

Cabinet-formation

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INTRODUCTION

From Orleanistic parliamentarism to democratic parliamentarism.

The Belgian Constitution of 1831 already contained the classic elements of the parliamentary democracy, as right from the start there is a will to keep the royal activity within well defined limits. As pointed out rightly the Constitution of 1831 is not a product of an agreement between the people and an old dynasty, but the work of jurists who were imbued with the principle of the sovereignty of the people. This has become the historical starting point of a new political life. Wheresoever the sovereignty of the people was accepted the parliamentarism had to be monistic. Indeed, in that case Parliament as the embodiment of the sovereign people is the greatest power in the State (1).

Theoretically the main pillar of the Constitution of 1831 is article 25 : « All power emanates from the nation, it is exercised as laid down by the Constitution ». The constitutional power of the King is

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By the same author: *De benoeming en het ontslag van de ministers in België 1831-1884* (1963) (*The appointment and resignation of the Cabinet-Ministers in Belgium 1831-1884*); *Le plurilinguisme et l'armée* (1965).

(1) About the Cabinet-formation in Belgium see: M. BOEYNAEMS, *Benoeming en ontslag van de ministers in België van 1831 tot 1884* (*The appointment and resignation of the ministers in Belgium from 1831 till 1884*), doctorate thesis Ghent State-University, Ghent, 1963; C.-H. HÖJER, *Le régime parlementaire belge de 1918 à 1940* (*The Belgian parliamentary regime from 1918 till 1940*), Upsala, 1946; Fr. PERIN, *La démocratie enrayée* (*The stemmed democracy*), Brussels, 1960; see also *Le Courrier hebdomadaire* (*The Weekly Courier*), edited by the Centre de Recherche et d'Information sociopolitique CRISP, Brussels, number 4 (30th January 1959), number 31 (11th September 1959), number 75 (9th September 1960), number 110 (6th May 1961), numbers 213-214 (11th and 18th October 1963), numbers 294-295 (24th September 1965), numbers 314-315 (25th March and 1st April 1966); Th. LUYKX, *Politieke geschiedenis in België* (*Political History of Belgium*), Brussels, 1964.

described as follows : the King, who himself is inviolable, can only act by way of his responsible ministers ; he has no power himself, « than that granted him expressly by the Constitution and the special laws promulgated by virtue of the Constitution ».

Leopold I, the first King of the Belgians, accepts however the throne in 1831 provided he will be allowed to interfere in government policy : « Le Roi est venu dans ce pays qu'il a fondé et sauvé en 1831 de sa ruine immédiate à certaines conditions, entre autres celle de ne pas être privé de toute participation à son propre gouvernement... Les « néo-Français » disent : le Roi règne mais il ne doit pas gouverner. Moi je crois nécessaire qu'il fasse les deux (2). (The King has come to this country that he has founded and saved in 1831 from the immediate ruin on certain conditions, among others the one of not being deprived from any participation in his own government... The « neo-Frenchmen » say : The King reigns but should not govern. I think it is necessary he should do both.)

How will the King succeed in achieving his aim within the governmental institutions that the young nation has chosen for itself.

However article 65 of the Constitution offers him an extraordinary way to dictate his personal policy. « C'est en effet pour le Roi un droit absolu que celui de nommer ses ministres et d'en changer. Il en use comme il l'entend et c'est ainsi surtout qu'il agit sur la direction des affaires du pays » (3). (Indeed it is the King's absolute right to appoint his Ministers and to dismiss them. He makes use if them which way pleases him and it is above all in this way that he exerts his influence upon State-affairs.)

Since the Sovereign needs in the first place his Ministers' consent this means that he has to choose Ministers who indulge the royal wishes and agree to cover him politically.

Though the King may not run the risk of a conflict with the Legislative Chambers, his constitutional powers allow him to choose his counsellors freely and eventually force them to resign. Moreover he can dissolve Parliament but the last word always remains with the nation.

The Belgian Kings always have accepted the rule of the parliamentary system, that the Cabinet be supported by the majority of the Legislative Assembly and they acted accordingly.

(2) Leopold to Tesch, 13th November 1839, Conway Archives quoted by E. CORTI and C. BUFFIN, *Léopold I^{er}, oracle politique de l'Europe (Leopold I, the political oracle of Europe)*, Brussels, 1926, pp. 96-97.

(3) M. Beernaert in a declaration delivered at the end of the 19th century, *Annales parlementaires belges de la Chambre*, 18th November 1884, p. 10.

Nevertheless they have, at least in the 19th century, exerted an exceedingly great influence on the management of public Affairs, far greater than the fathers of the Constitution could have imagined. It is known to all Europe that in Belgium King Leopold the First has exercised immense power (4).

Public intervention by the King is only possible in so far Parliament tolerates it and trusts the Ministers who defend the King's policy.

With his personal influence, Leopold I aims at gaining the Members of Parliament for his own policy. The Senators and Deputies very often are welcomed at the royal palace and participate in Court-life. The King does not fear exerting pressure on public opinion. The civil list supports financially some of the newspapers that are inclining for the King's policy. The King also tries to influence in a certain measure the choice of the Deputies. He counts upon the Holy See, upon the nuncio, upon the high clergy and upon the foreign diplomats in order to get « favourable » elections. Everything points to it that the King and the government try to influence the in number limited electors. At a certain moment when Leopold I can stop no longer the rise of political parties he is even thinking of creating himself a royalist and conservative party.

But it is in the first place with the choice of his Ministers that the King tries to exert real influence.

Already from the very start there is a difference of opinion that we come across in most parliamentary monarchies in the 19th and even in the 20th century. According to Lebeau, one of the founders of the young nation, Ministers are the emanation of Parliament and the nation but according to the King they are on the contrary in the first place the King's Ministers.

During a first phase from 1831 till 1840 Leopold's influence is very obvious. The politician who has been asked to form a government enjoys his complete confidence. The latter then chooses the other Cabinet Ministers in close concert with the Sovereign who among others does not want any progressive politicians in the Cabinet. In fact they are business-Cabinets in charge of the current affairs of the country. Before 1840 there was no question of a proper government program. The foreign policy and the military program are laid down by the King himself.

As any Sovereign who wants to steer his own course so is Leopold I

(4) W. BAGEHOT, *The English Constitution*, 6th edition, London, 1891, pp. 77-78.

against all political parties. He is fully aware that the rise of organised political parties is not without any danger for the royal power. Therefore his preference goes to mixed governments, with a broad bottom, as they existed already in England under William III. When a quarrel arises the King acts as supreme arbiter.

The attempt to seize power will be disclosed in 1841. Leopold I forms two royal Cabinets (1841 and 1845) in this assisted by Mr. Jules Van Praet, the Minister of the King's Household. It is during this period that the royal power is at its peak. This is the period of the Ministers out of devotion and of the Ministers by order. This coincides with a preponderant influence of the financial circles and with the influencing on a large scale of the electorate.

The political party struggle starting in 1840, finishes up in the foundation of the Liberal Party. In 1847 after a liberal victory in the legislative elections, Leopold I has to accept the claims of the liberals against which he stood out so long. This time now his role in the Cabinet-formation is really small.

The balance between both Parliamentary parties and the division within the parties make it in 1852 and 1855 possible again for the King to establish an extra-Parliamentary Cabinet or a Unionist Government.

From 1857 onwards real party governments come into being. This means then a definitive turning point in the relation between the King and the future Prime Minister. The party leader who has been asked to form a government considers himself as being commissioned by the party and most of the time can impose his will in the choice of the Ministers.

Nevertheless Leopold II will openly make use twice of his prerogative to force Ministers to resign namely in 1871 and 1884.

As long as the idea of the sovereignty of the people is not supported by strong national party organisations and by the universal suffrage, it will remain an empty concept. Thus the royal arbitrariness will still survive.

However Albert I has to use other means to attain his object. In 1911 with the agitation about the School-Question he forced the head of the government morally to resign from office by, without him knowing, having talks with other Catholic leaders and to give these talks the necessary publicity. Furthermore he omitted to ask some of the out-going Ministers to stay in office.

From now on the King's influence on the formation of the Cabinet will steadily decrease and become more discreet. The institutional cadre remains the same. The political and social reality change. The

text of the Constitution is not changed and yet the Orleanist parliamentarism gradually develops into a parliamentary democracy. But above all this transition is brought about by the evolution of the constitutional practices.

More and more King Albert will accept Mr. Bagehot's conception of the royal privilege. He agrees that the Sovereign has under a constitutional monarchy, such as ours, three rights : the right to be consulted, the right to encourage, the right to warn. And a King of great sense and sagacity would want no others (5).

During the agitated years before World War II governments change frequently. The Cabinet crises seem to be unsolvable. The country has almost become ungovernable. In 1939 Leopold III appeals in vain to the political leaders summoned to the Palace.

« Le pouvoir exécutif appartient au Roi qui nomme et révoque ses ministres seuls responsables devant le Parlement. » (The Executive appertains to the King who appoints and dismisses his Cabinet-Ministers who alone are responsible to Parliament.) Hereby he meant that he had to choose his Ministers and that the political parliamentary parties had no such right. « La première condition qui s'impose, celle dont dépend, je n'hésite pas à l'affirmer, le sort même de notre régime, c'est la restauration dans toute son indépendance et dans toute sa capacité d'action, d'un pouvoir exécutif vraiment responsable, c'est-à-dire formé d'hommes qui puissent assurer le gouvernement du pays pendant toute une législature si possible, sans se trouver entravés dans leur action par des mots d'ordre de partis, par des décisions de groupes et de sous-groupes politiques ou par des préoccupations électorales » (6). (The first condition, the one on which depends, I do not hesitate affirming it, the lot of our regime is the re-establishment, in its full independence and in its full capacity of action of a real responsible Executive, in other words one made up of men who would be able to govern the country possibly during a whole legislature, without being hindered in their action by party watchwords, by decisions of Parliamentary Parties or sub-parties or by electoral preoccupations.) It rather sounds like a voice in the desert. They are ideas that have been overtaken by time and circumstances. No doubt this conflict between the Sovereign and the parties influenced the further course of our history.

(5) King Albert tells Paul Hymans that he fully agrees with this way of thinking; see P. HYMANS, *Mémoires*, Brussels, 1956, vol. I, p. 63.

(6) G.H. DUMONT, *Leopold III, Roi des Belges*, 2nd edition, Brussels, 1945, p. 237.

I. THE DIFFERENT PHASES OF THE CABINET-FORMATION

The King cannot form a government unless the latter immediately after the appointment of the Ministers receives from the Chambers a formal vote of confidence.

The King is obliged to form a Government enjoying the confidence of the Legislative Assembly. So his is not a personal one. Constitutionally speaking the political composition of the Chambers is the determining factor (7).

Is it the King alone who assesses the political situation? By no means.

The Head of the State holds a series of traditional consultations. He generally consults the following persons :

- the chairman of the Chamber of Representatives and of the Senate who, on account of their high office, are in a position to give the King an estimation of the chances of the new Cabinet ;
- the out-going Prime Minister ;
- the leaders of the main political parties eventually also ;
- the parliamentary party leaders of the three main parties ;
- the Governor of the National Bank ;
- the chairman of the Federation of Belgian Industries ;
- the Ministers of State with great political experience ;
- persons representative for the public opinion.

The number of persons consulted by the King varies in function of the complexity of the crisis and also whether a constitutional investigator has been appointed or not, although here again this is no decisive factor (8).

(7) About the constitutional aspects of the Cabinet-formation, see A. MAST, *La nomination et la révocation des ministres (Appointment and dismissal of the ministers)*, in: *Journal des Tribunaux*, 64th year, 18th December 1949, pp. 649-653; W.J. GANSHOF van der MEERSCH, *Les rapports entre le chef de l'Etat et le gouvernement en droit constitutionnel belge (Relations between the Head of the State and the government in Belgian constitutional law)*, in: *Revue de Droit Institutionnel et de Droit comparée*, 27th year, 1950, special issue, pp. 183-189.

(8) In 1966 during the last crisis the King summoned 25 persons, 21 of them being members of Parliament. Among the latter were 7 PSC (Social Christians), 8 PSB (Socialists), 6 PLP (Party for Liberty and Progress or Liberals), 3 Walloons, 3 French-speaking from Brussels, 13 Flemings. The non-Members of Parliament are the Governor of the National Bank, the chairman of the Federation of Belgian Industrials and two trade union leaders; in 1965 the number of persons consulted amounted to 34 and in 1961 there were only 9.

The Court-communiqués do not always proclaim the names of the persons summoned by the King (9).

Sometimes the person commissioned to form a Cabinet has private talks with the chief of the Household Offices, who in turn has contacts with the political and extrapolitical circles.

The contents of the talks with the King are not made known. This is a logical consequence of the inviolability of the King. This secrecy is one of the basic conditions of the parliamentary monarchy (10).

Yet these consultations are an important link in the process that leads to the building of a new government. But their traditional formal character and protocol limit their bearing.

The King appoints an « informateur » or a « formateur » who reports regularly to him about the negotiations and who sometimes asks the King's permission to carry on his generally well defined mission.

When the royal nominee accepts his mission then the first phase of the Cabinet-formation is over.

1. The preliminary phase.

It sometimes happens that the person commissioned to form a government is not accepting his mission right away and reserves his answer (11). So he has the opportunity of consulting his political friends.

But generally the prospective Prime Minister immediately accepts the offer. During the latest crises refusals are rather few (12).

2. The phase of investigation.

With the State policy growing more and more complicated especially in the domain of financial and Budget problems and as a great competence is required the commissioned person sometimes asks the

(9) «! Il y a en effet les audiences révélées, par des communiqués, elles ne sont pas nécessairement les plus intéressantes et les plus décisives et celles sur lesquelles on garde la discrétion et le silence » (The are indeed the audiences that are revealed, by way of communiqué, but not necessarily the most interesting and the most decisive, and those that are not disclosed, *La Libre Belgique* (daily newspaper), 12th January 1952, p. 1, col. 5.

(10) The archives that can be consulted are mostly family records of deceased politicians and tell about too far of periods. The Royal Archives are not accessible, as is not the case in The Netherlands for instance. This does not render the task of the historians or political scientists any easier.

(11) For instance Mr. Vanden Boeynants in 1966; Mr. Harmel in 1965.

(12) For instance Messrs. Buset in 1954; Segers and De Schrijver in 1950.

advice of experts in order to have a clear picture of the actual situation (13). Some sort of inventory of the financial situation is made.

This is sometimes also required by the eventual partner who is in the Opposition.

3. The choice of the coalition-partners.

Since in Belgium governments are generally composed of two parties, exceptionally of three or four, an option has to be made that, of course, has to reckon with parliamentary arithmetics (14).

The politician summoned by the monarch to take the office of Prime Minister chooses the party he would like as a government-partner.

Most of the time this choice is made right from the start (15). In recent times however we see that the prospective Cabinet-leader of the Catholic Party tries to enter into parallel negotiations with both possible coalition partners i.e. the Liberal and Socialist Parties (16).

The latest Cabinet-formation in 1966 is an interesting example hereof : the royal nominee Van den Boeynants submits his program to both eventual partners, the Socialists and the Liberals. He invites the leaders of those parties to reply within a fixed time and is prepared to discuss this program. This unusual attitude however is criticized by the other parties (17).

As far back as 1961 the new procedure is adopted in the Belgian political tradition. But here it is a matter of pure technical confron-

(13) In 1966 Mr. Segers who has been asked to form a government invites a group of experts presided over by Mr. Ansiaux, the Governor of the National Bank, to make a report on the total financial situation for the benefit of the negotiations. The contents of this extremely important report are not communicated to the Members of Parliament. This is calling forth protests from Mr. Struye the chairman of the Senate.

(14) In 1950 the Catholic Party obtained the absolute majority thanks to the Royal Question. In 1958 the same party has the majority in the Senate but the other parties refuse to co-operate. Upon this Mr. Eyskens forms a Catholic minority government thanks to a few Liberal dissidents. In the years 1944 and 1945 in the euphoria of the liberation we have known a four-party government. In connection with the Royal Question we have Left-governments including communists in 1945 and 1946.

(15) For example in 1954 (Socialist-Liberal, Van Acker government); in 1958 (Catholic-Liberal, Eyskens government) in 1961 (Catholic-Socialist, Lefèvre government).

(16) See for this the attempts made by Messrs. Segers and Van den Boeynants in 1965.

(17) Mr. VANAUDENHOVE, chairman of the PLP declares: « Nous affirmons que nous ne pouvons pas accepter de discuter d'un programme éventuel de gouvernement avant que ce choix ne soit fait (d'un partenaire), *Le Soir*, daily newspaper, 9th March 1966, p. 3, col. 7. The socialist party raised following objections: « Nous constatons que ce choix fondamental créerait inévitablement une équivoque et des doutes sur l'orientation d'un gouvernement que vous présideriez. Nous désapprouvons la méthode que vous avez suivie et qui a consisté à vous adresser à la fois au PSB et au PLP; *ibid.* (We ascertain that the lack of this fundamental choice would inevitably create an ambiguity and doubts about the course a government under your leadership would steer. We disapprove of the method you used and which consisted in contacting at the same time the PSB and the PLP.

tation by experts belonging to different parties, of the PSC- and PLP-programs on the one hand and those of the PSC and the PSB on the other hand in order to indicate the points about which eventually the political negotiations would take place.

The three party governments, in spite of the aureole they had in the years between the World Wars, no longer seem to answer the political aspirations. Now only in exceptional circumstances are they approved of. However most of the time they are looked upon as an infraction of the parliamentary rules of the game which say that there should be a true Opposition (18). Very often it leads to a political stand still and excessive concessions by the parties.

So far all preliminary negotiations in view of the Cabinet formation were made solely by politicians who only exceptionally asked the advice of experts very often chosen outside the parties. But this time the Prime minister refuses to have a written engagement. All is limited to some sort of a common aide-mémoire that has by no means the value of a contract. The only contract is the Government declaration. Once more this then has to be ratified by all qualified party leaders.

In 1965 the same thing is happening ; again technical discussions take place between politicians assisted by experts : an extra-parliamentarian banker for the Catholics beside the most influential leaders of the different tendencies ; two technocrats from the study board and seasoned leaders of the Socialist Party. A common committee draws up a synthesis, a document that will be the basis for the ratification by the qualified party leaders.

There is another novelty in the latest 1961 crisis. This time the

(18) Mr. STRUYE (Catholic) condemns the three party system as follows: « Un gouvernement sans opposition ne se justifie que dans les cas d'urgence » (A government without Opposition is only justified in an emergency), *Le Soir*, 5th June 1958, p. 2, col. 7.

Mr. LEFEBVRE (Liberal): « Le tripartisme est la négation du fonctionnement normal du contrôle parlementaire » (The three party government is the negation of the normal working of parliamentary control), *Le Soir*, 10th June, 1958, p. 2, col. 7. « Le PSB a déclaré qu'en dehors de circonstances exceptionnelles qui ne sont pas réalisées, la formule tripartite n'est pas une formule de gouvernement. Nous croyons que dans un régime démocratique sain, il faut une opposition qui ne soit pas simplement de caractère régional et linguistique mais une opposition qui a une implantation dans le pays tout entier et suffisamment puissante pour réaliser la mission de contrôle qui lui est dévolue par nos institutions. Ceci implique que deux des grands partis doivent être dans le gouvernement et un dans l'opposition ». (The PSB has declared that save in exceptional circumstances that do not exist, a three party organization is not a good form of government. We believe that in a sound democratic regime there must be an Opposition with an implantation all over the country and sufficiently strong to achieve its control mission which has been given by our institution. This implies that two of the main parties have to be in the government and one in the Opposition), *Le Soir*, 9th March 1966, p. 3, col. 8.

negotiations take place only between the two party chairmen assisted by a few technicians of the study-board and close collaborators.

The concentration of the negotiations in the hands of the two party chairmen results probably from the personal temperament of the persons concerned but also for fear of bringing into the open internal oppositions within their own party. This personalisation of the negotiations surely is a new tendency in our political life.

4. The structure of the Cabinet.

The necessity of a hierarchical structure of the Cabinet is a consequence of the authority crisis within the Executive.

A first step in this direction was done by Mr. Eyskens when he created the office of Ministers-under-Secretaries of State after the Cabinet-change in 1960. In the Lefèvre-Cabinet they are called Deputy-Ministers. In the meantime attempts to establish a more detailed hierarchy fail.

In 1965 Mr. Harmel goes one step further and imposes a pyramidal hierarchy that still does not answer the expectation.

As for Mr. Van den Boeynants he prefers the system of the Minister-Secretary of State.

He too declares having been hindered in his plans by juridical and psychological objections.

The structuring of the government makes the Cabinet-formation even more difficult. The former Ministers are not prepared to accept a so-called inferior position. The political parties and the language communities exact their share of the full bodied Minister-portfolios.

Another aspect of the Cabinet-structure is the separation of the National Education and Culture Ministries in connection with the cultural autonomy of the language communities. This problem reveals also an ideological side as the Left-wing Parties claim the Official Education office whereas the Flemish PSC demands the Flemish Culture Ministry.

In 1961 there is a first solution to the problem when a Flemish speaking Catholic is appointed Deputy-Minister of National Education and Culture and a French speaking Socialist becomes Minister of National Education and Culture.

In 1965 this limping solution is replaced by the appointment of a French speaking Socialist Cabinet-Minister of National Education beside a Flemish speaking Socialist Minister Secretary of State of National Education. The French and Flemish Culture Ministries go

respectively to a French speaking and Flemish speaking Catholic Minister Secretary of State.

In the Van den Boeynants Government this inflation in Ministries has been restrained by coupling the French speaking and Flemish speaking Culture to ano the Office. Thus Mr. Van Elslande is Minister of European Affairs and Flemish Culture and Mr. Wigny Minister of Justice and French Culture.

5. The key to the allotment of Offices.

In a coalition-government the Offices have to be allotted to the political parties sitting in the Cabinet. It is then the question to determine the number of Offices which each party will get. This is not always done according to the number of seats of the parties in Parliament. So the co-operation of the Liberal Party is needed by either of the two main parties, the former very often manages to get a relatively high number of Offices.

Another aspect of the allotment of Offices is the regional allotment. As far back as the 19th century we saw the North and the South claiming their share. The large cities also try to have one or more ministries.

The end of the 19th century sees the rise within the Liberal and Catholic Parties of a more progressive wing that also wants to be represented in the Cabinet.

The prospective Prime Minister has to make allowances for the different sub-divisions within the parties.

Since the First World War and especially after the Second World War more and more importance has been given to a balanced representation of the language communities (19). This claim becomes stronger and stronger.

Beside the political regional and language dosage the Finance, Agriculture, National Security, Labour, Transport, Post Office-Telegraph/Telephone Ministries, etc. are normally entrusted to persons closely related respectively to banking, the Peasant-association, the Health Insurance Association, the labourorganization.

6. Persons invited to take Office.

Once the political parties taking part in the government have agreed upon the structure of the Cabinet and the distribution of Offices,

(19) See Appendix.

then the person summoned to take the Office of Prime Minister negotiates with the leaders of both political parties or with the chairmen alone, and with or without the eventual Deputy Prime Minister being present, about the selection of the different heads of the Offices. Here also's the influence of the party executive decisive and the Prime Minister to be has little free scope.

7. Appointment by the King.

Once the final list drawn up, it is presented to the King for his signature. Here the Ministers need to add their signature to that of King.

8. Swearing in by the King.

Before accepting their Offices the new ministers are sworn in by the monarch. Then they meet for the determination of the formal priority and the drafting of the government declaration which will be the real contract between the two government partners.

II. THE CABINET CRISES

Causes

Looking at the reasons that have caused Cabinets to resign definitively we can distinguish many causes. However to this it has to be said that the resignation of a Cabinet is sometimes due to a complex combination of intermingled factors, that are sometimes not easy to disentangle. Therefore we shall try to limit ourselves to the main reason or the direct cause. We consider solely a collective resignation and not ministerial changes.

1. The Government is dismissed by the King.

According to article 65 of the Constitution, it is the King's power to dismiss the Cabinet. In the course of the nineteenth century our Sovereigns have in many cases made use of this prerogative.

The de Meulenaere (1832) — and d'Anethan (1871) — Cabinets are formally summoned to resign their Office.

Sometimes the King uses an indirect way to force a Cabinet to resign. He negotiates with political leaders without the head of the Cabinet knowing of this and gives to these talks a certain publicity (1834-1911), he is opposed to the dissolution of either of the Cham-

bers (1841), he refuses the resignation of one of the Ministers who has no longer his colleagues' confidence (1834), he enforces the resignation of some Minister (1884) which compels the Chairman of the Council to resign out of solidarity. The resignation of the unpopular Cabinet Nothomb (1845) seems to have been wanted by Leopold I and the Minister of the King's Household Van Praet.

Since the First World War our Sovereigns have not made any use of this prerogative.

2. The Cabinet resigns after a change of throne.

It is a constitutional custom that the Cabinet places its portfolio at the disposal of the new Head of the State. This is a custom of the 19th and 20th centuries when there existed a personal band between the King and his Minister. Nowadays this deed has no longer any political bearing, but it is part of the ceremonial and the resignation is always refused.

Only one exception to this is the resignation of Duvieusart's Cabinet after the Prince Royal had taken the oath in 1950. But this case has to be contemplated in the emotional sphere of the Royal Question.

3. The Cabinet resigns after elections.

The Cabinet resigns automatically when the results of the elections show that it does no longer have the nation's confidence.

In the nineteenth century, when the division into parties was not so rigid and a great number of civil servants had a seat in Parliament (until 1848) there is sometimes a doubt about the real bearing of the shiftings. Nowadays however this is excluded.

This does not mean that after any election the government has to resign. When the elections have not changed the composition of the Chambers or when the Cabinet comes rather reinforced out of the fight, then the Cabinet stays on. However one should immediately add that this is rather exceptional (e.g. in 1910 and 1929).

In most cases the Prime Minister places his portfolio at the King's disposal.

Generally the elections lead to slight shiftings which brings about a change of coalitionpartners, with a change in majority as result. This was namely the case in 1950, 1954, 1958, 1961 and in a certain way in 1966 be it then with one years delay.

This change-over of the majority is most in conformity with the parliamentary tradition in so far that the party having retrograded most,

in comparison with the previous elections, is pushed into the Opposition whereas the administration is entrusted to the most important party and the party which in the recent election has made most progress. Now this is not absolute rule either. The appointment of the Harmel-Cabinet in 1965 is a striking example of this.

4. The Cabinet is forced to resign by Parliament.

In spite of the strict principle of the division of powers in a parliamentary regime, the Cabinet always is responsible politically to Parliament. A government which is formally in minority in either of the Chambers resigns.

Very often the King or the Prime Minister draws the attention to this fundamental rule of our institutions.

Not longer ago than in 1966 King Baudouin in a letter to Prime Minister Harmel reminds him of this principle : « Je ne puis accepter la démission du gouvernement sans que le Parlement se soit prononcé clairement ». (I cannot accept the Cabinet's resignation without Parliament having made his position known clearly.)

In spite of this position it has to be pointed out positively that in the course of our political history a Cabinet very exceptionally has to resign because of a note of distrust by either of the two Chambers.

Out of the 60 real Cabinet crises Belgium has known since 1831 only four are caused directly by a vote in Parliament and in two other cases (1855 and 1934) is the resignation an indirect result of such a vote (20).

In 1840 the de Theux-Government could not obtain the majority in the Chamber of Representatives in connection with of the granting of half-pay to General Vandersmissen who previously had been involved in a conspiracy. Here it was a matter of patriotic outburst.

The homogeneous Catholic Government de Smet de Nayer in April 1907 for the first time in our history, was overthrown by a democratic majority in connection with a draft Bill about social legislation.

The catholic-Liberal Theunis-Cabinet collapsed on 27th February 1927 because of an heterogeneous Socialist and Flemish-Catholic Opposition against its pro-French and militaristic management.

The Socialist-Liberal Van Acker Cabinet falls in July 1946 because of all the consequences of the repression.

(20) The two still-born Van de Vijvere- in May 1933 and Spaak-Cabinets in March 1946 are not included.

It is still questionable why this basic rule of the parliamentary institutions is applicable only so rarely. When the government parties are mutually divided it may not be opportune to show this division in Parliament in a formal vote. This would hinder the forming of other coalition-governments and make the Cabinet-formation more difficult.

Prime Minister Harmel has worded this very clearly in Parliament on 8th February 1961 : « La difficulté n'était pas entre la majorité et le gouvernement, elle était au sein du gouvernement, et dans ce cas, comment le parlement pourrait-il être appelé à se prononcer ». [The difficulty was not between the majority and the government, it was within the government and in that case how could Parliament been asked to pronounce itself ? (21)]

5. A difference of opinion between the Ministers.

Most Cabinets fall because of a fundamental difference of opinion about an important matter. Out of the 60 crises since 1831 about 20 are due to a division within the government itself.

This desintegration of the government team is often the result of a latent opposition between government parties.

The most recent example is the fall of the Harmel-Cabinet on 11th February 1966. The opposition of some Walloon Socialists led by Mr. Merlot, the opposition of the Socialist Trade Unions and Health Insurance against the social government policy in connection with the Health Insurance are the reasons why an unanimity rises within the Cabinet what leads the Socialist Minister in asking the Prime Minister to accept their resignation without Parliament having made known its position.

Besides with the 1966 crisis another aspect came to light : here the action of the Executive has been curtailed by a technical committee of a semi-official institution in which the in this matter competent Minister has to confine himself to an arbitrial role between the different pressure-groups in this case the association of physicians and the Health Insurance Association.

6. The Cabinet resigns under pressure of a Parliamentary Party.

This normally occurs because the government cannot count any longer on one of the Parliamentary Parties. It may happen that a

(21) APB Chamber, 8th February, 1966, p. 218.

Parliamentary Party declares not to adopt a certain draft Bill. It also occurs that a certain Parliamentary Party votes against a draft Bill, the Cabinet in that case can count only on the support of a changing majority and draws then the necessary conclusions. Another procedure is that a Parliamentary Party encourages its Ministers to leave the Cabinet.

On 13th December 1951 the Chamber Parliamentary Party of the PSC condemns the attitude of the Cabinet and especially the Prime Minister's about the Houserent-Question. The Parliamentary Party votes the Draft Bill but advises Mr. Pholien to resign. After having offered some resistance the Premier gives in.

In February 1939 the Liberal Cabinet Ministers resign, urged by their Parliamentary Party, when the Cabinet was given the Chamber's confidence by a changing majority of Flemish Nationalists and Socialists, in connection with the appointment of a former collaborator Dr. Maertens as member of the Flemish Medical Academy, against which the Liberal Parliamentary Party was stubbornly opposed.

The Catholic-Liberal Government led by Mr. Renkin resigned on 18th May 1932 because the Flemish Catholics had declared not to vote the draft Bill on the use of languages in adulation handed in by the Senate.

However the possibility of an intervention by the Parliamentary Parties nowadays has decreased considerably as the real political decisions most of the time are taken by the higher party leaders and not by the Parliamentary Parties.

That does not alter the fact that the Flemish PSC Party in the Chamber, by the mouth of Mr. Verroken, on 18th May 1967 declares that the government majority will cease to exist if it cannot be sure that the 1966-law about the university-expansion will lean upon the principle of implantation in their own language region (22).

7. The Cabinet resigns under pressure of the party executive.

In 1952, after the warning given by the PSC Chamber section, the National Party Committee and the party chairman will also bring pressure to bear upon Prime Minister Pholien and ask him to resign.

Mr. Pholien after an initial firm resistance finally has to give in and justifies his decision as follows : « J'ai dit qu'un gouvernement doit normalement tomber devant le Parlement ou s'en aller si le Chef de l'Etat lui retire sa confiance. Mais il peut se faire que des cir-

(22) *De Standaard* (daily newspaper), 19th May, 1967, p. 1, col. 4.

constances difficiles se présentent au gouvernement et que celui-ci ait la conscience de n'être plus à même de remplir sa tâche. La chute devant le Parlement ou le retrait de la confiance du Chef de l'Etat sont en fonction des possibilités concrètes du gouvernement à l'égard des tâches difficiles de l'heure » (23). (I have said that a government normally has to fall before Parliament or leave when it is no longer enjoying the Head of State's confidence. But it is also possible that the government comes across difficult circumstances and realizes that it can no longer accomplish its role. The fall before Parliament or the loss of the Head of the State's support are in function of the concrete government possibilities with respect to the difficult tasks of the moment.)

Mr. Pholien adds to this that he personally did not want to hand in his resignation (24).

However the opposite also takes place. Sometimes the Ministers resign in order to force their party to vote certain measure. Usually this manoeuvre at the end doomed to fail.

8. The ministers can also resign on their own initiative without being forced to do so.

It sometimes happens that the government is powerless against threatening economic or monetary crises. It then prefers to resign regardless the confidence it has in Parliament.

An important instance of this is the fall of the Theunis-Cabinet in 1935. The Prime Minister resigns regardless the support given by Parliament, because he considers the monetary situation has become untenable and that a devaluation has become necessary.

The Pouillet-Vandervelde Cabinet falls in 1926 because the home- and foreign financial circles caused their monetary reform to fail by provoking a flight of capital. Its majority in Parliament is still intact and yet the government disappears forcefully from the political scene.

III. A POLITICOLOGICAL ANALYSIS

1. The role of the King and the Crown.

In normal circumstances no party has still the absolute majority and nothing says that this situation is about to change in the near

(23) *La Libre Belgique*, 4th January 1952, p. 2, col. 3; *ibid.*, 10th January 1952, p. 1, col. 3; *ibid.*, 13th January 1952, p. 1, col. 3.

(24) *ibid.*, 10th January, 1952, p. 1, col. 3.

future. Therefore inevitably one has to call upon more than one party. So often then different coalitions are possible. Furthermore in Belgium we do not have the system of the Shadow-Cabinet.

Thus theroretically the royal prerogative has a lot of elbow room.

Which is then the real influence the monarch can exercise upon a Cabinet's formation ?

If in the 19th century it is possible to have a fair idee of the role played by the King, as can be made out from available archive sources, then nowadays the politicologist has to be satisfied with an exhaustive study of the press and occasional but rare and uncontested confidences of some politicians. Such a study is by nature fragmentary and provisional.

This methodological inconvenience should not refrain us, within the above mentioned limits, from trying to throw a light upon the King's personal role.

The time of the Minister by order, of the Ministers out of devotion and of the royal Cabinets is bygone for ever. The King can no longer enforce his personal choice. The Crown's influence has become more discreet.

This does not mean that at difficult moments the King could not try to lead the negotiations into a certain direction and to advocate the solution that would coincide with his personal wish.

Examples of this are the choice of Mr. Carton de Wiart (1920), Mr. de Broqueville (1934) as Prime Minister ; may be in a certain degree Mr. Pholien in 1950 but here party influences have also played their role.

According to some Mr. Harmel's appointment as prospective Prime Minister in 1965 would indicate the King's definite preference for this eminent politician from Liège.

On the other hand it is not altogether impossible that the monarch puts aside the personalities who do not enjoy his confidence.

It is quite common that the King shows publicly his preference by calling upon a prominent man to form a Cabinet although he is well aware that the person concerned and the party to which he belongs will not comply with the proposition.

See also the offer to Mr. Jaspar (1939) and Mr. Buset (1954).

Sometimes it happens also that the monarch urges on a hesitating minister-candidate to enter into the Cabinet.

In 1958 the Governor-General of Congo accepts the Colonial Office only upon the King's formal request (25).

(25) *Le Soir*, 27th June, 1958, p. 1, col. 5.

Another way of influencing a prospective Prime Minister is the outlining of the formation task by the King.

The mandate that was given to Mr. Eyskens by the King in 1958 is originally only in view of a three party-government. After both left parties having rejected this offer the King urges Mr. Eyskens to take once more another, last chance. This rouses even Mr. Lefevre's, the chairman of the PSC, displeasure who declares explicitly : « Il est temps que Mr. Eyskens soit habilité à former un cabinet homogène ». (It is about time that Mr. Eyskens be allowed to form a homogeneous Cabinet.) This example shows us that the task to form a Cabinet is a specific one and refers to a definite coalition. At the same time this would betray the King's preference for a National Union-Government.

The Crown by having some initiative is sometimes able to force morally a Minister to resign.

In 1959 when the tension in Congo is still increasing the government takes some measures which force the Minister for Belgian Congo and Rwanda-Burundi Mr. Van Hemelrijck to resign. At the end of August 1959 Count Harold d'Aspremont Lynden Deputy Chief of Prime Minister Eyskens' office and the great court-marshal's nephew is sent to Congo without the responsible Minister knowing it. This affair together with the disagreement about his person in the Cabinet council lead to his resignation on 3rd September 1959. It is said that the Crown may have been involved indirectly in this resignation.

In 1960, during the Congo crise when the Security Council demands the Belgian troops to evacuate Katanga and the Congo bases, the Crown would have aimed at a change in Cabinet in view of the formation of a strong government for the common good, free from all political parties for the greater part consisting of non-parliamentarians, with the King as guantee (26). The soul of this combination is belie-

(26) Les hebdomadaires *Pan* (17 août 1960) et *Pourquoi Pas?* (19 août 1960) ont publié à cet égard des précisions concordantes: « un gouvernement d'affaires comprenant MM. van Zeeland, Spaak (reçus de concert par le Roi le 6 août), Jean Rey, Dubuisson (recteur de l'Université de Liège), très engagé au Katanga, M. Naessens (Banque de Paris et des Pays-Bas), Ganshof van der Meersch, Marcel Grégoire, Moens de Fernig, etc... MM. Struye, Pholien, De Boodt et A.E. Janssen ainsi que le Baron Boël auraient été associés à cette expérience. Jacques Pirenne aurait joué un rôle actif dans cette initiative royale (The Weekly papers *Pan* (17.8.1960) and *Pourquoi-Pas?* (19.8.1960) have published about this concordant precisions: a business-government with Messrs. van Zeeland, Spaak (summoned together by the King on 6th August), Jean Rey, Dubuisson (provost of the Liège-University), very much involved in Katanga, Mr. Naessens (Banque de Paris et des Pays-Bas), Ganshof van der Meersch, Marcel Grégoire, Moens de Fernig, etc... Messrs. Struys, Pholien, De Boodt and A.E. Janssen together with Baron Boël would have been partners in this experiment . Mr. Jacques Pirenne is believed to have played an active role in this royal initiative). See on this subject *CRISP*, nr 75, 9th September 1960, p. 7.

ved to be Mr. van Zeeland together with other representatives of financial circles (27).

The reaction of the three parties is prompt and is very clear PSC Party-Chairman Lefèvre declares : « On parle dans certains milieux d'un gouvernement d'affaire. C'est insensé. Je m'excuse auprès des journalistes mais je suis effrayé de voir combien certains d'entre eux semblent avoir une vue peu réelle de ce que sont les forces sociales et politiques du moment. Pouvez-vous vous imaginer qu'on puisse former une équipe ministérielle sans convertir les partis ? On semble oublier que la situation a fondamentalement changé depuis la guerre. Les partis sont mieux organisés. Un gouvernement d'affaire n'aurait la confiance ni des partis politiques ni des organisations sociales » (28). (In certain circles there is some talk about a business-Cabinet. This is nonsense. I apologize to the reporters but I am very much surprised to see some of them seem to have not got the faintest notion of what are actually the social and political powers. Can you imagine that it would be possible to form a Cabinet without converting the parties ? One seems to forget that the situation has completely changed since the war. The parties are better organized. Neither the political parties nor the social organizations would have confidence in a business-Cabinet.)

The Socialist politician and publicist Mr. Larock adds to this : « Toute tentative d'aventure autoritaire trouverait les travailleurs les bras croisés dans les usines et unis dans la rue » (29). (Every attempt to an authoritarian adventure would find the workers striking in the factories and united in the street.)

The Crown is believed to have advised Mr. Eyskens to resign spontaneously but the Prime Minister and the partychairmen of both the PSC and PSB refuse resolutely to do so.

During the 1966 crises the right wing press has reproached Mr. Molitor, the « chef de cabinet du Roi », with having had a preference for a government-coalition in which the Socialists would have been taken into partnership.

Although there exist no positive evidence of this imputation it remains a fact that during a Cabinet-crisis the « chef de cabinet du Roi » has repeated contacts with the prospective Prime Minister and

(27) *La Libre Belgique*, 10th September 1960, p. 1, col. 6; *ibid.*, 11th August 1960, p. 2, col. 2 and 3.

(28) *La Libre Belgique*, 10th August 1960, p. 2, col. 6.

(29) *Le Peuple* (Daily newspaper), 9th August 1960, p. 2, col. 5.

with the political circles. However it is rather difficult to assess the direct repercussion of it on the real Cabinet-formation (30).

The days of the king dissolving Parliament are bygone.

This does not preclude the eventuality of the dissolution of Parliament or of one of the two Chambers at the request of the government in office or of a party. In 1958 when the PSC has the majority in the Senate an eventual dissolution of the Assembly would inevitably have involved the King in a partystife.

It should be pointed out that for the dissolution of Parliament only one Minister is needed as co-signatory.

A report about the Executive Power written in 1961 by a study committee of the Socialist Party contains a very important taking up of a position about the King's role in the Cabinet-formation. The Committee starts from the principle : « Le Roi règne mais ne gouverne pas, la responsabilité de la politique incombe au gouvernement seul ». (The King reigns but does not govern ; the policy is alone the government's responsibility.) From this results : « Lors de la formation du gouvernement, la responsabilité de la désignation des ministres relève du formateur exclusivement. Le Roi n'a donc pas le pouvoir de s'opposer à la désignation de certaines personnalités ou d'imposer le choix de certaines personnes. C'est le Parlement qui investit réellement le gouvernement ». (When a Cabinet is being formed the choice of the Ministers is exclusively the prospective Prime Minister's responsibility. The King cannot object to the appointment of some personalities nor can he impose to choose some other persons. The government is really invested by Parliament.)

In this report nothing is said about the designation of the person who will be asked to form the government ; this would prove that in this field the King's prerogative is still accepted tacitly. Its importance depends on the will of the parties. If a party or a coalition imposes its leader as the sole possible person to form the Cabinet then the King has to give in. If the prospective Prime Minister, who has been elected by the party leaders, objects to the appointment as minister of a person recommended by the King finally the monarch will have to give in.

The last word is always with the man who has been asked to form the government and with the majority.

This does in no way preclude every royal intervention.

(30) In the reign of Leopold I and Leopold II, Mr. Van Praet, the Minister of the King's Household, played an important role in the Cabinet-formation.

2. The role of Parliament.

Parliament is really the constitutional institution having the least influence. This is proved in the Cabinet-formation. This situation is known already in the 19th century but the evolution will be far bigger after the Second World War.

Parliament is a political public Assembly of the country that ratifies by a vote the result of negotiations that most of the time take place elsewhere according to protocol the chairmen of both Chambers and sometimes the Parliamentary Party leaders are consulted by the King but they have no positive influence upon the real political decision in connection with the Cabinet-formation.

The chairmen of the Parliamentary Parties do sit in the Party Executive but here too we find as many influential politicians who do not belong to Parliament.

Very often voices rise from among the parliamentarians who complain being kept in complete ignorance about the development of the crisis.

The recent crises illustrate this fully.

In 1952 Prime Minister Van Houtte informs only the Chamber Parliamentary Parties how the crisis is developing during an interruption in the parliamentary debates about the government declaration.

Mr. Lefèvre, commissioned to form the Cabinet in 1962 on 13th August declares the following : « Ce n'est qu'une fois que mon gouvernement sera constitué que je me présenterai devant des groupes parlementaires ». (I shall only appear before parliamentary groups when my Cabinet is formed.)

In 1965 Mr. Harmel on the contrary keeps very close contact with the parliamentary groups and especially with the chairman of Parliamentary Party. He asks them and also the partychairmen permission to meet other members of both Chambers and personalities from non-political circles and give them an account of the negotiations.

During the latest crisis in 1966 Parliament stays completely out of the negotiations leading to the formation of the Van den Boeynants-Cabinet.

The Parliamentary Parties are but the instrument of the higher partyleadership. Those that really have the political power that decides the formation or the dismissal of a government are the parties. The Ministers resign immediately when the parties no longer agree, without waiting for a vote in Parliament.

If a minister disagrees with one of his colleagues or with some of them he submits to the government solidarity or resigns without appearing before Parliament.

The most striking example of it is Minister Van Hemelrijck's resignation during the Congo-Question in 1959.

It is not stated precisely in the Constitution to whom the Ministers are responsible politically, but right from the start all authors agree upon the fact that the Ministers have to enjoy the confidence of Parliament.

However the political tradition classies completely with this constitutional way of acting.

This constitutional habit is entirely empty of meaning, as the individual responsibility of the ministers before Parliament is most of the time ruled out by taking it up in a collective responsibility. The Ministers are not in the first place responsible before Parliament but before the Minister council. The political habits give some right of veto to each member of the government, to a group of Ministers, to a party or part of a party that has ministers in the Government.

This has crippled the parliamentary regime based upon a democratic principle of the majority and leaves a door open to influences of a number of minorities within the council that can become a plaything in the hands of pressure groups.

3. The constitutional investigator's role.

The King, before appointing a prospective Prime Minister, and in difficult circumstances sometimes appeals to an « informateur » who starts in his place the political negotiations and who afterwards reports back to the Sovereign.

The origin of this habit goes as far back as 1935. On 22nd March of the same year the outgoing Premier receives following task : « il est chargé de faire une rapide enquête auprès des divers partis sur les grandes lignes d'un programme économique répondant aux nécessités du moment » (31). (His task is to make a short inquiry with the different parties about the main line of an economic program falling in with the necessities of the moment.) Nowhere is to be found that the constitutional investigator accepts the information task formally. Mr. Theunis' task is in the real meaning of the word to inquire but then with a very definite specific purpose.

(31) *Le Soir*, 23rd March 1935, p. 1, col. 7.

Other examples are : Mr. Vandervelde's information task, 25th June 1936, Mr. Janson's, 11th-19th November 1937, Mr. Pierlot's 5th-12th April 1939, Mr. Tschoffen's 22nd-24th September 1944, Mr. De Schrijver's 6th-9th June 1958, Mr. Harmel's 30th March-6th April 1961, Mr. De Schrijver's 1st-17th June 1966.

After the dislocation of the Harmel Government because of internal division, the King commissions Mr. Vanaudenhove, chairman of the Party for Freedom and Progress (PLP) with an information task. This is the first time that a request however is declined by the person in question as follows : « It is customary that at the end of his task the « informateur » suggests to the monarch a form of government, of which the party he represents is a partner. As the PLP's candidature is being rejected by the other party, this information task is of no use ».

From this it appears that the information task has really a political character that deviates completely from the original meaning.

Later when he receives a similar mission, Mr. Van Acker limits his consultations to the Chairman of the Senate, the party-chairmen and a few out-going Ministers. From the further development of the information task it appears that Mr. Van Acker considered himself rather a prospective Prime Minister than a « informateur ». This is confirmed by attitude the Catholic Party which being the strongest party claims the premiership and is therefore opposed to Van Acker as Prospective Premier. The latter then immediately renounces his mission (15th-17th February 1966).

From the analytic and comparative study of the « informateurs » role it seems to be difficult to formulate a theory on this subject. The purpose of the mission is really not well delineated. There is quite some confusion between a consultant and a « informateur ». The mission is not always to provide a neutral and objective view in the political relations. In this respect the utility of the information task seems rather doubtful and does not lend itself to political manoeuvres.

Peculiarly enough in some circles the procedure of a constitutional investigator is looked upon as an abdication of the monarch, as an attempt on the royal prerogative (32). But as the royal influence on

(32) « La procédure d'un informateur désigné est à proscrire. Elle est indigne d'un Chef d'Etat qui reproche par ailleurs au Parlement de ne pas assumer ses responsabilités puisqu'elle court-circuite en réalité le rare pouvoir que la Constitution a laissé au Roi seul, celui de nommer et de révoquer ses ministres ». *La Wallonie* (daily newspaper), 15th February 1966, p. 1, col. 2 and 3). (The procedure of an appointed informant is to be proscribed. It is unworthy of a Monarch who on the other hand

the appointment and dismissal of the Ministers is rather little this objection is in fact of little value.

The information mission is only justified in as far as it facilitates the solution of the government crisis. It contributes to the realization of an automatic contact between the leaders of the various parties, a thing which otherwise is sometimes very difficult to achieve because of psychological and party strategical reasons. The informateur enables sometimes also the prospective Prime Minister to save time. In Belgium it has in no way become an institution and has not the same meaning and bearing as for instance in the Netherlands (33).

4. The role of the prospective Prime Minister.

When he has been commissioned by the King, the prospective Prime Minister, as we have already seen, tries to draw up a government program that is acceptable by the coalition partners. In this he is assisted by personal collaborators and experts of the study offices of the parties concerned. Sometimes the parties instruct a group of negotiators to work out the program under the royal nominee's direction.

As a rule the latter has to report progress regularly to the party-organ executive.

It happens that as yet until the person summoned to take the office of Prime Minister before all has to receive of the investiture from the sovereign party leadership (for instance Congress for the Socialist Party), that he can carry on his negotiations.

Some « formateurs » try, but usually in vain, to escape the parties supervision.

This is the case of Mr. Eyskens in 1960. But party chairman Lefèvre reminds him of it : « Le parti demeure maître de la manœuvre » (34). (The party keeps control of the manœuvre.)

The negotiations about the choice of the persons take place with the party-leaders, such as the party chairman or some other leading personalities.

Consequently the prospective Prime Minister has no freedom of choice in selecting his colleagues which is prejudicial to the homogeneity and the solidity of the government team.

reproaches Parliament with not assuming its responsibilities because it by-passes really one of the rare rights the Constitution has left exclusively to the King, that of selecting or dismissing his Ministers.

(33) G. RINGNALDA, *Waar gaat het met de Kabinetsformatie heen?* (What becomes of the Cabinet-formation?) In: *Acta Politica*, 1st year, 1965-1966, pp. 88-89.

(34) *La Libre Belgique*, 10th August 1960, p. 2, col. 8.

In 1966 Mr. Van den Boeynants complains about it because he cannot, just as Mr. Lefèvre in 1961, give to his government the structure he had wanted. In this field also is the royal nominee's freedom restricted by all sorts of factors.

5. The role of the parties, party leaders and party chairmen.

The present evolution is characterized by the increasing and direct influence of the executive party leadership taking over from the party congresses. The Cabinet-formation is too delicate an affair to be entrusted extensive offices where it is impossible to keep a secret.

So far no party has voted and disclosed explicitly a resolution in which, how a prospective Prime Minister is commissioned.

The parties still do respect a certain constitutional formalism. But there is no doubt that some Prime Ministers have been appointed by their party.

This is for instance the case with Mr. Van Houtte (1952), Mr. Van Acker (1954) Eyskens (1958), Lefèvre (1961) and in a certain way with Mr. Van den Boeynants (1966).

More and more, especially when the party leader runs for the leadership, the choice is firmly made right from the start. It is also possible that in the course of the election campaign a politician is put in the forefront intentionally as potential Prime Minister. This is the case for instance with Mr. Eyskens in 1958.

In other cases is the choice rather the result of negotiations between the leading personalities of the parties concerned which eventually suggest a name to the Sovereign.

The Prime Minister should be approved of not only by his own party but also by the other coalition partner or partners.

The veto of the Socialist Party in 1966 against a man whom has been called upon to form a government and PSC chairman, Mr. Van den Boeynants is a good example of it.

In the past the political personality who had led the Opposition against the government in office was very often chosen. This eventually is nowadays practically excluded because now it becomes more and more a matter of opposition between parties in which the party discipline and the party leadership play an important role.

Earlier we have already pointed at the repeated and decisive influence of the party leadership in the option about the form of government and the negotiations about the program, the government structure and the selection of the office-holders.

Before the Second World War the King and some politicians have tried to resist this evolution as this led to endless negotiations.

Nowadays it seems that this inevitable course of things has been accepted. In a political democracy the real impulse originates with the parties which through an historical development have secured a preponderating place in our political machinery.

A new important actual turn is the preponderating influence of the party chairmen supported by their party bureau in the Cabinet-formation. The national and regional leadership are less and less involved in the negotiations and limit themselves to ratify the decisions taken by the executive offices and even this latter formal approval by the sovereign Party leadership is sometimes considered superfluous.

Recent examples illustrate this evolution.

In 1952 Prime Minister Phollien is forced to resign by the party chairman and the Comité National of the PSC.

Mr. Lefèvre, the PSC chairman stressed « qu'il était bon qu'il fût affirmé que malgré tout les instances responsables du parti doivent avoir le dernier mot ». (That is was good to affirm that after all the responsible party leaders should have the last word.)

Already in 1954, come the Socialist and Liberal Party chairmen to an agreement about the composition of a new government before a prospective Prime Minister is appointed by the King. Especially the Liberal Party chairman, Mr. Liebaert acts arbitrarily.

This tendency is marking off even more sharply in 1966. The formation of the government is a matter which is almost exclusively taking place between the two party leaders Van den Boeynants and Vanaudenhove, as commissioned by the party executive.

The PLP leaders go as far as to decide that it is not necessary to call together Congress : « Compte tenu de la quasi-unanimité dégagée sur la résolution de dispenser le président de convoquer un congrès pour statuer en dernier ressort sur la participation du gouvernement ». (Taking into account the almost nuanimous agreement of the resolution allowing the chairman not to call together a congress in order to decide without appeal the partaking in the government.)

6. The role of the pressure groups (35).

During his mission the « formateur » is swamped with communi-

(35) For an exhaustive study of the role of the pressure groups during the 1961 crisis see A. PHILIPART, *Les groupes de pression pendant la formation du gouvernement* (*The pressure groups during the formation of the government*), *Socialisme*, 8th year, November 1961, pp. 765-781.

qués ; orders of the day, memoranda. He meets all sorts of delegations which all want to have their say in the organization of the government, the government program, the government structure and the selection of office holders.

In 1961 the prospective Prime Minister Lefèvre declares that he has in his dossier so many claims and desires that he will have no time to read them all (36).

A. THE SOCIAL ORGANIZATIONS.

In 1935 the representatives of the main trade unions are for the first time being consulted by the King during a government crisis. Nowadays this has become a general rule.

The executive of the labour-organization exercise a certain pressure upon the « formateur » in the negotiations for the formation of the government. This influencing can take different forms : press-campaigns, communiqués, the handing over of a memorandum, foot-steps with the royal nominee and also direct pressure for instance by refusing to take part in the government.

The discussions about an eventual government program, and the distribution of offices always put problem of the trade union influence.

In relation to this and on the occasion of the 1958 government-crisis some middleclass circles refer to the great number of members of the Senate and Chamber of Deputies who directly or indirectly depend on or are backed by the labour-organizations (37).

The latter however point out that they represent an organised mass counting more than an million and a half members and who together with their families form a big part of the electorate.

The collapse of the conservative government Pholien in 1952 is for the greater part due to the press-campaigns conducted by the Chris-

(36) *Le Soir*, 11th April 1961, p. 3, col. 7.

(37) « Parcourant la liste des sénateurs, on constate que vingt-cinq d'entre-eux se disent dirigeant ou employé de syndicat; il faut y ajouter une série de personnes ayant des attaches avec le mouvement ouvrier et étant soutenu par celui-ci. Pour la Chambre on peut évaluer le nombre de syndicalistes à quatre-vingt. Là aussi de nombreux autres élus représentent l'opinion syndicale » (Running through the list of members of the Senate it is found that twenty-five of them declare to be a trade union leader or clerk; to them should be added a number of persons having something to do with the labour-movement or are backed by it. In the Chamber of Deputies the number of trade unionists amounts to eighty. Here too many other members represent the trade-unions), *Le Soir*, 31st October 1958, p. 1, col. 4; see also on the same subject, F. DEBUYST, *La fonction parlementaire en Belgique: mécanisme d'accès et origine*, Brussels, 1967, pp. 104-106, 116-118, 374-383.

tian-Democrat newspapers which were also opposed to Mr. Van Zeeland.

Even more important is the role of the Christian labour-organisations during the change in the Eyskens government in 1960 when Liberal Ministers were taken in. The politician in charge of forming the Cabinet has almost made up his new team when all the leading representatives of the Christian Trade Unions refuse to take part in the government because of the preponderance of the conservative, financial and employers' circles within the Cabinet.

Above all they stand out against offering the office of economic coordination to a non-Member of Parliament as Mr. van Zeeland or Mr. F. Baudhuin. They also claim a juster distribution of charges.

Following communiqué shows us this intervention : « Le bureau national du Mouvement Ouvrier Chrétien s'est réuni mardi sous la présidence de M. Hulpiau. Le bureau prend acte du fait que le Premier Ministre a consulté plusieurs dirigeants du Mouvement Ouvrier Chrétien et a entendu rapport sur les points de vue exposés par ces dirigeants. Le bureau approuve l'attitude de ses délégués et a décidé de confirmer par écrit ces points de vue au Premier Ministre. Il attend de celui-ci qu'il tienne compte des préoccupations du MOC » (38). (The National Bureau of the Christian Labour Movement met Tuesday with Mr. Hulpiau in the chair. The bureau notes the fact that the Prime Minister has consulted various leaders of the Christian Labour Movement and has had an account on the view-point given by those leaders. The bureau approves the attitude of its representatives and has decided to confirm in writing to the Prime Minister these viewpoints. It expects from him that he will take into account the preoccupations of the CLM.)

The influence exercised behind the scene during the government crises since 1945 by the catholic and trade union leader Segers is another illustration of the important role played by the labour movements, in this case the Christian Trade Unions. This is felt clearly during the Lefèvre - PSC-PSB government.

Nowadays the pressure does not always leap to the eye so much. During the negotiations between Mr. Van den Boeynants and Mr. Vanaudenhove before the formation of a PSC-PLP coalition, after Mr. Segers' failure, the Christian Trade Unions have kept more in the background than with the previous crises.

This does not prevent various Ministers of the actual government

(38) *La Libre Belgique*, 31st August 1960, p. 6, col. 5

from having close ties with the Christian Labour Movement, e.g. Messrs. Servais, Bertrand, De Saeger, Mrs. De Riemaecker, Messrs. Hulpiau and De Paepe. They are preferably heading social ministries.

The health insurance associations also assert themselves as pressure groups and some of their spokesmen sometimes have an office in government. This has been the case for example with former Minister Leburton.

B. THE FINANCIAL CIRCLES.

From 1831 onwards financial circles namely the Société Générale in full agreement with Leopold I and the Minister of the Royal Household have shown a special interest for the Ministry of Finance. Most Ministers of Finance have directly or indirectly close ties with this so important institution and holding.

Although the influence of the financial groups is nowadays more considerate and more diversified yet it cannot be disregarded altogether.

The important role played by influential financiers as Messrs. Francqui, Delacroix, Theunis, Jaspar, van Zeeland before 1940 and by Messrs. Gutt, De Voghel, Vautier, A.E. Janssen, Van Houtte, baron Snoy, Henrion and others after the Liberation, points to a continuous interest by the banking world. Furthermore most of them have much credit at Court.

Sometimes the King consults some of them when a new Cabinet is being formed. Many of them have held Finance Ministry. The present Minister of Finance has close bonds with La Société Générale de Banque.

It is striking that especially when there is some talk about a non-member of Parliament and a so-called strong government always these names are mentioned. This is the case in 1960 during the crisis in connection with the Congo-Question. At that time there is some talk about offering an office to Messrs. P. van Zeeland, M. Naessens, A.E. Janssen, baron Boël and other well-known names with a financial resonance.

In 1961 Conservative circles prevent Mr. Oleffe, the Christian Democrat leader and financial expert from being appointed Minister of Finance because they fear higher fiscal charges.

Other groups of economic interest put themselves forward namely the « Federation of Belgian Industries » whose the chairman is summoned traditionally by the King and who in a memorandum makes

known to the public his views on an eventual government program.

Also the Boerenbond (Peasant association) and the Middle-Class rise to the occasion and try to obtain that the ministers of the offices concerned have their confidence.

C. THE PRESS.

If in the beginning of the nineteenth century the press limited itself to nothing but the information about the Cabinet-formation we see its influence increase gradually only to become nowadays an important, sometimes decisive factor.

More than ever the newspapers have become the mouthpiece of certain interest-groups. They do not limit themselves to publishing communiqués but with their leading articles, their comment and the printing of some statements they influence the course of a ministerial crisis.

We have already referred to the press-campaign that was the origin of Mr. Pholien's resignation.

During the Congo-crisis when there was some talk about the formation of a strong government the Crown is believed to have asked the support of some influential newspapers without any party political ties. The King is supposed to have requested the support namely of Mr. V. Zeegers, managing-director of *La Libre Belgique*, and of Mr. Breissdorf, editor-in-chief of *Le Soir* (39). Those two newspapers undoubtedly play an important role with every Cabinet-formation.

The campaign carried out by *La Libre Belgique* against Mr. Segers who in 1966 has been asked to form a Cabinet and the publishing of inopportune statements about the financial problems has undoubtedly contributed to the failure of this christian-democrat leader.

It happens that some appointments of Ministers take place in function of the attitudes assumed by some newspapers.

Several newspaper managing-directors have also had a ministerial career.

Mr. Delsinne, managing-director of the Socialist newspaper *Le Peuple*, is Minister of Supply in 1944. Mr. Larock also, the political director of the same newspaper, will hold three offices, in 1954 he is Minister of External Trade, in 1957 he is Foreign Minister and in 1961 he is Minister of National Education and Culture.

Mr. Hoste too, the owner of the Flemish Liberal newspaper *Het*

(39) *Pourquoi Pas?*, 19th August 1960, p. 7, col. 1; *Pan* (weekly newspaper), 17th August 1960, p. 2, col. 2.

Laatste Nieuws, was minister before and during the Second World War.

Another more recent example is the appointment of Minister Piers, very closely related to the Sap-family, owner of the important newspaper chain *De Standaard*.

D. THE LANGUAGE COMMUNITIES.

Already since 1840 the tendency exists to have a representation of the most important provinces. Originally this has a rather regional and economic meaning. In the beginning of this century and especially after the First World War this wish gets a more cultural character. The two language-communities claim their share in Cabinet-offices. The prospective Prime Minister sees scrupulously to it that this equilibrium is achieved.

In the Cabinet-formation the number of Flemish and Walloon Ministers is carefully checked (see Appendix). The incorporation and the number of Ministers of the bilingual Brussels arrondissement is not always easy. Both language-communities sometimes pretend that Brussels is relatively far too highly represented in the Cabinet.

Cultural societies, association of civil servants and action committees also try to exercise pressure upon the prospective Prime Minister in view of the precise language dosing. The Offices of the Interior; Economic Affairs, Public Works and National Education become more and more the objective of a certain rivalry between the language-communities in view of the application of the language legislation and the economic expansion and infrastructure.

A typical example of this pressure of the Flemish PSC during the Cabinet-formation in 1961. It creates a contact group of which the representation have to make the Flemish claims known to the « formateur » and to stress them.

One of its spokesmen, Mr. Verroken words explicitly the following claim : « Nous sommes d'accord pour admettre un sous-secrétaire d'état d'expression française en plus, mais à condition que l'élément flamand domine au sein de l'équipe... Ce serait une erreur de croire que les mandataires sociaux-chrétiens flamands seraient d'accord sur une équipe gouvernementale où l'équilibre ne serait pas atteint, équilibre dans l'ensemble mais surtout dans la première catégorie c'est-à-dire les ministres » (40). (We agree to admit an additional French-speaking Under-Secretary of State, but on the condition that

(40) *Le Soir*, IIth April 1961, p. 2, col. 1 and 3.

the Flemish element is dominating in the team... It would be wrong to think that the Flemish Social-Christian mandatories would accept any governmental team in which the balance would not be kept, a balance in the whole but especially in the first category i.e. the ministers.)

Also from the Walloon-side voices rise to form a pressure group which would defend the interests as long as the negotiations last.

These claims may well make the Cabinet-formation even more difficult in the future and lead to a further splitting up of some offices as this is already the case now with the National Education and Culture. The representation of the Brussels-district too will become more intricately and more delicate in the future.

Even the opposition may act as a pressure group. In 1958 Mr. Buset, chairman of the Socialist Party declares that the Socialists will not approve of the School-Pact if in the Catholic-Liberal coalition the Office of Education does not go to a Liberal minister (41).

The extremist parties such as *Le Front démocratique des Francophones* (the democratic front of the French-speaking population) and the *Volksunie* (a Flemish National Party) exercise pressure upon the three traditional parties about the proportion between the language-communities and the statute of the Capital Brussels.

Besides the pressure groups that fight with the visor raised there exist many others, more or less secret groups, that do not always dare to show their real faces. Mr. Lefèvre has expressed this cleverly.

The influence of the Church and the Lodge is difficult to understand but it is one of the constant data of our political life.

Besides the League of the big families, the resistance, the war victims there are all sorts of interest groups that on the occasion of a Cabinet-formation request the reparation of their grieves, for instance, by asking the creation of a new office (for instance of the Family) or by the choice of an office holder who is more inclined to comply with their claims.

CONCLUSION

In Belgium the members of Parliament consider themselves really as representatives of the parties which they owe respectively their election and as representatives of the nation.

(41) *Le Soir*, 31st October 1958, p. 3, col. 8.

When a Cabinet is to be formed, before commissioning someone to form a government the King consults above all the party-chairmen.

The question which parties will be partners in the Cabinet is practically always decided upon by the qualified party-executives.

The question if a party may stay on is more often put by parties and the committees than by the Members of Parliament as such. In general a coalition government, which is the rule in Belgium because of the party political relations, is forced to resign as a result of a decision taken by the executive of one of the government parties.

Because of the increasing importance of the governmental finances and the economic programming the party-leaders are more and more assisted in the negotiations about the government program by technocrats of the study-services of those parties.

We see that there is also a personalisation of the negotiations in the person of the party-chairman. One the one this results from the desire to emphasize the unity of the party at a moment when centrifugal forces raise their heads and on the other hand from a tendency to stress the party-chairmen's influence.

In point of fact the political parties have in very many cases inherited the political power at the cost of the representation of the people as such. They are now the principal driving power of our institution (42).

The monarchy has accepted this course of things willy-nilly after having, between the two World Wars, resisted in vain this evolution.

Only when there is a danger of a period with no government in office or when according to it vital interests are at stake will the Crown raise its voice, but only seldom succeeds in making itself heard.

Finally the King has still the power to appoint the « formateur » but the political conjuncture reduces this freedom of choice to a minimum.

When the chairman of the strongest party runs for a Premiership then there is not much left over of the royal prerogative in this field either.

However the parties have realized that a regime-crisis would in the first place turn against themselves and this at the cost of the political freedom. They are conscious of the fact that endless party-quarreling about the Cabinet-formation would lead to the collapse of the political system.

(42) A. MAST, *Overzicht van het Belgisch staatsrecht (Survey of Belgian constitutional law)*, Ghent, 1966, pp. 101-102.

That is the reason why there exists a relative government-stability even if coalition governments are from the very nature of the thing doomed to a certain political immobility.



APPENDIX

The characteristics of the composition of governments
1950-1966

Parties	Phollien Government 1950-1952	Van Houtte Government 1952-1954	Van Acker Government 1954-1958	Eyskens I Government 1958	Eyskens II Government 1958-1960	Eyskens III Government 1960-1961	Lefèvre Government 1961-1965	Harmel Government 1965	Van den Boeynants Government 1966
	I	II	III	IV	V	VI	VII	VIII	IX
The Ministers in office according to their political party.									
Liberal party PLP . . .	—	—	7	—	7	9	—	—	9
Catholic party PSC . . .	16	16	—	16	12	15	11	15	14
Socialist party PSB . . .	—	—	9	—	—	—	9	12	—
Total	16	16	16	16	19	24	20	27	23
The representation of both Chambers									
Deputies	9	8	11	9	8	14	12	16	15
Senators	6	6	5	6	11	7	8	10	7
Non-members of Parliament	1	2	0	1	(1) 0	3	0	1	1
The composition of the government according to language regions									
Flemings	8	6	6	6	7	10	8	11	9
Brussel (Flemisch speaking members) . . .	—	2	2	2	2	1	3	2	3
Brussels (French speaking members) . . .	1	2	2	4	4	4	3	3	3
Walloons	7	6	6	6	6	9	6	11	8
Composition according to Provinces.									
Brabant						7	6	8	7
Antwerp						2	2	3	3
East-Flanders						2	2	4	3
West-Flanders						2	2	1	1
Limburg						2	2	1	1
Hainault						4	3	4	2
Liège						3	2	4	3
Namur						2	1	1	3
Luxembourg						—	—	1	—

(1) Not included Mr. Vander Schueren, former Member of Parliament.