first into the plenary. Usually a motion was submitted to the Speaker which was then dealt with on Wednesday mornings. Then often the chairman of the committee decided to bring the matter urgently on the committee agenda the day before, that is Tuesday mornings. Thus when the plenary came to the motion on the Wednesday, nothing happened. This was considered to be unfair and the Knesset was looking at how to resolve this problem.

Mr MEVA'A M'EBOUTOU (Cameroon) thanked Mr de BEAUFORT and congratulated him on his communication. He noted the difficulties faced by the Speaker and the Secretary General of following committee work and in the management of written questions. In Cameroon, it was certainly very difficult to follow the work of committees. In recent years someone had been appointed directly under the Secretary General to follow committee work and inform the Secretary General of what was going on. If an urgent issue arose he could tell the Speaker about it. Written questions posed a difficulty in the Cameroon Parliament because there was only one sitting a week devoted to the answering of questions. This meant that there were hundreds of questions with each deputy allotted ten minutes. This would have resulted in a sixteen hour session which was, of course, very difficult. They had therefore established a procedure for the communication of questions to the Assemblée. They were sent to the Speaker's office and the Secretary General chose from amongst them. Then the plenary indicated which questions would be communicated to the government, taking into account the timing of the question and the political parties which had expressed an interest in intervening on the matter. This was not wholly satisfactory but the deputies seemed to accept this.

Mr BRATTESTA (Norway) said that there were twelve permanent committees in his Chamber but they could not look into matters unless the matter had been referred to the committee by parliament, apart from the Committee on the Scrutiny of the Constitution which could look at any matter related to the control of government. Once referred to a committee, questions on a similar issue could not be submitted in the plenary. It was not therefore too complicated to exercise such control. Any member of parliament could, of course, send letters to the government. Outside the parliamentary procedures the government could then decide how to respond. This system solved some of the problems referred to by Mr de BEAUFORT. An MP could also submit a proposal for reference to committee.

Mr de BEAUFORT thanked all those who had contributed and noted that many had said he should "grin and bear it" as part of the democratic tradition. He also noted that his Israeli and Swiss colleagues had mentioned additional possibilities of duplication. In the past century parliaments had consisted of individual members with individual priorities. More recently committees had been established to help bring order to debate. With the introduction of the television into the plenary, however, there had been something of a reversion to the last century's practices since every member wanted to appear on television and not simply use the committee procedures.