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The European Parliament in Perspective

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THE EUROPEAN PARLIAMENT IN PERSPECTIVE

Introduction

On June 7th and 10th 1979, the electorate of the nine member states of the European Economic Community directly elected the members of the European Parliament. The election had centered the focus of the media and the European public onto the institution within the EEC which had, since its inception, existed in an ambiguous position. The Parliament, or Assembly, as it is referred to in the Treaty of Rome, had long suffered from a lack of identity. Of the four major institutions that comprise the executive, legislature and judiciary of the European Communities, the Parliament has the most limited authority. Until June of 1979, it did not represent the electorate, but was composed of representatives appointed by the parliaments of the nine member states. Its role was therefore ambivalent, and with this handicap its struggle for recognition and authority within the European Communities was formidable.

The elections bestow upon the Parliament the necessary democratic legitimacy it has lacked since the creation of the European Communities. It remains to be seen, however, whether this democratic legitimacy will change its role and increase its authority in the decision-making process of the Communities.

The elections rekindled the debate on the future of the European Communities and the question of a European union. The concept of a European union had received attention only within the limited sphere of the Community institutions, receiving only peripheral attention by the public at large. This brief survey focuses on the position of the Parliament within the institutional framework

of the European Communities, and investigates the present vision of the state of a European union.

The survey intends to analyze the role of the European Parliament in the decision-making process of the European Community. Emphasis will be placed on the authority the Parliament acquired in the budgetary procedures of the Community in 1970. In this context, the paper will continue on to investigate whether these amended budgetary procedures could serve as the foundation, in both a legal and a practical sense, towards an increase of the Parliament's authority within the institutional framework of the Community.

The paper will further attempt to determine the degree to which the European Community has established goals for a greater European union. Two major reports by the Community concerning institutional reform and European union will be analyzed in this context. Finally, the paper will attempt to integrate the analysis on the definition and concept of a European union in the hope of projecting the potential of greater participation by the European Parliament in the decision-making process of the European Community.

Foundations of the European Community

The legal foundations of the European Communities rest on the Treaties establishing the European Coal and Steel Community of 1951, and the Treaties establishing the European Economic Community and the European Atomic Energy Community, both of 1957.¹ One of the founding fathers of the European Communities, Robert Schuman² saw the establishment of a permanent Euro-

1. Treaty Establishing the European Coal and Steel Community, April 18, 1951 (Office for Official Publications of the European Communities, Luxembourg, 1973); Treaty Establishing the European Economic Community, March 25, 1957 (Office for Official Publications of the European Communities, Luxembourg, 1973) [hereinafter referred to as the Treaty of Rome]; Treaty Establishing the European Atomic Energy Community, March 25, 1957. These treaties are reprinted in E. Stein, P. Hay and M. Waelbroeck, *Documents for European Community Law and Institutions in Perspective*, 1-98, 206-245 (1976) [hereinafter referred to as Stein, Hay and Waelbroeck].

2. Mr. Schuman, while serving as Minister of Foreign Affairs for France, was a plenipotentiary to the European Coal and Steel Community.

pean peace as the overriding principle to guide the unification of Europe. To this end he proposed the creation of a European Coal and Steel Community to ensure supranational control over this vital industrial sector, thereby creating the foundation of a permanent reconciliation of differences between France and Germany.³

It was through economic, not political, unity that Schuman envisioned the establishment of permanent peace in Europe. The "deeper unity" is the only reference he makes to a unity that goes beyond the proposed economic unity. Schuman's vagueness as to political unity is reflected in the preamble of the Treaty of Rome,⁴ which speaks of "an ever-increasing union among the peoples of Europe,"⁵ but gives this concept no further concrete consideration throughout the Treaty. Instead the preamble and Article 3 specify goals that are purely economic and social in content.⁶ The question of a political union is left unanswered in the

See Stein, Hay and Waelbroeck, *supra* note 1, at 1.

3. Die Solidarität der Produktion, die so geschaffen wird, wird bekunden, dass jeder Krieg zwischen Frankreich und Deutschland nicht nur undenkbar, sondern materiell unmöglich ist. Die Schaffung dieser mächtigen Produktionsgemeinschaft, die allen Ländern offensteht . . . wird die realen Fundamente zu ihrer *wirtschaftlichen Vereinigung* legen. . . .

So wird einfach und rasch die Zusammenfassung der Interessen verwirklicht, die für die Schaffung einer Wirtschaftsgemeinschaft unerlässlich ist und das Ferment einer weiteren und tieferen Gemeinschaft der Länder einschliesst, die lange Zeit durch blutige Fehden getrennt waren. . . .

The solidarity of production thus established will create a situation in which any war between Germany and France would be not only unthinkable, but materially impossible. The creation of this mighty production community, open to all countries . . . will establish the real basis for their *economic unification*. . . .

In this way the commonality of interests that is indispensable for the creation of an economic community is quickly and simply realized, and the seeds of a deeper and more thoroughgoing community of countries that were long divided by bloody strife are sown. . . .

[The translation into English is that of the staff of this Journal.] Europäische Integration, Schriftenreihe der Bundeszentrale für politische Bildung 716 (Bernd Janssen ed. 1979) [hereinafter referred to as Europäische Integration].

4. *Supra*, note 1.

5. Treaty of Rome, *supra*, note 1.

6. *Id.* The preamble states the desire of the member states to "strengthen the unity of their *economies* . . ." [emphasis added]. *Id.* Article 3 sets forth a series of specific economic goals including elimination of customs

Treaties, and at least one scholar on the subject has suggested that including the Assembly in the institutional framework of the European Communities was no more than a gesture which lent a representative "decor" to the communities. The European Parliament was, accordingly, given limited powers so as not to interfere with the economic and technical volition toward economic unity.⁷

Accordingly vague are the competences of the Assembly. Article 137 states that the Assembly "shall exercise the advisory and supervisory powers which are conferred upon it by this Treaty."⁸ Legislative initiative and executive functions are left to the Commission and the Council of Ministers.⁹

The Treaty of Rome therefore leaves the Parliament perched between the Commission and the Council of Ministers, without substantial authority to hold either institution accountable, or to participate in the decision-making process of the Community on a co-equal basis. Neither the Council nor the Commission is therefore subject to scrutiny by an institution representing the electorate of Europe.¹⁰ Further, until the elections of 1979, the European Parliament, composed as it was of members of the parliaments of the member states, only indirectly represented the European public.

The structure of the Community institutions has led to a highly technical procedure in the decision-making process, which

duties between member states, establishment of common customs tariffs for non-member countries, abolition of obstacles to the free movement of capital among the member states, common policies relating to agriculture and transportation and a system to ensure free competition within the Community. *Id.*

7. See *Europäische Integration*, *supra* note 3, at 206-08.

8. Treaty of Rome, *supra*, note 1.

9. *Id.* at Articles 145-55.

10. The Treaty of Rome provides for some consultation of the Parliament by the Council in a number of fields. Article 238 requires the Council to consult the Parliament concerning the conclusion of treaties between the Community and third countries. Article 235 similarly provides for consultation of the Parliament concerning measures in furtherance of Community goals not specified within the provisions of the Treaty. The Treaty does not lay down, however, at what point the Council is required to consult with the Parliament and what measures the Parliament can take if it disagrees with Council decisions.

As to the Commission, the Treaty grants the Parliament some degree of participation in the Commission's work. Article 143 obligates the Commission to submit an annual report to Parliament. Article 140 permits members of Parliament to put oral and written questions to the Commission which it is obligated to answer. Finally, Article 144 permits the Parliament to force the resignation of the Commission as a body. Treaty of Rome, *supra*, note 1.

has been observed to be the reason for the hesitancy of the Community to formulate policy outside of the limited goals established by the Treaty of Rome.¹¹

As has been noted above, the Treaty's prime objectives are of an economic nature.¹² It is in this field that the most spectacular advances toward European union have been made, and it is in this field that the Parliament has been able to establish a certain degree of authority within the institutional framework of the Community. In the area of Community finance, and particularly in the budgetary procedure, Parliament has become an active participant.

By means of the Merger Treaty of 1965 and the Treaty of Luxembourg of April 22, 1970, the then six member states established a single Council and Commission for all three of the European Communities.¹³ In addition, a timetable was laid down which provided that by 1975 the Communities would finance their budget out of their own resources.¹⁴ Prior to that time, the Community

11. See e.g. Scheuing, *Integration by Law: The Case of the European Community*, 11 *Texas Int'l L.J.* 549 (1976).

This commentator states that:

the relative inefficiency of the decision-making process in the Community is also partly due to its more or less undemocratic character. The persons on the Council are not elected in a European election, but in normal national elections for national objectives; they thus lack, not only motivation, but also sufficient democratic legitimacy for handling communal affairs as such. Moreover, the Council meets in camera, and the meetings are largely determined by the Permanent Representative Committee which also works secretly. There is little doubt that bodies constituted and proceeding in such a way are unable to mobilize the popular support needed for any coherent and farsighted European policy. *Id.* at 561.

12. See note 6 *supra*.

13. Treaty Establishing a Single Council and a Single Commission of the European Communities (Merger Treaty) April 8, 1965 (Office for Official publications of the European Communities, Luxembourg, 1973); reprinted in Stein, Hay and Waelbroeck, *supra* note 1, at 245; Treaty Amending Certain Budgetary Provisions of the Treaties Establishing the European Communities and of the Treaty establishing a Single Council and a Single Commission of the European Communities April 22, 1970 (Office of Official publications of the European Communities, Luxembourg, 1973); reprinted in Stein, Hay and Waelbroeck, *supra* note 1, at 40 [hereinafter cited as Treaty Amending Certain Budgetary Provisions].

14. See E. Stein, P. Hay, M. Waelbroeck, *European Community Law*

had relied on financial contributions by the member states. As these contributions had to be agreed on by the parliamentary institutions of the member states, the Council had sole authority over the budget at the Community level. Once, however, the Community was to finance itself, the democratic control over the Community budget that the member Parliaments had previously exercised was no longer present, and the European Parliament stepped in to exercise democratic legitimacy in this field.¹⁵

The key article concerning the community budget is Article 203. This article, as amended in 1970, calls for two readings of the draft budget by the Council and Parliament respectively. Specifically, the article calls for several steps to be taken by each institution before the draft budget will be given effect.

- Step 1. Before July 1, each institution draws up estimates for the following year.
- Step 2. All estimates are forwarded to the Commission, which consolidates them and prepares estimates of revenues and expenditures for the Community as a whole.
- Step 3. The Commission places the draft budget before the Council no later than September 1.
- Step 4. The Council, using the Commission's proposals, prepares a draft budget which it forwards to the Parliament by October 5.
- Step 5. The Parliament has forty-five days to make amendments to the draft budget. Should it not amend the budget it is deemed passed. The draft budget then returns to the Council for a second reading.
- Step 6. The Council may then reject any parliamentary proposals that do not have the effect of increasing expenditures by a qualified majority, whereas amendments increasing expenditures have to be expressly accepted by a qualified majority.¹⁶

and Institutions in Perspective 46-48 (1976). These resources include revenue from agricultural levies, customs duties and value added tax. The revenues are collected by the member states but "belong wholly to the Community." *Id.* at 48.

15. See 21 O.J. Eur. Comm. (No. L 36) 9-11 (1975); see also Shaw, *The European Parliament and the Community Budget 9-11 (1978)* [hereinafter referred to as Shaw].

16. Treaty of Rome, *supra* note 1, as amended by the Treaty Amending Certain Budgetary Provisions, *supra* note 13 at Art. 4, and Treaty Amending

Under the old Article 203,¹⁷ the Council could now declare the budget adopted. Under the Treaty amendments of 1970 and 1975, the draft budget is sent back to the Parliament for a second reading and there it may be amended once more before the final adoption.¹⁸ Under the new procedure, Parliament has the authority to reject the draft budget as a whole.

As impressive as this new budgetary procedure may appear at first glance from the Parliament's point of view, the new Article 203 must be seen as a whole, and in the perspective of the other Treaty provisions concerning the Community budget. Thus, under article 203(9) the Commission sets a maximum rate of increase which may be surpassed only by a mutual understanding between the Council and the Parliament.¹⁹ The possibility of substantial increases in the budget is thereby checked by an institution outside the Parliament's authority. Further, it should not be forgotten that in 1977 the whole Community budget did not amount to more than 2.4 percent of the total budgets of the nine member states.²⁰

Although Parliament has the power to reject the budget, the amended Article 203 does not provide Parliament with any substantial authority to initiate budget proposals.²¹ Article 204 provides that in case the budget is not adopted prior to the new financial year (January 1) the Council shall have the right to authorize expenditures according to the previous budget, monthly expenditures

Certain Financial Provisions of the Treaties Establishing the European Communities and of the Treaty Establishing a Single Commission of the European Communities, July 22, 1975, at Art. 12 (General Secretariat of the Council of the European Communities, Brussels, 1975), reprinted in Stein, Hay and Waelbroeck, *supra* note 1, at 256 [hereinafter referred to as Treaty Amending Certain Financial Provisions].

17. Treaty of Rome, *supra* note 1.

18. Treaty Amending Certain Financial Provisions, *supra* note 16, at Art. 12; Treaty Amending Certain Budgetary Provisions, *supra* note 13, at Art. 4.

19. Treaty of Rome, *supra* note 1, as amended by the Treaty Amending Certain Financial Provisions, *supra* note 16, at Art. 12. Article 203(9) of the Treaty of Rome, as amended, provides that the maximum rate of increase will be declared by the Commission. A higher rate may be set "by agreement between the Council, acting by a qualified majority, and the Assembly, acting by a majority of its members and three-fifths of the votes cast." *Id.*

20. 21 O.J. Eur. Comm. (No. L 36) 7 (1978). See Shaw, *supra* note 15, at 7.

21. See Treaty of Rome, *supra* note 1, as amended by Treaty Amending Certain Financial Provisions, *supra* note 16, at Art. 12.

not to exceed one-twelfth of the previous year's budget.²² Finally, the Parliament's budgetary rights are drastically curtailed by the fact that the expenditures provided for in the budget are classified either compulsory or non-compulsory expenditures. Compulsory expenditures are those expenditures which are laid down in the Treaties themselves, or which have their foundation in secondary Community legislation (regulations or directives).²³ Non-compulsory expenditures make up the rest of the Community budget. Under Article 203, the Parliament's increased authority and participation in the budgetary procedures apply only to non-compulsory items. As to compulsory expenditures, amendments made by the Parliament to the Council's budget proposals have to be expressly adopted by a weighted majority vote in the Council. Should the Council refuse to act on these proposals they are automatically deemed rejected.²⁴

Budgetary Proceedings

The new budgetary procedures were first applied to the 1975 budget. In 1970, the President of the Council, M. Harmel, drew up a list of which expenditures were to be considered compulsory and non-compulsory. According to this list, only 3.6 percent of the Community budget was categorized as non-compulsory. Thereby Parliament's participation in the budgetary procedure was considerably limited.²⁵

The Commission's view regarding the expenditure categories mirrored that of the Council. However, it suggested that non-compulsory expenditures should be increased to exclude only those "which do not result automatically from previous long-term decision."²⁶ The Commission's proposal categorized as non-compulsory

22. *Id.* at Art. 13.

23. See D. Marguand, Parliament for Europe 95 (1979) "Parliament can propose modifications in the 'obligatory' sector only by an absolute majority of its total membership, but amendments in the 'non-obligatory' sectors can be passed by a simple majority of the members present." *Id.*

24. Treaty Amending Certain Financial Provisions, *supra* note 16, at Art. 12.

25. Ehlermann, *Applying the New Budgetary Procedure for the First Time*, 12 C.M.L. Rev. 325, 329 (1975) [hereinafter referred to as Ehlermann]; see also *id.* at n. 10.

26. Bull. E.C. Supp. 9/73 at 5.

all those expenditures which were mixed in character, that is to say, where either the objective or the amount to be spent had been fixed, but not both.²⁷ These included expenditures for the New Social Fund, the Regional Fund and various expenditures for scientific and technological research.²⁸ The Commission's proposal raised non-compulsory expenditures to approximately 22.6 percent of the Community budget. The Council had preferred to retain mixed expenditures as unclassified but pressure from Parliament moved the Council toward adoption of the Commission's proposal.²⁹ This decision was of particular importance with reference to the Regional Fund, as this Fund comprises the largest non-compulsory expenditure of the Community. Although both the size and commitment of the Regional Fund had been established by the European Council at the Paris Summit of December 9-10, 1974,³⁰ the Commission had included the Fund under non-compulsory expenditures. The Council regulation which established the Fund fixed appropriations for commitments but not for payments. Although the payments may not *exceed* the appropriations for commitments, the actual amount of the payments remains discretionary. It was this discretion as to payments that gave the Commission the legal foundation to classify the expenditures under the Regional Fund as non-compulsory. The Commission was quick to point out, however, that its cooperation with the Parliament on the issue of expenditure classifications was not a political statement as to the authority of the Parliament.³¹ Under pressure of these two institutions, the Council of Ministers acceded to the proposals of the Commission.

The meetings of the European Council between the leaders of the nine member governments, have become a standard procedure in the process of formulating community policy. The institutionalization of the European Council is a development that has

27. 21 O.J. Eur. Comm. (No. L 36) 16 (1978).

28. *Id.* Mixed expenditures were seen to be primarily ones relating to the industrial sector. The Commission felt that expenditures were particularly needed in technological research and development to insure the Community's ability to compete in the world-wide markets. Expenditures for the New Social Fund are aimed at alleviating unemployment and those for the Regional Fund at countering divergence in development within the Community. *Id.*

29. Ehlermann, *supra* note 25, at 334.

30. Bull. E.C. 12/74 at 47; see Ehlermann, *supra* note 25, at 335-36 and n. 22.

31. See *id.* at 335-37.

no legal foundation in the Treaty of Rome.³² Concerning its deliberations on the Regional Fund, the European Council appears to function in contradiction to the Treaty. Thus, Article 203(10) reads as follows:

Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of the Treaty, and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources. . . .³³

The de facto establishment of the European Council as the fifth and most authoritative institution of the Community undermines any attempt by the European Parliament to increase its authority in the decision-making process of the European Communities. The role of the European Council in the budgetary procedures was not limited to the 1975 budget, but became apparent again during the deliberations leading to the Community budget of 1978.

In March of 1977, the Commission first sent out an assessment of the Communities' budgetary situation to both the Council of Ministers and the Parliament. This was done in order to enable both institutions to formulate views on guidelines for the 1978 budget.³⁴ The Budget Committee of the Parliament submitted a report to the Commission in which it approved of the long-term borrowing schemes proposed by the Commission. The Parliamentary report further emphasized the need for the budgetary procedures to reflect initiatives toward the "building of Europe." The new budget was seen by the Parliament to be not merely an accounting tool but as rather the fiscal policy for the near future of the European Communities.³⁵

When the Commission presented the draft budget to the other institutions, it expressed the necessity for the financial projections to reflect the objective of greater unification.³⁶ This notwithstanding, the draft budget contained proposals dedicating 71 percent of all expenditures to the agricultural sector. Under the Common

32. See Treaty of Rome, *supra* note 1.

33. Treaty of Rome, *supra* note 1, as amended by Treaty Amending Certain Financial Provisions, *supra* note 16, at Art. 12(10).

34. 21 O.J. Eur. Comm. (No. L 36) 14 (1978). See Shaw, *supra* note 15, at 14.

35. 21 O.J. Eur. Comm. (No. L 36) 16 (1978). See Shaw, *supra* note 15, at 16.

36. 21 O.J. Eur. Comm. (No. L 36) 16 (1978).

Agricultural Policy of the Communities these expenditures are compulsory,³⁷ and continue to dominate Community expenditures.

When the representatives of the Parliament met with the Council members in July of 1977, differences of opinion concerning the draft budget were immediately apparent. Whereas Parliament's proposals focused on increases in budgetary spending of long-term non-compulsory expenditures, the Council members were more inclined toward a pruned budget that would reflect the then current economic situation within the member states.³⁸

When the Council returned the draft budget to the Parliament for the second reading, the draft contained proposals for an increase in agricultural spending and, correspondingly, major cutbacks in the non-agricultural sectors. At the second reading, the Parliament expressed dissatisfaction with the Council's alterations and its unwillingness to discuss the long-term proposals that both the Commission and the Parliament had established in the preliminary reports on budgetary expenditures. In particular, it was felt that the Council's proposals did not adequately provide for the implementation of new policies in the area of research. It was also felt that the Council's proposals would halt efforts to improve the economic balance within the Community and would provide no funding to counter major social problems such as unemployment and regional deprivations.³⁹

A record 210 amendments were annexed to the Council's draft, and it was further pointed out that, as the Community budget comprised less than 1 percent of the gross domestic product of the nine member states, the Community budget could not have a substantial influence on the economic situation in Europe. On October 26, the Parliament voted for the proposed amendments. On behalf of the Commission, Mr. Tugendhat expressed the Commission's appreciation of the Parliamentary debates concerning the draft budget, and on November 22 Parliamentary representatives met with the Council for a second time. Although at this meeting agreement was reached on most of the amendments proposed by the Parliament, disagreement continued over the Regional Fund. Parliament had voted for the Commission's proposal on the Fund on October 26. The Council now sought significant reductions in the proposal, and at the second conciliation meeting an impasse between the

37. *Id.* at 17.

38. *Id.* at 20.

39. *Id.*

Parliament and the Council had been reached.

The Council now had only one more day, until November 23, to decide whether to adopt the figures proposed by Parliament or to reject them. Both sides decided to submit the figures for the Regional Fund to the European Council at its summit meeting on December 5-6 in Brussels.⁴⁰ As under Article 203, any decision by the European Council altering proposals on non-compulsory expenditures would have to be verified by the Parliament at the second reading of the draft budget. The Council Press Release on the meeting of the European Council read as follows:

At the meeting with the delegation from the European Parliament, which was held in the course of budgetary cooperation, both parties put [forth] their respective views. . . . Referring to the Regional Fund, the Council informed the European Parliament of the European Council's decision to set the commitment appropriations for 1978 at 580 million (E.U.A.)⁴¹

The significance of this extended second reading on the draft budget lies in the fact that, as in 1974, the European Council resolved an issue concerning non-compulsory expenditures. The European Parliament's control over the non-compulsory expenditures in the budget as provided for by the Treaty amendments of 1970 and 1975 was once again undermined. Parliament's reaction to this measure was one of frustration. After an extended debate on whether to insist on the original amendments by the Parliament, a majority finally voted for the Council proposals, and therefore in favor of political compromise. Although the Parliament insisted on raising the commitment appropriations for the Regional Fund by one million European Units of Accounting over the Council's proposal, this was no more than an assertion of Parliament's right to have the final word. On December 21, 1977, the President of the Parliament, Sr. Colombo, declared the 1978 budget finally adopted.⁴²

These proceedings graphically demonstrate the attempt by the Parliament to increase its power of initiative in financial matters

40. 21 O.J. Eur. Comm. (No. L 36) 25-26 (1978).

41. *Id.* at 26.

42. *Id.* at 27.

of the Community. Although the Treaty provides Parliament with no legal basis for such a power of initiative, the 1978 budgetary proceedings demonstrate how the Parliament was able to increase its authority within the existing legal framework of the 1970 Treaty amendment. In the case of 1978 budget the Parliament did not follow this procedure through to the final consequence of actually rejecting the budget. But the proceedings concerning the 1978 budget demonstrated how the Parliament can use its veto powers to establish a degree of positive power of initiative in the shaping of long-term financial policies for the Community. A rejection of the Budget in 1977 might have resulted in a confrontation with the European Council which is in no way accountable to the Parliament.

In 1979, the first directly elected European Parliament felt it possessed the authority needed to confront the Council of Ministers over the budgetary question. On December 13, 1979, Parliament rejected the draft budget for 1980. As in previous years the disagreement leading to the rejection of the budget resulted from the Council's decision to increase agricultural spending at the expense of non-compulsory expenditures.⁴³ The budgetary powers of the Parliament delineate the outer limits of Parliamentary authority within the decision-making process of the Communities. What remains to be analyzed is the general direction the European Community is taking in its effort to reach a European union and the role of the Parliament in this process.

The Tindemans Report

When the original time-table set out by the Treaty of Rome for the Common Market was met by 1969, the concept of a European union appeared at the stage where political integration should follow economic unity. By 1976, the concept of a European union remained to be clearly defined. At the end of his report, Leo Tindemans, assessing the situation of the European Community, remarks that the goals of a union are ambiguous. The desire for such a union is nonetheless present, as has been expressed by all the institutions of the Community. Tindemans concludes that a union will not take the form of a European state. Rather, the process of European

43. Shanks, Now Let Euro-MPs Use Their Muscle, *The Times* (London), Jan. 25, 1980, at 12, col. 1.

integration should aim to abrogate the artificial contrasts that are the result of national sovereignty in order to establish a more humane society with emphasis on the homogeneity of the peoples of the European continent, while at the same time respecting national and cultural identities.⁴⁴

This sentiment has been echoed elsewhere. According to Willy Zeller, integration is not only an intellectual exercise but an evolutionary process toward an education of understanding your neighbor.⁴⁵ This is a far cry from the challenge to create a European federation. Indeed, it seems that the creation of such a federation would encounter insurmountable difficulties. It is questionable whether the member states, with a long history of political independence, would subordinate such achievements as those of the French Revolution or the Glorious Revolution to a European federation, thereby surrendering a long history of constitutional identity and sovereignty. The divergence of the political infrastructures of the member states would render the attempted creation of the "United States of Europe" virtually impossible. The problem is aggravated by the fact that supranational integration suffers from a lack of historical precedent and is therefore permanently handicapped by a lack of definition.⁴⁶

The vagueness as to both definition and implementation of a European union places the European Parliament in an ambivalent position within the institutional framework of the Communities. Without a sense of direction toward union, the Parliament will find it difficult to assert itself on a par with the other institutions within the Communities.

After the elections of 1979, the Parliament's base of legitimacy shifted from the parliaments of the member states to the electorate. It therefore no longer represents the nine member Parliaments in the Community. It is, however, to those Parliaments that the Council of Ministers and the European Council are ultimately responsible. As a result, the Council of Ministers may now find itself less inclined to take the European Parliament's views into consideration. As the members of the European Parliament are for the most part no longer also members of national parliaments, the Parliament may find it even more difficult to establish its authority over the

44. Tindemans, *European Union*, Bull. E.C. Supp. 1/76, 12 [hereinafter referred to as The Tindemans Report].

45. *Europäische Integration*, *supra* note 3, at 210-11.

46. *Id.* at 206.

Council of Ministers. Although the elections have bestowed on the European Parliament democratic legitimacy, the elections may prove to create an institutional conflict of interests which could impede further establishment of parliamentary control within the Community.

It is from this angle that proposals for institutional reform within the Communities have to be viewed. In this context it is appropriate to determine the role played by parliamentary institutions in the governments of the nine member states. David Coombes analyzes two trends that have led to the diminished responsibilities of parliaments in western Europe. The growth of the executive organs within the government structure is listed as the first reason for the decline of parliamentary authority.

The methods of government have become more specialised, technical and complex and its power more discretionary, less easily bounded within legal definition. Not only are specific legislative powers increasingly delegated to executive departments but, . . . general legislation itself has declined in importance. . . . The extension of government in the economic and social spheres has also brought a multiplication of semi-autonomous state agencies, deliberately excluded in many respects from direct parliamentary control.⁴⁷

The second reason for the decline of parliamentarianism in Europe is the increased participation of the general public in the formation of governments, i.e., the extension of franchise rights over the past hundred years in Europe. This, according to Coombes, has led to the

growth in importance of centrally organized mass political parties. The official support of such a party and of its organization is now virtually indispensable for effectively contesting elections by universal suffrage and the parties are usually able to maintain discipline among their members in parliament itself. As a result, the mass political parties have become an effective substitute for the traditional role of parlia-

47. D. Coombes, *The Future of the European Parliament 67-68* (Studies in European Politics I, R. Morgan ed. 1978).

ment in many respects and are certainly now the principal organs of political representation.⁴⁸

Contemporary parliaments in Western Europe serve the function of supplying a public forum which furnishes communication between the public and the executive. Moreover, Coombes perceives the Parliaments as organs which check the administration and thereby lend democratic legitimacy to the governments in office.

It is within this definition of parliamentary authority in contemporary Western Europe that two proposals for institutional reform of the European Communities will be examined. At the Paris summit of 1974, Leo Tindemans was asked to submit a comprehensive report on the European Communities.⁴⁹ Tindeman's report, published in 1976, stressed that European union lacked "the legitimacy needed for control."⁵⁰ To this end he proposed that the authority of the European Parliament be increased. Specifically, he suggested that its influence could be increased by permitting it to debate on the state of the union once a year, that the President of the Commission should be appointed by the Parliament and that its powers of initiative should be increased and incorporated by an amendment into the legal structure of the treaties. This power of initiative would permit the Parliament to address its proposals to the Council, which would be obligated to consider them.⁵¹ The powers of initiative proposed by Tindemans do not represent a radical departure from the Treaty provisions concerning Parliament's authority over non-compulsory expenditures in the budgetary procedures.

At the other end of the spectrum, Tindemans recommends an increased role for the European Council. Here his proposals are more specific than those concerning the Parliament. They would permit the European Council to determine general policy outlines, to determine the institutions to implement such policies and to determine time schedules for their completion. It is with regard to the European Council that the Tindemans Report departs most from the existing institutional framework of the Community. As envisioned by the Report, the increased role of the European Council would severely limit the authority of the European

48. *Id.* at 68; *see id.* at 66-68.

49. *See* Mitchell, *The Tindemans Report—Retrospect and Prospect*, 13 C.M.L. Rev. 455, 456 (1976) [hereinafter referred to as Mitchell].

50. The Tindemans Report, *supra* note 44, at 13.

51. *Id.*

Parliament.

As the European Council comprises the heads of the member governments, the Parliament will have little, if any, impact on it.⁵² Thus, Tindemans would permit Parliament greater authority over the Council of Ministers only to remove the actual base of policy-making to another institution beyond Parliament's grip. The consequence of an increased role of the European Council in the decision-making process of the Community is reflected in the debates over the size of the Regional Fund in 1978.

The Report of the Committee of Three

In a more recent report of the state of the European Communities presented by the Committee of Three to the European Council, the assessment of the position of the European Parliament within the institutional framework of the Communities is sobering.⁵³ The Parliament is perceived to be situated between an ever-weakening Commission, over which it has some formal control, and the ever-increasing powers of the Council which has demonstrated a reluctance to permit an increase in Parliament's authority beyond the narrow legal definitions of the amended budget proceedings of 1970 and 1975.⁵⁴

The Report does not propose that any new authority outside the present legal structure be given to the Parliament. Rather, its suggestions seek to foster Parliament's position as a sounding board for Community policy.⁵⁵ Cooperation with the Council is proposed

52. *Id.*

53. *See e.g.* Mitchell, *supra* note 49, at 466-70.

54. Committee of Three, Report on the European Institutions, (1979).

The successive Treaty amendments of 1970 and 1975 gave Parliament the right of the last word on "non-obligatory" expenditure, subject to some complex rules on the overall annual increase. Since the class of non-obligatory expenditure now constitutes over 20 percent of the Budget and covers most Community projects and policies apart from the Common Agricultural Policy, this puts the Parliament in a strong position to impress its own concept of policy development upon the Council.

Id. at 75.

55. *See generally id.* at 74.

through budgetary reform with recommendations for a more extensive use of the conciliation procedures between the two institutions.⁵⁶ The Report does not go as far as the Tindemans Report concerning Treaty Amendments to increase the powers of legislative initiative of the Parliament. Instead, the report states that realistic control of the Council lies with the parliaments of the member states and that the European Parliament will increase authority only through increased cooperation with those institutions.⁵⁷ The report emphasizes the responsibility of the Commission and the Presidency of the Council to take the initiative to encourage an increased involvement of the Parliament in the decision-making process of the Community so as to increase cooperation between Parliament and the other institutions.⁵⁸

Finally, the report acknowledges the increasing importance of the European Council as a Community institution, and suggests that its relations with the Parliament have to be improved.⁵⁹ The report's proposals in this area show even more circumspectness than those concerning the Parliament's relations with the other institutions.⁶⁰

Provided this relationship is developed with due respect for the competences of all institutions involved, it would lead to a valuable cooperation in the launching of major initiatives and help the Parliament to develop its full potential as a sounding board for the large policy issues of the day.⁶¹

This conservative view of the future direction of the European Parliament must be seen in light of the report's assessment of the future of European union. This assessment is based on economic changes that have ensued since 1973, which the report calls the "end of an epoch."⁶² The report stresses the need to secure the

56. *Id.* at 34. The Report states that the resolution of conflicts can now be attempted only at the European Council level. *See also id.* at 76 wherein it is stated that it was to anticipate and avoid budgetary conflicts that the "conciliation" procedure was introduced by a Joint Declaration of the three institutions in 1975.

57. *Id.* at 76-78.

58. *Id.* at 79.

59. *Id.* at 81.

60. *Id.* at 80.

61. *Id.* at 81.

62. *Id.* at 101. The epoch lasted twenty-five years. Growth rates

accomplishments of the past; 'the free movement of industrial and agricultural goods, of services, capital and labour and the common policies serving these goals.'⁶³ The report concludes that the present world economic situation necessitates a careful and sensitive cooperation among the member governments within the Community.⁶⁴

Prospects for the Future

It is uncertain how long the Parliament will continue to enjoy public support if it does not achieve an increase in its authority. As the actual decision-making process of the Community moves away from the Council of Ministers to the European Council, the powers recently acquired by the Parliament in the budgetary proceedings will scarcely serve as a foundation onto which further powers of initiative can be built.

If member governments continue the policy of determining directions for Community policies from summit meetings, the Parliament will, if anything, decrease in authority. The democratic legitimacy gained from the elections justifies an increase in its powers to shape community policies.⁶⁵ Without this increase in stature it is likely to lose the popular support that gave it its democratic legitimacy. It is thus caught in a vicious circle. The rejection of the 1980 draft budget could therefore be interpreted as an attempt to breach this circle.⁶⁶

Both the Tindemans Report and the recent Report of the Three have acknowledged the increased role the leaders of the member governments play in the decision-making process in the Community. The budgetary proceedings in recent years have shown how Parliament's already limited authority can be further diminished by the member governments. In light of the weakening of volition for a European union, the Parliament must achieve a degree of recognition beyond mere lip service from the European Council, in order to increase its credibility with the electorate. The Parlia-

approaching 5.6 percent which existed in some European countries cannot be expected in the foreseeable future according to the report. *Id.*

63. *Id.* at 106.

64. *Id.*

65. The first elections to the Parliament by direct universal suffrage were held in June, 1979. *Id.* at 76.

66. See text accompanying note 20, *supra*.

ment could achieve this by increased cooperation with the parliaments of the member states and the national party structures.

Once this cooperation has been established, the European Parliament could become the platform to which the other institutions, particularly the European Council, would bring proposals for Community policy for discussion. This, in turn, could increase Parliament's role as an initiator of policy. The budgetary proceedings have demonstrated Parliament's ability to turn its negative powers of veto and amendment into a process of recommendation and initiative.⁶⁷

As both Tindemans and the Committee of Three have already suggested in their respective reports, the volition toward a political union of Europe has clearly subsided.⁶⁸ This does not mean, however, that an increasingly close cooperation of the member states within the Community may not occur. The great advances that have been achieved since the foundation of the European Coal and Steel Community speak for themselves. Prior to 1945 a Common Agricultural Policy as it exists in contemporary Europe would have seemed unimaginable.

With the exception of factions in the United Kingdom and Denmark, most Europeans today do not question the existence or desirability of the Community. Certainly, however, the European Community has shown itself to be slow in formulating goals outside of the legal parameters of the Treaty of Rome. Whether this development has been the result of the unstable global economic situation is open to speculation. The report by the Committee of Three suggests 1973 to have been a turning point in the development of the European Community. It seems clear that the European economies have been gripped by a sense of insecurity, under the pressure of which the European Community has not seen fit to further objectives toward a political union. It is in this atmosphere of uncertainty that Greece has recently joined the Community, as will Spain and Portugal in the near future. The accession of these countries with their distinct economic situations will, no doubt, further tax the commitment of the Community to a closer cooperation among the member states.

In this situation it would seem highly inappropriate for the Parliament to advocate radical structural changes within the institu-

67. See text accompanying notes 34-43, *supra*.

68. See Committee of Three, Report on the European Institutions, 103 (1979).

tional framework of the Community. As suggested by both Tindemans and the Committee of Three, the Parliament should attempt to establish itself as the stabilizing institution, balancing the interests of the Community with the interests of the individual member states. In this function, the Parliament could well contribute to a greater non-political unification of Europe. It has already demonstrated its ability to function in this capacity, as its initiatives in the budgetary proceedings have shown.⁶⁹ Initiatives toward an increase in the Regional Fund will do more in the short run toward a greater cooperation and unification among the member states, than will calls for an increased political union. At the same time, such a policy will not encroach upon the authority of the European Council, which would retain the initiative in the political decision-making process.

The Parliament would gain the authority to force the Council of Ministers to increase its attention to parliamentary initiatives by aligning public opinion, the member parliaments and the political parties, national as well as supranational, behind it. Again, the revised budgetary proceedings have laid the legal foundations for such a cooperation. Equally, the Parliament could level its democratic legitimacy against the secretive decision-making process of the European Council and persuade it to account for its policy decisions in the plenary sessions of the Parliament. Finally, in its relations with the Commission, an increase in the Parliament's esteem within Europe could benefit both institutions. The Commission would find an attentive forum for its initiatives in the Parliament, and this in turn would bring the Commission to the attention of the European public, thereby strengthening its position vis-à-vis the Council of Ministers. As the budgetary proceedings in recent years have shown, the Commission shares several policy goals with the Parliament.⁷⁰ Increased cooperation would be more likely if the Commission could see the Parliament as a vehicle to publicize its initiatives. This closer cooperation would not only benefit both institutions, but also have a mutually reinforcing effect on them. Parliament's authority would be enhanced by becoming the sounding board for legislative initiative within the Community, and the Commission would be in a stronger bargaining position with the Council of Ministers, in the knowledge that its initiatives have been exposed to the scrutiny of the institution directly representing the European public.

69. See text accompanying notes 34-43, *supra*.

70. See 12 Bull. E. C., 93-94, 100 (1979).

The European Parliament cannot achieve the stature that David Coombes ascribes to parliamentary institutions in contemporary European governments for the simple reason that the European Community does not have a government structure comparable to that of a member state. As both the Tindemans Report and the report by the Committee of Three have shown, the support for a European federation that accompanied the economically successful years between 1957 and 1973 has subsided.⁷¹ The European Community became more cautious as a result, and a sense of realism concerning its future seems to prevail. With the accession of the Mediterranean countries, the Community will be faced with further challenges. These challenges will perhaps affect the very principles and goals espoused by the Treaty of Rome. The Parliament should therefore see its main objective to be lending support toward the accomplishment of the goals which serve as the foundation for the Treaty of Rome.

Axel Heydasch

71. See generally Committee of Three, Report on the European Institutions, 100 (1979).