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**Parliament and Congress: Representation and Scrutiny in the Twenty-First Century, William McKay and Charles W. Johnson, Oxford University Press, 2010, 577 pages.**

The authors of this impressive work are, respectively, the former Clerk of the House of Commons in London who served from 1998 to 2002 and the former Parliamentarian of the House of Representatives in Washington who served from 1994 to 2004.

Their book is a comparative analysis of the evolution of the United Kingdom and United States parliamentary systems over the past 40 years, following the example of Bradshaw and Pring's 1972 book of the same name. It is not a manual of parliamentary procedure but rather a genuine mapping of the development of ideas, events and decisions that led to the current state of these systems.

The great strength of this comparative work is that the authors do not limit themselves to identifying the two systems' similarities and differences. At every opportunity, the authors make the additional scholarly effort of researching the historical origins of these points of comparison and tracing their historical development through the end of 2009. This breathtaking historical perspective allows the reader not only to become aware of these differences, but also to truly understand them.

Chapter 1, "Introduction," and Chapter 2, "Basic Constitutional Distinctions," provide a summary of the political theory behind the two systems of government. As one might expect, the fundamental principle of the Westminster system is what is called in Canada "responsible

government" — the support of the House is the foundation for the executive's legitimate exercise of power and the regular testing of that support is made possible by having members of the executive sit in the House.

In contrast, the American constitutional system was designed to protect the governed through a written constitution which deprived the executive of a significant portion of its legislative powers while giving it a fixed term of office.

In England, the two Houses allowed the nobility and the commoners to keep an eye on each other to avoid either one's tyrannical alliance with the people, while a tyranny of the King was made unlikely with the creation of a separate judiciary. In the United States, the differences between the House and the Senate are not based on social class, but rather distinct roles: the Senate's greater predictability, which would reassure foreign powers when negotiating treaties and nominating ambassadors, and the House's responsibility to the electorate, and thus the responsibility of the entire government through the representatives' control of the executive's budget.

The basic trend the authors identified over the past 40 years is the ability of both parliaments to assert themselves in a concrete way against an executive that exerted its incontestable dominance following the 20th century's great wars. For the Canadian reader, this finding of McKay and Johnson is of

particular interest since this same trend has not appeared in Canada. Given the well-established concentration of power in the hands of the executive here in Canada, so often described and so poorly explained, several sections of the book offer stimulating avenues for reflection.

For example, at Westminster, the creation of "select committees" and a parallel Chamber for debates are two innovations the authors flag as having contributed to enhancing the legislature's hold on the government's decisions in a less partisan way, or at the very least giving parliamentarians a greater role in setting policy.

Select committees are the equivalent of our standing committees, which as everyone knows have little influence on policymaking. Chapter 8 describes how committees in the British Parliament have become increasingly important, though clearly far less so than the US Congress's standing committees.

One of the reasons for the traditional weakness of British parliamentary committees is the bad reputation they acquired at the beginning of the 20th century when they attempted to investigate the misdeeds of certain members of the government and quickly devolved into partisan circuses. This problem has arisen on a regular basis and is of course still with us, in both the UK and Canada.

The first illustration of

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Westminster's less intense partisanship is that the few attempts by members of the governing party to leak a draft report so that the government could prepare its response were publicly condemned as a breach of convention. At Westminster, parliamentary private secretaries cannot sit on select committees. In Canada, the dominant influence of parliamentary secretaries on committee work means that the government itself directs proceedings even before a draft report is prepared. Moreover, the presence of parliamentary secretaries reduces committee chairs to timekeepers. At Westminster, MPs who are critics for Opposition parties can sit on committees only under certain very strict conditions. In other words, select committees have become the exclusive preserve of backbenchers.

In this way, they have gained an enviable level of independence and collegiality. The party whips negotiate who chairs House of Commons committees according to the proportion of seats held in the House, similar to what is done in Canada for Standing Senate Committees. Unlike in Canada chairs are not mandated for members of the government or Opposition, with very few exceptions. In the US, all committee chairs are held by members of the parliamentary majority.

Chapter 3, "The Four Houses," contains a trove of information on the institutions' principal procedural rules and their history. Another innovative feature, of Australian origin, that has enhanced the role of the Westminster House of Commons is the parallel Chamber for debates in Westminster Hall.

Debating time is one of the most precious commodities in any parliamentary system since it is the Opposition's or Minority's main opportunity to present their point of view and, in the British system, to show that they are an alternative to the government. The debates at Westminster Hall are on less controversial matters (adjournments, committee reports, etc.) on which the major parties fundamentally agree. This has freed up the equivalent of one third of the House's debate time for work on which the parties agree, leaving a reasonable amount of the House's time for debate on more divisive issues.

The House of Lords, with its "Grand Committees" went even further. For example, these committees can pass bills at various stages when there are no objections.

Chapters 4 and 5, "Representatives, Members, Lords, and Senators" and "Procedural Basics," are excellent summaries of the rules governing parliamentarians' activities and the structure of debates.

Chapter 6, "The Power of the Purse," describes the area in which, the authors believe, the sharpest differences between the two systems are found. While the Commons can only vote on money bills introduced by the Crown, the House of Representatives controls the allocation of resources, though with the usually predictable presidential veto threat.

For the Canadian reader less familiar with the American budget process, this chapter describes a frighteningly complex system compared with the relatively simple and passive authorization procedures of the

British system. It also shows the legislative power of members of Congress, which by far exceeds what the Westminster system accords its parliamentarians who are not ministers.

After being stunned by Congress's staggering budget powers and Parliament's relative impotence in that regard, the reader finds in Chapter 7, "Scrutiny and Oversight," a description of a number of parliamentary powers that restore some of the Westminster system's lustre.

Of particular note is the Commons's power to limit the royal prerogative to deploy armed forces in conflict zones. Even if this power of Parliament is asserted only in motions, not law, it nonetheless shows how it is increasingly difficult for the Crown to keep important facets of its discretionary power away from parliamentary scrutiny. Similar pressures certainly exist in Canada, but unlike in the UK, there seems to be no definitive trend.

While the UK Parliament has become more assertive through less partisanship in debates and committee work, in the US, this assertiveness went hand in hand with a worrisome trend of more intense partisanship and parliamentary majorities' use of manipulation and suspension of the rules governing the debating time allocated to the Minority.

This issue is discussed a number of times in the book, but a major part of Chapter 9, "Legislation," is devoted to it. In the American system, time is allocated in a much less predictable fashion—through backroom negotiations and especially surprise moves by

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the “Rules Committee,” which is always controlled by the Majority. Without any notice, the Rules Committee can often decide in the middle of the night to force a debate on a matter the next morning. Given the increasing resistance of Representatives to being in Washington, which limits the time available for fundraising and “listening to voters,” it has become possible for the Majority to orchestrate surprise votes. This increasingly frequent tactic, and several others described in detail in the book, illustrates the growing partisanship of Congress.

Chapters 10 and 11, “Privilege and Contempt” and “Ethics and Standards,” describe the rules and conventions establishing the rights and conduct of parliamentarians. The authors describe the limits to parliamentary privilege that have been imposed over time by the courts. In Congress, the many and sometimes stunning manipulations of the procedural rules, usually motivated by promises made to financial backers, raise the biggest concerns.

Chapter 12, “Conclusion,” is only two pages long and suggests that Chapter 11 was perhaps originally intended as the conclusion, but that a final assessment was necessary and would not have as much impact as an annex or postscript.

Charles Johnson quotes from his 2004 letter of resignation as Parliamentarian of the House of Representatives. He wrote of the enormity of contemporary developments in procedure. His judgment was harsh: “These [...] trends symbolize the diminution of traditions of transparency, fairness, and deliberative capacity which have characterized the House of Representatives” (p. 547). The Rules Committee’s manipulation of the rules is identified as one of the greatest causes for concern. The author blames the Republican Party directly: “It may be that in the later twentieth century both American Houses were so long under the control of the same party [...] that when the Republicans gained control their frustration had been so great and their agenda was so pressing that they felt justified in cutting

legislative corners” (p. 548). On the other hand, “there remains in the Commons an unspoken sense that political warfare has its limits, that the winner ought not to take all” (p. 548). The Canadian reader will certainly be tempted to draw comparisons to developments in Parliament in Ottawa.

It is impossible to do justice to this work’s rich content in a mere book review. It represents a colossal accomplishment in terms of knowledge, depth of analysis and clarity of perspective. With great humility, the authors admit straightaway that their work will quickly fall into disuse considering the major changes that are foreseeable in the current political context. This book will nonetheless be required reading for future generations of historians looking to understand the British Parliament and American Congress of the early 21st century.

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