

PRESIDING OFFICERS
OF NATIONAL
PARLIAMENTARY
ASSEMBLIES

A WORLD COMPARATIVE STUDY

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Georges Bergougnous

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Foreword

One of the goals of the Inter-Parliamentary Union is to work for the strengthening of representative institutions. It goes about this in many ways, in particular by publishing comparative and analytical studies on the working of Parliament.

Periodically, the Inter-Parliamentary Union issues specialised monographs on various aspects of parliamentary life and entrusts the preparation of these works to eminent experts. The first such study was made in the late 1950s when the Inter-Parliamentary Union launched an international enquiry on Parliaments. The result of this enquiry appeared in 1960 in the form of a comprehensive study "Parliaments". Revised and expanded editions of this work were published up to 1986.

The publication of further editions was men called into question on account of the increase in the number of Parliaments — from 59 in 1960 to 179 in 1996 — and the rapid development of their structures and working methods which would require constant up-dating. Fortunately, new possibilities were opened up with the advent of the spread of computer technology. The governing bodies of the Inter-Parliamentary Union thus decided to replace this publication by a database, supplemented by a series of monographs.

The Inter-Parliamentary Union first established a database called PARLINE, Parliaments on line. It currently consists of four modules containing information on Parliaments, electoral systems, the results of the most recent legislative elections and the presiding officers of Parliaments. Other modules will be added gradually. In due time, PARLINE will be sufficiently exhaustive so as to constitute a universal research and information tool providing access to several layers of data on the role, stucture and functioning of all the world's national Parliaments. Already, PARLINE can be consulted through Internet at the Inter-Parliamentary Union's web site at <http://www.ipu.org>.

This monograph is the first in a series prepared from the information contained in PARLINE. It is only natural that it should cover the Speakers of representative Assemblies. Indeed, they occupy a privileged place in Parliaments which could not work without them. In most countries, they rank very high in the State hierarchy and are invested with important authority under national Constitutions. The publication of a comparative study on this subject helps to make the functions of Speakers better known not only to the Parliaments of other countries but also to universities and research institutions, journalists and to all those who take an interest in various aspects of the development and working of political systems.

The different sections which comprise this monograph have been devised in such a way as to present the basic facts concisely in order to bring out the similarities and the major differences between the various parliamentary systems.

This study could not have been completed without the help, diligence and zeal of all those who helped in its preparation, first and foremost the Clerks and staff of the many Parliaments who made an indispensable contribution to its formulation and exactitude by providing most of the data. A warm vote of thanks goes to them all.

His thanks of the Inter-Parliamentary Union also go to those who contributed to the preparation of this monograph, and particularly to the members of its Expert Committee for their help and pertinent advice to the author.

Special thanks are due to Michel Ameller—Honorary Secretary General of the French National Assembly, member of the French Constitutional Council and author of the first comparative study on Parliaments — who provided unfailing support to this project.

The Inter-Parliamentary Union entrusted this study to Georges Bergougnous, administrator at the French National Assembly and currently Head of the Legal Department of the French Constitutional Council. He has very ably carried out the mandate he received by producing a work of remarkable quality. There will certainly be many, members of parliament and specialists in constitutional law who will be interested in reading this work.

Pierre Cornillon
Secretary General

Preface

Having served the Republic at the side of seven successive Presidents of the National Assembly, I am delighted that the Inter-Parliamentary Union has undertaken to publish monographs on the organisation and working of Parliaments, starting with "Presiding Officers of National Parliaments". Research workers, scholars, students and all those interested in the life of the nation — and why not also the general public? — will find a wealth of unrivalled information in this specialized study prepared on the basis of documentation provided by the Parliaments of 117 countries.

Having already prepared a comparative study for the Inter-Parliamentary Union on Parliaments of the world, and being thus fully aware of all the difficulties of this kind of undertaking, I wish to congratulate the author of this study. Comparative law is a discipline full of pitfalls, starting with linguistic problems where seemingly similar words do not always convey the same concepts. A second difficulty lies in the extreme diversity of parliamentary cultures, some with roots going back over centuries while others are scarcely emerging. These cultures, therefore, cannot easily be reconciled rationally. Moreover, the individual personality of the men and women who hold office as Speaker in many cases multiplies the instances of the specific features inherent in a particular Parliament.

Georges Bergognous has made light of all these obstacles and has provided us with an overview which highlights the fundamental aspects of the subject. Through the well-chosen descriptions which punctuate the pages of this study concerning the procedures, the powers and the different styles of the personalities involved, the reader will discover that the Speaker of a House is in fact an essential actor in parliamentary democracies. Invested with his responsibilities, everywhere the Speaker tends to identify himself with the office he holds, everywhere he strives to increase the effectiveness of the prerogatives that devolve on his House even, if need be, defying the Executive on occasion.

But what establishes the "universal" nature of the office across the spectrum of widely differing parliamentary regimes is the constant concern of each Speaker to ensure protection for the minority while carrying out his mandate and, in the final analysis, to guarantee human rights.

Some observers have claimed, in the light of certain apparently restrictive constitutional, legislative or regulatory provisions, that the Speakers of certain Parliaments "do not exist". This study provides proof of the contrary and shows not only that Speakers do indeed exist and in particular ensure that each member of Parliament has the right to be heard, but also that they can generate initiatives or trends which are beneficial to the image of parliamentary representation as a whole and to the development of democracy throughout the world.

Michel AMELLER
Honorary Secretary General
of the French National Assembly
Member of the Constitutional Council

Acknowledgement

This monograph owes a great deal to the extremely rich information contained in the replies from 117 countries to the questionnaire addressed by the Inter-Parliamentary Union to all the world's Parliaments.

In this connection, the author seconds the thanks expressed by Pierre Cornillon to all those who, through their aid and support, made possible the completion of this study.

Nor does the author wish to forget the General Secretariat of the IPU, and more particularly Anders B. Johnsson, who always extended a warm welcome to him and provided sound advice.

INTRODUCTION*

National parliamentary Assemblies, as the main forum for political debate and the expression and confrontation of views, as well as for political argument among the people's representatives, could not hold orderly and meaningful discussions that respect the legitimate right of the opposition to make its views known and of the majority to ensure adoption of its programme, transcending any obstructionist manoeuvres, unless there is a regulatory authority to act as arbitrator and guarantee its smooth functioning. This is why the speakership exists and, as it is a direct response to the requirements of parliamentary debate, it has been in existence for as long as Parliament itself.

It may seem paradoxical for a body composed of members of equal status, of peers, who are traditionally the depositary or even the guardian of sovereignty, to recognize another's authority and supervisory powers. This is why Assemblies during the French revolutionary period only appointed one of their members as President for a fortnight at a time so as not to create inequalities among the people's representatives and ensure that the President was not allowed excessive influence and prestige. As the name indicates, the British Speaker's first role was to be the House's spokesperson vis-a-vis the monarch.

Subsequently, the office of Speaker evolved. Despite the constitutional upheavals in France in the XIXth century, which sometimes led to the Assembly being placed under an administrative authority and withdrawal of its right to choose its own President, the parliamentary mechanism nonetheless became established and was reinforced. The bicameral system was adopted and although the presidency of the Assemblies, whose term was limited to one annual session, sometimes took second place to the Bureau which was the real collective governing body, it was always filled by "political leaders", according to Eugene Pierre¹, and strived to be impartial. P. Deschanel wrote "If a President goes down into the political arena he also brings the Assembly and the parliamentary regime down into the

* It is recalled that all words used in the masculine form relating to various functions in Parliaments are to be construed as referring to men and women alike (Editor's note).

¹ E. Pierre. *Traite de droit politique Electoral et parlementaire*. Paris. 1914. p. 473.

arena"². The presidency thus acquired the major characteristics it still shows today and the extension of the term of office provided in the Constitution of the Fifth Republic strengthened the President's authority still further.

In the United Kingdom, initially the Speaker lost his independence and became a tool of the Crown, which paid him, but as the influence of the House of Commons grew he was gradually able to free himself from the Crown's domination and once again become the instrument of the House, running the risk of becoming a pawn in political squabbles. It was only in the last century that the Speaker assumed his present characteristics of total impartiality and his rejection of all political affiliation became the guarantee of his authority.

In the United States, the Founding Fathers transposed the British model of the Speaker as it still existed at the end of the XVIIIth century, in other words, a political leader who affirms the House's authority in relations with the Executive. A two-party system and strict separation of powers completed the process. The Speaker became synonymous with the leader of the majority, as is still the case today. His influence reached its peak at the close of the XIXth century and in the early XXth century during the so-called "congressional government" period when the Speaker chaired the powerful Rules Committee and also exerted control over appointments to committees, so in the words of Ph. Laundry³ he was an autocrat. In 1910, as a reaction against the authoritarianism of Speaker Cannon, he was deprived of some of his powers, although he retained considerable influence and remained the real leader of the majority, as he still is today. Whereas the speakership of the House of Representatives was based on the British model, according to the Constitution the Vice-President of the United States is the President of the Senate, in which all the federated States are equally represented.

In the 179 national Parliaments in existence worldwide, of which 135 belong to the Inter-Parliamentary Union, the speakership is in most cases based on one of these three models, adapted to national

² P. Deschanel. Foreword to the thesis by H. Ripert. *La prsidence des assemblies politiques*. Paris. 1908. p. XVIII, cited by Y. Daudet. *La pr^sidence des assemblies parlementaires franjaises*. PUF. 1965. p. 3.

³ Ph. Laundry. *Parliaments in the modern world*. Dartmouth 1989, p. 53.

institutional and political requirements, and it is often the only parliamentary authority mentioned in the Constitution.

The term "speakership" may however cover several different situations. There has traditionally been a distinction between "collegiate presidencies" composed of a Bureau representing the various political trends within the Assembly, the model being the French Parliament, and individual speakerships in which the holder of the office is the sole guarantor of the House's independence and privileges, of which the Speaker at Westminster provides a unique example.

This statement has to be qualified, however, and certain terminological ambiguities dispelled. Where there is a collegiate body within an Assembly, irrespective of what it is called and even if it has wide-ranging supervisory and administrative powers, this does not mean that the speakership of the Assembly itself is collegiate. Many functions can only be fulfilled by the Speaker himself— or, as far as chairing debates is concerned, by the person replacing him — and so are not the responsibility of the collegiate body; moreover, the latter body may be called upon to fulfil other tasks — for example, administrative duties — that are not necessarily the responsibility of the Speaker. On the other hand, persons other than the Speaker may play a part in supervising the House's work without it being necessary institutionally for them to be members of a constituted body of the House itself. This is often the case, for example, in Parliaments based on Anglo-Saxon tradition where the "leader of the House", who is in fact the leader of the majority, plays a decisive role in drawing up the House's order of business.

Any description of the office of Speaker of Parliament, therefore, must take into account not only the structural dimension of the office but also the functions themselves. What are the functions of the Speaker, his status and powers, both within and outside the House? The words "office of the Speaker" are nevertheless to be preferred over the word "Speaker" because irrespective of the holder it is the office itself that is important and many of the Speaker's powers, which mainly concern public sittings, can be assumed by other persons. The role of any collegiate body has to be viewed in relation to the part it plays in carrying out functions attributed to the office of Speaker.

The concept of a national parliamentary Assembly does not need

to be so precise. It covers the concept of a political Assembly that exercises legislative powers, either alone or jointly, thereby excluding advisory or consultative bodies, irrespective of their method of appointment, and local Assemblies. It also excludes Parliaments in federated States, which are not composed of members elected at the national level, even though they are political Assemblies.

Bearing this in mind, a detailed questionnaire on the presiding officers of national parliamentary Assemblies was drawn up under the auspices of the Inter-Parliamentary Union and sent to 238 Chambers of Parliament in early 1995. One-and-a-half years later, 150 Chambers had replied, providing documentation and invaluable background information for a study that aims to define the status of presiding officers and their functions before attempting to determine their place in the institutions.

PART ONE

THE STATUS OF THE SPEAKER

Although the office of Speaker in deliberative Assemblies is deemed to be necessary, there are wide variations in the legal basis for its existence. The office and the criteria governing appointment, even the definition of the Speaker's functions, are sometimes set out quite clearly in the Constitution itself. This is the case, for example, in Bulgaria, Greece and Slovakia, and generally in the new democracies of Eastern Europe. On the other hand, the office alone may be mentioned in the Constitution without any further details as to the Speaker's powers or the procedure to be used for the appointment. This is the case in the French Constitution, which simply states that the President of the National Assembly is elected for the term of the Parliament, whereas the President of the Senate is elected after each partial renewal of the House, and although the Constitution refers in several places to the Presidents' responsibilities outside Parliament, it says nothing about their authority within Parliament. The German Constitution does the same, providing that the Bundestag elects its President, Vice-Presidents and Secretaries, whereas the Bundesrat elects its President for a term of one year. It also states that the President of the Bundestag is responsible for security and for exercising police powers within the Assembly and that the President's authorization is required for any search carried out. In the United States, the Constitution simply provides that the House of Representatives should elect its Speaker and that the Senate, which is presided by the Vice-President, should elect a President *pro tempore*. The Italian Constitution states that each Chamber elects its President and the presidential Bureau from among its members. In other countries, the office of Speaker is not even mentioned, either because the country does not have a written Constitution — one example of this is the United Kingdom, even though this by no means diminishes the authority of the Speaker — or because the Constitution does not mention the office, especially if it is merely a transitional text.

In general, the rules governing the presidency, the nomination procedure and the Speaker's functions are set out in the House's Rules

of Procedure or Standing Orders. These describe in great detail *inter alia* the procedures to be followed when appointing the Speaker, if elected: the number of members present prior to the election, the date of the election, the voting procedure and the majority required. Where a Speaker is appointed directly, on the other hand, the rules are usually contained in a text on the structure of authority, for example, the Constitution or an institutional act.

Irrespective of the method of appointment utilized, the authority and functions of the presidency are mainly defined in the House's Rules of Procedure, even though a significant proportion of the Speaker's powers are of a customary nature.

1. The Speaker's Term of Office

The appointment of the Speaker is normally the task of the House over which he presides and is one of the first acts carried out by the new Parliament. Once the Speaker is installed, the term of Office usually corresponds to the life of the legislature.

1. Election of the Speaker

It would reasonably seem logical that deliberative Assemblies, made up of elected members, should control their own organization and above all be able to decide freely on their Speakers. This has not always been the case, even though from the XIVth century onwards, members of the House of Commons chose their Speaker before he became an instrument of the Crown and subsequently became fully independent. Today, there are still some Assemblies presided over by Speakers they have not chosen. These are usually Upper Houses — for example the House of Lords — where the President is either appointed directly by the Head of State or elected by a body other than the Assembly concerned; the latter situation occurs in Assemblies presided by the Vice-President of the State, elected at the same time and according to the same procedure as the President of the Republic.

With these exceptions, the virtually universal principle today is that an Assembly elects one of its own members to the presidency. This happens in almost 95 per cent of Houses, while barely a dozen Assemblies do not choose their own Speaker. Irrespective of the political regime or the geographical situation of the country concerned,

the political party system, the rules of procedure or the traditions of the Parliament, in short, whatever the actual role and status of the Assembly within the institutional structure, it retains control over the Speaker's appointment.

Moreover, where a Speaker is elected by the Assembly he presides, he is elected by the house as a whole and not by one of its internal bodies. He is elected directly, thereby reinforcing his legitimacy. In some Parliaments, the election may subsequently have to be approved or confirmed by an outside authority, but this situation is relatively rare and is usually only a historical relic of a time when such confirmation was not merely a pure matter of form, and this is the case in the United Kingdom where the Speaker of the House of Commons has to receive the royal assent. It is also true in Barbados and New Zealand, where endorsement is given by the Governor General. The election of the President of the Senate of Thailand and of the Speaker of the Parliament of Tuvalu also have to be confirmed by the Head of State, while the election of the President of the National Assembly of People's Power of Cuba must be confirmed by the National Electoral Commission.

Although it is the general rule, a Speaker is not necessarily elected by the Assembly itself. He may be elected by another electoral body or appointed directly.

Election by a body other than the deliberative Assembly is the norm for Presidents of Upper Houses whose authority derives from their position as Vice-President of the State when this is conferred upon them directly — or almost directly — by the people, as happens in the United States, but also in Argentina, Bolivia and Uruguay. In India, the President of the State and the Vice-President, who is *ex officio* Chairman of the Rajya Sabha, are elected by a joint session of the two Houses of Parliament. Although the procedure is not the same, the President of the Austrian Bundesrat is also appointed by voters. The presidency is held for six months by the delegate at the top of the list of representatives comprising each Lander's delegation elected by the Landtag, and rotation among the Lander every six months follows alphabetical order.

Secondly, even though this method of appointment is increasingly rare, some Speakers are not elected but appointed directly. Here again, this is often a relic of the past, as in the British House of Lords, which

is presided over *ex officio* by the Lord Chancellor, a member of the Government and appointed by the Crown, who relinquishes his office if he is no longer a member of the Government. In the Canadian Senate as well, the Speaker is appointed directly and may be dismissed by the Governor General. Until recently, the President of the First Chamber of the Netherlands States General — which is in fact the Upper House — was appointed directly by the Sovereign. Appointment by the Head of State may also indicate a degree of dependency by the House on the Executive. In Jordan, for example, where all the senators are appointed directly by the King, the latter also appoints the President of the Senate.

Reference should be made here to joint sessions of Houses in bicameral Parliaments. The appointment of "Parliament's Speaker" is not their responsibility because the constitutional or regulatory texts stipulate who acts as Speaker. All types of situation may be encountered. Sometimes, the President of the Upper House and the Speaker of the Lower House preside jointly, as in the United States, but also in Belgium, Grenada, Lesotho, Philippines — where the most senior member in terms of age presides over the debates — or in Belize. The Constitution or the rules of procedure usually specify who should fulfil this office without it being possible to perceive any principles of political science or details of constitutional law. For example, in cases where the President of the Upper House is the Vice-President of the State, in Argentina, Bolivia and Uruguay he presides over meetings of the two Houses, but this is not the case in the United States, as already mentioned, and in India it is not the Chairman of the Rajya Sabha, Vice-President of the State, who presides but the Speaker of the Lok Sabha. In the more recent Constitutions, the Speaker of the Lower House usually presides, as in Croatia, Poland and Spain, but this is not the case in Romania, where the presidency is held alternately by the President of the Chamber of Deputies and the President of the Senate, nor in the Russian Federation where the presidency is the subject of agreement between the Presidents.

In Latin America, the President of the Senate usually presides over joint sessions; this is the case in Antigua and Barbuda, Argentina, Bolivia, Brazil, Chile, Colombia, Paraguay, Uruguay and Venezuela, whereas in Europe the President of the Lower House usually presides, as in Croatia, France, Germany, Ireland, Italy, Poland and Switzerland. It should be noted that presiding over a joint session is independent of

each Speaker's place in the hierarchy. In France, for example, even though the Bureau for joint sessions of Parliament is that of the National Assembly, according to protocol the President of the Senate takes precedence over the President of the Assembly. This is also true in Germany and India.

The presidency of Parliament may also rotate between the Speakers of the two Houses, as in South Africa where there is a monthly rotation, and in Austria and Romania, as already mentioned.

It is important to note, however, that in general joint sessions of Parliament are seldom held and consequently their power is limited. They are usually historical occasions held for the purpose of electing the Head of State, for example, or amending the Constitution, but on principle they are infrequent and rarely or never a forum for legislative debate. In this particular case, the role of the "Speaker of Parliament" is quite precise and different to that of a Speaker in his own House.

(a) Choosing the Speaker

The Speaker is generally chosen from among members of the Assembly

Where Houses choose their own Speaker, they are generally elected from among the House's members, a solution that seems to be related to the independence of the Legislative. There are nevertheless exceptions and in many countries based on the British model there is the option of choosing the Speaker either from within or outside the House provided that he meets the criteria for election. This possibility exists in the Houses of Representatives of Antigua and Barbuda and in Belize, in the National Assembly of Botswana, the Assembly of Dominica, the National Assembly of Kenya, the Senate of Lesotho, the House of Representatives of Malta, the National Assembly of St. Kitts and Nevis and the Parliament of Zimbabwe. These countries were no doubt motivated by the desire to allow the widest possible choice when electing the Speaker of their Assembly by permitting parliamentarians to appoint a Speaker from outside the House. The case of Zambia is, however, an exception because choosing a Speaker outside the House is not a possibility but an obligation, although the person appointed must meet the criteria for election as a deputy.

If a Speaker is not elected by the House itself but either by another electoral body or appointed directly, being a member of the House at the time he is appointed is not so necessary and could even be a disadvantage. It is therefore not a requirement. For example, the Vice-President of the United States, *ex officio* President of the Senate, does not have to be a senator but he must meet the eligibility criteria to be President of the United States, *inter alia* he must be at least thirty-five years of age. Likewise, it is not necessary to belong to the House of Lords in order to be appointed Lord Chancellor; the person becomes a member of the House of Lords when so appointed.

How are Speakers chosen when they are elected by the Houses to which they belong? The governing principle is usually that any member of the House may be a candidate. There are some rare exceptions to this rule and they correspond to very special situations. In Switzerland, to cite one, Presidents of the National Council and the Council of States cannot be re-elected, and in order to ensure rotation among the cantons in the Council of States, the second deputy elected in the canton of the outgoing President may not be chosen. In Lebanon, because the offices of State are divided along religious lines, the President of Parliament must be a Shiite Muslim so only a deputy of that faith can be elected. On the other hand, where all members of the House may be candidates, their candidatures often have to be supported or submitted by particular members or bodies of the House. In South Africa, candidatures must be put forward by at least two members, in Lithuania by at least one-tenth of the House, in the Polish Senate by at least ten senators, in the Thai Senate by at least five senators, and in Slovenia and The former Yugoslav Republic of Macedonia by a special commission or by at least ten or twenty deputies, respectively. Submission of candidatures by a special body is also the rule in Viet Nam, where the candidate for the presidency is proposed by a commission, and in China, where the Presidium of the National People's Congress puts forward candidatures. It is often the case that the role falls to political parties themselves or to one of their special structures. In the United States House of Representatives, candidates are proposed by the caucuses of the two major parties. In Cameroon, Peru and Romania and *de facto* in France, they are proposed by political parties. In Hungary, the candidature is put forward by the

oldest member on the basis of a motion by the leaders of the parties.

Formal notice of candidature is not always required

It should nevertheless be stressed that in a large number of countries, no formal presentation of a candidature is required in order to be elected⁴. It is not possible to typify countries that do or do not require such a formality. They are to be found in all parts of the globe, under all political regimes and in countries with all types of parliamentary tradition: American, British, French. France, Italy, the Netherlands, Norway, Spain, the United States of America, Italy, the Netherlands, Norway, but also Nauru, Samoa and Thailand do not require the formal submission of a candidature, whereas this is mandatory in the Czech Republic, Iceland, Ireland, Portugal, and also in Nepal, Peru, Togo and Tuvalu, just to cite a few examples. At the outside, it can be stated that countries in the old continent of Europe, with a strong parliamentary tradition, are in their majority less inclined to require a formal candidature, whereas this is a precondition in a majority of countries that have established parliamentary institutions more recently. In fact, very few regulatory texts govern the question of candidatures for the presidency of the House, which is basically government by tradition and practice. It is common knowledge that in the United Kingdom, an outgoing Speaker who has a solid reputation for impartiality and neutrality is logically the only candidate and is naturally re-elected. In Germany, the candidate put forward by the party that is numerically the most important is in practice the only candidate.

Although the Speaker usually belongs to the majority, this is not systematically the case

This observation leads one to wonder whether or not there is a link between election as Speaker of the House and being a member of the majority, even though the concept of majority itself is difficult to

⁴ In Canada, the reverse is true. Any member who does not wish to be elected must specifically inform the Clerk of the House of Commons before the election. In Denmark, no member may refuse election without the agreement of the Folketing.

circumscribe and needs to be defined in advance. Does it mean the majority within the House or the majority that supports the Government or President, which are not necessarily the same thing? For example, the Vice-President of the United States may be a member of the minority party in the Senate. In parliamentary regimes, on the other hand, the President of the Upper House may be in the opposition to the Government and the majority which supports it in the Lower House. In non-majority types of parliamentary regime such as those in Belgium or Italy, the President of the Chamber may belong to a majority party that has disappeared during Parliament's term and find himself in the opposition. As a result of agreements among parties, he might not even belong to the majority. Having made these reservations, it can be seen that in general a Speaker belongs to the majority, although this observation covers a number of situations. Firstly, in single party systems, there is no other option and "the question does not even arise": in the National Assembly of People's Power of Cuba, the National Assembly in Viet Nam or the National People's Congress of China, for example. On the other hand, even though the end result is the same, some countries such as Kuwait do not have a "party system" and here again belonging to the majority does not have any meaning.

In multiparty democracies, it is more usual to belong to the majority, but a number of different situations can arise. In the United States House of Representatives, the link is virtually consubstantial and the Speaker of the House is at the same time the leader of the majority. In other countries such as Germany or Spain, the President may belong to the majority group but not be the leader. These are, however, regimes where the separation of powers is flexible and leaders of the majority naturally become members of the Government. Moreover, in many Commonwealth countries the Speaker is chosen from the majority but ceases to have any partisan affiliation once elected. However, at the next legislative elections "he or she must expect to fight for the seat like any other member".⁵

Being a member of the majority is thus a *de facto* rather than *de jure* rule and there are a number of exceptions. A not insignificant

⁵ According to the words of Philip Laundy, "Parliaments in the Modern World". Dartmouth. 1989. p. 51.

number of parliamentary Assemblies may have Speakers chosen from outside the majority. Yet here again this may correspond to a variety of situations. A distinction has to be drawn between not belonging to the majority and belonging to the opposition.

In the United Kingdom, the main characteristic of the Speaker of the House of Commons is neutrality. In practice, once elected, the Speaker gives up all partisan affiliation, as in other Parliaments of British tradition, but remains in office until retirement, even though the majority may change. He does not express any political views during the debates (see below) and is an election candidate without any ticket. In the Senate of Thailand, all the senators are chosen outside the political parties and the President could not therefore belong to the majority.

The Speaker's belonging to the opposition is relatively rare but not impossible. It may result from a choice that has nothing to do with majorities. This is the case for the President of the American Senate, who is chosen by voters as Vice-President of the United States, and for the same reason, for the President of the Argentine Senate or for the President of the Austrian Bundesrat, who as we have seen changes every six months according to the alphabetical order of the Lander, or of the German Bundesrat, who is also appointed on the basis of annual rotation among the sixteen Lander. It may also be the result of changes in the majority during Parliament's term, especially in non-majority parliamentary regimes, or of the existence of majorities that are so weak that they allow the opposition to take over the presidency. In Denmark, for instance, although the presidency is traditionally filled by the dominant party, there may be exceptions related to a change of Government irrespective of whether or not there are new legislative elections. The presidency is now held by a Conservative whose party led a minority coalition Government before being replaced by another minority coalition led by the Social Democrats. In Belgium as well, where the principle is that the President of the Chamber of Representatives belongs to the majority, it is not impossible for him to belong to the opposition, as was the case from 1966 to 1968. The same was true in Italy, during the so-called "historical compromise" period when the Communist party held the presidency of the Chamber of Deputies while the Government was in the hands of the Christian Democrats: from the seventh to the eleventh

terms of Parliament, the President of the Chamber in fact belonged to the main opposition party.

(b) The time at which the Speaker is chosen

The election is among the first business of Parliament at the start of the legislature...

One of the special features of the appointment of Speakers appointed directly or elected by an electoral body other than the Assembly they preside is that it can take place at different junctures in the life of the House.

The two are of course linked because the elections are concomitant, which is usually the case in presidential regimes. In the United States, the presidential "ticket", and consequently the President of the Senate, are in fact elected at the time of the parliamentary elections. Formally, however, election of the President and Vice-President by the grand electors takes place in December and they only take up office on 20 January, whereas the new Assemblies meet as from 3 January.

The position of Speakers appointed directly is not the same. The Speaker of the Canadian Senate can be appointed or dismissed at any time. Likewise, the Lord Chancellor presides over the House of Lords as long as he is Lord Chancellor and a member of the Cabinet. In any event, the House of Lords is a permanent body, its composition does not change, but the nomination of its presiding officer might perhaps have been linked to the opening of the parliamentary session, but this is not the case.

On the other hand, if a Speaker is elected by the House itself, the election is held at the beginning of the parliamentary session. In general, there are precise rules governing the actual time of the election and the Council of the Russian Federation, which does not have any such rules, constitutes an exception. Many countries prescribe that election of the Speaker is one of the first acts of the newly-elected Assembly. Several countries specifically state this by providing that the election be held on the first day the House meets — for example, Australia, France, Germany, Ireland, the Netherlands, New Zealand and South Africa — or that appointment of the Speaker is the first item on the agenda,

as in the Canadian House of Commons, or that the House must do this "before any other task**", as in Malta or Singapore. The same principle applies in the Congo, where the election must be held during the inaugural session, in Japan, where it must take place "without delay", in Israel, where the election must be held on the same day or the days following the first meeting of the Knesset.

... but only after certain formalities have been completed...

Even if the Speaker is elected at the beginning of Parliament's term, the election can often only be held after certain formalities have been completed. For example, the election can only be held after the elected representatives have been officially notified, which is obviously a necessary precondition, but in the vast majority of cases the elections must also be validated. There are, however, some notable exceptions which can sometimes be explained by the absence of any mechanism for the systematic validation of elections by the House; this is usually replaced by a system for contesting the results, although this is a longer procedure irrespective of whether it is the responsibility of an outside body, as is the case in France, or of the House itself, as in the United States. Validation procedures, even if the results are not contested, can also take time and this is why some countries, mostly in Eastern Europe, provide that the Speaker should be elected once two-thirds of the elections have been validated. This is the case in Armenia, Hungary, Iran, the Republic of Moldova or in the Romanian Senate.

In the majority of Parliaments, although these are fewer than the countries that require validation of elections, the Speaker can only be elected once members have sworn an oath. With the exception of countries where an oath is not sworn, in around twenty-five Parliaments the election is held before an oath is sworn. No geographical or political criterion seems to govern these two categories. There are even some countries where, according to the House in question, the election can be held before or after an oath is taken. This is the case in Spain, where it is held before swearing an oath in the Congress of Deputies and after in the Senate. All these formalities naturally take time and make it necessary, exceptionally, to designate a Speaker pro tempore. This is the case in the Danish Folketing, where the President is only elected

after the general elections have been validated⁶. Beforehand, at the first meeting of the Folketing, presided over by the most senior member in terms of age, a temporary President is elected to preside over the debates until the elections have been validated and the permanent President can be elected.

... and can take place again during the legislature

Apart from election at the beginning of Parliament's term, Speakers sometimes have to be chosen at other moments in Parliament's life.

It is usually provided that a new election must be held if the Speaker resigns or dies, any Deputy Speakers not being empowered to take over his office. Moreover, in the numerous countries where the Speaker is not elected for the whole parliamentary term or after every partial renewal of the Assembly (see below), a Speaker is appointed at other times, usually at the beginning of the session and for a period of one year; two exceptions are in the case of San Marino, where the President is appointed every six months, and that of Mexico, where each House elects its Speaker and Deputy Speaker for one month, non-renewable. The same is true in countries with very different political characteristics and regimes, to cite only a few, Belgium, Cameroon, China, Egypt, Iran, Jordan, Nicaragua, Norway and Switzerland. The precise time of the election may be set down and it is not necessarily the beginning of the session. Some Latin American countries provide that the President should be elected on a specified date: in Colombia 20 July, in Costa Rica 1 May, in Paraguay, this is 30 June and in Peru. In other countries, the periodicity may be shorter than the life of the Parliament but exceed one year. In the Republic of Korea, the Speaker is elected every two years, five days before expiry of the term of office of the outgoing Speaker; in Brazil, he is elected every two years at the beginning of February; in Thailand it is also every two years. In Turkey, where Parliament's term is five years, the Speaker is elected at the beginning of the term for a period of two years and the subsequent election is for a period up to the renewal of the Assembly, i.e. three years later.

⁶ He is then re-elected after the opening of each annual session.

(c) *Procedures for electing the Speaker*

The method used to elect the Speaker is usually the subject of precise rules, at least as far as the voting procedure and the required majority are concerned, because as mentioned the contrary is true with regard to candidatures. The main characteristic of these procedures is their wide variety and it is not easy to classify them. There is, however, one over-riding principle: all the members of the House concerned are called upon to participate in electing the Speaker, but this is usually one of the rare common features. Otherwise, the widest possible variety of procedures is followed.

Despite their wide variety, the procedures followed are all designed to ensure the legitimacy of the Speaker

Although the principle of holding a formal vote is the norm in almost all Parliaments, mention must be made of the practice in many countries, mainly those with British traditions, of not holding a formal election when there is only one candidate and this candidature is not opposed. This is the case in Australia, Barbados, Belgium, Canada, Denmark, Grenada, Nepal, New Zealand, South Africa, Sri Lanka and the United Kingdom, to mention only a few. Nevertheless, this situation is subject to exceptions. Even when there is only one candidate, a formal election must be held in the Indian Lok Sabha. The same rule holds — one might add *a fortiori* — in countries that do not follow Westminster's tradition, for example, France and French-speaking African countries, bearing in mind that a single candidate, agreed upon by consensus, is basically a feature of Parliaments based on the British model.

A number of different voting procedures are followed. The most straightforward is a single ballot after which the person obtaining a majority is elected. A distinction has to be drawn, on the one hand, between Parliaments where this situation is the usual practice either because there is only one candidate or even two, especially in Parliaments where there are only two parties — and this is the most common case — and on the other Parliaments that specifically provide for only one round, as in China or the Lao People's Democratic

Republic, although these Parliaments do not have a multiparty system.

In general, the "basic model" for the electoral procedure is two ballots. In the first round, where there may be several candidates, an absolute majority is required, whereas in the second a relative majority suffices. This system prevails in Algeria, Burkina Faso, Cameroon, Djibouti, Kuwait, Luxembourg, Niger, Paraguay, Peru, the Romanian Chamber of Deputies, Senegal, Syrian Arab Republic and Tunisia. These are mainly, but not solely, countries with a French parliamentary tradition, which have adapted a somewhat more complex system by simplifying it, although it is based on the same principle.

In France, there can be three ballots in both the National Assembly and the Senate. In the first two rounds, an absolute majority is required, a relative majority only being allowed in the third round. A similar system can be found in the Belgian House of Representatives, in Finland, Lebanon and Morocco. The system is also similar in Cyprus: an absolute majority is required for the first ballot, but in the second a majority of 40 per cent is enough. If this is not reached, however, a third ballot may be held in which only a relative majority is required.

In order to ensure that the Speaker is not elected with such a low number of votes that his legitimacy and authority might be impaired, some Parliaments have decided upon a variant of the systems described above by restricting the number of candidates to two in the second and third ballots. The second ballot is restricted to the two candidates who obtained the most votes in the first round in the Argentine Chamber of Deputies, in Bulgaria, in Chile's two Houses, the Czech Republic, Egypt, Estonia, Guatemala, in the two Houses in Japan, Madagascar, Moldova, Portugal, the Romanian Senate, the Council of the Russian Federation, Slovenia, the Spanish Cortes, in the Former Yugoslav Republic of Macedonia and Turkmenistan. Limiting the candidates to two only applies to the third ballot in some North European countries, Denmark, the First Chamber of the Netherlands States General, Norway and Sweden. In the Second Chamber of the Netherlands States General, this restriction only applies to the fourth ballot, in the third round the four candidates with the most votes can participate.

The two procedural methods described — a lesser majority in subsequent ballots or restricting the round to the two candidates at the top of the list — tend to yield the same result, namely, a limit on the

number of ballots. The two methods can also be combined, especially when at least three ballots are allowed and the absolute majority is calculated not on the number who actually vote but on the numbers of the House's members. The second ballot may be limited to two candidates without either obtaining the required majority.

In the Russian Federation, if one of the two candidates authorized to continue does not obtain the absolute majority of the members of the State Duma, the procedure has to be renewed with the possibility of allowing other candidates. In the Czech Republic as well, if neither of the two candidates in the second ballot obtains a majority of the 200 members composing the Chamber of Deputies, another election has to be held ten days later. In Belgium, if neither of the two candidates obtains the absolute majority of members present — including abstentions — the sitting is adjourned. At the subsequent sitting, there is a third and last ballot in which the candidate who obtains the largest number of votes is elected. Lastly, in the Italian Senate, an absolute majority of senators is required in the first two ballots, an absolute majority of those voting in the third round, while the fourth and last round is restricted to the two candidates who obtain the most votes.

These methods can also be combined when in the first ballot — or even in the subsequent rounds — a qualified majority is required; this is usually a two-thirds majority. The latter is required in any case when electing the President of the Chamber of Deputies of Bolivia, of the National Assembly of Cambodia, the Congress of the Republic of Guatemala, the State Great Hural of Mongolia, the National Council of Namibia and the Parliament of Ukraine. In some Parliaments, however, a two-thirds majority is only required in the first ballot, while a majority that is easier to obtain suffices in the following rounds. In the Italian Chamber of Deputies, for example, a two-thirds majority of the Chamber's members is required in the first ballot, two-thirds of those voting in the second ballot and "only" an absolute majority in the third. If no candidate obtains this majority, a run-off vote is held to decide between the candidates who obtained the most votes during the preceding round.

In Kenya, a two-thirds majority is required in the first two ballots, while in the third ballot, in which the two candidates at the top of

the list participate, a simple majority is sufficient. In Turkey, a two-thirds majority is necessary for the first and second ballots, an absolute majority in the third round, and a simple majority in the fourth round.

In other countries, the number of ballots is not fixed and depends on whether or not a candidate obtains the necessary majority. In order to ensure that the number of rounds of voting is not without limit, however, there is usually provision for the successive withdrawal of the candidates who obtain the least votes, which leads to the same result as the procedure described above. This is the case in the Australian House of Representatives, Nauru, New Zealand, Singapore and in Sri Lanka. In the two Swiss Assemblies, the candidate who obtains the least votes must withdraw after the third round until a parliamentarian obtains the absolute majority of valid votes. Lastly, in the Canadian House of Commons, where an absolute majority is required, the number of rounds of voting depends on this, but the candidates with the least votes and those who have received less than 5 per cent of the votes must withdraw.

The gradual or automatic exclusion of candidates with the least number of votes in the second round and restriction of candidatures to those at the top of the list are obviously not compatible with the acceptance of new candidatures during the voting. Nevertheless, both procedures have the same aim, namely, to facilitate the appointment of the Speaker. The emergence of a new candidate may be motivated by the search for a compromise candidate on whom there is consensus. Here again it is difficult to classify countries that do or do not allow new candidatures. It can be seen, however, that in countries based on the Anglo-Saxon model — with the exception of Ireland and the United States of America — new candidatures are not allowed. It is rarer for countries to permit this, as in Belgium and France. Sometimes new candidatures can only be put forward in the second ballot, but not in subsequent rounds: this is the case, for example, in the Second Chamber of the Netherlands States General and in the Swiss Assemblies, which restrict candidatures to those who obtained the most votes. The Russian system follows a different logic because it provides that, if the second ballot restricted to the two candidates with the most votes does not allow one of them to obtain the majority of votes of the members of

the Council of the Federation, the whole electoral procedure must be recommenced, possibly with new candidates.

An equal number of votes for candidates during the last ballot is another possibility. Two methods are normally used to separate them: choice of the older of the two — this procedure is followed in France, Lebanon and Niger — and drawing lots, the method used in Estonia, Finland and Iceland, but also in Japan, the Second Chamber of the Netherlands States General, Poland and Thailand.

Having outlined the characteristics of the election, it is now necessary to consider the actual procedures. A fundamental distinction must be drawn between Parliaments which hold a public vote and Parliaments which hold a secret ballot.

As nominations are *ad personam* **and** in order to protect the Speaker's independence in respect of the voters, it might be imagined that a secret ballot is the general rule. Although it is the procedure most commonly followed, a public vote is nonetheless the principle in large democracies such as India (Lok Sabha), Ireland, Israel, New Zealand, the United Kingdom (House of Commons), the United States (House of Representatives), to mention only a few. Sometimes both procedures may be followed and which one is used depends either on the number of candidates — in Tunisia, for example, voting is public if there is one candidate — or is a response to a request by parliamentarians — voting is usually public but may become secret if a majority of MPs in Croatia or Denmark so request, in Venezuela the request must be made by two-thirds of the senators and in Nepal the person presiding over the sitting decides.

For secret votes, ballot papers showing the names of the candidates are normally used, but public voting can take a number of forms. A show of hands is the method used in Cyprus, Israel, The former Yugoslav Republic of Macedonia, and Venezuela. In many countries based on the British model, parliamentarians vote on motions presenting the candidature of a particular "MP" in the order in which they are submitted and when a motion obtains the required majority, the candidate is declared to have been elected, without the other motions being put to the vote.

The broad diversity of the systems used and the wealth of detail concerning procedure must not obscure the political reality of choosing the Speaker, which is often easier and quicker than the texts appear to

indicate. In many Parliaments, only one candidate comes forward, for very different reasons, either because the House is *de facto* or *de jure* composed of a single party, or because the choice of the Speaker is consensual, following the Westminster model. In other Parliaments, and this is also the result of majority interplay, the candidate of the largest party — which in virtually all cases is a decisive element determining the majority — is appointed and the other candidates are only there for form's sake. Far from affecting the Speaker's legitimacy and authority, they reinforce it by making his election the result of a democratic decision on the part of the House over whose work he will have to preside.

The election of the Speaker is a solemn act, surrounded by procedural guarantees

Since the choice of a Speaker by an Assembly is a solemn act, it seems normal that it should be surrounded by protocol and should take place in a context that conserves the dignity of the office and gives it an unchallenged character. There must therefore be checks on the procedure to ensure that the sitting has been presided over in an impartial manner, that there is an equally neutral verification of the ballot, and that there is the possibility of making an appeal.

The sitting is presided over by an impartial judge

In order to ensure that no partiality is shown when the Speaker is chosen, the most senior member usually presides; in the majority of cases this is the most senior member in terms of age or it may be the longest-serving member. Parliaments that follow the Anglo-Saxon tradition are generally presided over by the most senior parliamentary official. It is more unusual for the outgoing Speaker to preside over the Assembly, mainly because this solution would present a number of difficulties if the outgoing Speaker is not re-elected but also because the sitting at which the Speaker is appointed should certainly not be presided by an office-bearer directly affected by the outcome; the oldest member or the longest-serving member is only rarely a candidate, whereas the outgoing Speaker may seek re-election.

For the most part, the oldest member presides. Most European

countries, many African countries, especially those that are based on the French model, but less frequently Asian countries, follow this system. Another possibility, which is less common, is that the senior member is the one who has served the longest and in the bicameral system the number of years is sometimes calculated on the basis of the two Houses, as in the Belgian Senate. The longest-serving member presides in Cambodia, in the Canadian House of Commons, provided that he is not a minister and has no official post in the House, in Iceland, in the First Chamber of the Netherlands States General, in Sweden and in the United Kingdom House of Commons — where he is called the Father of the House. Where two or more members have served for the same number of years, the older is usually chosen.

These rules essentially apply to the appointment of a Speaker after general elections or partial renewal of the House. On the other hand, appointment during the term of the Parliament, when the Speaker's term of office does not correspond to Parliament's term, is usually presided over by the Speaker in office. Nevertheless, in Belgium, Denmark and Iceland, the sitting at which the new Speaker is appointed is presided over by the oldest or longest-serving member.

In Parliaments that follow the Anglo-Saxon tradition, the highest official in the House — the Clerk or Secretary General — presides over the sitting. This is true in Antigua and Barbuda, Australia, Barbados, Belize, Botswana, Ghana, Grenada, Ireland, Kenya, Lesotho, Malta, Namibia, Nauru, New Zealand, St. Kitts and Nevis, Samoa, Sri Lanka, Tuvalu, Zambia and Zimbabwe, as well as in the United States House of Representatives. It seems surprising when listing these countries whose common origin is the Parliament at Westminster not to find either Canada or the United Kingdom. Until recently — 1972 — in the United Kingdom and — 1986 — in Canada, the Clerk presided over the sitting. However, he did not always possess the necessary authority to keep order and it was considered preferable, as mentioned above, to entrust the presidency to the Father of the House. In India, another important country based on the British model, the presidency of the Lok Sabha is held by a temporary Speaker appointed for this purpose by the President of the Republic.

Lastly, a certain number of countries let the outgoing Speaker preside over the sitting. This procedure is mainly to be found in Latin

American countries, for example, Argentina, Bolivia, Brazil, Chile, Colombia — where he presides jointly with the Secretary General — Paraguay, and Venezuela. But it is also the case in the Czech Republic the German Bundesrat, in the Lao People's Democratic Republic, in Norway, Portugal, San Marino, Slovakia and Viet Nam. If he is not re-elected some countries provide that a Deputy Speaker or the oldest member should take his place.

Together with these "classical" procedures there are also atypical systems. In South Africa, for example, Parliament is presided over by the Chief Justice or a judge appointed for the purpose; in Dominica, it is the Leader of the House — the head of the majority -, and in Estonia and Turkmenistan the Prime Minister, in Cuba it is the President of the Electoral Commission, and in the Democratic People's Republic of Korea the President appointed by the Presidium. Finally, in Denmark, at the first sitting held under the presidency of the oldest member, a temporary President is elected to preside over the Folketing until the permanent President is elected.

Once the Speaker has been elected, it is usually the duty of the person presiding over the sitting to announce it to the House immediately. Sometimes, however, this duty is given to an outside body, generally a commission. In Zambia, there is no provision for announcing the result as it is not deemed necessary, and in Canada only the name of the person elected Speaker is announced, the Clerk who supervises the voting procedure keeps the results secret.

The voting is scrutinized

Verification of the electoral procedure is sometimes entrusted directly to the person presiding over the sitting, whether this is the oldest member as in Finland, the outgoing President as in the German Bundesrat, the Clerk as in the United States, or a Speaker specifically appointed for this purpose as in the Indian Lok Sabha.

In the majority of cases, however, this role is given to a collective body or to a number of parliamentarians who, although they do not constitute a special body, jointly assist the Speaker. The body or the parliamentarians concerned become the natural interlocutor of the person presiding over the sitting. Where the oldest member presides, he is assisted

by a bureau that is usually made up of the youngest members; this happens in Algeria, Cameroon, Djibouti, France, Madagascar, but also in Hungary, Italy, Luxembourg and Spain. Where the presidency is exercised by the Clerk, verification is the responsibility of parliamentary officials, as in the Irish Senate and in Namibia. Where the outgoing Speaker presides, the outgoing bureau may be given responsibility for verifying the election, as in Portugal. The possibilities just described are not a general rule and it is just as common for a particular body, usually a special commission, to verify the elections, irrespective of the form of the presidency, as is done in Estonia, Jordan, Tunisia, Ukraine, Venezuela and Viet Nam. It is occasionally provided that representatives of the parties should carry out the verification; in Finland, the majority nominates two representatives and the opposition one; in the Irish Dail, there are two representatives from each side, in the Romanian Chamber of Deputies, the responsibility is entrusted to a commission composed of representatives of the political parties. In some Parliaments, for instance, those of the Democratic People's Republic of Korea, Norway, and the Polish Senate, the House as a whole verifies the election.

Without prejudice to the role entrusted to the body assisting the Speaker, scrutineers drawn by lot or appointed by the Speaker take part in verification and count the votes. In Parliaments based on the Anglo-Saxon model, this is the task of the Clerk and his staff. It should be noted that in the British and Canadian Houses of Commons where, as mentioned, the Clerk no longer presides, he is nevertheless responsible for verifying the election and for the results.

The result may sometimes be challenged

It remains to be seen whether the election result can be challenged and before which authority. Contestation is only allowed in a minority of Parliaments, and it is not possible to discern any common trait among them. There is no common political regime or geographical situation: Algeria, Djibouti, Ghana or Lesotho; Austria, Norway and Sweden; Bolivia, the Democratic People's Republic of Korea, Kuwait, New Zealand, Peru and Thailand; to name but a few, allow such contestation and the many States where an appeal is not allowed show an equally wide variety of regimes and situations. In many cases, there is no constitutional

or regulatory text that formally allows or prohibits an appeal and, in the absence of any specific provision, as in Egypt, France, Germany, India, Ireland and Spain, the solutions may differ widely. In Spain, for instance, an *amparo* appeal for the violation of fundamental rights is allowed. On the other hand, when hearing an appeal against the election of the President of the National Assembly, the French Constitutional Council considered that it did not have the authority to take a decision⁷. Some countries such as Bulgaria and Turkmenistan do not provide for appeals, but the elections may be held again if there have been mistakes. This is also the case in Denmark and the Russian Federation, where sixty deputies may request the holding of another election. In Comoros, any disputes are decided upon immediately by the Federal Assembly. In fact, countries that allow the possibility of an appeal to an external authority, usually a jurisdictional body, for example, in Burkina Faso and the Philippines, constitute exceptions and appeals have only rarely been made. With very few exceptions, the holding and verification of the election of the Speaker is the exclusive responsibility of the House itself and only rarely are outside officials or bodies involved.

2. Carrying out the Speaker's term of office

(a) A ceremony marks the Speaker's taking up office

As soon as the Speaker has been appointed, he takes up his office, in most cases immediately and according to predetermined protocol that differs from Parliament to Parliament but usually shows three principal characteristics: a formal ceremony in the strict sense, swearing an oath, and an address by the new Speaker. The inauguration may, however, be postponed in those — rare — cases where the appointment of the Speaker has to be confirmed by an outside authority. This formality may follow directly on the election and be combined with the formal ceremony, as in the United Kingdom and Zambia.

There are also Speakers who do not take up their office as presiding officers of the Assembly per se but by reason of another function, for example, as Vice-President of the State. In the United States, for

⁷ Decision of the Constitutional Council of 16 April 1986.

example, the Vice-President, *ex officio* presiding officer of the Senate, takes up office at the same time as the President of the United States, on 20 January, and like the latter takes an oath before the Chief Justice of the Supreme Court. The President of the Rajya Sabha takes an oath as Vice-President of India, and the same procedure applies for the Presidents of the Senates of Argentina, Bolivia and Uruguay. With these exceptions, when a Speaker who is elected by the Assembly he presides takes up office there is usually a brief ceremony that is bound by tradition and follows strict written rules. Only in a few Parliaments, for example, those of Cambodia, Denmark and the Russian Federation, is there no provision for any ceremony, but equally rare are Parliaments where the Speaker takes up his office in front of the highest officers of States and the diplomatic corps, as in Mali and San Marino.

Taking over the presidential chair characterises taking up office

In physical terms, taking up office means that the Speaker takes over the presidential chair. In France, for instance, the formal ceremony is limited to taking over the chair. The President is invited by the person presiding the sitting — the senior member — to "take the chair". In some Parliaments, however, taking up office involves solemn ceremonial. This is true of a large number of countries that have adopted the British model. In the House of Commons, according to tradition, the Speaker is dragged towards the chair to symbolize the historical repugnance he feels at taking up such a dangerous office, the point of transition between the Crown and the House of Commons. The Speaker then goes to the House of Lords so that the Lord Chancellor can validate his election in the name of the Crown. In New Zealand as well, a Speaker traditionally shows distaste for taking up the office. In the Indian Lok Sabha, he is escorted to the chair by the Prime Minister and the Leader of the Opposition. In Zambia, the person who proposed and supported him accompanies him, as in Australia as well, and after the sitting has been suspended to allow him to don his official robes, he goes to the Head of State to seek investiture and swear an oath. In the Canadian House of Commons the new Speaker is also escorted to the chair.

In some Parliaments, one of the first tasks of the new Speaker is to hear the new members of the House over which he presides take their

oaths, as in Kenya, Malta, Philippines, Singapore and Venezuela. He may also straightway preside over the election of the other members of the Bureau, as happens *inter alia* in France, Romania and Senegal. The rules of procedure of the French and Venezuelan Parliaments also provide that the President should inform the other State authorities of the appointment(s) that have been made.

This is sometimes accompanied by taking an oath and a short speech

In a small but not insignificant number of Parliaments, one of the formalities to be fulfilled by a Speaker when taking up his office is to take an oath, mainly in Parliaments based on Anglo-Saxon tradition and in South America⁸. It is now only very rarely an oath of fidelity to the Head of State, and this is usually a custom left over from the past, but a commitment to monitor, respect and ensure respect for, the Constitution and faithfully to fulfil the duties incumbent on him. This oath is usually taken before the person presiding the sitting, but it may be taken before some other official. In the United States House of Representatives, while the Clerk is presiding, the oath is taken before the senior member. In some instances, the Speaker does not take a specific oath, but that sworn by all members of the House, and is thus the first member to do so. For example, the Speaker of the British House of Commons is the first MP to give the oath when the election takes place at the start of a legislature.

Finally, it is customary in most Parliaments for the newly installed Speaker to say at least a few words of thanks to his colleagues for the confidence and honour they have shown by electing him. The newly-elected Speaker is sometimes allowed to respond to the congratulations addressed to him. This happens in Singapore and in the United States House of Representatives, where the Speaker responds to the congratulations addressed to him by the Leader of the Minority, usually the candidate who has been defeated in the election of the Speaker. In some cases — although this is more rare — there is a more substantial response that is in fact an address. In Brazil, the President actually

⁸ This is the case in Kenya, Lesotho, Malta, Namibia, Tuvalu, the United Kingdom, the United States, and also in Argentina, Bolivia, Dominica, Guatemala, Nicaragua, Peru, Uruguay and Venezuela.

makes a speech outlining the Chamber's programme of work. In Mali, a few days after his election, the President makes a solemn speech before the official organs of State, while in Japan the Speaker traditionally makes an inaugural address before the Emperor.

(b) The Speaker's term of office generally coincides with that of the House

It would seem logical for the Speaker's term of office to correspond to the term — or at least to the various phases — of the Assembly over which he presides, either the Parliament itself or a session, or be related to the partial renewal of a standing Assembly.

Nevertheless, a Speaker's term of office is sometimes not related to the term of the Assembly, especially when he holds his office by reason of holding another office, commonly the Vice-President of the State. The term of office of the Vice-President of the United States is four years, whereas senators are elected for six years, a third of them being renewed every two years. In India, the term of office of the Vice-President is five years, whereas the term for the senators of the Rajya Sabha over which he presides is six years, with one third being renewed every two years. In other cases, the term of office is not specified because it is related to holding government office and not an elected post. The presiding officer of the House of Lords, for example, retains his office as long as he is Lord Chancellor. Where the Speaker is appointed, as in the Canadian Senate, his term of office is not necessarily defined and he remains in office until he is replaced.

These are, however, exceptional situations. In most cases, the Speaker's term of office is the same as that of the Assembly he presides, an average being four or five years, very seldom less, although it is two years in the United States House of Representatives and three years in the Australian House of Representatives, and very rarely more, although it is six years in Sri Lanka. Parliaments whose term exceeds five years are generally Assemblies — usually the Upper House — where one third or one half are renewed at intervening periods. In the French Senate, the term is nine years but one third is renewed every three years, and in the Japanese Senate the term is six years with one half being renewed every three years. The same is true in the Congolese Senate. The

President is elected after each partial renewal so his term of office as President is shorter than his parliamentary term. A distinction has to be drawn nevertheless between the principle of these shorter terms of office due to the partial renewal of the House, and terms that are shorter anyway even when there is no change in the composition of the House. In most cases, as mentioned (see above), the term is one year or corresponds to the length of the session⁹. On the other hand, it may be longer, usually corresponding to half the length of Parliament's term. In the Brazilian Chamber of Deputies, the President's term is two years whereas the Deputies are elected for four years. This is also the case in the Republic of Korea. In Morocco, the President is elected for three years and parliamentarians for six years. The Speaker's term may be less than half of Parliament's term, but still longer than an annual session. In the Thai Senate, the President is elected for two years and senators are appointed by the King for six years. In the Brazilian Senate, senators are elected for eight years, one third being renewed after four years, two-thirds remaining for a further four years, whereas the President is only elected for two years. In Turkey, the parliamentary term is five years, the Speaker is elected at the beginning of the term for two years and a new election is held for the remaining three years of Parliament's term.

Finally, there are the special cases of the Council of the Russian Federation, where the legislation in force does not specify the length of the Speaker's term, and the Romanian Senate, where the term is extended in the event of war. In the National Assembly of Congo, the President is elected for the whole of Parliament's term — five years — but a new election may be held during this period if the majority changes. This situation, however, does not constitute the natural end of the term but is a reason for early termination.

(c) Termination of the Speaker's office is rarely due to the wishes of the House

Some reasons for termination do not depend on the Assembly itself

In certain cases, a Speaker's term of office may end before its normal

* This is true in Belgium, Cameroon, China, Egypt, Iran, Jordan, Nicaragua, Norway and Switzerland.

date of termination. Some of the reasons for this do not depend on the Assembly itself. Firstly, the Speaker may no longer hold the office that entitled him to the speakership. This is usually the office of parliamentarian because in most cases the candidate must be a parliamentarian in order to be elected Speaker, but it may be some other office. For example, if the President of the German Bundesrat is no longer a member of the Government of his Land, he automatically ceases to be President of the House. This also applies to the Lord Chancellor of the British House of Lords, and to the President of a Senate who holds the office by virtue of being Vice-President of the State if he no longer holds the latter office, for example, if he becomes President. The case of the Speaker of the House of Representatives in Thailand is unusual because he must relinquish his office if the party to which he belongs ceases to exist and he does not become a member of another party within sixty days following its demise.

There may be a number of reasons for ceasing to be a parliamentarian, and consequently Speaker, even though in practice these cases are rare. Firstly, there may be loss of citizenship, or in certain countries that follow the British model, taking out the citizenship of a country that does not belong to the Commonwealth — as happens in Dominica and Singapore —. A parliamentarian may also lose his seat as a result of criminal or financial convictions or simply because the election has been declared null and void. In Western Samoa, misconduct or a conviction for adultery also result in the loss of a seat.

In less extreme cases, a Speaker may have to leave his office if he assumes another function that is incompatible, for instance in the Government. It should be noted in this connection that, although being a parliamentarian is perfectly compatible with holding government office in many countries with a parliamentary regime and may even be a criterion for being a member of the Government, as in the United Kingdom, becoming Speaker of the House on the other hand is always incompatible with a ministerial portfolio. A Speaker cannot be the representative of Parliament, particularly in relation to the Executive, and at the same time a member of the latter. Other offices may also be incompatible; in Thailand, for example, the President of the Senate must give up his office if he becomes a consultant to a political party, and in the Senate in Grenada he must also leave if he is appointed a

candidate for the House Of Representatives. When the Presidents of the French or Italian Senates are called upon to act as President of the Republic *ad interim*, their role as President of the Senate is temporarily suspended but they take up their post once again automatically after the new Head of State has been elected. This also occurs in the Cambodian National Assembly when the President is called upon to stand in for the King or act as Regent.

A Speaker may decide to leave his office by resigning and it would not seem possible to prevent him from doing this. In some — very few — Parliaments, his resignation must be accepted. In the Czech Republic and Iceland, the Speaker may only resign with the agreement of the House he presides.

Also, the Speaker may die, in which case he is generally replaced through a new election or appointment, as the case may be.

Secondly, a Speaker may see his term shortened for reasons related to the House itself, i.e. it has been dissolved.

Dissolution of the House affects the Speaker's mandate differently

This situation naturally only concerns Houses that can be dissolved. According to the old "monarchical" tradition of dissolution, this means that the House dissolved disappears entirely so all the deputies lose their seats and the terms of office of all the internal bodies and the Speaker himself terminate. There are nonetheless nuances and significant differences among Parliaments exist. In one category there are all the Parliaments whose dissolution ends the term of office of the Speaker, who plays no further role; this is the case in Cameroon, Czech Republic, Jordan and Luxembourg.

In a second category are to be found Parliaments whose dissolution ends the Speaker's term while at the same time giving him responsibility for the minimal continuity of the House in accordance with a number of procedures. In Spain, the President continues to chair the Standing Delegation, a body that looks after the general interests of the House and represents continuity in both Chambers of the Cortes, particularly during the period between dissolution and the election of a new Parliament. This is also the situation in Grenada and Peru. In France, the role of the President of the National Assembly is more restricted and

is limited to carrying out the general administrative duties of the Bureau, together with the questors, until the new Assembly meets. In New Zealand, the Speaker continues to carry out his administrative duties and in Tuvalu he remains responsible for the House. In Belgium, he ensures the continuity of the presidential office, but if he is not a candidate in the elections or is not re-elected, from the date of the elections until the election of the new President continuity becomes the responsibility respectively of the first, second or most senior Vice-Presidents of the Chamber dissolved who have been re-elected as deputies. In some Parliaments, the Speaker may be entrusted with a specific task: in the Lao People's Democratic Republic and Viet Nam, he is responsible for organizing the new elections, and in Ukraine for preparing a report on the country's political situation and submitting it to the new Assembly.

The third category comprises Houses whose dissolution does not — or barely — affects the responsibilities of the Speaker until the new house sits. This is the case in the United Kingdom, and some countries based on the British model, for example, Australia, Canada, India and Ireland, where the Speaker continues to discharge his duties — which can be interpreted in India as meaning that he is prevented from resigning after dissolution — until the new House holds its first sitting, even if, as in Kenya, he cannot convene the dissolved Parliament. This is the situation in South Africa as well. Continuity of the Speaker's responsibilities is likewise a characteristic of the new Eastern European countries such as Croatia, Slovakia and Slovenia, but also of Greece and the Netherlands.

Although dissolution ends Parliament's term in Germany, and consequently the role of the President of the Bundestag, its effects only apply after the new House meets because parliamentary activities are not suspended between the dissolution and the first sitting of the new Bundestag; the President therefore continues to discharge his duties during this period.

Thirdly, a Speaker's term of office may be terminated through the wish of the House to that effect. However, not all Parliaments make provision for such a procedure.

The dismissal of the Speaker is not a common procedure

The House itself may decide to dismiss the Speaker. It should be

noted at the outset, however, that by no means all Parliaments have provided for a dismissal procedure, the Speaker once elected remaining in office till his term ends unless one of the circumstances described above applies. Quite a few countries have established a system that involves a motion of confidence in the Speaker and his possible dismissal¹⁰. In almost all cases, the House itself is responsible for the procedure. In the Council of the Russian Federation, on the other hand, a request for dismissal must be made by a commission and the decision taken by the Supreme Court. In Tajikistan, a decision depriving the Speaker of his powers may be taken by a Court of law, but the House may also vote against. In Estonia, the Supreme Court can adopt a decision depriving the Speaker of his powers. Presidents of Upper Houses who are also Vice-Presidents of State can be deprived of the latter office pursuant to procedures that involve the other House. In the United States, the House of Representatives can impeach the President or Vice-President (the *ex officio* President of the Senate), who are then tried by the Senate, presided over by the Chief Justice. In India, it is the reverse because the decision of the Rajya Sabha must be endorsed by the Lok Sabha. If the British Cabinet is overthrown by the House of Commons, the Lord Chancellor would automatically lose his office.

In Parliaments where the House can decide to terminate the Speaker's office, the grounds for doing so are usually linked to a loss of confidence on the part of the House, as is also the case for the Government. It is a question of political confidence and not a punishment. There are very few exceptions such as those in the Democratic People's Republic of Korea and Peru where the Speaker can be removed from office for incompetence, or Paraguay where the reason may be failure to exercise his duties properly, or Grenada where it is absenteeism! In the British House of Commons, no Speaker has been dismissed since 1695 when Sir John Trevor was expelled from the House for corruption!

¹⁰ These procedures exist in Armenia, in the Australian House of Representatives, in Bangladesh, Botswana, Bulgaria, Burkina Faso, Chile, China, Congo, Croatia, Democratic People's Republic of Korea, Estonia, Greece, Grenada, Iceland, India, Ireland, Jordan, Kenya, Lao People's Democratic Republic, Madagascar, Morocco, Nauru, Nepal, Netherlands, Norway, Paraguay, Peru, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Tajikistan, in the House of Representatives in Thailand, in Turkmenistan, Tuvalu, United States of America and Zambia.

A House seeking to dismiss its Speaker must adopt a resolution to this effect. This must sometimes be submitted in a special way. In the Republic of Moldova, it is the group of parliamentarians who put forward the Speaker's candidature that must propose his dismissal. In Bulgaria, the motion must be proposed by at least one third of the members of the Assembly, in Burkina Faso by two-fifths, and in Greece by 50 deputies. Norway does not have any procedure for dismissal as such, but one fifth of the members of the Storting may request the holding of a new election. It is frequently the case that the House's decision must be adopted by a qualified majority. In the Indian Lok Sabha, on the other hand, there must be an absolute majority of the House's members, calculated on the basis of the seats actually filled; in Botswana, Iceland, Madagascar, and Zambia, a two-thirds majority is required, while in Kenya the figure is three-quarters.

II. The Status of the Speaker

Occupying the foremost place in the body that expresses the national will, as the physical embodiment of the Assembly over which he presides, the Speaker is naturally given a high status within and outside the Assembly, a status that often goes beyond his strict role in presiding over the debates.

1. The Speaker's status within the House

First among equals, the Speaker occupies a privileged place within the House that allows him to fulfil his important duties and be granted his rightful status.

(a) The Speaker's primacy is universally recognized

Within the Assembly, the Speaker indisputably occupies the first place and this is not contested by anyone. Accordingly, parliamentarians accord his office and almost always his person as well many external marks of respect. Describing the ceremonial surrounding the Speaker at Westminster, an experienced observer noted aptly: the office of Speaker is a very prestigious distinction and a writer at the beginning of this century saw in it many of the attributes of royalty. This elevation of the office is quite deliberate and its purpose is to affirm the authority

of a weak office-holder, some elements serving to reinforce the integrity and independence of the office. This can be seen in the external symbols, the robe the Speaker wears, the height of the chair he occupies, and the daily ceremony in which he processes preceded by the Sergeant-at-Arms bearing the mace. When the members enter the Chamber, leave it or encounter the Speaker in the building, they bow to him". This situation is not unique to the British or Commonwealth Parliaments. In many other parliamentary Assemblies, the Speaker is also surrounded by protocol whose object is to reaffirm the primacy of his office.

It must be stressed that this primacy is not restricted to cases where the Speaker, like the British Speaker, embodies the House's authority alone. It can be found in almost all Parliaments where there is a body that may be called one of many names, Bureau, Presidium, Council of Elders, Presidency Council, Conference of Presidents, which collectively embodies the House's authority and represents its diversity.

Whereas the Speaker may be the candidate of the majority, the purpose of a collegiate body is to represent all political groups and trends, either institutionally because the leaders of all the groups take part — as in the Belgian Senate, Lithuania, and Peru — or because its composition aims to reflect the political make-up of the Assembly, as in France. In some Parliaments — the Finnish Eduskunta and the Netherlands States General — the Bureau is not a collective presidency but simply a body to assist and advise the Speaker. In many Parliaments where such a body exists, however, it does in fact have genuine decision-making power, both as regards administrative and financial matters and the organization of work, and it may constitute a collective presidency of the House or at least share the presidency with the Speaker.

The primacy of such a body could therefore be recognized, obliging the Speaker to take second place. Taking this possibility to its extreme conclusion, it might even no longer be possible actually to distinguish who is Speaker among the members of the collegiate body, who exercise the functions jointly without following any hierarchy. This type of situation does not arise, however. At the most, in the Swiss Council of States, the members of the Bureau move up from being assistant

¹¹ *The Office of Speaker in the Parliaments of the Commonwealth*, Ph. Laundy, Quiller Press, London. 1984. pp. 66-67.

scrutineers to President, after having been second scrutineer, first scrutineer and Vice-President, the "upward path" lasting for five years and each post being occupied for one year. Such a procedure of course helps to strengthen the collective character of the presidency as the Speaker only exists through the Bureau, but the presidential office exists nonetheless. In Indonesia, where the presidency is constitutionally entrusted to a collective leadership, the Speaker is nevertheless distinct from the four Deputy Speakers.

The examples just described are exceptions. The influence of a collegiate body on the conditions for exercising the presidential functions will be considered below¹², but in general its presence in no way interferes with the primacy of the Speaker. The latter is not on an equal footing or in competition with one or more collegiate bodies. He is of course a member and chairs the body. Sometimes his actual titularity specifically mentions this, as for the President of the governing Bureau of the Mexican Senate. He therefore occupies the first place, although this is not necessarily true of all the Assembly's other bodies in which he participates, for example, committees.

Lastly, the presence of another collegiate body in many socialist States, but also in Spain, which under the name of Committee or Standing Delegation ensures the continuity of the Assembly between sessions and is given wide powers for this purpose, could likewise endanger the primacy of the President if he did not chair it. Once again, it is nearly always the President of the house who chairs this body¹³. Far from weakening the President's position within Parliament, the presence of such a body, whose work he directs, helps to reaffirm it.

(b) The Speaker enjoys a privileged material situation

In order to allow the Speaker to fulfil his role properly and not be hampered by material problems, all Parliaments give him a number of

¹² cf. Part III, p. 61.

¹³ In the former Constitutions of many Eastern European countries, a collegiate body derived from the Assembly fulfilled at the same time the role of a collegiate Head of State and of a standing legislative body, but its presidency was distinct from that of the Assembly. This is still the case for the Council of State in Cuba, although the President of the Assembly attends its meeting *ex officio*.

facilities that are superior to those offered to the members themselves. The extent of these facilities of course varies from country to country, just as there is also a wide range of parliamentary stipends, not only among countries at different socio-economic levels but also among countries with a comparable level of development, for example, among the various countries composing the European Union.

Regarding the Speaker's emoluments, he is usually given an amount in addition to his parliamentary stipend, often calculated as a percentage of the latter although the figure varies from country to country. It is barely 11 per cent in Botswana, 37 per cent in the Netherlands, 50 per cent in Bulgaria, 71 per cent in Thailand, 110 per cent in Canada and 166 per cent in Brazil. It should be noted that, within the same bicameral Parliament, the Speakers of the two Houses may be treated differently. In Ireland, the Chairman of the Dail receives a duty allowance amounting to 118 per cent of the parliamentary stipend, whereas the allowance of the Chairman of the Senate only amounts to 64 per cent of a senator's stipend, which is slightly lower than that of a member of the Dail.

In other countries, the Speaker's remuneration is calculated in comparison with those of the highest State officials; it is the same as that of a minister in Denmark, Iceland, Kuwait, Malta and the United Kingdom; equal to that of a Head of Government in Israel, Italy, Japan, the Council of the Russian Federation, Sweden and Togo, to that of a Vice-President of the Republic in Egypt, to that of the Head of State himself in The former Yugoslav Republic of Macedonia, but only 80 per cent of the latter's remuneration in Portugal plus 40 per cent for expenses. In Poland, on the other hand, the remuneration of the President of the Diet is calculated in comparison with the average wage and is equivalent to 4.6 times the average wage plus a special indemnity amounting to 1.8 times the average wage. Only in rare instances, for example, in the Argentine Chamber of Deputies and in both Chambers of Chile, does the President simply receive the parliamentary stipend.

In absolute terms, of course, the amount of the Speaker's remuneration can vary greatly from one country to another, one reason being that it depends on the socio-economic situation; there is a vast difference between the 220,000 takas annual overall remuneration of the Speaker of the Bangladesh Parliament and the \$2,533,000 paid to

the Speaker of the United States House of Representatives, including it must be said \$1,444,000 to pay his staff. Remuneration, whatever the amount, is not *per se* indicative of the facilities granted to the Speaker.

Speakers enjoy many other benefits. Some of these are chiefly material, although they are not devoid of symbolic significance. They may take the form of official cars, which are nearly always given to Speakers — unless they are provided with an official motorcycle, as in Tuvalu. Many Speakers also have an official residence, either an apartment within Parliament — in Denmark and the Polish Diet — or a separate official residence, the President's residence, as in Belgium and France. The President of the French National Assembly also has an official apartment at the Palace of Versailles, where the Parliament meets in joint sessions. Some Speakers even have a country residence as well, for example, the President of the Senate in the Philippines also has a summer residence in Baguio City.

Speakers are also given staff — sometimes quite a large number — for the upkeep of their official residences and the Speaker at Westminster even enjoys the services of a chaplain. Like any other high official, Speakers are protected by the police or security services and are often given bodyguards. Sometimes, they also have an army detachment with a dual role: to ensure their security and to carry out the ceremonial duties that enhance the prestige of their office.

Speakers also benefit from other material advantages, for transport and official travel, for example. In some Parliaments, a Speaker receives travelling expenses and can generally travel free of cost on airlines and railways. The President of the Bundesrat may use the helicopters of the federal border guards ("Bundesgrenzschutz") and aeroplanes of the air force ("Luftwaffe"). Speakers also enjoy special access to postal and telephone services. In some countries — including Ghana, India and the Russian Federation — they enjoy free medical treatment.

In addition to these material benefits, Speakers are often given the expert assistance of additional staff. Primarily, the Speaker has first, if not exclusive, call on the advice of the Secretary General and his services, particularly those with responsibilities for public sessions and the general secretariat. They give him the necessary technical support to carry out his duties. If the Speaker is also responsible for the

administration of the House — which is not always the case — he is assisted by the House's services directly in charge of this, either under the authority of the Secretary General or another high official, the Administrative Director, the Secretary General of the Administration or the Sergeant-at-Arms. As well as the assistance of parliamentary officials, the Speaker may also call upon personal staff, if necessary in addition to the assistants to which he is entitled as a parliamentarian.

As mentioned above, the Speaker of the United States House of Representatives receives an annual allowance to pay his staff. The Speaker of the Australian House of Representatives, like other parliamentarians, has three assistants, but can also call upon a senior adviser, two advisers, two assistant advisers and two personal secretaries. The Presidents of the French National Assembly and Senate have in effect a cabinet, composed of a number of advisers.

With this support, the Speaker can carry out his important functions and occupy the eminent place within the House that is his due. This, however, depends on whether or not he is assisted by a collective body.

2. The Speaker's status outside the House

In almost all cases, the Speaker does not confine himself to occupying the first place in the House over which he presides. He also occupies an important place in the State and represents the House in the international sphere.

(a) A high rank in the hierarchy and its institutional impact

Outside the House, the Speaker's rank in the hierarchy is often very high. In the countries of the former Eastern Europe, he often occupied the first place. It has been seen that some Presidents of Upper Houses are also Vice-Presidents of State and as such occupy the second place in the hierarchy, just after the Head of State, and are first in succession. This is the case in Argentina, in Bolivia, in India, in the United States of America and in Uruguay.

Generally, even if they are not Vice-Presidents, Speakers have a very high rank in the State, usually ranging from second in the hierarchy to fourth or fifth, and taking precedence over members of the Government, and even — quite often — the head of the Government.

In the former category are to be found the Speakers in Finland, Luxembourg, Portugal, Senegal and Turkey, in the latter the Presidents of the French Parliament and those of Jordan, Mali and Sri Lanka. Quite naturally, a large number of them are called upon to replace or at least to exercise temporarily, the functions of Head of State if the latter is temporarily absent or more generally if he is incapable of carrying out his functions or dies.

The Speaker is often called upon to replace the Head of State

Similar procedures can be found in virtually all political systems and in all regions. For example, in Austria, Bangladesh, Burkina Faso, Cameroon, Cyprus, Congo, Dominica, Egypt, France, Greece, Mongolia, Niger, Peru, Poland, Romania, Slovenia, Tajikistan, Tunisia and Turkmenistan. The functions of Head of State may be exercised collectively, as in Iceland where the Speaker of the Althing exercises them together with the Prime Minister and the President of the Supreme Court. In bicameral Parliaments, one of the two Speakers may fulfil this role, Usually the President of the Upper House, who in most cases takes precedence over his colleague in the Lower House¹⁴, as in France; or the two in succession, if one is unable to carry out his functions, here again following the order of precedence, as in the Philippines, Poland, Romania and even the United States of America, where if neither the President nor the Vice-President is unable to exercise his functions, the Speaker of the House of Representatives becomes President; or more infrequently the two jointly, as in Ireland, together with a third official, in the Irish case the "Chief Justice". It is in fact in monarchies that Speakers are the least likely to act as Head of State *ad interim*, the throne never being left empty because there is an order of succession. Some Speakers may, however, be called upon to act as regents, as in the Netherlands, Sweden — if the member of the royal family called upon to act as regent is absent — and Cambodia.

This description shows the high status of Speakers of Parliament within the State, but countries that have adopted the British model

¹⁴ It has been seen that this rank in the hierarchy does not in any way prejudice the capacity to preside over joint sittings of the two Assemblies.

constitute an exception, as though the prestige and aura surrounding the Speaker within the House itself had a counterpart in their much more modest rank within the State. The Speaker at Westminster only occupies the twelfth place, after the Lord President of the Council and many other high officials, and the Lord Chancellor, who presides over the House of Lords, is only in sixth place. Likewise, the Speaker and the President of the Australian Senate not only come after the Governor General and the Prime Minister, but also after the Governors and Premiers of the States. In Botswana, the Speaker comes after the Presidents of the High Courts, in India, although the presiding officer of the Upper House — the Rajya Sabha — is the Vice-President of the State, the Speaker comes after the Prime Minister and state Governors; in Malta, he defers to the Archbishop and the Chief Justice. In Canada as well, the Speaker of the Senate, like the Speaker of the Commons, comes after the Chief Justice. In Singapore, he is to be found in sixth place and in Antigua in seventh place in the hierarchy. In Zimbabwe, he has the same rank as a minister. In line with their more modest status, these Speakers are not called upon to act as Head of State *ad interim*. Like their counterparts in most countries in the world, they nevertheless represent their Houses vis-a-vis the Government. The British Speaker, for example, delivers the House's address to the sovereign. There are very few Assemblies where the Speaker does not represent the House vis-a-vis the Government or hold a rank in the State hierarchy. These instances can only be explained by a particularly strict concept of the separation of power that confines the role of the Speaker to the House itself.

The Speaker only rarely participates in bodies outside Parliament...

On the other hand, in the name of the same separation of power and the principle of the incompatibility of parliamentary functions with any other public role, it is equally rare for Speakers to be *ex officio* members of bodies outside Parliament. There are however exceptions. These are generally State security bodies. The Presidents of the Chilean and of the Philippines Senates, and the Assemblies of Mongolia and The former Yugoslav Republic of Macedonia, are members of the State Security Council, those of Hungary, Lithuania, Poland and

Slovakia of the Defence Council. In Ireland, Lesotho and Portugal, the Speakers are members of the Council of State; in Japan they belong to the Imperial Household Council and the Imperial Household Economy Council. In other countries, they may be members of bodies that have a more specific task such as the Committee responsible for monitoring the financing of political parties and expenditure on elections, chaired by the President of the Belgian Senate, or the Consultative Council on Human Rights, in which the President of the Moroccan Assembly participates, or the National Holiday Bureau, one of whose members is the Speaker of the Swedish Riskdag. In any event, these bodies are not directly concerned by the day-to-day administration of the country but are bodies in which the presence of the Speaker of a parliamentary Assembly no doubt appears to be a guarantee of wisdom and impartiality.

...but may sometimes appoint members of regulatory bodies...

Even if he is not a member of an outside body, a Speaker may play a role in the State either because he has the authority to appoint the members of bodies that are often regulatory or because he is one of the persons to be consulted under specific circumstances. As noted in connection with their rank in the hierarchy, here again the Speakers of Houses following the British tradition have the most modest role within the State and are the least frequently consulted or called upon to appoint officials to bodies outside Parliament. France, and consequently many countries with a French influence, are typical examples of the other trend. The Presidents of the French National Assembly and Senate each have the authority to appoint three members of the Constitutional Council and the High Audiovisual Council, one member of the High Councils for the Judiciary, the Administrative Tribunals and the Higher Courts of Appeal, as well as regional audit bodies, and to present jointly with the President of the Economic and Social Council a list of persons from among whom the members of the Monetary Policy Council are appointed. In Burkina Faso, Congo, Djibouti, Mali and Morocco, the President of the Assembly appoints or proposes one or more members of the Constitutional Council. In Niger, he appoints the members of the High Councils for the Judiciary and for Communication. The

Presidents of the parliamentary Assemblies of Armenia, Republic of Korea and Ukraine also have a role to play in appointing the members of the Constitutional or Supreme Courts.

...or must be consulted in certain circumstances

Speakers are often consulted before Parliament is dissolved. This happens in France and countries such as Algeria, Burkina Faso, Cameroon, Congo and Senegal — where the President is also consulted if there is to be a referendum — but the same procedure applies in Armenia, Croatia, Finland, Hungary, Iran, Kenya, Poland, Romania, Yugoslavia. In European parliamentary systems such as those in Belgium, Italy and Norway, Presidents are also consulted when the Government is formed. In Sweden, it is the Speaker of the Riksdag who puts to the vote the name of a candidate for the post of Prime Minister. Lastly, as in France, the Presidents of Assemblies in Mali, Morocco and Tunisia must be consulted if the Head of State decides to exercise special powers in emergencies, and in Armenia the President of the National Assembly must be consulted if there is an imminent danger that threatens the constitutional order.

(b) The Speaker generally represents the House in the international sphere

In the international sphere, the majority of Speakers represent their Houses in specialized bodies dealing with inter-parliamentary co-operation at the global level, for example, the Inter-Parliamentary Union, at the regional level as in the Asia-Pacific Parliamentary Union, the ASEAN Inter-Parliamentary Organization, Union of African Parliaments, or at the linguistic level as in the International Assembly of French-speaking Parliamentarians or groupings based on other criteria such as the Commonwealth Parliamentary Association. Furthermore, a large number of them are responsible for relations with other Parliaments, unless this is the task of the Bureau or is shared with the latter, as in France, Peru, Spain and Tunisia, or with the Secretary General and his services, as in Slovenia and the United Kingdom. It is also important to note the informal relations of Speakers during

official missions and travel abroad where they not only meet their counterparts but also frequently high State officials.

It is not, however, their task to conduct foreign affairs. Speakers therefore only play a role in foreign affairs and defence in a minority of countries, mainly those where the Speaker participates *ex officio*, as mentioned, in the Defence or Security Councils, as do the Presidents of the Chilean and Polish Senates. The Speaker of the Swedish Riksdag also plays a role as an *ex officio* member of the Foreign Affairs Advisory Council and as Speaker of a smaller Parliament in time of war. Lastly, in the Comoros, the Constitution even gives the Speaker the authority to give his views on the deployment of the armed forces. These are, however, exceptional situations and, irrespective of his influence and his international prestige, the duties of the Speaker first and foremost focus on the parliamentary institution itself, more particularly its public sessions.

PART TWO

THE FUNCTIONS OF THE SPEAKER

The detailed study of the Speaker's status has allowed his place within Parliament and the State hierarchy, as well as in the international sphere, to be defined. Nevertheless, the central issue at the heart of any definition of his role must be his functions. Close examination shows that a major distinction has to be drawn between two main types of function. Some functions are related to the speakership of Parliament viewed as an institution, whereas others are more closely linked to the speakership of the Assembly as a deliberative body, in other words the supervision of public sittings in the strict sense.

I. Presidency of the Assembly as an institution

In his institutional function as presiding officer of the House, the Speaker may have to play a dual role. He may have to supervise administrative matters and at the same time be responsible for the organization of Parliament's work.

1. Supervision of administrative matters in Parliament

Although Parliaments are first and foremost deliberative bodies, they also have administrative ramifications. In order to function, Parliaments require logistical support from various services which have a twofold role: providing parliamentarians with technical assistance in discharging their duties and responsibility for administrative matters in Parliament itself in the strict sense. This involves the administrative organization of various services, usually under the authority of a senior official who may be called the Clerk, the Secretary General or the Director General. It also means that Parliament must have its own financial resources, i.e., a budget for whose management it is wholly responsible so that its material autonomy is assured as this is a guarantee of political independence. The budget must of course be used to provide parliamentarians with a salary or remuneration that is sufficient to allow them to do their work irrespective of the amount of their private means and also to pay the wages of their assistants and parliamentary officials; in addition it must allow Parliament to collect the documentation needed

for its work, which usually involves the creation of a library and the provision of research grants.

First of all, it must be emphasized that there is a wide disparity in the resources available to Parliaments, and staff numbers vary greatly from just a few officials to several thousand. In addition, a distinction has to be made between staff belonging to Parliament itself, who come under the authority of the most senior official, and the personal assistants of parliamentarians and political groups. It is difficult to imagine procedural and administrative tasks being carried out by persons other than the specialized staff who serve all parliamentarians, but advisory and research tasks can be fulfilled by staff attached to individual parliamentarians or political groups; these two forms of collaboration can also coexist.

As the pre-eminent figure in the Assembly whose authority he embodies, the Speaker naturally plays a leading role in selecting the person who will act as his chief collaborator and in organizing services, as well as in drawing up and implementing the budget,

(a) The appointment of the Clerk and the organization of services

Parliament's administrative services are usually grouped together under the responsibility of the Secretary General or Clerk. In bicameral Parliaments, each Chamber generally has such a senior official, but sometimes, as in Switzerland, there is only one for both Houses. It may also be the case, as in Denmark, France and Sweden, that there are two senior officials within Parliament of equal status but independent of each other, one of them being responsible for legislative services and the other for administrative services. In Belgium and the Netherlands, on the other hand, there is a Director of Administrative Services or Deputy Secretary General under the authority of the Secretary General of the Assembly.

The Secretary General or Clerk of the House has a special role that calls for considerable experience of Parliament's functioning. In addition to supervising the services as such, his chief role is to advise the Speaker and the House's governing bodies, especially with regard to parliamentary procedure and interpretation of the rules of procedure. With the notable exception of the United States, where in both Houses

procedural matters are the responsibility of a special expert, the Parliamentarian, the Secretary General is primarily responsible for this task. Secondly, in many Parliaments the Secretary General is also responsible for advising parliamentarians on the drafting of bills, and even for considering whether or not they are admissible. The highly specialized nature of such duties means that in the majority of cases the Secretary General is a person who already has experience of the House's administration and has sometimes served there throughout his career. In any event, simply by looking at the duties he must fulfil it can easily be seen that the Secretary General must enjoy the confidence not only of the Speaker but also of the House as a whole, including the opposition. The method of his appointment must take this into account and it usually involves those whose confidence he must enjoy, although this may take various forms and be to a greater or lesser degree.

Where appointment of the Secretary General is the responsibility of the House or its governing bodies, there are three systems, although they may be combined: the Speaker himself appoints the Secretary General; a collegiate body is responsible for appointing him; or the House as a whole appoints him and this becomes virtually an election. On the other hand, his appointment may be the responsibility of an outside authority, usually the Head of State. Whatever the system used, the Speaker has some influence over the choice of Secretary General, either in the form of official responsibility for putting forward the candidature or for appointment or because he plays an indirect role.

It would appear logical for the choice of the most senior official to be made by the House he is going to serve and, within this House, by the Speaker with whom the Secretary General must collaborate closely. This is the case in many Parliaments which are far apart both geographically and politically: Algeria, Czech Republic, Israel, Mali, Morocco, Nicaragua, Poland, Portugal, Senegal, Syrian Arab Republic, Tunisia, Ukraine and Uruguay. The Secretary General must also serve the House as a whole and his appointment by the Speaker alone may not adequately reflect this. This is why in many Parliaments he is appointed by a collegiate body — usually the Bureau — on which the various political groups are represented. This is the method used in France and many African countries based on the French parliamentary model: Cameroon, Niger, Togo ... It is also used in Italy, the

Netherlands, the Russian Federation and Spain. The Speaker is of course involved in the process because he chairs the Bureau. Sometimes it is his responsibility to propose the candidate's name, and this is formally required in Italy and Spain. Lastly, in order to underline the link between the House and its most senior official, the Secretary General can be appointed by the House itself, often following a suggestion or proposal by the Speaker, as in Romania, the United States of America and Yugoslavia.

In some Parliaments, on the other hand, the appointment of the Secretary General is, at least in the law, the prerogative of the Executive, following the British model where the Clerk is appointed by the Crown¹⁵. Even where parliamentarians are not directly involved in the appointment of the Secretary General, it cannot be imposed on them, particularly on the Speaker, without some form of consultation. In New Zealand, the Speaker recommends a candidate; in Cambodia, the Secretary General is appointed by the King following a proposal by the President and Vice-President of the Assembly; in Switzerland, the Secretary General is appointed by the Federal Council but is proposed by a coordinating meeting of the two Assemblies composed of their Presidents; in the United Kingdom, a Deputy Clerk is traditionally appointed. The appointment of the Assembly's senior official by the Executive thus appears to be the result of historical tradition — in the United Kingdom the Sovereign is still considered to be part of Parliament — rather than an indication of Government interference in Parliament's internal affairs.

Moreover, it will be noted that in the majority of cases once the Secretary General has been appointed he has in a certain sense "security of tenure" or may even be in the situation where he cannot be removed. Where the appointment of the Secretary General is the responsibility of the Speaker alone, it is often accompanied by the power to remove him. In addition, if the election of the Secretary General by the House is of a political nature, as happens in the United States, any change in the majority logically leads to his removal, according to the traditional spoils system.

¹⁵ This is also the case in Australia, Canada, Ireland, New Zealand, Sri Lanka and Zambia, although other Parliaments based on the British model have not followed this example and in Botswana, India and Nauru the Clerk is appointed by the Speaker of the House, whereas in Ghana he is appointed by the Bureau.

The Speaker plays a decisive, but rarely exclusive, role in appointing the Secretary General and the same is true for the organization of services and staff recruitment. Although the Speaker is quite naturally responsible for organizing his own private office and recruiting his own assistants, he is not usually empowered to decide alone on administrative organization or appoint and promote members of staff, particularly since initial recruitment is largely based on an examination system.

In some Parliaments, the Speaker is not involved in any way in this task, which is entrusted to the Secretary General. In the Canadian, Indian, Israeli, Japanese and New Zealand Parliaments, the Secretary General appoints and dismisses Parliament's staff. In Austria, Denmark, the German Bundestag, Senegal and Spain, this power is given to the President of the Assembly himself, although he does not really act alone.

In Denmark, where the Speaker undoubtedly plays a leading role, he must consult the Deputy Speaker regarding the internal administration of the Folketing, its services and accounts. In Germany, according to the Rules of Procedure the President is the supreme administrative authority, but the Presidium also plays an important role in personnel matters and the Council of Elders has administrative, notably financial, powers and decides on the Bundestag's internal matters. Under the terms of the Spanish Constitution, the Presidents of the two Houses have administrative powers in the Assemblies over which they preside, but these do not exclude the responsibilities belonging to the Bureau of the Congress of Deputies or the Committee for the internal governance of the Senate. In Senegal, although the President is the Assembly's "head of administration" and consequently "all administrative services come under his authority" and "he is assisted by the Questors and the Secretary General", it is the Bureau that decides on the organization and functioning of the services. In fact, in many instances the organization of services and the recruitment of officials is the responsibility of a collegiate body, the Bureau if one exists, or a special body, generally chaired by the Speaker but having the advantage of reflecting the composition of the Assembly itself. This is the case in Belgium, Brazil, Congo and Sweden. In France, the Bureau has full powers to organize and supervise services and to appoint the most senior officials, whereas the President and the Questors, jointly or individually

according to the particular case, appoint the other staff. In Westminster, recruitment of staff and organization of services are the responsibility of the House of Commons Commission, which is chaired by the Speaker. To summarize, although Speakers are involved to a greater or lesser degree in matters related to staff and the organization of administrative structures, they are heads of administration only in a limited number of Parliaments, generally in sub-Saharan Africa, for example, Burkina Faso, Mali and Senegal, where the French model used in these Parliaments has resulted in reinforced powers for the President.

(b) Preparing and implementing the budget of Parliament

The Speaker's role in preparing and implementing the budget of the institution he presides also varies greatly from country to country. In some instances, the law does not give the Speaker any particular responsibilities. In France, for example, the budget of the Assemblies is prepared by a committee composed of the Questors of each Assembly and chaired by a President of one of the National Audit Office's Chambers. The necessary credits are then included in the draft finance bill and are usually adopted without discussion. In Italy, the budget is prepared by the Questors, discussed by the Bureau — chaired it is true by the President — and adopted by the Assembly concerned.

In the United States House of Representatives, the budget is drawn up by a subcommittee of the Budget Committee. In Estonia and Nepal, to take two examples that are far apart geographically and politically, the Speaker does not take any part in preparing the budget. In addition, in some Parliaments such as those of Niger, Portugal, Sri Lanka and Tuvalu, the Secretary General and his services are responsible for this task. In the Polish Senate, the Secretary General proposes a draft budget to the Presidium; in Brazil, the Bureau endorses the proposals put forward by the general administration.

In numerous Assemblies, on the other hand, the Speaker plays an active role in preparing the budget. In Argentina, Australia, Austria, Bolivia, Costa Rica, Paraguay, Philippines, Uruguay and Yugoslavia, for example, he is directly entrusted with this task. He may of course utilize the services of the Secretary General, or the "Questor-Secretary" as in Djibouti, confine himself to giving instructions for the budget's

preparation, as in Cyprus, or decide on budgetary trends, as in South Africa. In Morocco, the President oversees the preparation of the budget drawn up by the Questors and in India he supervises the preparatory work carried out by the General Secretariat. In other instances, the Speaker must make proposals for submission to the Assembly, as in Bulgaria and Greece, or to the Executive when the latter is involved in the procedure. In Chile, the Presidents of both Houses make proposals to the President of the Republic, and in Japan they collect revenue and expenditure estimates for transmission to the Minister for Finance.

In most cases, the draft budget is prepared by a collegiate body or a committee chaired by the Speaker, who thus plays a decisive role. In Algeria, Denmark, Egypt, Lebanon, Luxembourg, the Second Chamber of the Netherlands States-General, Norway, the Russian Federation and Tunisia, the budget is prepared by the Bureau. In Iceland, the President makes proposals to the Presidium and in Israel to a joint body composed of the Committee of the Whole House and the Finance Committee. In Belgium, the President chairs the Accounts Committee, which draws up the budget.

It must be stressed that in many Parliaments based on the British model, the Speaker's influence is also exercised within a collective framework: in Westminster, but also in Nauru as Chairman of the House Commission, in Canada as Chairman of the Internal Bureau, in Ireland as Chairman of the Procedures and Privileges Committee. Lastly, in some Assemblies the draft budget is submitted for the Speaker's approval, as for example in Hungary, Malta, Thailand and Zambia.

The same remarks also apply to implementing the budget. The Speaker is sometimes directly responsible for this. In the Bundestag, for example, the President puts into effect the budget drawn up by the Council of Elders. Where the Speaker plays a leading role in administrative and financial matters, he is naturally also responsible for implementing the budget, with the assistance of the specialized services. In general, however, the Speaker has only a supervisory role or takes no part in the functions carried out by the Questors, where these exist, or directly by the competent services.

In fact, the many examples considered show that only rarely is the Speaker in no way involved in administrative and financial matters, but that it is equally infrequent for him to be totally responsible for

them and even less frequent for him to be entrusted with these tasks. He finds his natural place rather in the organization of Parliament's work, even though his powers vary from one Parliament to another.

2. Organization of Parliament's work

The Speaker's responsibilities for the organization of Parliament's work are of varying scope and importance according to the circumstances. He may play a leading role or remain more in the background as far the distribution of work and the preparation of debates are concerned.

(a) Distribution of work: what role does the Speaker play in the chairmanship, composition and agenda of committees?

Parliamentary Assemblies are too large to allow meaningful debates in plenary sittings unless preparatory work is done on all the issues brought before them. This is why the work is shared out in advance among smaller bodies, the committees.

This is not the place to describe in detail the composition and role of these committees, which in any case vary greatly according to the Parliament concerned, because this would require a separate volume. Nevertheless, it is a fact that such committees are common to all Assemblies, as is the office of Speaker. There are, however, such disparities regarding their responsibilities and structure that it is hardly practical to consider the Speaker's role in this connection without previously examining — very briefly — their main characteristics.

The word "committee" has a number of different meanings, but it says nothing about the functions of the body concerned. At the most, it might indicate that it is a body with limited membership, composed of a fixed number of parliamentarians, unlike plenary sittings. This interpretation would be inaccurate, however, because in many Parliaments in the Commonwealth there is a "Committee of the Whole House" which meets as a working group and brings together all parliamentarians wishing to participate — consequently in theory all members of the Assembly — in a less formal atmosphere. The importance of committees also differs greatly according to the country and the circumstances. In the United States, for example, the role of the Standing Committees was so decisive at one juncture that President

Woodrow Wilson described the American political system as Government by the Standing Committees of Congress. This situation was not just due to the number of such Committees — almost one per Senator before the 1914-1918 War — but primarily to the singular rules on selection, the seniority rule meaning that the most important posts went to the oldest parliamentarians who were the best established in their constituencies. On the other hand, where committee members are drawn by lot and committees are not permanent, their duration being linked to the consideration of one particular issue, their influence may be much more limited. In this connection, the intention of the drafters of the 1958 French Constitution to restrict Parliament's role can be seen both in the drastic reduction in the number of standing committees and in the fact that draft bills are in principle transmitted to *ad hoc* committees and only in their absence to standing committees.

Without aiming to draw up an exhaustive classification of the various types of parliamentary committee, a distinction can nevertheless be drawn between committees with general responsibilities and specialized committees, Committees of the Whole House composed of all parliamentarians and restricted committees with a limited number of members, standing committees whose term is the same as that of Parliament or at least of the session, and committees specifically set up to consider a text, legislative committees and monitoring committees or committees of enquiry, committees entrusted with selecting the texts or amendments to be submitted to the House and committees responsible for preparing consideration of a bill by examining or even re-drafting the proposals or possibly adopting them, as is the case in Italy where a significant proportion of the legislation — *leggine* — is the result of work and voting in committee. In many Parliaments, for example that of the United States, there are also sub-committees and their number continues to grow; today there are around 250; their competence is naturally "highly specialized" and the effects of pressure groups are frequently felt. Among the committees responsible for selecting texts or amendments, the important role of the Rules Committee in the United States must be underlined; not only can it decide whether or not to include a proposal in the agenda, but it can also define the criteria for discussion, for example, by prohibiting the submission of amendments, which in practice means preventing the proposal's adoption! Until the 1970s, the

seniority rule meant that the oldest parliamentarians, whether Republicans or Democrats, played a decisive role in drawing up the agenda. As far as committees are concerned, attention should also be drawn to the singular role played by joint committees or conciliation committees in bicameral Parliaments, which bring together a limited number of representatives from each House in order to reach agreement on the texts under discussion. A special role is also played by procedural or internal administration committees which, as their title indicates, do not have any legislative role but responsibilities that resemble more closely those of the Bureau or Conference of the Presidents in the French Parliament. Selection committees for candidatures to the committees themselves do not have any legislative role either. In the Spanish Cortes, the Portuguese Assembly and some other Assemblies, particularly in Communist countries, the Standing Delegation or Standing Committee plays a unique role, being a reduced version of the Parliament that meets outside sessions and has broad responsibilities.

This rapid overview shows the importance of the functions fulfilled by committees and what is at stake in their composition, above all their chairmanship.

The role played by the Speaker in the composition of committees, the appointment of their members and the designation of their governing bodies, as well as in the establishment of their agenda, thus appears to be decisive. Although in many countries, notably France, the President does not take any part in appointing the members of committees, the situation is quite different in the United Kingdom and the United States. In Westminster, for example, appointments to the standing committees are made by a selection committee composed of eleven members paying due attention to a balance among the parties, respective expertise and geographical distribution, but the standing committees are chaired by members of the Speaker's Panel, composed of around a dozen parliamentarians appointed by the Speaker at the beginning of each session following a submission from the Government and Opposition Whips. In the American House of Representatives, the Speaker — who it must be recalled is in fact the leader of the majority — "recommends" the members of the majority on the Rules Committee — whose decisive role has already been underlined — and if he is a Democrat he also chairs the Democratic Steering and Policy Committee, which selects

the members of the committees. The Speaker of the House or the President of the Senate also appoint the members of the Conferences Committees, which are conciliation committees of the two Houses that play an important role in the American bicameral system. As in France, in Germany and Italy, the composition of the committees is proportional to the number of parliamentarians belonging to the various political groups, but the chairmen of the committees are appointed by the "Council of Elders", which is composed of the President, Vice-Presidents and representatives of political groups.

It is, however, unusual for the Speaker to be responsible for appointing members to committees, although he does so in Morocco, some Commonwealth countries such as India, Lesotho, Tuvalu and Zambia, and sometimes in Latin America, for example in Paraguay and Venezuela. In Italy, the President of the Chamber of Deputies appoints members of the special committees on procedural and electoral matters and immunity.

It is not a general rule either, although it is more common, for the Speaker himself to chair committees, and cases such as Egypt, where the President chairs the committees in which he participates, and Kenya, where the Speaker is *ex officio* chairman of committees, constitute exceptions. Looking more closely, it appears that where the Speaker does chair committees these are usually committees dealing to a greater or lesser degree with the organization of Parliament's work or representative of its permanent nature. In Botswana, Cyprus, Singapore and Zimbabwe, candidature committees are chaired by the Speaker, in Denmark, Greece, Italy and South Africa he chairs rules committees, in Belize, Bolivia, New Zealand and Thailand, the Speaker is chairman of committees dealing with parliamentary services and staff matters, and in Greece of the Parliamentary Budget Committee. In the United Kingdom, as well as in some other Assemblies based on this model such as Australia and Singapore, the Speaker chairs the House Commission, which has an administrative role and in Westminster is composed of the leaders of the majority and opposition and three other parliamentarians. In the Indian Lok Sabha, the Speaker chairs the Advisory Committee on Government Affairs, which is responsible for making recommendations on the amount of time to be devoted to the various matters on the Governments programme and proposing issues

for discussion. Finally, the Speaker of course chairs the Standing Delegation or Committee In Spain and in socialist countries such as Viet Nam and the Democratic People's Republic of Korea. In Germany as well the joint committee made up of members of the Bundestag and Bundesrat, which is the federal Parliament takes in emergency situations, is chaired *ex officio* by the President of the Bundestag.

Although Speakers only rarely chair committees *ex officio*, in the same way as other parliamentarians they can be appointed to chair certain committees. In France, for example, the President of the National Assembly recently chaired a committee of enquiry.

Chairmanship of committees may even be an option left to the discretion of the Speaker. In Cyprus and Spain, if he wishes, the Speaker may chair any committee. Such situations are not the general rule, however, and remain unusual.

In the vast majority of Parliaments, it is customary practice for the Speaker to have the power to transmit a text to a committee. This power is particularly important when, as in Italy, it is accompanied by the authority to transmit certain draft laws to a committee with a view to their final adoption¹⁶. Where the Speaker does not have this power, it is generally given to the Bureau or Conference of Presidents chaired by the Speaker, or even to the Assembly itself, as in Germany and the Polish Diet.

(b) Preparation of debates

Chairing debates, as we shall see, is above all the responsibility of the Speaker, but he is also responsible for preparing the discussion, with some qualifications, as part of his functions of supervising the parliamentary institution and organizing the House's work.

Can the Speaker convene sessions?

One of the first tasks is to convene Parliament. In the great majority of cases, the convening of regular or official sessions is not the

¹⁶ Such a procedure does not apply to constitutional or electoral reforms, the law on finance, the ratification of treaties or legislative delegation. Moreover, the Government, one-tenth of the members of the House or one-fifth of the members of the committee may request that the text be brought before the House itself.

Speaker's responsibility. The dates and even the duration of sessions may be fixed in the Constitution, as happens in Belgium, France, Greece, Hungary, Portugal, Romania and Spain. Or the convening of sessions may be the responsibility of the Head of State, according to the monarchical tradition under which Parliament may not sit whenever it wishes but must be convened by the highest authority in the State, who "opens"* the session of Parliament, often by giving an address that sets out the broad outline of the policies to be implemented by the Government of the day. This is of course the British system, or at least what it appears to be; in fact, in practice and in the absence of any written rules, "in their place is the concept and tradition of the public interest"¹⁷, the British Parliament may sit without any limitation of its term and some sessions last for over a year. Lastly, according to the eminently democratic and "revolutionary" principle of the "permanence of Parliament, the latter can be deemed to be continuously in session and the session lasts as long as the legislative term of Parliament; the Assemblies may sit all year without interruption — as provided for in the Czech, Russian and Slovak Constitutions — or may themselves decide when to close and resume sessions, as in the German Bundestag.

In practice, the differences among the systems described are much less tangible. Even if the duration of sessions is laid down in the Constitution, there can also be special sessions; convening sessions at the discretion of the "Crown" or the Head of State, at least in democratic regimes, is a fiction and the Assemblies meet in any event, sometimes throughout most of the year, as we have seen; equally, a theoretically continuous session of Parliament is subject to adjournments that have become systematic and *de facto* results in a series of sessions, even if it is not specifically provided that the Assembly itself decides on the date of its sessions, as in Germany. Nonetheless, whatever the method used to convene Parliament, the Speaker does not usually play a decisive role and only in very few cases, for example Latvia and Slovenia, does the Speaker himself convene regular sessions, or he may simply play a formal role since

¹⁷ Michel Ameller. *Parliaments*. Cassell. 1966, p. 127. p. 143.

the dates of sessions are fixed in the Constitution, as in Hungary. Sometimes the Speaker has a more important role, however, in convening special sessions of Parliament. These are sessions held outside the regular sessions "ordinarily" held by Parliament. In theory, they should not be confused with meetings that have been adjourned during the session. In practice, in systems where the Assembly is "permanent", special sessions of Parliament during the customary annual adjournment are very similar. The convening of special sessions is usually the responsibility of the Executive, the Head of State or Government. In the United States, which is a prime example of the separation of powers, special sessions of each House are convened by presidential proclamation. To a certain extent, however, the Houses may be involved in the procedure or given equal competence to obtain the convening of a special session. In general, such sessions are held at the request of a certain percentage of parliamentarians: an absolute majority of the members of the National Assembly in France, two-thirds in Cameroon and Monaco, two-fifths in Denmark, at least one hundred parliamentarians in Sweden, or one-quarter of parliamentarians in Japan. Although there are not very many instances of this, the Speaker himself may sometimes convene a special session, and this is the case in Italy. In Estonia, Grenada and Slovenia, the Speaker has the authority to convene "individual" sessions, namely sessions that are not ordinarily convened, unlike the regular sessions. This is also the case in Madagascar. Lastly, if the Speaker alone does not have this power, he may share it with a collegiate body such as the Bureau or Presidium, in Lithuania, Norway and San Marino for example, or he may be consulted, as is the Speaker of the Lok Sabha in India. In New Zealand, he may only act at the request of the Prime Minister following consultation with the leader of the opposition.

It is a more general rule, however, that it is the responsibility of the Speaker to convene the House during the course of a session when it has adjourned because the House has specifically voted to do so or because the agenda has been finished. The scope and importance of this power vary according to the role played by the Speaker in establishing the House's agenda.

If he possesses the power to convene the House and establish its

agenda, as is the case in the Danish Folketing, the Speaker has a vital responsibility for the organization of Parliament's work.

Can the Speaker establish the agenda?

Establishing the agenda is without any doubt one of the most important elements of the legislative process. An ancient rule of parliamentary regimes is that Parliaments should be masters of their own agendas, but today this principle has largely been ignored. In view of the flood of proposals coming from parliamentarians of all persuasions, because it is true that presenting proposals to Parliament is one of the principal rights and functions of the people's representatives, some choices have to be made even if only for material reasons due to the "bottlenecks" in public sittings. Furthermore, in all modern States, irrespective of the political system in force, in order to be in a position to administer public affairs effectively, the Government must be able to propose to Parliament the legislative programme it deems necessary, which means that in one way or another it must be able to choose the time at which the texts it submits are to be considered. In practice, in most of the important Western democracies, the overwhelming majority of legislation stems from proposals by the Government. Even in the United States, where Congress is often seen as the most powerful Parliament in the world and where, by virtue of the strict separation of powers, the Executive does not propose legislation, the most important texts still stem from the President's office and are formally put forward by a member of Congress. This is not the place to make an exhaustive study of the establishment of agendas in parliamentary Assemblies, but the part played by the Speaker in their establishment has to be considered.

In the British Parliament and in others with Westminster-type procedures, the agenda is not established by the Speaker but by the Government, more precisely the Leader of the House, who is a member of the Government. In general, every Thursday the latter announces the programme for the week's debates in response to a question by the Leader of the Opposition. The Speaker, as an independent official, is responsible for the impartial chairing of the debates, but the choice of questions to be debated is considered to be an integral part of

Government policy and is thus the responsibility of the representatives of the majority, although the rights of the opposition must be safeguarded. No doubt for the same reasons, the Speaker of the US House of Representatives, on the other hand, in practice plays an important role in the choice of matters to be included in the agenda, either personally or through other persons or bodies, for example the Rules Committee or the leader of his own party's caucus, which largely come under his control. In the United States, the Speaker is in fact the leader of the majority. According to the law, the organization of work is not the Speaker's responsibility but obeys fairly complex rules that give the committees themselves an important role. The Rules Committee in fact only fixes the criteria for consideration of the most important legislative proposals and other texts are transmitted to the standing committees, which establish the timetable for their consideration.

In other Parliaments, however, even if the Speaker does not have the party affiliation he has in the United States, he is still responsible for establishing the agenda. This is the case in Denmark, Finland and Japan. It should be noted that in Japan any change requires a subsequent decision by the House. The reason for entrusting the Speaker with this task is precisely to avoid any partiality by utilizing the judgement of an authority who exercises his functions objectively, even if this does not prevent him from taking the wishes of the Executive into account. The Speaker then plays a very particular role that allows him to take into consideration the requirements of Government action, without supporting any particular party, while at the same time protecting the prerogatives of the House because of the very nature of his functions. It is nevertheless somewhat unusual for the Speaker to have the power to establish the agenda alone. He usually shares this responsibility with the members of a collegiate body, to which he naturally belongs and which he chairs — the Bureau, Presidium, Conference of Presidents ... In Germany, the agenda is established by the Council of Elders composed of the President and Vice-Presidents of the Bundestag and deputies nominated by political groups according to their numbers. The Assembly itself, however, may have to take a decision if unanimity cannot be reached in the Council.

In Spain, the President acts together with the Conference of

Spokespersons ("*Junta de Portavoces*"), whereas in Algeria, Estonia, Lebanon and Madagascar, the Bureau fulfils this role, and in Norway, Poland and Ukraine it is the Presidium. In countries that follow the French tradition, for example, Cameroon, Comoros and Djibouti, as well as in Italy, the Conference of Presidents is responsible for establishing the agenda. In Italy, however, if no agreement can be reached, the President himself establishes the agenda and submits it to the House. In the Belgian House of Representatives, the President decides on the order of business after having ascertained the views of the Conference. The French system is more complex than it first appears. The Conference of Presidents is the place where the agenda is in fact discussed and usually established, but this does not mean that the Conference actually does this. The Government, which controls the priority agenda, is represented at the Conference and informs it of the texts it wishes to see discussed, as well as the date and time of the discussion. At its discretion, it may subsequently make changes without it being necessary to submit these to a further Conference of Presidents. At the discretion of the Assemblies, the complementary agenda and, since the constitutional reform of 1995, the agenda for the sitting reserved for matters chosen by parliamentarians, are established by the Conference of Presidents, but the Assembly has to take a decision on the proposals made. The Conference of Presidents thus plays a major role and is a privileged forum for discussion, but mainly for the technical aspects of the debate rather than the political choice of the matters to be discussed which essentially remains within the competence of the Government. The President exerts a certain influence, but this is not so much due to powers officially given to him as to the political role he plays in relations between the Government and its majority. Such a situation is not unique to France and can be found in many Parliaments where the Speaker's role largely depends on the position he occupies in the political sphere. The same is true when the agenda is established by the House itself, as is the case in many countries irrespective of their geographical situation or political regime: Argentina, Armenia, Bulgaria, Hungary and the Netherlands for example. The Speaker's influence is of course particularly important as in most cases he must make the proposals to be ratified by the Assembly.

Does the Speaker examine the admissibility of proposals?

Lastly, another aspect of the preparation of debates is examination of the admissibility of proposals, draft bills and amendments, before they are discussed. The very concept of admissibility is open to several different interpretations and consequently the role of the Speaker may also vary.

In general, where the Speaker is entitled to assess admissibility, he does so in relation to the rules of procedure and the time limits for examination. The powers given to the Speaker of the Indian Lok Sabha are one good example of this. He ensures that the time limits between the submission of a bill and its discussion are respected and that the procedural rules and requirements are observed; he alone is entitled to decide whether a bill is a "money bill", which, as in many other countries, means that special rules apply to its discussion, and to refuse to accept a senseless amendment. In the United States, both the Speaker of the House and the President of the Senate may refuse to allow a bill to be submitted in certain specific cases set out in the rules of procedure. During consideration of a proposal or amendment, a parliamentarian may raise a procedural question of admissibility and the Speaker alone may take a decision on this, except in the rare cases where the House itself decides to reject the Speaker's ruling.

In some Parliaments, the collegiate body is responsible for examining admissibility. In Cameroon, Congo and Djibouti, the Bureau is responsible. In the Marshall Islands, Parliament's Legislative Council fulfils this role. The collegiate body may only be competent in respect of draft bills, as in France, while the Speaker or a competent committee decides on the admissibility of amendments, as in New Zealand. The collegiate body may also constitute a second level. In Belgium, for example, the President is responsible for examining admissibility, but if there is any doubt he brings the matter to the Bureau, which may in turn refer it to the competent committee. Finally, the Assembly itself may be responsible for examining admissibility, although this does not necessarily mean that the Speaker plays no part in the procedure. He may be called upon to make a proposal or highlight a problem on which the House has to take a vote. In Hungary and Norway, the Speaker examines any

problems related to admissibility, but the decision lies with the House.

Under the authority of the Speaker or the Assembly's elected governing bodies, examination of the technical admissibility of proposals or amendments may be entrusted directly to the Secretary General and his services, as happens in the British House of Commons and Costa Rica, while the Speaker is responsible for choosing the amendments and their order of discussion, if necessary grouping them together. These are powers that lie at the very heart of the Speaker's role in presiding over debates and public sittings and they will be considered in the next chapter.

II. Presidency of the Assembly as a deliberative body

Chairing the deliberations of the nation's elected body is the primary function of the presiding officer of a parliamentary Assembly. First and foremost, this means presiding over the debates themselves and this is not compatible with participation in the debates which the Speaker must chair. Furthermore, in order to ensure that bills are enacted once they have been adopted, certain procedures must be respected. The person who has presided over their adoption is usually called upon to "accompany" the bill until it enters into force.

1. Presiding over the debates

Presiding over debates is the visible and public facet of the Speaker's duties. It is his direct and personal responsibility. In practice, however, the Speaker alone cannot preside over all the public sittings. He is therefore replaced by another member of the House, in almost every case the Deputy Speaker, who, with very few exceptions, exercises the Speaker's authority during public sittings. These exceptions include the Senate in Paraguay, where the President alone presides over public sittings, and San Marino where there is no provision for any Vice-President or alternate, although this is a small Parliament that has two "Presidents", namely, the Captains Regent.

In other Parliaments, as mentioned above, Deputy Speakers, who are generally elected together with or following the Speaker, are called upon to exercise his functions in the chair. In the United States, there are no elected Deputy Speakers. In the House of Representatives,

the Speaker may entrust one of his colleagues with the chair for a short period¹⁸. In the Senate, a temporary President is always elected to replace the permanent President, who is also the Vice-President of the United States. In Westminster, if the Speaker is absent, his functions in the chair are exercised by the Chairman of the Ways and Means Committee and if the latter is also absent by one of the Committee's two Vice-Chairmen; all three discharge the function of Deputy Speaker. In addition, in some Parliaments where there are only one or two Deputy Speakers, the Speaker may appoint one of the members of the House to take the chair and replace him when necessary. This is the case in the Australian House of Representatives and the Irish Dáil. In other countries such as Belgium and Cyprus, the most senior member in terms of age occupies the chair, i

It is necessary to see what rules govern the replacement of the Speaker by the Deputy Speakers or their alternates. A number of different systems may be used. Firstly, there may be a hierarchical order among Deputy Speakers, in the form of a First Deputy Speaker, Second Deputy Speaker, etc... This hierarchical order may be the result of the order in which they were elected, as in Spain, or of the importance of the political group to which they belong, as in Bulgaria. The order of replacement may be fixed by an order of precedence adopted by the Bureau, as in Cameroon and Congo. It may also simply be decided upon by the Speaker, as in many Parliaments such as those of the Czech Republic, Egypt, Hungary, Republic of Korea, the Republic of Moldova, Slovenia and Tunisia. In France, but also in Algeria and The former Yugoslav Republic of Macedonia, the President and Vice-Presidents decide in which order sittings are to be chaired.

In general, irrespective of their status, during sittings presiding officers exercise virtually all the powers attributed to the Speaker, with a few exceptions that need to be mentioned. In the United Kingdom, for example, the right to choose the amendments to be discussed can only be exercised by the Speaker's replacement in certain restricted circumstances. In Ireland, only the Speaker in person can close a debate

¹⁸ The Speaker simply attends the beginning of each sitting and presides over debates on certain matters of the utmost importance. Otherwise, he hands the chair over to one of his colleagues. C-ELonguet. *Le Congrès des Etats-Unis*. P.U.F., 1986, p. 82.

or suspend a member. In the Italian Senate, the Vice-Presidents usually allow the President himself to carry out the most important acts such as maintaining order, deciding on the order of voting and declaring the results. In France, the Constitution states that the President alone may decide on legislative inadmissibility contested by the Government. These are not minor exceptions, but they are limited and presiding over public sittings is undoubtedly the presiding officer's function best known to the public and is also the one most commonly shared, whereas the constitutional and administrative functions of Parliament entrusted to the Speaker are *intuitus personnae* and cannot usually be delegated.

Having given these explanations, it is now necessary to see how and by what means the presiding officer oversees debates and to what extent he controls the organization of the sitting, speeches, texts discussed, voting and application of the rules of procedure.

(a) Does the Speaker control the organization of the sitting?

Can he fix a time limit for the debate?

Before a public sitting takes place, and while it is going on, in order to ensure that it runs smoothly, it is necessary to organize the debate and fix the speaking time. The Speaker is usually called upon to take action in this regard. His role may, however, be restricted by provisions in the rules of procedure that establish the practical details of the debate or how to calculate speaking time. This is the case in Antigua and Barbuda, Canada, China, Colombia, Cyprus, Hungary and Spain. Organization of debates and the fixing of speaking time may not be the responsibility of the Speaker but of a collegiate body such as the Conference of Presidents in France, Italy and Senegal, or the Bureau in Lebanon and San Marino, or as in the Polish Diet where the Speaker may make proposals but has no decision-making power. In the German Bundestag, the President can fix the order in which speakers are called to the floor, but the political groups organize the debate and the Assembly confirms their decision.

In the United Kingdom, on the other hand, where there is no organization of debates in the continental sense, the Speaker of the House of Commons is sole judge of which speakers to call and when

they should speak. Members of Parliament cannot invoke any right to speak and must "catch the eye" of the Speaker, according to the time-honoured expression. There is no limit on speaking time or the number of speakers, however, and in theory the debate could last indefinitely, unless there are exceptional circumstances when in any event special provisions apply and restrict emergency debates to three hours. As Ph. Laundy emphasizes¹⁹, this is why "a sophisticated system of organizing business through negotiation between the Government and opposition whips ensures a planned time-table. One result is that the debate on the second reading of a bill seldom exceeds one day." If it does not prove possible to reach agreement, the Government has the means to hasten the end of the debate. According to the famous "guillotine" procedure, it may ensure the adoption of a motion fixing a limit for discussion of all or part of the draft still to be debated. When this time limit expires, a vote is taken irrespective of the progress made. Usually through the intermediary of a Whip, the Government can also request that a motion to close the debate be voted on. It must have the agreement of the Speaker, however, because the motion cannot be put to the vote unless the Speaker considers that there has been sufficient discussion, and this is certainly a guarantee for the opposition.

In the United States House of Representatives, organization of the debates on the most important texts is the responsibility of the Rules Committee, whose fundamental role has already been underlined. The Speaker does not therefore take part in the procedure, but as the leader of the majority his influence is considerable, for example, through his direct participation in appointing the members of the Rules Committee belonging to his party. In addition, discussion of a "prior question", which in the Capitol has the same significance as closure and leads to suspension of the rules of procedure in order to accelerate the adoption of a draft bill, must be authorized by the Speaker.

In other Parliaments that follow the Anglo-Saxon model, for example in India, the Speaker also has wide-ranging powers for organization of debates and fixing speaking time, and he must ensure that the time is shared out among the political groups in proportion to their numbers. In Australia, however, the organization of debates on Government texts

¹⁹ *Op.cit.*, p. 93.

is the latter's responsibility, whereas debates on texts emanating from Parliament are the responsibility of a committee chaired by the Deputy Speaker.

In New Zealand, the leader (of the majority) is responsible for organizing debates, and speaking time is fixed in the Rules of Procedure, whereas in Ireland, although the Speakers of the two Houses are responsible for the orderly holding of debates, this does not mean that they organize the debate or fix the speaking time as these are the responsibility of the Houses themselves and the Speaker is only responsible for ensuring that the latter's decisions are implemented.

These different examples show the various restrictions placed on what might appear to be a danger of arbitrary action by the Speaker. On the other hand, the Speaker is usually quite free to open, close or suspend sittings. The responsibility most commonly found is that of opening the sitting. It is only in the British House of Lords, which is a self-regulating body, that the Lord Chancellor is not formally responsible for carrying out any of the tasks that are traditionally incumbent upon a presiding officer. On the other hand, the power to close or even suspend a sitting may be subject to different rules according to the Parliament. In France, and countries based on the French model, for example Cameroon, the President has the broadest powers in this respect: he may at any time close or suspend the sitting, but he also has such powers in the majority of Parliaments. In Parliaments based on the Anglo-Saxon model, these powers are nevertheless usually accompanied by regulatory provisions which fix the criteria for their exercise. This is the case in Australia, Canada, Lesotho, New Zealand and the United States of America. In the majority of these Parliaments, and in the British House of Commons and Ireland, suspension of the sitting by the Speaker is caused by disorder which can only be ended by suspension. Stopping Parliament's work is a serious step and strict criteria must be met. In the German Bundestag, the President may only under exceptional circumstances close or suspend the sitting before the agenda has been considered in its entirety. In some Parliaments, such as those in Austria, the Philippines and Sweden, such decisions have to be taken by the House itself and the Speaker may only make a proposal. The Speaker may also have to close the sitting if a sufficient number of members is not present.

Is the Speaker responsible for verifying the quorum?

Most Parliaments make provision for a quorum and there are very few exceptions such as Lithuania and Sweden where a quorum is only necessary in special circumstances. A quorum may be required for deliberation, in which case it is not usually very large — twenty members including the Speaker in the Canadian House of Commons, one-tenth of the members in the Lok Sabha — or only for voting, but it can also be much larger, as much as half the members of the Assembly or Senate in France. In the United States, however, the Constitution itself prescribes that a quorum of half the members is required for any deliberations.

It is usually the responsibility of the Speaker to verify that there is a quorum and where this task is allotted to a secretary or a senior official of the House, as in Colombia, Congo and Jordan, this is under the authority of the Speaker. The Bureau may also be entrusted with the task, as is the case in France.

The Speaker may sometimes have to verify the quorum at the beginning of the sitting, which means that it has to be suspended or closed if there is no quorum. This happens in the Canadian House of Commons, Romania and Yugoslavia. On his own initiative, he may also verify the quorum when he deems necessary, for example, before taking a vote, as in Egypt and South Africa.

In many instances, however, the Speaker only verifies the quorum if he is requested to do so by one or more members. In the German Bundestag, the Indian Lok Sabha, the Irish Dail and the Spanish Senate, and also in the Canadian House of Commons once the sitting has begun, there is presumed to be a quorum until the Speaker is called upon to verify it. The same applies in France, where requests for the Bureau to verify the quorum are exceptional and in fact constitute obstructionist manoeuvres.

Is the Speaker responsible for maintaining discipline and order within the House?

Orderly sittings also require the maintenance of discipline within the House and mean that special powers must be granted to the Speaker.

This is the case in the vast majority of Parliaments and the situation in the Parliaments of Japan, Monaco, Morocco and Slovakia, where the Speaker does not have such powers, constitutes exceptions. Ensuring respect for the order needed for debate often appears to be the primary duty of the Speaker or President, as in the Indian Lok Sabha. Mention has already been made of the Speaker's power to suspend the sitting if there is disorder, but this is not really exercise of a power to punish but rather a collective punishment. In many Parliaments, the Speaker has an "arsenal" of measures to make a recalcitrant parliamentarian toe the line. This power is often mitigated, however, by the fact that the House itself is called upon to act, either as the forum for appeals or because it alone has the right to decide on more severe sanctions. In Canada and Slovenia, any punishment meted out by the Speaker, which may go as far as exclusion, can be the subject of an appeal to the House. In the French National Assembly, the President may himself decide on minor disciplinary punishment, but must propose to the Assembly the imposition of more severe punishment, including temporary expulsion. In Yugoslavia, expulsion has to be decided by the House, and in Denmark it must be the result of a decision by the Standing Orders Committee. In the United States, although the Speaker and the President of the Senate can call the House to order, any censure or other disciplinary sanction imposed on a member must be decided upon by the House concerned. In Italy, the President may decide on certain sanctions himself, including expulsion, against any parliamentarian who disturbs the sitting, but more serious punishment is the responsibility of the Bureau. In general, in Parliaments that follow the British tradition, the Speaker may impose punishment on any unruly members, even ordering them to withdraw from the House. This is the case in Australia, Canada, India and the United Kingdom, where the Speaker calls the culprit by name rather than by his constituency as is usually the case. It should be noted that in Australia, although the Speaker can order a member to leave the floor for one hour, it is the responsibility of the House to adopt a motion suspending a member for a minimum period of one day, such a motion inevitably following upon the naming of the MP by name by the Speaker. It can be seen that in most Parliaments, punishment in the form of expulsion of a member requires action by the House, and this is logical because, in addition

to their punitive nature, sanctions affect the exercise of the parliamentary mandate itself and are thus likely to jeopardize the functioning of the people's Assembly, so they must be accompanied by sound guarantees.

The concern for the independence and sovereignty of Parliament governs organization of the maintenance of order and security within Parliament and justifies the powers given to the Speaker in this regard. If the forces of law and order could enter Parliament on their own initiative or acting on an order by the Executive, there could be legitimate doubts concerning the Legislative's total freedom of action. This is why it is often provided that the Speaker alone can authorize the police to enter the House. In Canada and Denmark, the police can only act upon request by the Speaker. In France, the Order of 17 November 1958 on the functioning of Parliament provides that the Presidents "may call on the armed forces and any authority whose assistance is deemed necessary. This request may be addressed directly to any officer or official, who must obey immediately on pain of the penalties provided for in the law" and the Assemblies' Rules stipulate that the President decides on the size of the military force he considers necessary, which is placed under his authority. In Belgium as well, the President has a military guard at his disposal, and in Egypt the President decides upon the size of the armed forces necessary, which are under his command. These powers may of course be delegated by the Speaker, either to the Questors, as provided for in France under the 1958 Order, or to a senior parliamentary official under his authority, for example, the "Sergeant-at-Arms" in the United Kingdom and also in Kenya, Lesotho, Singapore and the United States of America, or the "Superintendent" of the Houses in Ireland. Use of the police force to ensure that order reigns within Parliament is of course exceptional, or not provided for, as in Australia. Nevertheless, giving the Speaker the means necessary to ensure security and discipline within Parliament means guaranteeing the calm required for debate and, consequently, the satisfactory functioning of the institutions and representative democracy.

(b) Does the Speaker govern oral interventions?

In deliberative Assemblies, the control of oral interventions is one of the keys to supervising the debates. The Speaker's role in organizing

the debates themselves, fixing their duration and speaking time, has already been considered. It is now necessary to examine how, in conformity with the rules laid down by the Speaker, or a collegiate body or contained in the rules of procedure themselves, speakers are given the floor or permission to speak is withdrawn.

A list of speakers may be drawn up in advance, as in Australia, France and Germany, and in the case of organized debates in Canada, India, Italy, Japan, the Council of the Russian Federation and South Africa. On the other hand, as in the United Kingdom and the United States, there may be no such list. The key question is whether the Speaker has to give the floor to those who request it and, where a list exists, to those on the list. In practice, it is not possible for a Speaker to accede to all requests to speak and in most cases a choice has to be made: is this choice at the discretion of the Speaker?

In France for example, in the framework of organized debates the list of speakers is transmitted to the President by the leaders of the groups, who indicate the order in which they should be called and the duration of their statements. In the light of these indications, the President draws up the schedule for all the statements. In Finland, the Speaker follows the order in which speakers have requested the floor. In South Africa, the list of speakers is drawn up by the leaders of parliamentary groups, and in Italy by the secretaries, in the light of requests to speak, and the President can alternate speakers belonging to different groups. It is in Parliaments based on the British model that the Speaker has the greatest latitude to give the floor to a member without being obliged to keep to a list if there is one. As has already been mentioned, members cannot claim any right to the floor from the Speaker, whose responsibility it is to designate the speakers, and there can be no discussion of his choice. In Canada and India, although a list of possible speakers is given to the Speaker, the latter decides who will be authorized to take the floor. Although the Speaker makes his choice freely and independently, it is not an arbitrary choice. In Canada, he makes his choice according to the rules, customs and traditions of the House, in India he ensures that the overall time for debate is shared out in proportion to the size of the political groups and that the discussion is "significant". In Ireland, the Speaker ensures that the debate is balanced, alternating speakers from the Government or

majority and the opposition, and reflecting the respective importance of the parties. In France, in debates that are not organized by the Conference of Presidents, in theory all those who request the floor may speak. When two speakers expressing opposing views have taken the floor, however, the President may decide to close the debate immediately; in practice this provision is rarely applied.

After having given the floor to a member, can the Speaker withdraw permission to speak? There is no single reply to this question and the answers vary from one Parliament to another, even among those based on a common model. The Speaker at Westminster, for instance, may order a member to cease speaking, whereas in New Zealand once a member has been authorized to take the floor, permission to speak can only be withdrawn by the House itself, even if behaviour is incorrect. Nevertheless, in most cases the Speaker may withdraw permission to speak in certain circumstances: if the speaker has violated the provisions of the rules of procedure, as in Australia, or has strayed from the subject, as in Romania, or if he has not obeyed the President's call to order, as in the French National Assembly²⁰; if a speaker has exceeded his allotted time, as in France — unless the President has authorized him to continue his statement because of its relevance — or in Canada; if he has been repetitious, as in Ireland, or unseemly, as in both Canada and Ireland, or if the President considers that the Assembly has received sufficient information, as in the French National Assembly. By defining the cases in which permission to speak may be withdrawn, the rules of procedure of many Parliaments protect the freedom of expression of parliamentarians in the very forum of political debate, as well as the discipline necessary for their work. The Speaker has the delicate task of using his powers with circumspection in order not to hinder the legitimate expression of all shades of opinion while at the same time ensuring that parliamentary debates run smoothly. It is with this aim in mind that in some Parliaments the Speaker has the discretionary authority to give the floor for discussion outside the agenda and so organize spontaneous debate. Without jeopardizing the timetable

²⁰ In the Senate, the President consults the Assembly and the latter takes a decision by show of hands, with no debate, on whether or not to forbid a speaker to take the floor on the same subject for the remainder of the sitting.

of work, it is natural for the people's representatives to be allowed to express themselves on a serious problem that has arisen. Such a procedure could, however, hamper the smooth functioning of the sitting. This is why in many Parliaments in countries that are geographically and politically very different²¹ the Speaker does not have the possibility of allowing debates that are not included in the agenda.

In other equally diverse Parliaments, the Speaker must first of all obtain the agreement of the House; this is the case in Ghana, Jordan, Lithuania, Luxembourg, the First Chamber of the Netherlands States-General and Niger. In Indonesia and Namibia, the Speaker must have the agreement of the leaders of the parties, and in Ukraine that of the presidium. On the other hand, the Speaker himself may be allowed to give the floor. In Australia and Poland, for example, this is to allow a speaker to raise a personal or regulatory matter. In the Italian Chamber of Deputies, the President has to decide on the admissibility of a request for the floor made during the sitting on a minor matter or for personal reasons. Use of this procedure can nevertheless allow more important subjects to be brought up. In France, for example, the President may give the floor on a point of order — which takes precedence over other matters — in order to allow another issue to be raised, generally a topical question, or he may give the floor to several speakers and so allow a short debate outside the agenda to be improvised. In some Parliaments, there is specific provision for the organization of such debates. In South Africa, the Speaker may agree to the organization of a spontaneous debate on important matters. In Mali, he may decide on the principle of such a debate and then convene the Conference of Presidents to organize it. In general, in most Commonwealth countries, emergency debates may be held at the request of a member and the Speaker's role is decisive. In Westminster, for example, the Standing Orders provide that, with the authorization of the Speaker, a member of the House of Commons has three minutes to request the holding of an emergency debate the following day; it is then up to the Speaker to accede to the request or not. In practice, emergency debates are held

²¹ This is the case, for example, in the Parliaments of Antigua and Barbuda, Armenia, Austria, Barbados, Bulgaria, Cameroon, Ecuador, Germany, Grenada, Romania, Russian Federation, Singapore, Slovenia, Sri Lanka, Switzerland, Turkmenistan, Tuvalu and Viet Nam.

once a year, but this procedure allows a backbencher to take the floor to raise a matter of great importance to him. Similar procedures exist in Canada, New Zealand and Zambia. It is up to the Speaker to decide — sometimes under the guidance of the House, as in the Canadian Senate — whether the subject is really urgent. In the Indian Lok Sabha, the Speaker takes his decision after hearing not only the parliamentarian making the request but also a representative of the Government.

The Speaker must therefore decide whether or not it is appropriate to allow the holding of a debate whose objective is usually to question government action in some way or another. This underlines how much moderation, political skill and impartiality he must show in such cases, which are exactly the qualities required of a good Speaker.

(c) Does the Speaker have control of the texts under discussion?

It is obviously not the role of the Speaker of a parliamentary Assembly to draw up texts to be discussed at public sittings, because this would mean that he replaces those who drafted the text or the committee which previously studied and amended the text, and it would imply that he is involved in the substance of the debate, whereas his role is to organize and preside the debates of parliamentarians and is, on the contrary, of a formal nature. Nevertheless, rational organization of work and the smooth functioning of debate requires that the amendments proposed be classified. The task of drawing up an order for their consideration may be entrusted to the competent committees, as in the Russian Federation, or their chairmen, as in Zambia. It may also be the task of the leader of the majority, as in Zimbabwe, or the secretaries, as in Mali. It may also happen that the order in which amendments are considered is quite simply governed by the order in which they are submitted, as in Greece, but in general some classification is required and in many Parliaments this is the task of the Speaker. In most cases, the latter follows the rules of procedure. In Egypt, France and Romania, for example, the amendments that are furthest from the original text are considered first, whereas in Denmark the most important amendments are discussed first.

It is the responsibility of the Speaker to assess the importance of the amendments proposed. But does his role extend to making a

selection and only allowing a certain number of them to be discussed? Such authority would allow the Speaker *ex officio* to influence the content of the text under discussion and hardly seems to correspond to his traditional duties. It has of course been seen above that under certain circumstances a Speaker may decide on the admissibility of parliamentary proposals; he may also have to decide during the debate that, because certain articles and amendments have been adopted, others have become meaningless. He may also group together certain amendments for discussion, as is the case in France and India for example, but this is as far as his authority goes. The possibility available to the Speaker at Westminster to select for discussion certain of the amendments proposed so as to allow the debate to progress — the so-called "kangaroo" system — constitutes an exception. "This power ... has to be used with the greatest care. It presupposes great impartiality on the part of the Chair as well as a profound knowledge of the subject of the matter of the debate and an unusually acute political sense"²².

This power has been given to the British Speaker, and to the chairmen of the committees in their respective bodies, but it has not been transposed to the other Commonwealth Parliaments.

Speakers are rarely called upon to give advice, or instructions for interpreting or completing the text under discussion, and in such cases they act for formal motives or to reaffirm the terms of the debate. They may suggest amendments for editorial reasons or for the sake of consistency, or they may ask the author to explain the meaning of a particular amendment. In Mali, the President may take the floor to clarify matters by explaining the arguments on both sides. In the Indian Lok Sabha, the Speaker does not take part in the discussion, but if a question is raised by a member he may take the floor to assist members' deliberations. In Belgium, the President may provide linguistic or technical explanations and in the Italian Chamber of Deputies, authorized by the House once a law has been adopted, he has the power to ensure that the final text is consistent by making changes. The common characteristic of these acts is that they are motivated by the need for smooth functioning of the debates and the necessary clarity

²¹ M. Ameller. *Parliaments, op.cit.*, p. 196.

of legislative provisions and not by intervention by the Speaker in the substance of the discussion.

(d) Does the Speaker control voting?

In the vast majority of cases, it is the task of a parliamentary Assembly to take a decision on matters brought before it by holding a vote. Voting is the procedure according to which a deliberative body is called on to decide by a democratic majority. The presiding officer is naturally called on to preside over this decisive stage in the deliberations, by calling for a vote. This does not, however, mean that the Speaker can decide on the timing of the vote or the procedure to be used. The timing of the vote is not usually left to the Speaker but depends on the progress of the discussion or the application of procedural rules. For example, the vote may only be held when the debate is closed. In the United States, for example, the Speaker may not put a matter to the vote unless the House has adopted a motion closing the debate or the time for discussion has expired or, if there is no time limit, he may do so at a moment he deems appropriate, although traditionally he does not put the question to the vote as long as any speaker wishes to take the floor.

The rules of procedure may also provide that a vote should be held once two speakers holding opposing views have taken the floor on a particular subject, but the Speaker may give the floor to other speakers if the subject so warrants, under the conditions described above.

It is rare for a Speaker to be totally free to determine voting procedures. In most cases, as in France and Germany, these are prescribed in the provisions of the Rule, which define *inter alia* the precise cases in which a secret ballot or a public ballot with a roll-call vote must be held. Voting procedures may also be fixed in advance by a collegiate body or following a request by certain parliamentarians — leaders of political groups or chairmen of committees, or even the Government. They may also be decided by the House itself, as in Bulgaria and Norway. Even where the Speaker does establish the voting procedure, as in Denmark for instance, a number of parliamentarians may request the holding of a roll-call vote. In many Parliaments, on the other hand, the Speaker decides whether it is necessary to have a cross-check by changing the voting procedure. In the United Kingdom

and many countries based on the Anglo-Saxon tradition, for example India and the United States, the Speaker first of all holds an oral vote inviting parliamentarians to declare out loud whether they are for or against and the loudest voices win. Such a system is of course limited to situations where there is a clear trend or are used to endorse unanimity. If the matter is "contested", the Speaker holds a proper ballot, usually according to the Westminster tradition of "division", during which parliamentarians physically separate between the "For" and "Against" by leaving the floor of the House through different doors. In Egypt, but also in France, the President usually holds a vote by show of hands, but if there is any doubt he can ask parliamentarians to stand or remain seated and can then hold a public ballot. In Italy, the President also decides whether a cross-check should be made.

The monitoring and verification of voting are sometimes the responsibility of the Speaker, as for example in Croatia, Denmark, the Republic of Korea and South Africa, but they are usually the responsibilities of the secretaries or parliamentary scrutineers, as in France, Mali and Poland, or the Clerk and his staff, as in many Parliaments based on the Anglo-Saxon model. If there are any irregularities, the Speaker is not generally authorized to hold the ballot again, but this does happen in Parliaments that follow different traditions, for example, the British House of Commons, the Bulgarian Assembly, the German Bundestag and the National Assembly of Mali — if the ballot is contested by a parliamentary group -, the Italian Chamber of Deputies and the Polish Diet.

(e) Does the Speaker control the Rules of Procedure?

During the sitting, when procedural incidents arise the Speaker frequently has to make use of all the options available in the rules of procedure in order to resolve them. His first task is of course to apply the rules and to call to order any parliamentarian who ignores them. However, a situation may suddenly arise in which strict application of the rules of procedure in force does not suffice. This is why in a majority of Parliaments, the Speaker has the right to interpret the rules and other regulations governing the functioning of the Assembly. This is not always the case however. In the new democracies of Eastern Europe,

for example Bulgaria, Croatia, Lithuania, Romania, the Council of the Russian Federation and Yugoslavia, the role of the Speaker is simply to apply the rules of procedure, not to interpret them. In Yugoslavia, but also in Iran and Syria, the Assembly itself is responsible for their interpretation.

Interpretation may also be the responsibility of a collegiate body, the Bureau in Djibouti, Estonia, Lebanon and Togo, the Presidium of the Polish Senate, the Constitutional and Rules Committee in Peru. Where such a task is entrusted to the Speaker, his interpretation does not always prevail and may sometimes be questioned by the House or a specialized body. In Finland and Hungary, for example, an appeal against his interpretation may be made to the Constitutional Committee. In Spain, if interpretation requires a decision, the President must seek the agreement of the Bureau and the Conference of Spokespersons. In France, where as part of their overall responsibility for guiding the debates the Presidents of the Assembly and Senate must interpret the Rules of Procedure, it is not unknown for the most sensitive issues to be raised in the Conference of Presidents or even the Bureau.

Lastly, the House itself may be the forum for appeals; in Slovenia, if a parliamentarian questions the Speaker's interpretation, the matter is put to the House. In the Philippines, the Speaker's view is not necessarily endorsed by the House.

To summarize, in Parliaments based on the Anglo-Saxon model the Speaker has the greatest latitude to interpret the rules of procedure. This is his role in Australia, the British House of Commons, in New Zealand and Singapore. It is even his duty in Ireland. In the United States, both in the House of Representatives and the Senate, the Speaker is assisted by the Parliamentarian, an official distinct from the Clerk, who is an expert in procedure. The Houses may nevertheless be called upon to vote on the position adopted by the Speaker, but this situation is very rare.

In most cases, although it is not a general rule, the Speaker's interpretation is based on previous policy, in other words, on precedent. In the United Kingdom, for example, the Speaker bases himself on precedent and on the principles laid down by his predecessors. These rules extend beyond the borders of the United Kingdom since, if there is any problem in guiding debates, the Speaker of the Lesotho Parliament can seek the advice of Westminster.

In France as well, a country of law *par excellence*, precedents play a major role in regulating public sittings and in Mali, a country where there is a French influence, if the Rules of Procedure remain silent, the President may resort to the code of precedents. As J.L. Pezant writes, "Precedent plays a regulatory role by giving to the authority which takes the decision the necessary points of reference and consequently limiting any risk of arbitrary action and partiality. Precedent thus protects the minority, which can invoke it against majority decisions"²³. Although precedent is an essential source of parliamentary law and allows the Speaker greater authority on which to base his decisions, he is not obliged to follow it, but retains the right to do so or to create new precedents in the light of the situation with which he must deal. The Speaker must take action when faced with a new problem and if the texts remain silent in this regard and there is no precedent to hand, he must take the decision he deems the most appropriate.

2. Participation in debates

Although the Speaker's natural function is to preside over public sittings and guide the debates, it is by no means certain that his role is compatible with active participation in the discussion or in legislative and monitoring activities. Can he take the floor during debates, exercise the right of initiative, in particular by submitting amendments, take part in the ballot and participate in monitoring procedures? The extent of his political commitment depends on the extent to which he participates in these activities and his neutrality generally takes the form of abstaining from such activities.

(a) Can the Speaker take the floor during debates?

Logically, the Speaker has to intervene in the debate in order to ensure its smooth functioning and to call to order any speaker who strays from the subject under discussion. It has also been seen that in some Parliaments he can take the floor to explain the sense of the text being discussed or even propose wording to clarify its meaning. In the same

²³ J.L. Pezant. *Quel droit regit le Parlement? Pouvoirs*, no. 64, Les Parlements, 1993, p. 69.

spirit, attention should be drawn to the didactic role played by certain Speakers in Parliaments of sub-Saharan Africa; in Mali and Niger, for example, the President summarizes the discussion by recalling the views expressed on all sides in order to help the Assembly to take a decision. The President is playing his role of arbitrator and his intervention — even though it may undoubtedly have political significance — is an integral part of his functions. It remains to be seen whether, like any other parliamentarian, he can participate and take sides in the debate.

In this respect, Parliaments are almost equally divided between two trends. Parliaments that follow the British tradition are mainly to be found in the "No" camp because such participation would violate the rule of the Speaker's impartiality and neutrality. The exceptions to this virtually unanimous Anglo-Saxon position are the Indian Lok Sabha, the House of Lords, where the Lord Chancellor may take the floor as a member of the Government, and the American House of Representatives, where the Speaker, unlike that at Westminster, is the leader of the majority, even though in practice he rarely intervenes.

It is less easy to find unanimity among those Parliaments where the Speaker is allowed to take part in the debate, although it may be noted that the new democracies in Eastern Europe and many Latin American countries find this natural.

In many Parliaments, the Speaker may express his views, but only after having physically left the chair to a replacement, usually the Deputy Speaker. This is the system in Denmark, Egypt, Finland, Germany and Japan. This would also be the approach followed in France, but the Presidents of both Houses refrain from taking the floor during debates. In some Parliaments, the Speaker is not allowed to resume the chair until the debate in which he participated has ended. This is the case in Belgium, Kuwait, the Netherlands, Norway and Spain.

In any event, it is generally the case that statements by the Speaker, even if he is strongly involved with a political party, as in the United States, are infrequent and the case of The former Yugoslav Republic of Macedonia, where the Speaker takes an active part in the debate like any other parliamentarian, constitutes an exception. It should be noted, finally, that abstention from the debate is usually only applicable to the Speaker himself and the Deputy Speakers more frequently take the floor, provided of course that they are not chairing the sitting.

(b) Can the Speaker exercise the right of initiative?

Provided that he himself is a parliamentarian, which is not always the case, bearing in mind the American Senate and also those Parliaments whose Speaker is chosen from outside the House, the Speaker should logically be able to enjoy the same rights as other members as far as proposing legislation or submitting amendments are concerned. However, only in very rare cases, for example in Colombia, can the Speaker exercise such rights without restriction, just like any other parliamentarian. In a great number of countries, although he is not formally prohibited from doing so, the Speaker abstains. This is the case in the American House of Representatives, the Canadian Senate, and Hungary. It is also extremely rare in Belgium, France and Switzerland. Or, as in the Australian House of Representatives and the Danish Folketing, exercise of the right of initiative is restricted to proposals to amend the rules of procedure or texts of relevance to Parliament. In general, Parliaments based on the British model show the greatest reluctance to allow their Speakers any role in proposing legislation or amendments, but this reluctance is shared by many Parliaments in the world. It should be noted, however, that this is not the case in Communist countries such as China, Cuba, the Democratic People's Republic of Korea and Viet Nam, or in former East European Communist countries, with the exception of Hungary.

(c) Can the Speaker take part in monitoring procedures?

The role of a parliamentary Assembly is to oversee Government action, although this may take different forms: it sometimes involves a motion of confidence or challenging the responsibility of Government, usually through written or oral questions by parliamentarians to ministers. Is the exercise of this competence compatible with the Speaker's function? It is difficult to envisage the Speaker of an Assembly taking the initiative to put down a motion of confidence or intervening *ex officio* in debates in order to contest or defend the Government's conduct, which is at the very least incompatible with the minimal reserve inherent in his role. His function does not, however, necessarily prevent the exercise of less obviously political prerogatives, for example, taking part in committees

of enquiry or questioning the Government. In France, for example, the President of the National Assembly chaired a committee of enquiry.

Here again, Speakers in Parliaments based on the British model are not usually allowed to intervene in overseeing or monitoring the Government or, if such intervention is not formally prohibited, it is not deemed desirable. The Chairman of the Chinese National People's Congress, on the other hand, participates in monitoring, as does his colleague in Viet Nam.

It should also be emphasized that in many Parliaments the Speaker does take part in monitoring procedures as part of his functions and not in his role as a parliamentarian. He is responsible for ensuring that the procedures are properly applied — for example as regards the admissibility of motions and their notification — or that the questions raised respect the framework set out in the rules of procedure. This is the case in Australia, Belgium, Egypt, France and Germany *inter alia*. In other Parliaments, the Speaker is directly involved in the procedure. In Denmark, questions are submitted to him for approval, in Japan he authorizes oral questions, and in the Indian Lok Sabha he may request a minister to provide an explanation, at the request of the House.

(d) Does the Speaker vote?

This is a particularly delicate and sensitive question. Voting is the act by which members of Parliament take part in decision-making and is thus an essential prerogative of parliamentarians. But in democratic Assemblies, it also means deciding between the majority and the opposition, the tangible sign of political commitment, and could appear to be incompatible with the exercise of the speakership. The situation of Speakers in this respect in various Parliaments all over the world therefore reflects this ambiguity. There are very few countries like Finland which categorically deny the Speaker this right. With the exception of single-party regimes, there are also very few cases where the Speaker can vote unrestrictedly, or even as in the Polish Senate where he is obliged to vote. In general, if the Speaker is himself a parliamentarian, he has the right to vote but only rarely does he make use of this right, *a fortiori* when he is actually chairing the sitting. Even

in the United States, where the Speaker is a politician and is the real leader of the majority, he does not customarily vote. Deputy Speakers usually enjoy greater freedom, although in many Parliaments such as the German Bundestag and the Finnish Eduskunta they must leave the chair. In other Parliaments such as the Kuwaiti National Assembly, the Lithuanian Seimas and the Council of the Russian Federation, it is provided that the Speaker should vote last, probably not only to ensure that he does not influence his colleagues but also to give him the possibility of taking the position he considers most appropriate to his functions. In Parliaments based on the British model, which once again show a common singularity, the Speaker also votes last because he only votes if there is an equal number of votes (tie vote). He then has the casting vote. As Ph. Laundry emphasizes, however, the Speaker — in Westminster at least — "does not take a partisan position but votes in accordance with well-established precedents relating to the casting vote"¹⁴. He must normally vote in such a way that the debate remains open for subsequent discussion or, if this is not possible, that the *status quo* is maintained.

In summary, it can be seen that in a large number of Parliaments the Speaker is not in a position to exercise all the prerogatives given to ordinary parliamentarians and is thus often in an ambiguous, or even uncomfortable, situation, his participation inevitably having special importance because of the position he occupies in Parliament. Commonwealth countries following the British model have therefore adopted an approach that mitigates these problems: the Speaker deliberately remains aloof in order to fulfil his functions with the greatest possible impartiality. This uniform position adopted by Parliaments based on the British model is particularly remarkable because, according to the country concerned, the Speaker does not in practice always have the independence and continuity of office enjoyed by his British counterpart.

In contrast, in single-party regimes that do not have separation of powers, for example, those in Communist countries, the Speaker, just like any other member of the House, naturally exercises the prerogatives given by his parliamentary function and, in particular, takes part in voting, a tangible sign of support for the policies pursued by the party.

¹⁴ *Op.cit.*, p. 50.

3. Following up legislation

After legislation has been adopted or decisions have been taken at public sittings, whether the Speaker has merely guided the debate or has taken part in it, he is usually responsible for "following up" the procedure by verifying the records of the sitting and the texts adopted and transmitting them to another deliberative Assembly or to the Executive so that they can be enacted, or he may even play a role in their enactment and in verifying the constitutionality of legislation.

(a) Does the Speaker authenticate the adopted texts and the records of debates ?

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It is incumbent upon a democratic Assembly to debate publicly, to draw up a complete record of its debates and to establish the official text of its discussions. In a large number of Parliaments, the Speaker must verify the results of the House's work, although a distinction can sometimes be drawn between the record of the debates and the establishment of the text adopted. As far as the record of the debates is concerned, the House is sometimes called upon to take a decision on adoption of the records, as happens in the French Senate, Lebanon and Sweden, or to authorize substantive corrections as in the Canadian House of Commons, or in cases where the version approved by the Speaker is contested, as in the United States. Verification of the records of debates may be entrusted to the secretaries, who often share this role with the Speaker, and this is the case in Denmark, France, Italy and Spain. Sometimes this is the responsibility of Parliament's services, under the authority of the Clerk or Secretary General, as happens in Parliaments based on the British model such as those in Australia and Bangladesh, but also in Colombia and Finland. In some cases, for example in Belgium, Hungary, the Netherlands and Uruguay, the responsibility is shared by the Speaker and Secretary General or Clerk, who both sign the records.

In a large number of cases, for example in the French National Assembly and the Hungarian Parliament, the presiding officer who has actually chaired the sitting is responsible for this task.

It is rare for the Speaker not to be involved in authenticating texts adopted. In many Parliaments, he is directly entrusted with this and

his signature officializes the document. It is not necessary to list all the Parliaments which lay this duty on the Speaker; it would not be indicative of any particular politico-institutional tradition or geographical region because the procedure is so widespread. It should be noted that this procedure is followed in many Parliaments based on the British model, even though the Clerk generally plays a decisive role in this respect. In the United Kingdom, the Speaker personally authenticates the "Votes and Proceedings", the record of the House; in the United States, the Speaker of the House and the President of the Senate authenticate the text of legislation adopted before transmitting it to the President of the United States, who may veto it. The signature of Parliament's Speaker authenticating a text is often linked to the transmission of this text and constitutes one of the criteria for transmission.

(b) What is the Speaker's role in the promulgation of laws and verification of their constitutionality?

The promulgation of laws is usually the prerogative of the Head of State, a relic of the time when the monarch endorsed and promulgated laws and could thus oppose their entry into force. In the majority of democracies today, this function is restricted and the Head of State's role is purely one of endorsement. It is only in presidential regimes such as that in the United States that the President has the right of veto, the drafters of the American Constitution having preserved what they considered was the limited British monarchical system, although in fact by 1787 the British sovereign had already lost the power to oppose the promulgation of any law.

In this situation, the role of Parliament's Speaker naturally and justifiably appears to be limited and frequently he plays no particular role in the promulgation procedure, at least in the promulgation of laws strictly speaking. The Speaker may be responsible for ensuring the publication of acts that are internal to the House such as decisions, as is the case in Argentina and Bulgaria. But as far as legislation itself is concerned, although it is not a stage in the promulgation procedure, the Speaker's signature on the text adopted is often a mandatory step in transmission to the Executive with a view to promulgation. By his

signature, the Speaker attests that the legislative procedure has been completed. In bicameral Parliaments, the text is logically transmitted by the Speaker of the last Chamber where the text was adopted, which may systematically be the Lower House. In the Czech Republic, the President of the Chamber of Deputies is responsible for obtaining the signatures of the President of the Republic and the Head of the Government. In Switzerland, there is a unique procedure before laws are promulgated: the President of the National Council or the Council of States signs the text of laws published in the "*Feuille fiddrale*" (Official Gazette). Publication of these texts sets in motion the time limit for referendums, the period of 90 days during which a referendum may be called for by at least 50,000 citizens.

As far as participation by Speakers in the promulgation phase itself is concerned, setting aside the special case of The former Yugoslav Republic of Macedonia where promulgation decrees are signed by the President of the Republic and the President of the Assembly, it only applies in one particular circumstance, although it is an important one, namely in the absence of the Head of State. In some countries such as Cameroon, Lithuania, Peru, Republic of Korea, and Senegal, if the President of the Republic does not promulgate a law within the time limit set down in the Constitution, the President of the Assembly — these are all unicameral Parliaments — takes his place and promulgates the law.

By ensuring that the legislative procedure is correctly followed and by following up the legislation, the Speaker may be associated in various ways with verifying constitutionality. This obviously implies a written Constitution, but even in a country which does not have a written Constitution, for example New Zealand, the Speaker must ensure that any public expenditure proposed does indeed emanate from the Executive as Parliament is not allowed to take the initiative in this respect.

There are two methods for verifying constitutionality: internal verification in Parliament, which is usually done before or during the discussion in Parliament, and external verification involving an outside body — usually a jurisdictional body — which in most cases occurs prior to the legislative procedure, although there are exceptions to these general rules.

It has been seen that, as a general rule, the Speaker is formally responsible for ensuring that proper procedures are followed during the legislative discussion, which means that he verifies that the relevant constitutional provisions are applied. In addition to verifying the form, some Speakers are also responsible for examining the constitutionality of drafts put before the House. In Chile, Cuba and Sweden, the Speaker must verify their admissibility in advance. In the latter country, if the Riksdag questions the Speaker's decision, the matter is brought before the Constitutional Committee. In Egypt, the Speaker also plays a major role in verifying the constitutional admissibility of legislation and may consult the Bureau, special committees or the members of the People's Assembly for this purpose. During the legislative debate itself, the Speaker may have to take a decision if a problem of constitutionality is raised during the sitting, and this is the case in Bangladesh and Colombia for example. In Finland, the Speaker may refuse to put to the vote a provision that he considers unconstitutional. In the Philippines National Assembly, the Secretary General, on behalf of the Speaker, verifies the constitutionality of the measures proposed, taking into account the texts and the jurisprudence of the Constitutional Court. In China, in accordance with a custom that prevails in many Communist countries, the House itself verifies constitutionality and the Chairman presides over the Standing Committee of the People's Congress, among whose attributions is verification of the constitutional conformity of legislation. In other Parliaments, the Speaker may only refer the matter to another body. In South Africa, he may consult the Constitutional Court concerning a draft text under discussion. In Belgium, the Presidents of Parliament are entitled to request the Council of State to provide a reasoned opinion on the constitutionality of a text. In Cameroon, the President may bring the matter to the attention of the Supreme Court if there is any doubt or dispute concerning the admissibility of draft legislation. In France, in the hypothetical case of the Government raising the question of the admissibility of an amendment or legislative proposal that affects the rules of procedure or the legislative authority, the Presidents of the two Houses, if they disagree with the Government, are entitled to bring the issue before the Constitutional Council.

In some Parliaments, after a law has been adopted, the Speaker may

still intervene in the procedures to verify its constitutionality, usually by bringing the matter to the attention of an outside jurisdictional body. In France, for example, after a law has been adopted and before it is promulgated, the Presidents of both Houses may request a ruling on its constitutionality from the Constitutional Council, of whose nine members three are appointed by each President. Based on the French model, the Presidents of the parliamentary Assemblies of Burkina Faso, Mali and Niger, for example, may under similar circumstances refer legislation to their respective Constitutional Courts or the Constitutional Chambers of the Supreme Court. The President of the Assembly of the Republic in Portugal and the Presidents of the Romanian Assemblies may bring the matter to the attention of the Constitutional Tribunal or the Constitutional Court, respectively. In Belgium, after a law has been adopted, the Presidents of both Houses may refer the matter to the Arbitration Court.

Ireland follows a different logic. The Chairmen of the Senate and the Dáil are *ex officio* members of the Council of State and the President of the Republic may request its opinion before bringing the matter to the Supreme Court.

PART THREE THE PLACE OF THE SPEAKER IN THE INSTITUTIONS

The preceding pages have tried to circumscribe the office of Speaker by describing the characteristics of his status and functions. It is now necessary to go further and consider the conditions for exercising the Speaker's functions and also attempt to draw up a classification of the various forms of presidency in different Parliaments.

I. Conditions for exercising the Speaker's functions

In order to make a meaningful analysis of the actual conditions for exercising the Speaker's functions and consequently of his position and actual role, it is first necessary to determine whether the office is exercised individually or collectively and then to decide whether the nature of the Speaker's functions is that of an arbitrator or of an active protagonist in political life, before refining the analysis by considering the sociological aspects of the office.

1. Individual or collective exercise of the presidency

The question of the individual or collective exercise of the presidency must first be distinguished from the exercise of the functions themselves, notably presiding over public sittings, by the Speaker alone or by other parliamentarians appointed for this purpose, usually Deputy Speakers. All Parliaments have either provided for Deputy Speakers or at least for a replacement for the Speaker. This does not mean however that collectively the Speaker and the Deputy Speakers constitute a collective presidency. It may be the case that the replacements never meet formally with the Speaker. Even if they do, this meeting does not have any institutional implications. When they replace the Speaker during a sitting, in most cases they each in turn enjoy the prerogatives given to the Speaker. These are not powers that they exercise on their own behalf however. The Speaker may resume the chair at any time.

Far from constituting a limit or obstacle to the fulfilment of the Speaker's functions, they appear rather as an instrument of the presidency that can take over duties that are repetitive or even tedious. In the United States House of Representatives, for example, the Speaker

often appoints "junior members"* to the chair and only presides over important debates. In the United Kingdom, the Chairman, First Vice-Chairman and Second Vice-Chairman of the Ways and Means Committee fulfil this role and preside over the House *ex officio* when it meets as a Committee of the Whole.

The role of a collegiate body is entirely different, although in some cases it may be restricted to advising and assisting the Speaker whereas in others it is a real collective presidency. A collegiate body may of course comprise the Deputy Speakers, but if so they are no longer simply potential replacements for the Speaker but are genuinely associated collectively in the presidency, and may even be an integral part thereof.

(a) The absence or presence of a collegiate body affects the Speaker's role in the Assembly's functioning ...

In Parliaments where there is no collegiate presidency — the Parliament at Westminster is the model for this — the authority and dignity of the presidency are wholly invested in the person of the Speaker, who is responsible for defending the House's rights and privileges and embodying its freedoms. It is usually considered that the authority of the House and the Speaker are inseparable. Furthermore, the external marks of respect and the ceremonial surrounding the Speaker are additional factors that help to enhance and reaffirm his prestige, although these are hardly required. The most typical example of the individual exercise of the presidency is assuredly the British Speaker because he has broad powers to interpret the rules and procedures based on precedent laid down by his predecessors. In other Commonwealth Parliaments, the Speaker is also solely responsible for supervising the House and he does not share this task with any collegiate body. It should be stressed, however, that some Commonwealth Parliaments do not follow British tradition and are characterized by the presence of a Bureau, although its role and independence are limited. In Canada, it has exclusively administrative and financial responsibilities. In Kenya, its members are appointed by the Speaker. In Ghana, it only plays an advisory role, even though it is composed of the leaders of the majority and opposition, a former parliamentarian, a woman parliamentarian and the Clerk, and is chaired by the Speaker.

On the other hand, in Parliaments characterized by the existence of a collegiate governing body, the exercise of the Speaker's functions can be affected by this to varying degrees. In some instances, this body is not a collegiate presidency at all. It is simply limited to assisting the Speaker, but it does not have any powers of its own to supervise the House. This is the case in Japan *inter alia*, even though the presiding officers of both Houses take into account the opinions and decisions of the Procedures and Administration Committee, and in Germany where, despite the role of the Presidium and the Council of Elders, the Bundestag is not presided by a collegiate body but by the President, in Denmark as well where the Presidium, like the Rules Committee, does not hinder the exercise of presidential functions by the Speaker alone. The body responsible for advising and assisting the Speaker sometimes only comprises members that he has appointed so its lack of independence is all the greater. As we have seen, this is the case for the Chairmen's Panel in the Kenyan National Assembly and in Bangladesh for the Business Advisory Committee, but far from being akin to a collective presidency the latter is in fact one of the House's standing committees. The same is true to a greater degree when the collegiate body is made up of officials such as the secretariat of the standing committee in the Democratic People's Republic of Korea.

The situation of Parliaments in which there is a body that has been given its own powers is completely different and this body may at least in theory constitute a collective presidency. In France, for example, in both the National Assembly and the Senate, the Bureau has full power to regulate the House's deliberations and to organize and direct its services. This method has also been adopted by the National Assembly of Cameroon. In the Spanish Congress of Deputies as well, the Bureau constitutes a real collective presidency responsible for organizing the work, taking decisions on the admissibility of parliamentary proposals, fixing the timetable for public sittings and committee sessions, and drawing up the House's budget. In Colombia, Lebanon and Romania, only to cite these examples which are geographically distant, there is also a collegiate body that has its own powers, usually related to procedure, rules and the administration of the House.

In general, the Bureau — or the corresponding body meets under the chairmanship of the Speaker of the House and brings together the

Deputy Speakers, and possibly the secretaries and questors where these exist; representatives or even leaders of political groups sometimes participate *ex officio*, together with the chairmen of committees. The number of participants can thus vary greatly and may not even be fixed in a particular Assembly because it depends on the number of political groups and committees. The largest Bureaux may thus comprise around thirty members and the smallest scarcely more than four or five.

The frequency of the collegiate body's meetings is an indicator of the importance of its role. In most instances, it meets weekly, rarely more often as in Lithuania and Romania where it meets twice a week, sometimes it meets less frequently, as in Canada and Tunisia — once a fortnight — or in the Belgian Chamber of Representatives and in Sweden — monthly. Meetings may not even be held on fixed dates and have to be convened, as in Burkina Faso, France and Italy, in which case they are rarely held more than once a month.

Sometimes there are two bodies simultaneously, one of which acts more as an advisory body while the other assumes the presidency. The Presidium of the Polish Senate, on which the President and the three Vice-Presidents sit, shares the presidency with the President, whereas the Council of Elders, composed of the same officials together with senators representing parliamentary groups, has an advisory role. The same distinction can be found in the German Bundestag but, as we have seen, both the Presidium and the Committee of Elders are chiefly responsible for aiding and advising the President, even though they have their own responsibilities as well. In the two Houses in France there is a Conference of Presidents composed *inter alia* of the Vice-Presidents, the leaders of the groups and the chairmen of committees, whose principal role is to prepare the work for public sessions. This conference meets each week when Parliament is sitting, much more frequently than the Bureau, and has thus assumed an important role in the functioning of the Houses: incidents during sittings are raised here and its influence is particularly great because the leaders of political groups participate *ex officio* and it is thus genuinely representative.

The presidential function is necessarily affected by the role attributed to the collegiate body particularly when, as is often the case, its composition reflects the whole spectrum of political trends in the House. The House's authority is thus not wholly materialized in the person of

the Speaker, who does not represent the House alone because this is the collective responsibility of the collegiate body which, as such, can participate in official ceremonies, for example.

(b) ... *but does not on its own lead to individual or collective exercise of the presidency*

A collegiate body cannot, however, be considered as the Speaker's rival. It is not a parallel authority in which the Speaker plays no part but a body which he chairs; in many Parliaments the Speaker can decide how often it should meet and establish its agenda, and he plays a leading role in its work. Moreover, the decisions he takes can be reinforced by the position adopted by the Bureau and through it he is assured of the support of all components of the House.

As far as the presidency of public sittings is concerned, even if the members of the collegiate body symbolically sit beside or not far from the Speaker, it is the person occupying the chair who is responsible, not the members of the collegiate body jointly.

In addition, however important and numerous may be the powers of the Bureau, the Speaker *intuitus personae* usually has powers not only within the House but also in the State itself which he exercises alone and which help to reaffirm his authority and prestige. This is the case in France and many French-speaking African countries, but also in North European countries and in the new democracies of Eastern Europe, where it is true that the authority of the collegiate body is sometimes more limited. It will be recalled that the British Speaker, on the other hand, who is the sovereign authority on procedure, not only plays no role in drawing up the agenda but also has no powers concerning the other public authorities and, in this respect, his role is much more restricted than that of a number of "continental" Speakers. There should therefore not be any confusion between the sole or collective exercise of the presidency and the influence or political weight of the Speaker within the institutions.

Lastly, the respective terms of office of the Speaker and the other members of the collegiate body is a significant aspect. The actual role of the Speaker is very different according to whether the Bureau is elected for five years, each of the five members fulfilling the different

functions in turn, including that of Speaker, for one year, as happens in the Swiss Council of States, or, as in the French National Assembly, the Constitution provides that the President has the same term of office as the Parliament, whereas the other members of the Bureau are reappointed each year.

On the other hand, although they are not assisted by any collegiate body nor even by Deputy Speakers, some Speakers do not really exercise their functions alone. In the United States Senate, for example, not only does the *ex officio* President yield his place to the President *pro tempore* for most of the time, but in practice "the latter only exercises honorary functions" and "in fact, the presidency is filled by the leader of the majority whose functions are comparable to those of the Speaker". Thus the effective supervision of the House, the "leadership", is exercised by "the President *pro tempore*, the leader of the majority and the majority whip"²⁵.

In the same way, however decisive may be the functions of the British Speaker and his Commonwealth colleagues, they should not obscure the fundamental role played in the House is functioning, especially with regard to the agenda, by the leader of the majority who is both a leading figure in the House of Commons and a member of the Government.

The exercise of the presidency alone or jointly with a collegiate body does not in itself reflect the conditions under which the presidency is exercised and still less does it show the real influence of the Speaker and his place in the institutions. Another dimension must also be taken into account, namely his political affiliation or neutrality in political confrontation.

2. The Speaker's role as arbitrator or protagonist

One of the difficulties, not to say inherent contradictions, of presidential office in Parliaments is the need to exercise the presidency impartially within a setting that is the main forum for the expression and confrontation of political trends and sectarian divisions, at least in democratic States.

²³ C.E. Longuet, *op.cit.*, p. 83.

As we have seen, the office of Speaker calls for the utmost impartiality and implies that the holder of the office is capable of relinquishing his political affiliation to any party.

The Speaker's situation is of course more comfortable in Parliaments that have no majority nor opposition, as is the case in Communist countries such as China, the Democratic People's Republic of Korea and Viet Nam, or in Parliaments where there are no political parties, as in Kuwait, or again in the Senate of Thailand, whose members and the President chosen from amongst them must not belong to any party.

In multiparty democracies, the question of whether the Speaker acts as an arbitrator or is involved in political struggles is also irrelevant if the office is not the subject of opposition among parties, but these are exceptional cases. In Switzerland, for example, each party in turn occupies the chair in the National Council and the Council of State for a period that reflects their respective importance. The same is true when the Speaker is not elected by a majority in the face of opposition but is chosen by consensus by the House as a whole over and above political divisions. This system reaches its apogee when, as in Westminster, the Speaker is re-elected *ad infinitum* for as long as he wishes²⁶ and his impartiality is not only recognized but reaffirmed by the fact that he faces no opposition in his constituency when the next general election *is* held. Far from being dependent on his influence within a majority or party, his authority depends on the contrary on his ability to appear totally and definitively independent of any party. This type of system has, however, only really thrived in the United Kingdom.

In the vast majority of cases, including Parliaments based on the British model, the Speaker has to resolve the dilemma of his political affiliation and the simultaneous need to show neutrality in carrying out his functions. Following the British example, the Speakers of the Canadian House of Commons, the Indian Lok Sabha, the Lesotho Parliament, and the Maltese House of Representatives act strictly as arbitrators once they have been elected and only earn and retain the

²⁶ In the absence of the outgoing Speaker, there may be a contest among several candidates. For example, as Mr. B. Weatheril was not a candidate in the 1992 general election, Mrs. Betty Boothroyd, Labour, was elected Speaker against Mr. Peter Brooke, the candidate of the Conservative Party, which was nevertheless the majority. This is yet another example of how the Speaker's office transcends political divisions.

confidence of their colleagues because of their impartiality; they thus renounce all political affiliation, but this split with their own party causes problems because they were chosen from among the majority and at the next general election they will have to fight an opponent. If the parliamentary majority changes, Speakers do not usually remain in office and must give way to a representative of the new majority, who must in turn become an impartial arbitrator as soon as he is elected. In Canada, as Ph. Laundry mentions²⁷, although successive Speakers have tried to maintain the tradition of impartiality, only one of them managed to distance himself from his party and get himself re-elected as an independent candidate. In India, the office has acquired a sound reputation of impartiality, even though few Speakers have been able to sever their political affiliations.

In other Parliaments, Speakers continue to be members of their parties or political groups and still belong to the majority, at the same time maintaining a clear position as arbitrator while in office. This is the case in a large number of countries irrespective of their political regime or geographical situation. It happens in Australia for example, where the Speaker remains an active member of his party, participating in its meetings, but also acts as an impartial arbitrator. To cite other Parliaments that are very different, in the French Parliament, however impartial they may be, the Presidents are still leading figures in their own parties, or the Romanian Senate, where the previous President was honorary president of a political party, or the National Assembly in Mali, where the President's impartial attitude attenuates the influence of the large majority to which he belongs.

On the other hand, examples of Speakers who are also active participants in parliamentary life are more rare. The Speaker of the United States House of Representatives is of course the most typical example. It will be recalled that he is the effectual leader of the majority and his objective is to carry out his party's programme, although he must act fairly in the chair. The policy followed in the House during the last Congress was largely motivated by its own Speaker. Other Parliaments also have Speakers engaged in Parliament's political battles; they include the Parliaments of Egypt, Greece, Slovakia and Slovenia,

²⁷ Ph. Laundry, *op.cit.*, pp. 77-78.

where the arbitral role is fulfilled by the Bureau and not the Speaker. In almost all cases, active protagonists are logically Speakers who belong to the majority, although there are a few exceptions such as Ecuador where the President of the National Congress is a member of the opposition.

In many Parliaments, the Speaker is both an active protagonist and an impartial arbitrator and a distinction has to be drawn between his activities as Speaker and as an ordinary parliamentarian. This is the case in Burkina Faso, Hungary and Spain to the extent that, like any other parliamentarian, the President can vote or take part in debates. Sometimes, without it being necessary to distinguish between his functions, the Speaker appears as a "politically committed arbitrator", as happens in the Belgian House of Representatives. The same is true in Cameroon, Paraguay and Thailand.

A second distinction has to be drawn between the role of the Speaker within Parliament, which can be neutral and arbitral, and his place in the nation's political life. As we have seen, some Speakers renounce all political activity once they have been elected, both within the Assembly and in the country as a whole, whereas others notwithstanding the strict role of arbitrator they play within the House over which they preside take a leading role in politics at the national level. France and Israel, where the President of the National Assembly and the Speaker of the Knesset subsequently became Prime Ministers, constitute good examples. The extent of the Speaker's political commitment often depends as well on the personality and character of the person holding the office. In the Canadian House of Commons and the Finnish Eduskunta, the nature of the office greatly depends on the determination of the holder and the action he takes.

To summarize, whatever the political system, the historical traditions or geographical location of the Parliaments concerned, the Speaker, even if he is involved in politics, never appears as the sectarian and extreme representative of a party. This explains the moral authority attached to his decisions or even the growing importance of the Speaker's office in parliamentary institutions. In India and the United Kingdom in particular, but also in many other Parliaments, the Speaker's decisions are not contested and are universally respected; moreover, ignorance of the rules fixed by the Speaker or questioning his authority

are considered to be affronts liable to punishment. Precedents on which succeeding Speakers have based their own decisions have been created in this way.

As regards the possible growing importance of the Speaker's office in Parliament itself, this must be considered with prudence and circumspection. Such a concept is *a priori* hardly compatible with the collegiate nature of a deliberative body where decisions are adopted by a majority vote. In addition, the impartiality and even neutrality which the vast majority of Speakers must display are scarcely consistent with an excessive amplification of their functions. The existence in many Houses of collegiate bodies that assist the Speaker in his supervisory duties, or even share the task with him, naturally helps to moderate any excessive personalization of the presidency. Nevertheless, an increase in the Speaker's influence and role can sometimes be seen. The development of the office's importance is often due to the personality of successive Speakers. In India, for example, the Speakers who have occupied the chair since independence have managed to make the office one of the most powerful in the Commonwealth. It may also be the consequence of institutional changes. It would seem that election of the Speaker of the Canadian House of Commons by secret ballot has enhanced his authority and independence. In Italy, the regulatory reforms implemented since 1971 have resulted in an enhanced role for the President of the Chamber of Deputies. In France, election of the President for the whole of Parliament's term has been the innovation which "more than any other has helped to enhance the office because in politics durability is an irreplaceable ingredient".²⁸ Lastly, in the new democracies of Africa, Asia and Eastern Europe, development of the role and Parliament's competence in the institutions has been quite logically accompanied by an increase in the influence of the person presiding over the debates of the nation's representatives.

3. Some sociological aspects of the office

In the context of a study devoted to the presiding officers of parliamentary Assemblies, it is not possible to paint a sociological

²⁸ Ph. S[^]guin, *240 dans unfauteuii*, Le Seuil, 1995, p. 983.

portrait of Speakers through the ages and on all continents. Nonetheless, some typical features can be highlighted.

Taking up the functions of Speaker is rarely a task for beginners in political and parliamentary life, on the contrary it usually requires a person of advanced years or at least someone with long experience, and in many respects the young President of the Italian Chamber of Deputies, Mrs. Irene Pivetti, constituted an exception. Like the Speaker of the United States House of Representatives, persons who become Speaker have usually received their education within the House by holding a responsible post, or have exercised ministerial functions as is nearly always the case in France. It remains to be seen, however, whether the presidency is just another stage in the "honours race" or whether it can be considered as the crowning point of a life in politics. Such a question does not of course have one single answer and within the same Parliament the two types of situation can occur in succession and depend in particular on the age of the persons concerned. In some Assemblies, however, the presidential function is incompatible with pursuing an "active" political career. The British Speaker, who is re-elected for as long as he wishes, traditionally enters the House of Lords subsequently. As an experienced observer emphasized, "the House knows that he has no personal stake and will not be tempted to prefer one side over another in the expectation of a ministerial post".²⁹ Like his British counterpart, the Speaker of the Canadian House of Commons has no eye on becoming Prime Minister, although he may subsequently occupy the honorary post of Governor General, just as the Presidents of the French Senate under the Illrd Republic often became President of the Republic. In other Parliaments, presiding over the Assembly may not necessarily be a political springboard, but it does not prevent the occupant from following a political career and acceding to the highest offices of State. The last word should certainly go to a former President of the French National Assembly, Edgar Faure, who in response to a journalist who asked him whether he saw the presidency

²⁹ Roger Sands, Principal Clerk of Select Committees, House of Commons, in *Rules of Procedure and Parliamentary Practice : The Proceedings of the International Conference on Parliamentary Rules of Procedure and Parliamentary Practice, Pultusk, 8-11 May 1994* (Warsaw, Poland, Sejm Publishing Office 1995).

as a springboard or a dead end said "My dear friend, one can quite easily make a dead end into¹ a springboard".³⁰

One of the rare sociological characteristics of the presidency that is common to the great majority of parliamentary Assemblies is that it is occupied by a man. In fact, the proportionally of women Speakers is slightly less than that of women parliamentarians. Although the latter account for just over 11.5 per cent of members of Parliament, only around 7 per cent of Speakers are women. An interesting study by the Inter-Parliamentary Union³¹ shows that of the 179 countries studied only 38 had appointed a woman as Speaker of Parliament or one of the Houses at some time or another in their Parliament's history. Although a woman was elected President of the Austrian Bundesrat in 1927, and even re-elected in 1932, in the other 37 countries it was necessary to wait until the end of the Second World War and in most cases until the 1960s to see a woman preside over Parliament's work. Although the election of a woman as Speaker was sometimes an isolated or even temporary occurrence, as in Argentina, Bolivia and Denmark, in other countries such as Austria, Germany, Iceland and Switzerland, its repetition is indicative of a certain tradition in this respect. That being so, at 1 January 1997 there were 17 women Speakers of Houses in Finland, Germany, Sweden and Switzerland, where women had already held the office, and also Antigua and Barbuda (Senate and House of Representatives), Australia, Croatia, El Salvador, Ethiopia, Jamaica, Japan, Latvia, Malta, Norway, South Africa and United Kingdom, where women became Speakers for the first time thereby heralding a change in parliamentary tradition. Nonetheless, it seems certain that any increase in the number of women Speakers implies that first of all there must be a higher proportion of women parliamentarians. Indeed, as the Inter-Parliamentary Union's study³² points out, "there does not seem to be any direct link between the proportion of women elected and that of women presidents"; in Ethiopia, for example, the proportion of women elected is 2 per cent. In this connection, it is significant that

» Ph. Sdguin, *ibidem*, p. 13.

³¹ *Men and Women in Politics. Democracy still in the making. A World Comparative Study.* Reports and Documents Series No. 28, Inter-Parliamentary Union, 1997.

³² Analysts of the statistical aspects of the survey by Thanh Huyen Ballmer-Cao and Elisabetta Pagnossin-Aligisakis, p. 128.

in countries with the highest percentage of women parliamentarians — Sweden (40.4 per cent), Norway (39.4 per cent), Finland (33.5 per cent) — women are currently Speakers.

II. An attempt to characterize Presiding Officers of Parliamentary Assemblies

At this stage of the study on the presiding officers of parliamentary Assemblies, it appears possible to define the main characteristic features of the various "models"* that show to what historical, political or socio-economic community the countries and Parliaments concerned belong, and occasionally reveal the influence of a colonizer, and to consider the unity or diversity of the Speaker's office in various Parliaments.

1. The Speaker's functions have a common historical origin

However different they may appear to be today, the British and United States Speakers both have their origins in the Parliament at Westminster.

In the XVIIIth century, the British Speaker had not yet acquired the independence vis-a-vis political movements that is one of his principal characteristics today. He was a political leader and did not shun political affiliation; he defended the position of the House's majority against the Crown. In the United States as well, in the colonial era the Speaker was by no means simply an arbitrator of debates, he was the leader of the opposition to the British Crown; in those days, the Assemblies were often in open conflict with the Governors representing the British monarch.

After independence, United States Speakers remained committed party leaders, whereas in the United Kingdom the development of the institutions led their counterparts to affirm and demand their neutrality.

The limited monarchy of the XVIIIth century was the common origin of the political regimes in both countries, but they developed in opposite directions. In their Constitution, the Founding Fathers of the United States enshrined British institutions as they thought they knew them and established a strict separation of powers.

The parliamentary regime in the United Kingdom became well-established and was strengthened throughout the XIXth century, true power moving from the sovereign to the cabinet, which was accountable

to Parliament. Quite naturally the leader of the majority became Prime Minister, whereas in the United States, where the elected President enjoyed his own legitimacy, the majority in the Capitol installed its leader as Speaker of the House of Representatives.

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2. The British model is a constant tradition in Commonwealth countries

By transposing a large number of the United Kingdom political institutions and its electoral system, Commonwealth countries have naturally adopted a similar structure for their Parliaments, at least as far as the lower House and its presidency are concerned. They thus display considerable uniformity largely inspired by Westminster's traditions.

The Speaker is appointed by the House, which usually selects him from among its members in accordance with a procedure that is very similar in the countries concerned: the Clerk chairs the sitting — with the notable exception of Canada, South Africa and the United Kingdom³³ itself — no vote is held if there is only one candidate, except in the Indian Lok Sabha, the person elected formally takes over the chair and take an oath, sometimes the election has to be symbolically endorsed by the Head of State. Once he has been appointed, the Speaker remains in office throughout Parliament's term; the dissolution of Parliament does not affect his role and he continues to exercise his functions until the new Parliament meets. Alone, lacking the assistance of a collegiate body, the Speaker embodies the House's permanence and authority; his role is essentially one of arbitrator and even if he is chosen from among the majority he generally relinquishes his political commitments once he has been elected. As we have seen, however, only the British Speaker is assured of retaining his seat without having to fight an opponent in his constituency and he is certain of remaining in office even if the majority changes.

The Speaker is the undisputed authority within the House over which he presides and does not usually play any other role in the State, as can be seen from the relatively modest rank he occupies in the

³³ In Canada and the United Kingdom, the chair is occupied by the oldest member of the House, and in South Africa by the Chief Justice.

hierarchy; he is not called upon to sit on bodies outside Parliament nor to appoint some of their members. His role in fact focuses essentially, if not exclusively, on guiding the House, notably chairing sittings. Although establishing the agenda is not his task but that of the "leader of the House", the Speaker frequently has a role in appointing members of committees or even has to appoint them himself. During sittings, he ensures that order and discipline reign and that respect is shown for the rules of procedure, which he interprets basing himself upon the precedents laid down by his predecessors. No member may take the floor without his authorization and anyone wishing to speak must "catch his eye".

On the other hand, he gives up the prerogatives of an ordinary parliamentarian: he never takes the floor during debates, except in the Indian- Lok Sabha, does not exercise the right to put forward proposals and does not take part in monitoring procedures. He does not vote either unless there is a tie vote, a procedure that is wholly characteristic of Commonwealth Parliaments. By deliberately remaining aloof from political confrontation, he can act strictly as an impartial arbitrator.

3. Is there a continental American model?

In addition to the responsibilities traditionally incumbent upon any Speaker in connection with chairing public sittings and representing the House, the United States Speaker is also effectually the leader of the majority party. In this capacity he plays a decisive role in defining the House's legislative programme and implementing it. He exerts a direct or indirect influence on the appointment of committee members belonging to his party and committee chairmen. Although establishing the agenda is not formally within his competence, he is to a large extent responsible for it. He officially has the power to send draft bills back to committee so he exerts considerable control over the legislative process.

When chairing a sitting, however, he must show impartiality and guarantee the minority the legitimate expression of its opinions. Like the British Speaker, he refrains from taking part in the debate and does not usually vote. The solitary nature of the office has also been borrowed from the British Speaker and, like him, the United States Speaker is not assisted by any collegiate body.

The President of the Senate holds his office by virtue of his position as Vice-President of the United States and this makes him quite distinct from the Speaker as the historical origin of his office is not the Parliament at Westminster.

In many respects, it appears to be an original creation on the part of the Founding Fathers. The role of President of the Senate is different to that of the Speaker, if only because of his low level of involvement in parliamentary affairs. In any event, a *pro tempore* President is elected by the Senate to replace him during his frequent absences.

When the Vice-President takes the chair in the Senate, he does not participate in the debate and, pursuant to the Constitution itself, he only votes if a casting vote is required. He is not empowered to establish the agenda, organize debates or exert any influence over the appointment of committee members. Nevertheless, although he only rarely participates in the Senate's work, the Vice-President exercises the powers available to him, for example with regard to the admissibility of drafts. Nevertheless, his role remains limited because the Senate is reluctant to recognize the authority of an eminent member of the Executive and it is not unknown for his decisions to be contested or even overturned by a vote in the Senate.

Has the United States model spread throughout the world, to Latin America in particular?

Regarding the Upper House, there is undeniably a similitude between the presidency in the United States Senate and in the Senates of Argentina, Bolivia and Uruguay, where the office is also entrusted to the Vice-President of the Republic elected at the same time as the President by direct universal suffrage. Like the United States Vice-President, for most of the time the Presidents of these Senates are replaced by a *pro tempore* President elected by the Senate itself, but they are responsible for chairing joint sittings of the two Houses, whereas in the United States these are co-chaired by the Speaker and the Vice-President. The United States model has also been followed in India, where the Vice-president of the Indian Union is *ex officio* President of the Upper House, the Rajya Sabha, whereas the Speaker of the Lok Sabha has taken over a number of the traits of his British colleague. Neither the President nor the Vice-President of the Indian Union are directly elected by the people and their role within the State

is more low-key than that of their United States counterparts. The Indian Vice-President does in fact chair sittings of the Rajya Sabha and devotes most of his time to it, although the Assembly elects a deputy to replace him during his absence. The Vice-President therefore chairs parliamentary debates and exercises the numerous responsibilities entrusted to him within the Rajya Sabha; he may be called upon to interpret the Constitution or rules of procedure and, unlike the United States Vice-President, his decisions are final and may not be contested.

Another specificity of several American Assemblies, and one might add of British-type Parliaments, is the absence of a Bureau. There is no Bureau in the Argentine, Brazilian, Chilean, Paraguayan, Peruvian or Uruguayan Assemblies — nor in the two Indian Houses — but this is not an immutable rule because the Bolivian, Ecuadorian, Mexican, Nicaraguan, and Venezuelan Parliaments all have a collegiate body.

In general, like Speakers in North America, the President of a parliamentary Assembly in Latin America plays an active role in organizing parliamentary life and work. As in Argentina, Bolivia, Brazil, Guatemala, Nicaragua, Paraguay, Uruguay and Venezuela, he is often called on to play a decisive role in establishing the agenda. Sometimes he is responsible for appointing committee members, as is the case in Argentina, Costa Rica, Guatemala, Mexico, Nicaragua and Paraguay, or he simply makes proposals to the Assembly, as happens in Peru. Above all, it is not unusual for him to take the floor during legislative debates: this is the norm in Argentina, Chile, Costa Rica, Guatemala, Mexico, Nicaragua, Venezuela, and in Brazil, Peru and Uruguay, provided that he gives up the chair and it will be recalled that the United States Speaker, on the other hand, does not usually take part in debates. With a few exceptions such as the Presidents of the Brazilian Houses, a Latin American President appears to be more an active protagonist in parliamentary life than simply an arbitrator of debates, even though, like his counterparts, he naturally endeavours to preside impartially. Although he has borrowed some of the traits of the United States Speaker, he is quite distinct as first and foremost he is not the leader of the majority. Furthermore, in the countries concerned Parliament is far from occupying the place it enjoys in United States institutions so in any case the influence and political role of a President of a parliamentary Assembly is less critical.

4. The unity of a continental European model

It is justifiable to ask whether there is in fact a "continental" model for the presidency of parliamentary Assemblies because political systems vary so greatly, particularly according to how long ago the country adopted a Western-type multiparty democracy. Nevertheless, over and above the diversity of situations, continental European countries, and consequently their Parliaments, have many common traits and these also typify the presidency of their Assemblies, clearly separating them from the British or United States models of a Speaker.

The first characteristic is the existence of a collegiate body — or even two — which usually reflects to varying degrees the political groups or parties belonging to the Assembly and the historical model for this is the Bureau of the French Parliament. The title — Bureau, Council of Elders, Presidium, Presidential Council, Conference of Presidents — varies from Parliament to Parliament, as do its responsibilities. Its role may be different, but it is systematically present in Austria, Belgium, Denmark, Finland, France, Germany, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden and Switzerland. In practice, irrespective of the authority given to it, such a body does not generally constitute a real collegiate presidency. It is of course often directly involved in organizing the House's work, including establishing the agenda, but the presidency itself, the supervision of debates, is the sole responsibility of the President.

The second characteristic is that the President enjoys considerable authority within the Assembly and exercises his functions impartially, constituting the guarantor of the exercise of the opposition's rights. Even though first and foremost he has the role of arbitrator, the President does not give up his political affiliation and may sometimes still have some political responsibilities. He usually belongs to the majority, but it is not unknown for him to be a member of the opposition, particularly in non-majority parliamentary regimes or because of political developments during Parliament's term. The President retains his political connection with his own party, but in most cases he can take part in legislative debates, provided that he does so as an ordinary parliamentarian, temporarily giving up the chair, and he may also vote, even if he does not always make use of these possibilities.

Within the Assembly, the actual authority and powers of the

Presidents vary from one country to another. Responsibilities related to the chairing of public sittings are very similar, but those concerning the organization of Parliament's work and establishment of its agenda vary a great deal. In many Northern European Parliaments, for example, including Denmark, Finland, Iceland and Sweden, the President plays a vital role, whereas in other countries these responsibilities belong to the collegiate body, the House itself, or even the Government.

Outside the Assembly, the President has an elevated status in the State hierarchy, often coming directly after the Head of State, whose functions he is called upon to assume *ad interim*, at least in republican regimes. He is also sometimes consulted on the formation of a Government or on dissolution. In Sweden, the Speaker proposes to the Parliament a candidate for the post of Prime Minister.

In the "classical" continental model of the presidency, a distinction has to be made for the Presidents of Assemblies in the new democracies of Eastern Europe, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Lithuania, Poland, Romania, Russian Federation, Slovakia, Slovenia, the Former Yugoslav Republic of Macedonia, and Yugoslavia, which are often based on this model but have their own specific characteristics. In the majority of cases, the President is assisted by a collegiate body, has the same powers as those attributed to his colleagues, although he does not establish the agenda, which is usually the task of the Assembly itself, and he occupies one of the highest ranks in the State. However, and this characteristic should be underlined, in almost all cases he can be dismissed, whereas such a possibility remains an exception in Western European Parliaments. In addition, Presidents of parliamentary Assemblies in Eastern Europe are more often seen to be committed politicians rather than simply arbitrators of parliamentary life.

5. Characteristics of the presidency in socialist regimes

Before the disappearance of the Communist regimes, the Soviet Union and other Eastern European countries such as Bulgaria, Hungary, Poland and Romania³⁴ had a unique feature. In addition to the Assembly³⁵,

³⁴ Until 1974 when the office of President of the Republic was created in Romania.

³⁵ In the USSR, the Supreme Soviet was composed of two Houses, the Soviet of the Union and the Soviet of Nationalities, which each elected their President and four Vice-Presidents

which was the supreme but intermittent body of State power and elected its own President and Vice-presidents, there was another original body that derived from the Assembly and was the permanent supreme body of State power. Called the Presidium or Council of State, it not only fulfilled the functions of a collegiate Head of State and had for example the right to grant pardon of accredited and received ambassadors, but above all it was the permanent legislative body during the periods between the brief sessions of Parliament, and in respect of the Council of Ministers in particular it had the authority of the Legislative. In the USSR, it even co-ordinate*^ the activities of the standing committees of the two Houses of the Supreme Soviet. The President of the Presidium or Council of State, for example, fulfilled both the ceremonial and representational functions of the Head of State and presided over the permanent legislative body. His actual influence on the conduct of public affairs in fact depended on his status in the governing bodies of the party. Where the same person was both the President of the Presidium and the Secretary General of the party, his authority within the State was in no way comparable to the authority of a President with more modest status within the Political Bureau and the party's General Secretariat.

Although the Cuban Constitution faithfully transposed this model, the majority of Parliaments in socialist States today such as China, the Democratic People's Republic of Korea, the Lao People's Democratic Republic or Viet Nam have, a comparable but quite different structure. A body called the standing committee has most of the powers of the plenary Assembly during the long intersessional periods and so has wide-ranging and considerable powers. For example, it can usually interpret the Constitution and laws, adopt new laws or revise legislation in force subject to subsequent approval by the plenary Assembly.

This standing legislative body does not, however, have an "executive" function and the functions of its President, however important they may be, are distinct from those of the Head of State, although the President has a high status in the hierarchy and may be called upon to act as President of the Republic *ad interim* as happens in China and the Lao People's Democratic Republic.

On the other hand, these functions are interfused with those of the President of the plenary Assembly. The Chinese People's Congress,

which has almost 3,000 members and in practice simply ratifies decisions taken when it is not sitting, elects a special but temporary Presidium to chair its short annual sessions. In practice, the influence and role of a President within Parliament, or in the State, are more dependent on the presidency of the standing body, whose work he prepares and directs, than on the more formal presidency of the Assembly itself.

In socialist countries, the issue of whether the President belongs to the majority or the opposition is irrelevant because these concepts are unknown in political life and the State structure. Accordingly, the primary function of the President is not to act with neutrality and impartiality so as to ensure respect for a balance among opposing parliamentary groups and to permit the legitimate expression of the opposition's views during debates. He is above all an active protagonist in parliamentary life and his efforts are directed at the legislative implementation of the policies adopted by the party. In general, because he is not obliged to stand aside from political confrontation, or at least to maintain a certain distance, as is the case for Speakers of Western Parliaments, the President of the Assembly in a people's democracy can enjoy all the prerogatives of parliamentarians and take a full part in legislative and monitoring activities. He may for example take the floor during debates. On the other hand, in accordance with a concept of his function that is peculiar to people's sovereignty, the President of a parliamentary Assembly in a socialist regime can usually be dismissed by the Assembly he presides if he no longer enjoys its confidence.

6. Special features of the presidency in parliamentary Assemblies in developing countries

A large number of developing countries, mainly in Africa and Asia, have been influenced by colonizers and have naturally adopted and adapted the colonizer's institutional system. In many instances they have therefore transposed the internal structural rules of parliamentary Assemblies, taking into account their own cultural and political needs. All the former British colonies in Africa and Asia, for example, have transposed the Speaker's model described above. Perhaps to deal with the problem of the scarcity of qualified candidates, some of these

countries have provided that the Speaker may be elected from outside the Assembly, or even outside the country provided that he belongs to the Commonwealth. In pursuance with the British example, the majority of whose characteristics they have copied, Speakers in former British colonies are also the sole guarantors of the House's privileges and so enjoy considerable authority, based in particular on the precedents set when applying the rules of procedure. In this respect, the influence of the Speaker at Westminster is such that his colleagues elsewhere sometimes consult him, for example, the Speaker of Lesotho's National Assembly. Like the British speaker, they must be impartial and ensure respect for the rights of the opposition.

This assertion may seem out of place if there is only one party. If this is the case, the Speaker is still the guarantor of the House's independence vis-a-vis the Executive and interest groups, as well as of its members' immunity when exercising their functions; in addition, he ensures that all parliamentarians, including the most retiring, can express themselves. The Speaker of the Zambian National Assembly, who occupied the presidency for 20 years from 1968 to 1988 and has been in office again since 1991, described his role thus in 1978: the Speaker — who must not be a parliamentarian himself — must nevertheless be a member of the United National Independence Party, the only party represented in the Assembly. He participates in the party's meetings, but does not normally take an active part in the discussions. He must not participate in meetings of the party "caucus". The fact that he presides over an Assembly composed solely of members of the party to which he belongs does not obviate the need to be impartial. His impartiality is expressed when he has to resolve a dispute among various interest groups within the party or between backbenchers and the most influential members. His impartiality is also measured against the yardstick of his independence vis-a-vis the Executive and any interest group whether inside or outside the House³⁶.

In French-speaking African countries, Parliament's presidency is manifestly based on the French model. The President of the Assembly — which is nearly always unicameral — has a number of features in

^w R.M. Nabulyato, *The Speakership in Zambia*. The Parliamentarian, No.1, 1978, p. 16.

common with his colleague in the Palais Bourbon both as regards his status and his functions. For example, the Head of State must consult him in certain situations — dissolution, assuming full powers — and he appoints the members of monitoring bodies. He is also assisted by a Bureau which, as in Paris, usually comprises the Vice-Presidents, the Secretaries and one or more questors. But just as the institutions of the Vth Republic were sometimes transposed into these countries and at the same time their Constitutions gave the Head of State greater prerogatives, so the authority of the President of the Assembly in relation to the Bureau was also in certain cases reinforced. In Mali, for example, each member of the Bureau is accountable to the President for a particular sector related to parliamentary life, and in Senegal the Bureau has full powers to organize and direct all the parliamentary services on instruction from the President.

7. Does the presidency of Upper Houses have special features?

In modern Parliaments, the Lower Houses in bicameral systems or the House itself in unicameral systems have a great many things in common. In almost all cases, these Houses share legitimacy derived from election by direct universal suffrage and are thus entitled to represent the people. On the other hand, the Upper Houses sometimes embody different forms of legitimacy that are evident in the multifarious ways in which their members are appointed. Their purpose may be to represent federated states or particular areas, the country's socio-economic components, or the aristocracy. They are not always the result of universal suffrage, still less of direct universal suffrage. According to the political importance given nationally to the sector they represent, their powers differ from those of the Lower House to a greater or lesser extent. The United States Senate, for example, has powers that are equal or even superior to those of the House of Representatives in order to guarantee the rights of the States its members represent and the federal structure of the United States, to which the nation remains deeply attached. Almost two-thirds of the British House of Lords, on the other hand, are hereditary peers and its legitimacy in the light of democratic principles appears flimsy; it is an institution that has few powers other than to delay the adoption of a law.

This diversity that characterizes the purpose of the representativeness

of Upper Houses, the appointment of their members and their powers, should be accompanied by a similar disparity in the presidency. It is true that there is little in common between the Lord Chancellor who "presides over" the House of Lords with diminished powers as the British Upper House is a "self-regulated" Assembly, and the Vice-President of the United States, *ex officio* President of the Senate, except the fact that they both belong to the Executive arm of the State and that they were not chosen by the House they preside. There is no similarity either from one Parliament to another among Presidents of Upper Houses who exercise identical functions in the State. Presidency of the Senate is only a minor part of the activities of the Vice-President of the United States, but presidency of the Rajya Sabha is the major part of the responsibilities of the Indian Vice-President.

Likewise, because of the sometimes profound differences in responsibilities or the role in the State between the elected House of the people and the Upper House, the duties and functions of their respective Presidents should also differ considerably. The role of the Speaker at Westminster and his status in the institutions has little in common with those of the Lord Chancellor. The same is true in the Capitol between the Speaker of the House of Representatives and the Vice-President of the United States, who in practice usually leaves the presidency to a *pro tempore* President, and in Germany between the President of the Bundestag and the Minister-Presidents of the Lander who preside over the Bundesrat for one year in rotation.

Nevertheless, one should not be deceived by the examples that are too often cited, which risk obfuscating the true nature of the status and functions of the President in a large number of Upper Houses.

Firstly, in the majority of cases, the Presidents of Upper Houses are elected by the Assembly they preside and are chosen from among its members, so Presidents appointed or elected by another electoral body are by no means a general characteristic of Upper Houses.

In addition, within the State they usually occupy a place that is identical or very close to that of the Speaker of the Lower House, without it being possible to define their respective ranks in the hierarchy because roughly the same number of countries give precedence to one or the other. It can simply be noted that the new democracies tend to give the first place to the President of the House directly elected by the

people whereas in older Parliaments tradition often places the President of the Upper House first. It will be recalled that the rank in the hierarchy does not in any way prejudge who chairs joint sittings.

The functions of the President of the Upper House within the Assembly depend of course on the powers given to him. For example, the President of the First Chamber of the Netherlands States-General — which despite its name is in fact the Upper House — has no role in examining the admissibility of amendments or determining the order in which they are brought up because this Assembly has no right of amendment. In general, however, Upper Houses have most if not all of the powers given to a parliamentary Assembly and effectively participate in elaborating legislation. The role of their Presidents is therefore quite comparable to that of their counterparts in the Lower House, particularly since parliamentary procedure in both houses differs little.

If there has to be one special feature of the presidency of Upper Houses, it would be its generally more arbitrational and neutral nature in comparison with the presidency of the House directly representing the people, although this does not in any way mean that the holder gives up all party affiliation.

8. Is there a model Speaker of a parliamentary Assembly?

Is it possible to draw up an "identikit picture" of the Speaker? One can no doubt discern common characteristics, permanent features of the various presidencies and draw up the profile of a "virtual" Speaker which, like a computer-generated image, would be composed of the traits most commonly encountered.

By this yardstick, a typical Speaker is a man, with long experience of parliamentary life, elected by the Assembly he presides for Parliament's term, with no possibility of dismissal, belonging to the majority but acting with impartiality, respecting and ensuring respect for the rights of the opposition. His role primarily focuses on the chairing of public sittings, a task he may temporarily hand over to a replacement, appointed or elected for this purpose. During the sitting, he maintains order and discipline, ensures respect for the rules of procedure by interpreting its provisions if need be, gives the floor or withdraws the right to speak, and initiates the voting procedure. On

the other hand, he refrains from taking the floor during debates, gives up his right to propose legislation and only votes in exceptional circumstances. Within the Assembly, where he of course occupies the front rank, he is *ex officio* called upon to exercise important responsibilities in distributing work and preparing debates, or in the administrative management! of the House, but he is assisted in this work sometimes by colleagues and in any case by the Assembly's services; for the first two tasks he works in collaboration with representatives of the Government and political groups. Outside the House, he represents the Assembly and has a high rank in the State; he may also be called upon to replace the Head of State, and both his functions and his person enjoy universal respect.

This ideal typical model of a Speaker, which does not correspond to any situation in particular, cannot on its own encompass all the profundity and scope of the Speaker's functions. The broad characteristics just described should not obscure the many special features of each particular Parliament, derived from the traditions enshrined in each House, continual practice, and also the daily establishment of working relationships — and relations of power — within the Assembly.

Accordingly, for each model many qualifications have to be made, underlining the differences between one presidency and another, to which must be added the personal touch which each incumbent gives to the office. The place and role of the presidency in the State and within the Assembly depend to a great extent on the person who occupies the office. In reply to a question raised in the questionnaire that was used as a basis for this study regarding whether the Speaker was an arbitrator or an active protagonist and his influence on the parliamentary institution, many Assemblies replied that this in fact depended on the man or woman appointed to this high office.

CONCLUSION

Whatever their political system or historical tradition, States today accord the parliamentary institution a pre-eminent position. In many Western democracies it has of course become the habit to underline the decline of Parliament and it is true that the latter cannot expect to embody sovereignty on its own. Nevertheless, it remains at the centre of political decision-making and, in different ways, it represents the nation.

Recent developments in the regimes and institutions of many developing and Eastern European countries have led to a democratization, one of whose main characteristics has been the holding of free elections and the establishment of truly representative parliamentary Assemblies. This has shown the consubstantial nature of democracy and the sovereignty of the people, with the institutions composed of their freely-elected representatives.

Within these institutions, conceived as the natural setting for confronting ideas and the often conflictual expression of parties, uniting and opposing persons fortified by their democratic election, an authority that ensures cohesion and the smooth conduct of debates is indispensable in order to allow the people's representatives to fulfil their legislative tasks and monitor the Government.

This is the essential role of the Speaker, who thus embodies the actual authority of the Assembly and is its guarantor. Such an office is obviously sought after and it is natural that the majority should seek to entrust it to one of its members, who must nevertheless play his role with the required impartiality. This is the special nature and difficulty of the Speaker's office, which requires that the holder not only justifies the confidence shown by those who elected him but also earns the universal respect of the members of the Assembly he presides by showing himself to be imperturbable when faced with incidents in the House and by demonstrating a keen sense of conciliation while at the same time asserting his authority.

He has to exercise his authority in a unique situation because Parliaments are not hierarchical bodies but Assemblies of equals; there is no justification for distinguishing between the nation's representatives.

The Speaker is not therefore in the position of a head of Government facing his ministers, still less that of a minister in relation to his service. Nowadays the Speaker is I nearly always chosen from among the members of the Assembly he presides over and whatever may be the prestige and the powers derived from his office, he remains a parliamentarian among his colleagues, the "*primus inter pares*". The source and basis of his authority are in the House that appointed him. This is so much so that when he is not chosen by the House over which he presides, an appointment from the outside cannot confer on the Speaker the same legitimacy. It is quite logical that in a collective institution whose purpose is to discuss and take decisions by a majority of its members, the ultimate decision, the fruit of its deliberations and the result of its vote?, must belong to it alone. Even if the Speaker is the leader of the majority, as is the case in only a minority of Parliaments, he is not in a position to replace the nation's representatives. Within the democratic society that is a parliamentary Assembly, he can and must simply be the first among his colleagues.

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