

Public Policy in Constitutional Reform¹

By Francis G. Wilson

NOT MANY years ago most political scientists accepted the proposition that it is the spirit and tradition of a political system rather than its structure that informs and governs its operation. We may regard such a proposition as a truism; yet its acceptance came in the wake of what might be called the "second era" of democratic reform in the United States. That era had seen the destruction of the old system of making nominations and the rise of party regulation, the adoption of direct primary elections, and of other devices for direct government, such as the initiative, referendum and recall. It had seen, likewise, the enactment of corrupt practice acts, the growth of the merit system in the choice of civil service personnel, the turn to the popular election of United States senators, attempts at administrative reorganization and other devices for increasing the voter's control over his government.

When these structural reforms failed to bring about the enactment of reform legislation and the conquest of monopoly, there was ushered in a period of inertia. From the advocacy of political reform, such public attention as existed was turned toward changes in the economic and social system. Gradually also students of government shifted from advocacy of those devices which would increase the power of the people to urging arrangements that would presumably increase the efficiency of government. Thus, emphasis was placed on the science of public administration; and the new school of thought urged that the positive state was valid to the extent that public administration was recognized to be its core. In the national government the earlier insistence on presidential leadership gained headway, and the "unwritten constitution" was used to validate sharp changes from accepted administrative practice. Particularly, increases in administrative discretion and objections to the detailed statute were justified on such grounds. As a result, we have now reached a point where no one will be listened to when he argues that a law is unconstitutional, and the process of amendment is of decreasing significance in the political picture. The Con-

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sitution grows, and it has all the flexibility that is needed by the rulers of a modern state. Thus a new spirit informs our government, and future issues in fact are concerned with political decision and not with fundamental governmental structure.

A casual examination of various types of suggested reforms will show this quite clearly. The executive agreement and congressional action by a majority of the two houses may, in the postwar period, bypass the requirement that two-thirds of the Senate advise the ratification of treaties. Specific panaceas, like old-age pensions and transaction taxes, are proposed as if there were no constitutional limitations. We now discuss economic and social reforms without regard to powers delegated to Congress, since the expansion of implied powers has all but destroyed the principle of substantive limitations on the Federal Government. The spirit of the New Deal has not been restrained by what is in the Constitution; and great ingenuity has been devoted to legal devices to accomplish the purposes of the New Deal within an aura of traditional doctrine. On the other hand, the proponents of drastic changes in the economic system, such as the socialists, are not concerned with constitutional structure, beyond the defense of civil liberty; their literature does not indicate what governmental changes they would approve were they in power.

In general, it is only the conservatives who are believers in a political system, and the arguments here presented are clearly within the contours of conservatism. It is the conservative who has studied to some purpose the political devices of modern tyranny and who believes that limitation on power and precision in structure are fundamentally important in the modern state. It is he who fears that the precedent of today may nourish disaster tomorrow. It is he who feels that integrity in leadership and honor in the public service mean respect for the political system as it evolves from the national past. But we reach here the great issue of political balance in our tradition. Political tradition on the level of principle or lack of principle is tough, while on the plane of structure it is fragile since structure in its operation is being constantly modified. Conservatism, American or otherwise, is, at its best, an adherence to historic principles that carry over into a respect for structure, for structure is a civic symbol of loyalty to principle. As the application of principle changes, the spirit of an institution changes with it. And tradition itself must be evaluated in the light of one's

¹ This paper is a discussion and criticism of Jerome C. Kerwin, "Checks and No Balances," *THE REVIEW OF POLITICS*, VI (1944), 259 ff.

philosophy, because in the end no unworthy tradition can become valid by right of prescription.

Our constitutional system is one expression of the great republican tradition which reaches far into the Western past. We have achieved an application of a tough principle through institutions that change in spirit and form of operation from generation to generation. This principle, at bottom, is the attainment of justice through constitutional government. Its animating idea is the limitation of power in the interest of justice, but limitation means restriction on the actions of public officials and a limitation on the power of public opinion. The ideal of constitutional justice is deeply imbedded in the texture of American tradition.

From the historical standpoint the issue of the validity of our constitutional tradition centers on the ideas of the mixed constitution, the separation of powers, and the check and balance system. In all these ideas and structures the principle of constitutional limitation on power shines clearly as a strong light in surrounding darkness. Proposals for constitutional change may involve a rearrangement of relations between the three major divisions of our government, but they are likely to go directly into an attack on the whole scheme of historic constitutional balance. John Adams argued that any concentration of power, whether popular or aristocratic, was in essence tyranny; liberty could live, men being what they are, only if power is distributed effectively among the officials who exercise the different functions of government. There does not seem to be serious doubt that this idea was generally accepted by those who framed the revolutionary state constitutions or who framed finally the Federal Constitution itself. The separation of powers and checks and balances were simply devices, modified to suit our need, to attain the limitation of power by its distribution. As long as such a system is effective there could be no such concentration of power as to threaten liberty. We must recognize that a constitutional regime does not have to operate on this plan since other constitutional regimes do not. And the argument is offered that we need a constitutional reform which would provide instead a union of powers that would make government both effective and free.

Those who reject this traditional but changing structure urge that Montesquieu's *Spirit of the Laws* mistook completely the principle of the English constitution, and that we copied his mistake. If Montesquieu made a serious mistake about the English Constitution, we were

likely to copy that mistake because his work was the chief short discussion of that constitution available to Americans in the period before the framing of our own system.² It is a striking fact that the worship of the English Constitution inaugurated by Montesquieu, and taken up by a large number of writers both English and continental, was not marred by any belief that a misinterpretation had taken place. Blackstone surely can be taken as an example of what literate Englishmen were thinking, and his discussion of the English system follows closely the ideas set down by the Frenchman. Montesquieu must have got his ideas in England, and what he wrote must be in large part what Englishmen thought about their government. There was a union of powers in Parliament, it is true, but Parliament was composed of the King, the Lords, and the Commons. Nor can we blame either Englishmen or the admirers of their government for not sensing the incipient development of the parliamentary system, which at least brought the ministers into close relation to the Commons while still leaving the judiciary with an impressive amount of independence.

A close concentration on the checks and balances and the separation of powers might lead one to believe that Montesquieu, Blackstone and others were wrong about the English system. But the broader basis for the discussion is the mixed constitution, in which the separation of powers and checks and balances serves as a means of preserving that constitutional system.³

The mixed constitution emerges rather clearly as the ideal system from a thoughtful reading of Montesquieu, Blackstone, De Lolme and others. The mixed constitution had been the ideal type of republicanism from classical times, as well as in more modern theories that asserted a love of liberty. But the balance implied in the mixed constitution is not merely structural, that is, it is not merely a check and balance system, for it purports to be a balance of the great social forces. It purports to be a balance between monarchic, aristocratic and democratic forces in society. Aristotle, Polybius, Cicero and others may readily be called to witness this fact. Aristotle's proposal of a mixture of oligarchic and democratic elements is the precursor of Polybius' worship of the Roman republican constitution, and in both cases the emphasis on structure is a device to bring about a balance of social forces. The

² See P. M. Spurlin, *Montesquieu in America, 1760-1801* (1940), pp. 135 ff., *passim*.

³ See F. G. Wilson, "The Mixed Constitution and the Separation of Powers," *The Southwestern Social Science Quarterly*, XV (1934), 14 ff.

mixed constitution is the great conservative device to effect compromise as a basis of politics; it has its counterpart in modern doctrines which speak more specifically of compromise than of balance. Madison in the tenth number of *The Federalist* recognized the economic interests of politics in order to suggest that they might be balanced and compromised in the broad process of federal politics, and men like T. V. Smith have latterly championed a remarkably similar doctrine.⁴

The historic, conservative doctrine of the mixed constitution, therefore, is sharply in contradiction to more recent and revolutionary doctrines that argue for the political dominance of one class. The Marxian is striving, in theory at least, for the total dominance of the proletariat, and less revolutionary theories lean upon the idea that the masses, however defined, must become fully sovereign and unchecked by other social elements. The conservative criticism of that vision is much like the older argument for a distributed freedom in the state; the fears of the conservative today are much like those of another time. At the base of the defense of our system is the belief that in politics there must be cooperation among contending interests. We have believed this possible, and for this the Constitution stands. But properly viewed, the separation of powers is a means to attain this end, because the framers of the Constitution believed that there should be cooperation and not war between the branches of the national government. And the division of sovereignty, that is, the distribution of powers, between the states and the national government was but another step in the same process. The framers thought they saw in the absolutism of Europe a system of concentration of authority; the separation of powers was therefore to serve as a limitation on governors as well as upon popular irresponsibility. We might urge that today in totalitarian states the destruction of independence of function means that all but the political oligarchy is negated, and that the political directive controls even the judicial branch of the government.⁵

The preservation of political liberty is, therefore, a real and complicated problem for the modern state. We cannot assume that any particular form of government will save liberty, but we must assume that political structure has a symptomatic relevance to the spirit of the

⁴ T. V. Smith, *The Promise of American Politics* (2nd ed., 1936), pp. 196, 248 ff.

⁵ See Charles Prince, "Legal and Economic Factors Affecting Soviet Russia's Foreign Policy I," *The American Political Science Review*, XXXVIII (1944), 657.

leaders and to the broader and deeper movements in the attitudes of citizens.

The issue we must face is: What are the sources or the conditions of the abuse of political power? Will a change in structure check a tendency to tyranny as the classical writers spoke of it? Is the constitutional structure in the United States in any way responsible for the breaking down of our tradition of restraint in the use of power? Would a change to the parliamentary system correct evils in our politics which most intelligent and thoughtful persons may see? Our argument here is that while forms of government are important as conditions for political morality, in the end the national spirit is of far greater significance. It is highly doubtful that the introduction of the political system of another tradition would cure our spiritual defects any more than it did in the short-lived post-Versailles democracies of Europe. The pattern of the breakdown of restraint in government is monotonously clear, for first the people are promised everything they might want by a group or elite aspiring to power, then by a series of political techniques this ruling order escapes from popular control, the people are encouraged to follow leaders rather than discuss political problems, and, in the end the new ruling order turns upon the people in the name of duty, constitutional reform, and the national tradition.

It is from the background of a generation of political disintegration that the conservative fear arises. It is a fear or, indeed, a prophecy of an age of power politics, both on the domestic and international scenes, in which the historic standards of just conduct may well be lost. The educational task of our times is thus of greater consequence than the juggling of political structures, which may be bent in one direction or another. It is difficult for any system to work when there is no respect for the Western tradition of restrained and just behavior, and it is easy for almost any system to work when honor and good will in politics are respected.

In any constitutional democracy there are two important factors to be evaluated in deciding a public question. Since it is a constitutional government, there are limitations on the power of rulers, limitations that are in part a matter of tradition and in part a matter of written constitutional provision. And there are, in addition, specific proposals for action which may or may not fit into the system of limitations already mentioned. An era of power politics is characterized precisely by the willingness to ignore limitations on behalf of specific proposals.

In other words, the end comes to justify the means. Totalitarian means, some think, will effectuate reasonable social ends.⁶

The suspicion that those favoring constitutional reform have really in mind a set of policies which will not be obstructed under a new system seems, therefore, not entirely unreasonable. In the extreme, some "intellectual revolutionaries" do not stop to consider the constitutional system at all; they are perfectly willing to distort, through their own use of power, whatever provisions of the fundamental law stand in their way. But most believers in the necessity of significant social changes do at least try to propose a new constitutional system which they believe will enable the policies they favor to be enacted into law. The proposal that a parliamentary system should be adopted in this country is quite often a phase of an argument for a new set of socioeconomic policies, the adoption of which our present system seems to retard.

Broadly, the argument seems to be that only a centralized, bureaucratic and planned system will enable the modern industrial system to work. That the parliamentary system under certain circumstances can work for a concentration of power in the executive and administrative branches of the government is quite clear. That it is necessary for the people effectively to express their opinions in the control of government is another and quite distinct issue. Contemporary reformers, however, might well remember the disillusionment that came to the Progressive Movement as it sought to return power to the people in the belief that the trusts and the monopolies were preventing the people from adopting progressive policies. In other words, the forces at work in our politics, including the general symbols for which people will vote, are not likely to be changed by the parliamentary system, nor is the spirit of the civil servant subject to reform by such means. The defense of the industrial system, therefore, involves a planned state in the domestic theatre and militant organization internationally.

Thus as the geometry of the argument is explained we find that government in our industrial-urban age must be a very complicated affair. The administrative tasks of politics override the more simple effort of the legislative branch, for that branch must in the end be governed by the wisdom of the expert rather than by the man in the

⁶ See Harold I. Laski, *Faith, Reason and Civilization* (1944). For a defense of the Soviet regime on like grounds. Sufficiently noble ends apparently will justify the complete destruction of limitation on power.

street. It is only the centralized and positive state which can dominate the pressure group which, in truth, does often reflect the decline in civic standards. The judicial process is slow, and the administrative process is efficient and accelerated, so it is said. But heading up the new total system is the executive, the policy maker and the manufacturer of public opinion, a symbol to be trusted by the masses of citizenry. Wisdom in politics is to be found in the executive and in the administrative organization, the possessors of the new *arcana imperii*, and the latter-day professors of a noble reason of state. Since politics moves from one "emergency" to the next, efficiency and speed must characterize the governing process. Clearly, the democratic ideal in one of its aspects presumes governmental efficiency under the enlightened control of the representatives of the people. But the people through their representatives cannot act with the speed necessary to the modern Leviathan, and in democracy there must be a new balance between what might be called administrative technique and popular control. Against our system, it is contended that the checking operations of popular control operate too effectively; but when checking is balancing and when it becomes a negation of the necessary, depends finally upon one's theory of what public policies are desirable at the moment. But the alternative to the processes of popular control in our national representative system, Congress, may not be speed and efficiency, since it could be irresponsibility and a dominance of the executive and the bureaucracy in the reconstructed state.

It has been said in Washington of late that a confidential document is one you do not show to a Congressman, but nowhere in modern government is this principle of secrecy in administration more clear than in foreign policy. It is recognized by those who say that bureaucracy is the core of the modern state, that much of the information available to government cannot be made known to the representatives of the people, and that by the same token the people must accept government action on trust in its integrity and wisdom. As Professor Kerwin has said, "Congress should, of course, have all the information which it is wise to make public."⁷

The determination of what is wise rests with the executive or the administrator and not with the people or their representatives. Under our system it is naturally more difficult for a bureaucrat to guard his privacy than it would be under a parliamentary system in which the

⁷ Kerwin, *op. cit.*, p. 267.

executive might have a greater control over the representative than at present with the separation of powers.

With the growth of the administrative system in the United States, foreign policy is more and more regarded as the secret of the "proper" agencies. This tendency exists in sharp contrast to the Wilsonian principle of "open covenants" reached openly. But domestic covenants are sometimes no more open than those that are international. No one can deny that we have here a vital issue for our democracy, and one is reminded of the Kantian principle that if an action cannot be taken with the fullest publicity, it is contrary to fundamental principle.⁸

Can we have in the long run a foreign policy that is not widely accepted by the body of citizens? Peace, we might observe, does not depend on the United States alone, but upon a *consensus gentium* reflecting the high principles of moral philosophy. The very secrecy of foreign policy management creates opposition. Those who are critics of the presidential entourage look for the day when decisions must be submitted to an independent Senate, while it is pretty clear that others who support what they think is being done, fear the time when public decision must be made. The profound debate among Americans over certain foreign policies has been reflected in the narrow margins by which presidential action has been supported in Congress. There is a trend of criticism which argues in effect that neither Congress nor the people should have much to say about what is to be done in international affairs. What we can say is that the separation of powers makes an ultimate public accounting for foreign policy inevitable. Such an accounting can be avoided in a smoothly working parliamentary system because of the subordination of the representatives to the party and executive leaders.

The issue of parliamentary versus presidential government centers finally on the position and character of executive leadership in American life. That issue is of crucial importance in contemporary politics, because the tendency throughout the world since the modern revolution began in August, 1914, has been to increase executive power and to diminish the actual directive power of representative institutions. Our system provides a constitutional barrier against the decay of such institutions, since there is always interaction, conflict, cooperation, and

⁸ W. Hastie, *Kant's Principles of Politics* (1891), pp. 138-139. Kant argued that "All actions relating to the rights of other men are wrong if their maxim is not compatible with publicity."

compromise between executive leadership and congressional determination. In theory we might argue that with the recent decline in prestige and function of the Supreme Court, we have a formal congressional supremacy, or at least a potential congressional supremacy. For those who favor government by executive and bureaucratic agencies, this situation may be intolerable, for it is assumed that there is greater wisdom and competence in these forces than in representative government. We may grade the decline of representative government all the way from the varying fortunes of the executive and legislative branches in our government to the virtual extinction of representative government in totalitarian countries, or under military government which will no doubt be widespread for some time after the present war.

Our whole history demonstrates that strong executive leadership is not inconsistent with the separation of powers and the check and balance system. Indeed, leadership is implied by the very independence of the executive in both state and national governments. There was no executive under the Articles of Confederation because the national system was not a genuine government, and the states controlled directly what their representatives did in Congress. But with the formation of the Constitution in 1787, the system of the states was extended and strengthened on the national scene. Thus, after an initial experiment with the weak executive, we developed the presidential system which, to say the least, provides for a strong, vital and relatively stable executive authority. Even in wartime our executive system has met the test without a suspension of the Constitution, or as some Frenchmen said before the Second German War, without "a vacation from legality". There is in our system a normal expansion and contraction of executive authority which has, no doubt, been one of the reasons for the survival of our formal Constitution in spite of the many changes in social relationships which our country has experienced. Constitutional balance is in itself a long-run idea, for it does not depend on the situation at any given moment but on the longer shifts of politics. At times, it is true, the President is strong and at times he is weak, and the same must be said of Congress. But in the long run there is an independence of both branches and an interaction which must be regarded as the dynamic balance provided by the framers of the Constitution. In contrast, the parliamentary system virtually requires an abdication of constitutional form during an emergency, a suspension of the party system, and what comes very near to a complete surrender of the organs of representa-

tion to the executive. The parliamentary system in wartime resembles the ancient Roman dictatorship.

In the years before the First German War, thinkers like Woodrow Wilson and Henry Jones Ford were urging the parliamentary principle because they felt the need of a stronger executive leadership for Congress. In practice Woodrow Wilson as President gave such leadership without a serious modification of our system, and one could hardly deny that at the present time the tradition of American government assumes vigorous leadership. Nor can one assert that such leadership is in contradiction with the constitutional system. Strong leadership in the executive became in fact the alternative to the movement for direct government which would weaken both executive and representative responsibility. The executive in both state and national government has become a symbol of public opinion at least on certain important issues, and the extent to which this is true depends on the character of the particular executive himself.

It appears that many advocates of parliamentary government have in mind an even stronger executive control over popular representatives than exists at the present time. The argument today seems more than a simple plea for stronger executive guidance in policy; it appears in some connections at least as a device by which the executive can dominate continuously the representative branch of the government. But it should be borne in mind that such a result could be reversed. A parliamentary system introduced in this country might more resemble the fallen parliamentary democracies of the continent than the British system.⁹ The British system works in a framework of a tradition of a respected ruling class; there is an aristocracy that functions in governing and one that is in general respected by the ordinary citizen. Perhaps it is not the system but the tradition that gives vitality to the British constitutional system. A change in political structure does not change immediately political folkways and mores. The vices of public life

⁹ See Don K. Price, "The Parliamentary and Presidential Systems," *Public Administration Review*, III (1943), 317 ff. This article contains an effective and energetic criticism of the British system. Price urges that in fact the British are moving by traditional practice toward a kind of presidential system. Harold J. Laski has written an elaborate evaluation of Price's article and the author has replied. These articles are especially valuable in their treatment of the problem of the civil service in relation to the parliamentary and presidential systems. See Harold J. Laski, "The Parliamentary and Presidential Systems," *Public Administration Review*, IV (1944), 347 ff.; and Don K. Price, "A Response to Mr. Laski," *Public Administration Review*, IV (1944), 360 ff.

would certainly remain if a major structural alteration of constitutional relationships was effected.

Let us take what is clearly a central issue in this discussion, the position of the civil servant or the bureaucracy in our system. In any serious examination of this problem, we would all agree that we need an efficient civil service. We want a service in which morale is high and in which competence is recognized. This statement is true whatever functions the government may undertake. In the British system the tradition of a ruling class makes the formal merit system a secondary matter, for the tradition of upper class service to the state has long been established and out of the range of attack, even of socialist members of Parliament. By contrast, the spoils system in American politics only gradually is being overcome, but under the system of presidential government the civil service is certainly more free from congressional interference than it would be *with our tradition* were the parliamentary system to be introduced. In fact, many students of the federal service are opposed even to the introduction of mild reforms quite compatible with our system but which would bring the executive officer into a relation of direct supervision by members of Congress. Within the civil service, in other words, the movement is largely in the direction precisely opposite to that suggested by the advocates of parliamentary government. We all agree that persons in policy-making positions should have some political responsibility, but those who are experts and who are merely carrying out a statute within the intention of Congress and the President should not be interfered with under the statutory conditions of their tenure. Those who favor an exclusive relation of the civil servant to the chief executive without congressional supervision can certainly go too far, but it is probable that our present system of an independent executive provides a better practice than would be possible with our political tradition under a modified parliamentary system. In any case, we already face a serious issue of congressional interference in administrative procedures.¹⁰

There are a number of points in Professor Kerwin's proposal that need to be mentioned. What about election by calendar? Political issues are continuous, and election on a given date forces political leadership to submit its claims to the people. It is just as artificial to

¹⁰ See Arthur W. Macmahon, "Congressional Oversight of Administration: The Power of the Purse," *Political Science Quarterly* LVIII (June, September, 1943), 161 ff., 380 ff.

say that elections should come when the issue is appropriate as to say they should be held at a given time. The history of the modern parliamentary system suggests that elections are often postponed simply to avoid popular consideration of an issue, and that elections are held when the party in power thinks it has the best chance of winning. There is, indeed, a greater impartiality in elections according to calendar. The government cannot extend its own term of office and elections cannot be avoided without having in effect a political revolution. And since issues are relatively continuous a steady and periodic reconsideration of them is clearly more democratic than permitting a ruling order to determine when it shall submit its claims to a general election.

A central question, however, is the relation of the real and the formal executive. Under the parliamentary system the British King or the French President is in effect a formal executive with real power being vested in ministers subject to parliamentary dismissal. It does little good to list the powers of a parliamentary president if all of his actions must have the countersignature of a minister. The system of countersignature would make the American President powerless, and through it the need of popular election would vanish as well as any objection to service for an indefinite number of terms. We must be clear as to where real executive authority is to rest. Do we want the President to be like the British King or the French President?

The point is that you cannot preserve the values of the presidential system and have the parliamentary relationship at the same time. Reforms short of executive responsibility to Congress may be effected, but if the chief executive acts under countersignature of ministers responsible to the House of Representatives, he is bound to become either a formal, ceremonial head of state, or the destroyer of the parliamentary system itself as the President of Germany under the Weimar Constitution. If only three-quarters of the ministers are to be chosen by and responsible to the House of Representatives, how is the remaining one-fourth to be chosen? If the President acts under countersignature, they would normally be chosen either by the other ministers or by the House.¹¹ In any case, the President's power would be a sheer formality. He would have the right to be informed and to advise, but real power would not be his. In addition, the attempt to take away from the Senate its power and to make it a copy of the House of

¹¹ Kerwin, *op. cit.*, p. 274. See Karl Loewenstein, "Government and Politics of Germany," in James T. Shotwell (editor), *Governments of Continental Europe* (1940).

Lords, would involve a virtual destruction of one important phase of the federal system, the real and equal representation of the states in the Senate, and thereby the representation of the states as such in the process of legislation.

In many instances, the power of dissolution has been quite ineffective, since those in power are unwilling to face the people any more than they have to. Dissolution under countersignature is an act of the minister, or chief minister, and not of the President himself. The relationship would be directly between such ministers and Congress, and if the President refused to do what the ministers wanted, his fate might be that of several French Presidents in recent times, that is, he might be forced to resign. It can readily be argued that elections coming by calendar are much more effective in bringing about the submission of issues to the people than a power of dissolution that may become virtually a dead provision of the Constitution.

The real issue is whether the strong, single executive as established by the framers of the Constitution has any value today. Those who favor the parliamentary system may feel that Congress would be brought to heel by such a system, but it is just as likely that our executive would become as unstable as the French system, and that it would be the executive instead who is brought to heel. Granting that the modern state has serious tasks to perform and that an efficient administrative system is advisable, it can be urged that our present system with simple, internal modifications is the best solution. To bring the executive under the greater control of the representative body would do little to correct the evils of selfish pressure groups, the party, and the spoils system. Rather it might increase these evils by permitting the formal party system to disintegrate into regional parties or parties devoted entirely to the defense of specific economic interests. At least at the present time there is a levelling off of these interests since any party must try to be national in order to control the electoral vote and thereby the election of the President. In other words, the parliamentary system might encourage the disintegration of American national tradition and stimulate class and race conflict, thereby bringing closer the possibility of some kind of totalitarian regime. Under our present system, many diverse groups are forced to work together, and it is seldom that any one group succeeds in controlling completely the trends of national political decision. Perhaps we do have balances, however imperfect, because there are checks in our system.

We may thus argue that our system hangs together in part because of its structure, and not in spite of the separation of powers; and that particularly, the election nationally of a strong President gives vitality to the federal system, and forces divisive elements to compromise. Our national tradition has been built into and lives in the constitutional system. The Constitution has been clearly one of the strongest forces for the preservation of the two-party system, and it has checked the development of fractional and regional parties which would lead, under the parliamentary system, to all the horrors of coalition government and swiftly changing ministries. Had we a vital aristocracy capable of blending divisive factions together under its leadership, as in the British system, the parliamentary principle might not be so fatal to our liberties as it could well be under the existing political tradition of this country. Without a traditional governing class, our potential parliamentary history would probably resemble the continental rather than the British model.

But these comments must not be understood as a criticism of current proposals to bring executive and congressional leaders closer together. We are actually doing this today through the appearance of administrators before committees, and Congress has shown respect and deference to those administrators who are honestly trying to carry out the intent of the statutes it has passed. One can hardly blame members of the Appropriations Committee, for example, for penalizing administrators who have attempted to ignore the spirit and letter of the law. The appearance of administrators before powerful committees, however, tends to be oligarchical in nature, and it is suggested that administrators appearing before the full House might do much to bring legislation and administration together for the common good. The proposals of Rep. Estes Kefauver¹² will be opposed by many administrators, since putting administrators before the House to answer questions will be "throwing them to the wolves." Administrators are experts, not artists, in making speeches and parrying embarrassing questions. But such a system will be entirely within the possibilities

¹² Rep. Estes Kefauver has proposed in House Resolution 327 that there be a report and question period on the floor of the House of Representatives at least once every two weeks. During this report and question period, a particular member of the Cabinet, or the head of an agency, would be invited to appear on the floor of the House and answer written questions, which had already been prepared and submitted to him by the legislative committee issuing the invitation.

See also George B. Galloway and others, "Congress—Problem. Diagnosis. Proposals," *The American Political Science Review*, XXXVI (1942), 1091 ff.

of the present system, for it would require only procedural changes in the House itself, and the cooperation of the executive and administrative organization of the government. If we do not wish the growing bureaucracy to escape from the ultimate control of the people, there should be no serious objection to expanding committee procedure to the whole legislative process, even including joint committees between the two houses and administrative agencies. The solution, at least for the present, seems clearly the reform of procedure in Congress, including perhaps, the broadcasting of House and committee procedure, rather than a revolutionary constitutional change which has a spotted and discouraging history outside of Great Britain.

If we are democrats, we should not want an increase in secrecy in government, for we should demand a full and vital sovereignty of the people under a unified national system. But that sovereignty has been expressed in this country in measure through the election of a President with real power. We should want a vital and reorganized Congress, but we should keep the unifying force that has inhered in the Presidential office. We should want trust in representative institutions, as well as a vital civil service under the control of popularly elected representatives.