

## Luxembourg : A case study of legislation in a mini-state\*

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### The Institutions of State and the Legislative Process.

As a Constitutional Monarchy with a unicameral parliament Luxembourg has developed an institutional balance which is as successful as it is unique in Western Europe. In legislative matters, four bodies play a role; the Grand-Duke, the government, the Chamber of Deputies and the Council of State. Each has a particular function which taken together ensure as smooth, stable and representative a system as is possible.

Constitutionally, the legislative initiative lies with the government and the Chamber, the Grand-Duke being responsible for sanctioning and promulgating laws. However, as in most states in Western Europe, government Bills have come to dominate the legislative timetable securing not only a larger percentage of enactments but also, in numerical terms, a lower mortality rate than Bills sponsored by private members (table I).

This division between Bills tabled by the government and those emanating from the Chamber is further institutionalized through the different paths they take before enactment. With government legislation a draft is sent first to the Council of State, prefaced by an « *exposé des motifs* » or explanatory statement, setting out its basic provisions. The Council to a limited extent performs the role of the second Chamber although the opinion that it is required to produce on all Bills and amend-

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ments proposed by both the government or Chamber, are only advisory and so, strictly speaking, it does not have the formal power to amend Bills. However, no Bill may become law until the Council has considered it and frequently, changes either in the overall approach or the details of a Bill may be made as a result of its written opinion.

When the Council has completed its deliberations a Bill then passes, along with the written opinion of the Council, to the Chamber of Deputies.

TABLE I  
The Flow of Bills Through the Chamber of Deputies

Session	No : of plenary meetings	Presented			Passed		
		A	B	C	A	B	C
1976-1977	76	75	4	4	82	2	7
1977-1978	82	72	6	7	72*	1	6
	Total	147	10	11	154	3	13

*Key*

A « Projets de loi »; Bills presented by the Government.

B « propositions de loi »; Bills presented by Deputies.

C « Projets de règlements grand-ducaux »; implementing legislation presented in the name of the Grand-Duke.

\* This figure includes two « projets de loi » that had to undergo the second constitutional vote after three months and eight others that were passed at their first reading.

There it is sent either to a standing committee, or, in the event of there being no competent committee, a special committee is set up and then disbanded once it has completed its task (1). It is at this juncture that effective scrutiny occurs; the committee studies the Bill in detail along with any amendments the government and/or Council wish incorporated (2).

A rapporteur is appointed charged with producing a report reflecting the committee's views, which he then presents to the Chamber at the beginning of the plenary debate. This report outlines the history of the subject of the Bill, the committee's deliberations and explains any contentious issues. The final section comprises the amended Bill as the committee

(1) In the event of a Bill straddling the competences of more than one committee, the relevant committees meet together to discuss the Bill.

(2) Any amendment proposed to a Bill must be considered by the Council before it is incorporated into the text. This is true even though it may mean that the legislative process is considerably drawn out. For example, the law on the organisation of the judiciary was presented in May 1977 but was not reported on until March 1979 and the Council expressed its opinion in writing nine times during this period.

would like to see it although future action on related issues may also be proposed.

In the plenary debate it is the text sponsored by the committee and not the original government Bill that is debated. If the government or any deputy wishes to see further changes then they may be proposed and debated during this stage (3). Similarly, motions may be proposed on the topic of the Bill or related issues expressing a point which any individual or group of deputies wish to have adopted as the Chamber's policy.

Before the Bill is finally passed four votes must in theory be taken : article by article, each amendment, the Bill as a whole and a second constitutional vote after a delay of at least three months. In practice, however, the second constitutional vote is usually dispensed with (table I) as it may be if both the Chamber and the Council agree. In general, the vote is only forced if the principle of the Bill is strongly opposed by the Council. Individual articles are frequently opposed but taken as a whole the Bill is considered necessary and so it is not delayed.

In the case of a private member's Bill, a text is tabled in the Chamber and then forwarded to a committee which decides whether to proceed with it or allow it to lapse. In the former case, copies are subsequently distributed to deputies and the Bill timetabled on the parliamentary agenda. On the set day, if five or more deputies support it, the Bill is discussed and a decision taken as to whether the Chamber shall pursue it. If a Bill successfully negotiates this stage, it passes to the Council of State for its opinion. As with government legislation a private member's Bill is then transmitted to a legislative committee of the Chamber which discusses it before presenting a report to the plenary for a final debate and decision.

To process the workload the Chamber meets in plenary three afternoons per week and in committees every week-day morning. The parliamentary year commences in early October and continues until the following July with short breaks at Christmas, Easter and Whitsun. With such a timetable the workload of the Chamber is fairly heavy. Table I shows that on average, roughly one Bill is presented and another passed at each meeting of the plenary. Whilst many of these Bills will go through after only minimal formal debate, many others will give rise to amendments and wrangling between deputies. In 1976-77 the average length of a plenary meeting was 3.77 hours and in 1977-78 4.01 hours which, when considered with the fact that committee meetings are held daily, represents

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(3) It is usual for amendments at this stage to come from deputies although occasionally the government may also move an amendment in plenary sessions.

a fairly high level of parliamentary activity in terms of the time spent processing Bills. The reason why the Chamber is able to proceed at such a pace is the absence of major disagreement between the parties, with the exception of the Communist Party, differences being mainly questions of nuance or degree. As Flesch (1974 p. 125) remarks « The business is transacted at a regular pace with astonishingly little drama ». This may be interpreted as a reflection of the low level of opposition to the status quo in the country, which in turn may be seen as a result of the economic and social stability despite a high level of immigration, and a recognition that major issues are determined beyond the Luxembourg borders.

### Political environment.

During the period of the passage of direct elections legislation the government of Luxembourg was formed by a coalition of liberals (Demokratesch Partei) and socialists (Letzeburger Sozialistesch Arbechterpartei). Table II shows the distribution of seats and share of the popular vote at the May 1974 elections.

TABLE II

Party Composition of the Luxembourg Chamber of Deputies\*

		Abbreviation	Vote (%)	Seats (N)
Communist Party	Kommunistesch Partei	KPL	10.5	5
Socialists Workers' Party (G)	Letzeburger Sozialistesch Arbechterpartei	LSAP	29.1	17
Social Democratic Party	Sozial Demokratesch Partei	SdP	9.2	5
Democratic Party (G)	Demokratesch Partei	DP	22.2	14
Christian Social Party	Chreschtlech Sozial Voltekspartei	CSV	27.9	18
Total			98.9	59
Turnout (valid votes cast)			85.2 %	

\* The figures quoted refer to the results of the general election of May 1974 which determined the composition of the Chamber for the period of the direct elections legislation.

(G) Coalition parties composing the government.

Source : T. Mackie and R. Rose, *International Almanac of Electoral History* (London, Macmillan, 1974), p. 325.

The five parties represented in the Chamber represent a broad spread of opinion. On the right, the largest party in terms of parliamentary seats, is the CSV. This is the only party to draw its support evenly from all four electoral districts. It is a conservative and strongly confessional party with close ties with the Christian trade unions.

In the centre and centre left are the liberals (DP) who have had an erratic performance at elections since 1959 — a result of their dependence on the floating vote — and the social democrats, a relatively new party formed after a breach within the LSAP in 1971. On the left are found two parties, the LSAP and the KPL differentiated by their divergent ideologies; the Socialists actively supporting the system, attempting to effect change through co-operation with other parties whilst the Communists remain isolated as a party of constant opposition owing to their strong pro-Moscow attachments (4).

The small size of the country and the wish to make the Chamber as representative of electoral support as possible has led to adoption of the Hagenbach-Bischoff variation of the d'Hondt system at elections. Briefly, the country is divided into four districts each of which elects one deputy for every 5,500 inhabitants. The parties publish lists of candidates (to a maximum of the number of seats) in each electoral district and seats are allocated to these lists according to the number of votes each receives — a figure arrived at by adding votes for lists as a whole to votes given to individual candidates — and the principle of the smallest electoral quotient.

### The preamble.

Whilst Luxembourg may be viewed as the end-product of a series of historical accidents and international accommodations, its continued viability as a sovereign state has been considerably strengthened through the economic advances and political stability, if not brought about then considerably enhanced by membership of the European Communities (EC). Consequently, Luxembourg remains one of the prime supporters of further integration as a rational response not only to these issues but also to the more immediate problems of its economic dependency on its trading partners and its inability to exert by itself, any real influence, at the international level, on the economic forces governing the economy.

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(4) For a more detailed description of the parties see M. HIRSCH « Luxembourg » in S. HENIG (ed.) *Political Parties in the European Community*. (London, George, Allen and Unwin, 1979.)

The greater democratisation of the Communities' institutions, in particular the election of the Members of the European Parliament (MEPs) has for some time been viewed as one of the main avenues towards strengthening ties between the nine (Santer, 1976 ; Lulling, 1976). This viewpoint was shared for a considerable time by all shades of opinion represented in the Chamber of Deputies and found a ready echo in the government. This was effectively manifested in parliamentary documents. For example, in the report of the Foreign Affairs Committee of the Chamber of Deputies on the question of direct elections it states :

*Successive Luxembourg governments have always favoured the election of Members of the European Parliament by universal suffrage. This belief has been demonstrated both at the international and national levels by the attitude adopted in negotiations on European matters and by the pronouncements of the Chambers of Deputies (5).*

This attitude is overwhelmingly reflected in the Chamber where, prior to the October 1976 agreement of the Council of Ministers, several attempts were made both to introduce legislation for directly elected Luxembourg MEPs and to encourage the government to present its own proposals (6). Whilst the motions have been successful in the Chamber, the government has consistently failed to act on the matter despite its avowed support. This prompted the introduction of a private members Bill in 1971. This however, was thought to be too simplistic and as a result it was allowed to lapse by the Committee which decides whether to proceed with private members' Bills. Despite its brevity it did attempt to tackle the major issues and embodied the major points of the proposals submitted by the government seven years later.

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(5) Report of the Committee on Foreign Affairs, No : 2062<sup>a</sup> p. 3.

(6) Four motions have been tabled in the Chamber of Deputies :

- a) 12.3.1969. « The Chamber invites the Government to present a Bill concerning the election of representatives of our country in supranational institutions by the people according to the procedures laid down in our laws governing legislative elections. »
- b) 24.4.1969. « With a view to contributing towards the democratisation of the institutions of the European Communities, the Chamber invites the Government to present a Bill on the procedures for direct election by universal suffrage of the Luxembourg representatives at the European Parliament as soon as is practically possible. »
- c) 3.12.1970. « After protracted examination, the Chamber ... restates with concern its motion of 24th April, 1969 in which the Government was invited to present a Bill on the procedures for the direct election by universal suffrage of the Luxembourg representatives at the European Parliament as soon as is practically possible. »
- d) 22.1.1975. « If the proposals of the European Parliament are not accepted within the near future the Chamber begs the Government to lay before it concrete proposals as soon as is feasible with the aim of electing the Luxembourg representatives at the European Parliament by universal suffrage. »  
(all motions translated by the author.)

Whilst the level of opposition to the elections was never particularly great, its persistence did indicate a solid block of anti-election feeling. This, after 1976, was reflected in the Chamber by the only party of consistent opposition, the KPL. As was noted above, the party switched to this position from a previous policy of support. Indeed the first motion tabled in the Chamber in 1969 calling on the government to present a Bill on electing Luxembourg's delegation to the European Parliament was put down by Herr Dominique Urbany on behalf of the parliamentary communist party. The following year a similar motion (7) was passed unanimously in the Chamber, again with party support. The explanation for this volte-face stems from the KPL's traditional role as the party of opposition provoking one respected commentator — who is also a deputy in the Chamber and an MEP — to note « ... it is as much an opposition of principle as *on* principle » (Flesch, 1974, p. 119).

### The legislation.

As is noted above, the issue of directly elected MEPs had been raised several times in the Chamber with four motions and one Bill tabled in the period 1969-1975. From this apparent support, one might have expected a speedy passage for any Bill nominated by the Government. However, this did not prove to be the case. Following the Council of Ministers' decision in September 1976 to hold direct elections, two Bills were presented to the Chamber ; one to ratify the decision — presented 7th June, 1977 — and another to govern how the elections should be conducted — presented 9th February, 1978. Whilst the target of May/June 1978 was still, at least publicly, being aimed at, the decision to delay the elections for a further year ensured adequate time to resolve the contentious sections of the proposals. However, with national legislative elections due on 27th May, 1979 and European elections due on 10th June, 1979, pressure began to mount within both the Government and the Chamber to hold the two elections on the same day, i.e. 10th June. Whilst provision had been made in the Bill for simultaneous National and European elections (Article 83, *Projet de loi* No. 2163) certain changes had to be made to the existing electoral law so in October 1978 a further Bill was presented to the Chamber designed to surmount these obstacles.

The ratification Bill had a smooth passage through the legislative process. No changes were proposed by either the Council of State or the Chamber. Opposition among Deputies emanated solely from the parlia-

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(7) See footnote 3 above ; motion presented 24.4.1969.

mentary communist party whose spokesman was the only speaker to attack the principle during the debate. Arguments advanced by Herr René Urbany, the KPL chairman, centre on the elections as a vehicle to promote further integration amongst the nine member-states. Quoting from the Luxembourg Constitution, Herr Urbany noted that Articles 1, 32 and 50 of the constitution state that Luxembourg is a free, independent and indivisible state whose sovereign power is exercised by the Grand-Duke though residing with the nation, with the Chamber of Deputies representing the country. Further integration of member-states and the provision of a directly elected European Parliament provided, according to Herr Urbany, a permanent and irreversible rejection of these constitutional safeguards, ensuring a progressive abolition of national rights. National independence and sovereignty were bound to disappear and with them all social and democratic progress. Laws would be passed in which Luxembourgers had had very little say, with only six seats in an assembly of 410. It was also true that 324 of the seats would go to the bigger states allowing their interests to dominate the business of the Parliament. Finally, the « island of well-being in Europe » created 20 years previously had become a Europe of big multi-national concerns and finance groups showing little regard for national interests in their pursuit of profit.

The counter arguments advanced by the proponents of direct elections fell into three categories. Firstly, there were those deputies who saw the elections providing the Community with a shot in the arm and so helping further integration. Secondly, there were a large number of speakers who supported the elections because of the effect they would have both on the functioning of the Parliament and, through that, on the Community as a whole. Into this category fall those who view the elections as a means of democratizing the E.P. and thereby making it more legitimate. Through this, speakers saw it gaining greater powers and authority and thus being able to control the technocracy.

The final group of issues discussed was the technical considerations such as the number of constituencies that would be desirable, the retention of the dual-mandate, the number of seats allocated to Luxembourg and the matter raised by the Communists of sovereignty. None of these issues was decided as the debate dealt solely with the principle of holding the elections. However, the whole tone favoured holding the elections and rejecting the worries raised by the Communist Party. When the vote was finally taken after being discussed at three plenary meetings, the Chamber supported the principle by 54 votes to 5 with no abstentions.

Before this however, the Chamber and the Government had set-up an *ad hoc* committee comprising deputies and representatives from the Foreign Affairs, Justice and Interior Ministries with the aim of finding solutions



to the problems engendered by direct elections. After having discussed the issues involved it passed on its findings to the Government in the hope that it would speed-up the appearance of draft proposals (8).

A Government Bill was finally brought before the Chamber of Deputies on 9th February 1978, seven months after the Decision and the Act concerning direct elections had been passed. Its general provisions varied only slightly from those which regulate legislative elections. Indeed, it proposed articles 1-84, 88-91, 93, 95, 98-145 and 235-266 of existing electoral law should be retained for direct elections with only minor alterations.

The Bill, having been presented to the Chamber, was immediately dispatched to the Council of State for its opinion. This was the first step in a series of proposals and counter-proposals involving the Government, the Council of State and the special committee of the Chamber.

With the appearance in October 1978 of the third Bill designed to regulate simultaneous national and European elections it was decided that the two outstanding Bills pertaining to direct elections, *Projets de loi* 2163 and 2231, should be considered together. Thereafter there followed parallel discussion and consideration by the Chamber, the Council and the Government of each others' suggestions and amendments many of which were acceptable to all three. This is not to suggest that each acted without internal dissention with disagreements arising only between the three institutions; on several occasions the legislative committee, which is, in effect, where the solutions to the major problems are arrived at, was obliged to move to a formal vote on amendments. Not all proposed amendments were acceptable to the committee as a whole and were therefore either rejected or accepted on a majority vote.

One issue that had been skirted in the original proposals concerned enfranchisement of Luxembourg citizens resident in other EC states. In proposing the use of the same system for European and National elections the possibility of voting other than by presenting oneself at the polling station was deliberately excluded. Although the matter of introducing postal voting for those unable to vote in person had been mooted in 1969 and the Council of State had approved it, the Legal Affairs Committee of the Chamber had voiced certain reservations and the Chamber had taken the committee's advice and rejected the Bill. This issue was once again raised by the Council of State for the first European elections. However, the Committee felt that it would not be possible to

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(8) The deliberations and recommendations of the committee were never made public. However, the principal proposals made form the basis of the government legislation.

overcome all the difficulties such a scheme would produce. In its place, it proposed that the Government should study the matter for elections at all levels of government and submit a Bill in due course. In the meantime, it suggested that Luxembourg citizens living in other EC states could return to Luxembourg and register on a special electoral roll set up specifically to resolve the problem. The Council's response was to reaffirm its preference for a postal vote and to point out the major drawbacks to the Committee's proposals. As a compromise it suggested that citizens living in other EC states should be able to register on a special electoral roll, providing they sign a declaration stating that they would not vote in their country of residence, and then return to vote in special polling stations in Luxembourg. This amendment was accepted by the Committee and was included in the proposed final text discussed in the plenary.

The final issue of contention concerned the number of constituencies. In legislative elections the parties contest 59 seats distributed amongst four constituencies. However, with only 6 seats reserved for Luxembourg in the European Parliament, the allocation between the constituencies might well have meant that certain parties would be over — or under — represented because of regional or geographically dispersed support. The solution proposed was a single national constituency with all parties competing on an equal footing. With the Hagenbach-Bischoff variation of the d'Hondt system as used in national elections, such a solution was envisaged as fairer.

### **Constitutional matters.**

The constitutional position concerning direct elections was, as is noted above, raised by those opposing them. However, this issue was solved at an early stage and it was decided that no changes would be necessary with the present institutional balance in the EC. Briefly, the main question centred on whether the usual procedure for voting-through legislation was appropriate for the Bills concerned with direct elections. It had been suggested that European Elections posited, in effect, a transfer of powers from the Chamber to the EP — a move that called for three-quarters of deputies to be present when the vote was taken and a two-thirds majority to pass the proposals.

Eventually, it was decided that since the Treaty of Rome had been signed and ratified by Luxembourg and as this itself envisaged direct elections, there was no need to employ the special procedure. The matter was seen simply as the implementation of a prior agreement. In so far as it was assumed the second elections will take place under a uniform

procedure laid down by the EP itself, however, it was agreed that this will involve transfer of sovereignty (9).

A further constitutional issue concerned the number of constituencies. Both the Foreign Affairs Committee and the working party had raised the issue of whether reducing the number of constituencies was a constitutional matter. It was decided eventually, that as the relevant article of the Constitution dealt with national elections and that since no mention was made whatsoever of European elections, no problem existed.

### **The final debate and vote.**

When the Bills were finally brought before the Chamber they were once again taken together in debate but voted on separately.

The debate was in three parts ; firstly deputies and Ministers spoke on the issue either as individuals or representatives of the government or their parties ; secondly, amendments proposed in the first part of the debate were voted on before proceeding to a formal vote on the Bills ; finally, motions that had been proposed during the debate were discussed and voted on.

Discounting the contributions made by the rapporteuse in introducing the debate and answering points made by other speakers towards the end, nine speeches were made by deputies and three by ministers, two by the Prime Minister, at the beginning and end of the debate.

As the main substance of the debate, the first part was where the party positions were outlined. There were criticisms as to how the main issues — the number of constituencies, the number of votes that could be given to each candidate, holding simultaneous elections, enfranchisement of Luxembourges in other EC states — had been dealt with though apart from the single amendment tabled by Herr Margue of the Christian Social Party the only major attack was made by Herr Urbany of the communist party. He again raised several questions regarding the sovereignty of Luxembourg and the expansion of the powers of the EP. Additionally, he proposed three amendments of which only one was of any consequence, the others not affecting the main proposals contained in the Bills (table III).

Most criticisms were matters of detail rather than opposition to the Bill *in toto*. Even the attitude of the KPL seems to be one of acceptance of the provisions of the Bills in general, the main battle against the principle of direct elections having been lost at an earlier date. However,

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(9) Report of the Committee on Foreign Affairs, *op. cit.*, p. 6.

this grudging acceptance involved the strongest attack on the proposals as disadvantageous to the KPL.

After the rapporteuse, Mme Flesch, and the Prime Minister had responded to the issues raised by the other speakers, the discussion moved on to the amendments proposed earlier in the debate.

TABLE III  
Amendements proposed during plenary debate

Sponsor and Party		Subject of Amendment	Successful = 1 Unsuccessful = 2	How voted and result
Urbany	KPL	Replacing « European Parliament » by « Assembly of the European Communities »	2	Show of hands
Urbany	KPL	Deleting proposals for enfranchisement of Luxembourg nationals resident in other EC states	2	Show of hands
Urbany	KPL	Retaining same electoral system for future Euro-elections	2	Vote 50-6
Margue	CSV	Introducing postal vote	2	Show of hands

None of the amendments was acceptable to the Chamber, indeed only one went to a formal vote, the others being rejected on a show of hands. The three amendments proposed by Herr Urbany found minimal support amongst deputies and never seriously stood much chance of acceptance. The other amendment, calling for provision to be made for postal voting, was greeted with greater sympathy since it was an issue that had been widely discussed for several years. However, at such a late stage problems involved in implementing such a system were considered too great and hence the proposal was unsuccessful.

The two Bills then underwent final reading and were approved article by article then, individually, as a whole, both by 50 votes to none with four abstentions. At the same time both were excused the second constitutional vote.

The final part of the debate concentrated on parliamentary motions proposed during the first part of the debate, regarding issues related to direct elections, albeit peripherally.

Briefly, the proposal to limit the number of deputies in the Chamber to 60 reflects the constitutional provision whereby the number of deputies increases periodically as the population grows. In discussing the electoral

system for direct elections, Herr Wolter moved on to the deficiencies of the national electoral law.

Secondly, several speakers of parties not represented in the European Parliament complained about the provision of financial assistance to parties which did number MEPs in their ranks. Consequently, Mme Lulling's motion was a protest at the, in her view, unfair assistance given to only some parties.

TABLE IV  
Motions proposed during plenary debate

Sponsor and Party		Subject of Motion	Successful = 1 Unsuccessful = 2	How voted and result
Wolter	CSV	Fixing the number of Deputies in the Chamber at 60	2	Show of hands
Lulling	SdD	Condemnation of allocation of funds by EC to only certain parties	2	Vote 30-10 7 abstained
Urbany	KPL	Protest about the declaration of the German chancellor regarding the future siting of the EP	1*	Vote 38-4 4 abstained

\* This motion was amended by Mme Lulling then again by Mme Flesch to dilute the strength of the language.

Finally, Herr Urbany protested about the reported agreement between the German Chancellor and the French President to site the EP solely in Strasbourg. This matter had also been raised by other speakers who feared the EP would be lost to France and, once the strength of the condemnation had been diluted the motion was passed by a convincing majority (table IV).

### Overview.

Whilst Flesch's assertion that « business is transacted at a regular pace with astonishingly little drama » (1974 p. 125) sums up the plenary stage for the Bills regulating direct elections, it wrongfully implies a similarly unproblematic passage for legislation through the other parts of the legislative process.

Though it is true that the Bill concerned with the principle of holding direct elections had a smooth and relatively rapid passage to enactment the same cannot be said of the Bills stipulating the details of how the election should be conducted.

By putting the elections back to 1979 a problem was created as to whether to hold simultaneous national and European elections. However, the Chamber and the government had repeatedly expressed support for direct elections and it seems strange that the most overtly favourable parliament was the last to pass the requisite legislation. A further question is raised by the government's failure to present a Bill before the elections were postponed as had been done elsewhere.

This contradiction between the public statements and failure to act was explained during the plenary debates on the final two Bills. The government knew that it could get a majority on a vote agreeing to the principle of direct elections but would meet greater opposition to the details of how this principle should be realized. As a result the legislation was split. This had the effect of allowing the government to get the Chamber's commitment to holding the elections before publishing the details of how they would operate. Whilst the issue of whether to hold simultaneous elections did cause some delay, this strengthened the government's position in getting its preferred form of legislation adopted; by delaying until relatively late the Chamber's scrutiny of the second and third Bills the government was able to push through its own solutions to the problems. Since the elections were imminent and there was general agreement as to their necessity — with the exception of the KPL — the government had only to ensure that its proposals did not alienate too many deputies too much. This it succeeded in doing and as a result headed off any major challenge.

Certain changes were made, though, to the Bill during the committee examination. Most were alterations to the wording or technical changes. However, one major alteration was successful, namely extending the franchise to Luxembourgers living abroad. In one sense this represented a major change in the electoral law but against this it must be noted that those who wished to take advantage of this had to return to Luxembourg to exercise their new-found right, hence greatly reducing the revolutionary aspect of the change. A further point worth noting is the role the Council of State played in extending the vote. Against the government's wishes the Council and the Chamber acted together and finally arrived at a compromise solution which was successfully included in the final Act. Thus, although the Council has no formal right to enforce change its advisory role is a real one which it can, and does, wield effectively. Similarly, the committee undertook real scrutiny on behalf of the Chamber and spent four mornings going through the proposals. The fact that certain issues went to a formal vote indicates that the proposals met opposition at this stage and one can only conclude that greater changes were prevented by the coalition government's majority amongst committee members.

## Conclusion.

From the presentation of the case and the analysis of the preceding section certain elements stand out.

The activity in the Chamber prior to the introduction of the government Bills was overtly supportive of directly electing Luxembourg's MEP's, irrespective of how other countries went about composing their delegations. This sentiment reached a peak around the end of the sixties/beginning of the seventies and, although it did not disappear, the frustration of the Chamber's wishes caused the matter to be less conspicuous thereafter (10). The resurrection of the issue at the European level stimulated further action at the national level which satisfied the demands of the Chamber. The main lesson that can be drawn from this is the supremacy of the Government on this issue — which may be classified as external relations, traditionally a concern of governments more than parliaments, — the Chamber playing the role of a pressure group. This point is reinforced by the abject failure of the Chamber to successfully pass its own legislation on the matter. The only attempt to assert its constitutional right in this field was the 1971 Bill which was far too simplistic and consequently did not gain adequate support. It is true that government Bills enjoy advantages which facilitate their passage — a factor demonstrated by the different fates suffered by the government and private members' legislation on this issue — but some private members' Bills do succeed and in this light one is tempted to query the real legislative initiative powers, and hence decision-making capabilities, of the Chamber. Obviously the Chamber has the ultimate veto on the wording of legislation, but if that general position is determined by the original framework of the legislative draft then such a power is, to a large extent, illusory. It has been noted above that the 1971 proposals and the 1978/79 Bills addressed the same problems, with the exception of simultaneous national and European elections, and provided the same solutions (11). Why then

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(10) It should be remembered that around this time economic problems and the oil crisis assumed great importance and tended to push other issues aside.

(11) The main provisions of the 1971 and 1978 Bills are as follows :

1971 : 1° Universal suffrage using a list system of proportional representation to elect Luxembourg MEPs. 2° A single constituency covering the whole country. 3° The procedures used for changing national electoral laws should also apply for modifications of the present Bill. 4° The number of Luxembourg MEPs to be fixed by the Treaty of Rome and any acts modifying it. 5° The validity of the election to be determined by the Chamber of Deputies. 6° The MEPs to be elected for a term of five years. 7° All MEPs must also be members of the Chamber of Deputies.

1978 : 1° Compatibility of national and European Parliamentary membership - though it would cease to be obligatory. 2° Six Luxembourg seats to be held for five years. 3° Retention of majority of existing national legislative law for European elections.

did the Chamber not amend the 1971 Bill and rectify its deficiencies? One can only speculate that the answer to this lies in the acceptance that the government's proposals shall go through, albeit amended, whereas successful enactment of private members' Bills is considered as an exception to the rule, particularly if they will require a great deal of refinement and amendment. This, therefore, points to a problem with the organisational climate or psychology of the Chamber.

There were, however, other pressures, possibly extenuating circumstances, why the government Bills were successful (and it must be remembered that these were considered grossly deficient insofar as a third Bill had to be introduced to regulate the elections). Environmental factors such as the collective responsibility of parliaments in Europe to pass the requisite legislation for « Europe's first international elections » were felt quite distinctly in Luxembourg.

Furthermore, in terms of the parliamentary processes, the legislation for direct elections reveals, at least for government Bills, a well-oiled system for the processing of government sponsored legislation. In this it enjoys two (at least) significant advantages. Firstly, in timing the presentation of the Bills the government was able to preclude the serious consideration of certain alternative strategies. Secondly, the resources available to the government are far greater than those at the disposal of individual or groups of deputies. The first of these, from the viewpoint of the non-governmental parties, was felt to be a major factor affecting the smooth passage of the second and third government Bills as well as the failure of amendments proposed in the final debate, whereas the second meant the government was able to overcome the obstacles which led to the failure of the 1971 private member's Bill.

The different natures of the Bills appears to have had an effect on their ease of passage through parliament. This is as one might have expected. The ratification Bill, being basically procedural, was uncomplicated and even its political aspects presented a straightforward choice of either support or opposition. With the two other Bills concerned with matters of regulation, the parliamentary debates, as well as the committee deliberations, centred more on details. Since this provoked issues of partisan advantage the debate was characterized to a greater extent by dissension and disagreement even though the principle was almost generally accepted. Through adopting a strategy of splitting the legislative scrutiny into two

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4° Single national constituency. 5° Same electoral system to be used in European elections — with minor alterations — as in national elections. 6° Each electoral list should contain 12 names to remove the necessity for by-elections in the case of MEPs leaving the EP.



sets of Bills, i.e. principle and details, and careful timing, the government was able to considerably depoliticize the second phase, either intentionally or unintentionally, and so maximise support for the measures it was proposing. Conflict was thereby minimised firstly through the political aspects being focussed on the Bill dealing with an acceptable principle and secondly by the timing of the regulatory legislation.

**Summary : Luxembourg : a Case Study of Legislation in a Mini-State.**

*Whilst Luxembourg may be classified as a mini-state, its small size and population have not removed « politics » from public administration. Having outlined the legislative system, this article examines in detail the passage of the legislation for direct elections to the European Parliament focusing on the roles and functions of the relevant actors and institutions. This case study approach reveals a smooth parliamentary stage for legislation concealing a set of devices for resolving contentious or troublesome issues : special ad hoc committees to advise on legislative drafts ; parliamentary committees ; splitting legislation so that legislators are formally committed to a principle before they have seen the details ; the use of delaying tactics to preclude discussion of alternatives. In addition to demonstrating these, the case also examines the effectiveness of the three main institutions, the Council of State, the Chamber of Deputies and the Government, particularly the predominance of the latter, on major issues. In contradistinction, however, the Council of State, despite its formally weak status, is shown to exercise a positive influence.*

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