Address
made to the
European Parliament

by

Professor Dr. Walter Hallstein,
President of the Commission of the
European Economic Community,

to open the debate on the
Fifth General Report on
the Activities of the Community

Strasbourg

17 October 1962

Mr. President, Ladies and Gentlemen,

What I have to say today will not be an introduction to the Commission's Fifth General Report on the Activities of the Community. The discussion of this Report is already well under way. The Parliament has reacted to our Report with a report issued in the name of the Committee of Presidents. I should therefore like to begin by expressing the Commission's thanks for this reply, our thanks to the Parliament for its decision to give the reply, and thanks to all the Committees which have taken part in the work of preparing your reply and in particular your rapporteurs, especially M. Deringer, your rapporteur général. The Report is as comprehensive as it is penetrating, mainly because it does not limit itself to the statement of facts but surveys them critically, with the result that it is extremely instructive and stimulating. The Commission has studied it with the closest attention, and the House can rest assured that we shall continue to study its contents long after the debate of today and tomorrow is over. That in the present discussion complete unanimity of view on the points made in the Report may not always be attained should in no way detract from this assurance.

The method of treating developments in the Community during the period under review is new. It is hardly necessary to say that the Commission warmly welcomes the change. Since 1959 I have repeatedly urged in this House that it must be possible to have a comprehensive discussion of the situation and of our intentions in this Parliament, since - to repeat what I said on a previous occasion - 'such discussions would take us away from detail and from routine matters and would provide an opportunity to show where the essentials of our work are to be found..... Discussions both comprehensive enough and penetrating enough to go to the roots of our Community's life and character'.

And here I can begin with what is really our rejoinder.

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II

I would rather not spend too much time on observations concerning the Report itself, on the presentation. It was of course clear to us that these observations were not intended to be a piece of literary criticism, but were meant as suggestions by which the value of this Report could be increased in the future. But what is it that gives our annual report its value? It is not, like the report of the Coal and Steel Community, the essential basis of parliamentary control over the Executive; this basis is provided by the constant co-operation of the House and in particular of the parliamentary committees with the Executive, the members of which answer the questions put to them by Parliament or committees in the fullest manner conceivable - every bit as thoroughly as in the national parliaments. Our Report is intended rather to give a general picture without getting lost in details, to prepare the ground for a general debate and so to provide - as the Parliamentary Report rightly stresses - material which will provide the public with a comprehensive picture; this we recognize, much as we may dislike tactless exaggerations made for public consumption. That is why we have been trying for years to keep the Report down to 250 to 300 typescript pages, which inevitably means that we have to be selective. Of course there will then be opportunities to argue that such a summary statement has omitted something that was well worth inclusion. None the less I hesitate to follow certain suggestions, such as the one that we should always deal more fully with the problems which confront us and the difficulties we encounter. If you look at our Report closely you will find that this is in fact done in cases where the problems have not yet been solved; where the difficulties have been overcome, however, we seek rather to avoid pointing with pride to the difficulties of the task which has been completed. Nor must one confuse a report on past events with an action programme for the future.

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On the other hand we recognize unreservedly that the Report must introduce the reader to the basic political and economic problems of our activity; for years the introduction to our Report has had this aim and purpose. We believe that this year we have also improved the references to the activity of the Parliament. In this as in all other respects, however, the House may rest assured that we will examine its comments attentively and act upon them to the fullest extent possible.

III

More important than the Report itself is what it reports. The facts are more important than their presentation.

Each year I find it difficult to decide which aspect should be taken for my introduction to the oral discussion; obviously it is not my purpose to repeat in concise form what is already to be found in our Report. As in earlier years, I have been looking for a theme common to all the activities and events that are touched upon; it must show at the same time how what has occurred fits into the progress made by our Community along the road from its starting-point to its goal. Two subjects come to mind. One is the clear transition made during the period under review from the mere establishment of the customs union to the adoption of common policies. The other is dealt with in the Parliamentary Report under the heading "Internal growth of the Community".

The first of these points is the central economic and social theme of the immediate present. If none the less I do not choose this theme, it is because I wish to make rational use of our time. It seems that the whole complex of the economic and political activities of our Community will be the subject of this year's joint meeting between Parliament and Council of Ministers, in

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preparation for which Parliament has asked us to submit a memorandum. May I say at this point that the required memorandum will be submitted in the near future; we hope it will provide a useful basis for discussion.

Today then I would prefer to deal more fully with the second subject. The comments on this theme contained in the Parliamentary Report provide a fascinating outline of the constitutional problems facing our Community. It is written with a severe realism through which one can at times detect an undertone of scepticism. It endeavours to project the constitutional realities of our Community against the background of fundamental constitutional principles, and it concludes with trenchant observations in the form of suggestions on the way we should all act in the future.

I have intentionally chosen the phrase "constitutional problems", for no one who reads the Parliamentary Report can escape feeling that that is its real subject. In fact I should like to make the terminological proposal that whenever we discuss this subject we should in future speak not of "institutional" but of "constitutional" problems. The word institution suggests the machinery by which action is taken; it does not bring out the fact - obvious today to everyone who studies our Community from within or from outside - that a political entity with its own personality has been developing at a mighty pace. This entity needs constitutional rules - rules which in this new creation lay down the division of political power between the whole and the parts, the members, and state what institutions it, like any other body, needs if it is to react to events and to shape and express its own will, in short for any action of its own.

In its substance this constitutional problem has two roots and consequently two sides. First, as we are a community of states,

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we have to decide how much authority will be given to the Community and how much to the members. At the same time the Community itself, being a community of states which accept the rule of law and therefore a community based on the rule of law, must solve the problem of dividing and properly apportioning its powers. In practice these problems are complicated by the fact that the two sets of questions - the relationship between Community and members and the organization of the Community itself - intersect. Fortunately we have an example that can help our minds to master these problems; I refer to what we know as a federation. Though our Community is still far from being a federation in the full sense of the word, it is none the less true that the experience gained by other federations and the various solutions they have produced provide us with material for study and the necessary tips on finding correct solutions.

IV

The Parliamentary Report is based on the finding that the Community is growing steadily stronger as responsibility shifts more and more from the Member States to the Community's institutions; at the same time it finds that little by little the methods used by the Community are attaining concrete or, in the words of the Report, governmental forms. The new line now adopted in presenting the Commission's Report is itself a confirmation of this view; equally it is no accident that the constitutional problems of the Community have come to the fore to such an extent at this moment when the Community is so obviously drawing closer together. The statement that the Community has grown stronger merely repeats something which is the aim and purpose of the transition period. It is in this transition period, as we know, that a crystallization, an improvement and reinforcement of our cohesion is occurring and is intended to occur.

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The Report makes a legitimate complaint that certain decisions taken by the Council are not in accordance with the proposals for Community solutions that had been put forward by the Parliament, as for instance in agricultural policy and in cartel policy; instead, responsibility has been left at least in part with national authorities. The Report is right when it demands that the Commission should be entitled and in a position to act as authorized representative of the Community in dealings with the outside world; it is right when in particular it claims, on the basis of Article 238 of our Treaty, that the Commission should carry on any negotiations for association. It is right when it criticizes the failure to provide the Community with its own diplomatic representatives. Accurate, too, is the observation that not only the policies but the legal systems of the Member States cannot escape the inherent urge to integration which exists in the Community. It is also brought out clearly that the inner logic of our development will not come to a halt at the narrowly interpreted boundaries of the Treaty, and that in the long run budget and fiscal policy will be drawn into its wake, and that even in the field of cultural policy a similar development is inevitable.

V

The question of where the confines of the Community and where those of the Member States lie is not however to be confused with the question of what responsibilities rest upon the institutions of the Community and what on the institutions of the Member States. For the application of our Community law, that is to say the Treaty and all the rules which have been established to implement it in practice, is as we know not a matter for the Community's institutions only, it calls for action by the Member States too. It was with this in mind that on a previous occasion in this House I used the somewhat bold expression that even the Member States and their institutions are themselves

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institutions of the Community. What I meant to convey was that it depends in part on them whether our Community comes to life - which means that any analysis of constitutional realities in our Community will begin by examining how far the Member States are ready to apply the Treaty. This holds good of the Parliamentary Report. The question is all the more important since the Community is of course far from having at its disposal the organs which would be necessary if it were itself to apply those legal provisions down to the last detail. There are, it is true, cases in which Community laws are applied by Community institutions, but there are also others in which Community laws are applied by the Member States. In principle, both possibilities exist. Which solution is chosen in a particular instance is a matter of administrative convenience. It is not only the authors of the Treaty who were faced with this question, it still has to be answered by the Community institutions which have to issue statutory regulations now that the Treaty has come into force.

Wherever, however, the execution of the Treaty is in the hands of the States it is supervised by Community institutions. Here the Commission, as guardian of the Treaty, has a special role to play; there are innumerable provisions in the Treaty or in Community legislation which give it the requisite authority to check and investigate. I need hardly say that this task is taken very seriously by the Commission. The Commission acts not only when a complaint is brought before it, but on its own initiative. It has established a procedure which ensures that no infringement is overlooked; our Report testifies to the fact that we do not hesitate to take action when one is observed.

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VI

1) More important, however, than the role of the Member States in the implementation of our Community legislation is the part they play in bringing it into existence. This they do through the Council of Ministers, the main purpose of which is to serve as the legislative organ of the Community.

a) The Parliamentary Report brings out once again a point that we have all known a long while, namely, that in its internal working the Council of Ministers is overloaded and that its work is suffering in consequence. Speaking from experience in the Commission, I would like to say in this connection that probably everything has been done to improve the situation which can be done by organizational or procedural measures. Unfortunately we are still far from having solved the problem. The most effective remedy, which consists of delegating work to subsidiary organs answerable to the Council, has already been used to such an extent that the Parliamentary Report betrays signs of justifiable anxiety on this point. I agree with the view that nothing more can be done along these lines; my own belief is rather that the correct solution is to be found in the form of an improved distribution of work within the Member Governments themselves. But this is a delicate question, and it must be treated with caution in any discussion within our Community if one is not to risk the reproach of meddling unduly in the internal affairs of our Member States. I will therefore be reticent in expressing my views on the subject. A second and complementary line of action exists of course in the possibility (mentioned in the Parliamentary Report) of leaving decisions to the Commission. Incidentally, we must not forget that in the period under review the larger part of the Council's working time was devoted to the external relations of the Community.

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A fundamental question which arises from the existence of and the responsibilities allocated to the Council of Ministers is what role the national and individual interests of Member States do and should play in this Council. It would not be just an illusion, it would be a misunderstanding if anyone were to define the purpose of this whole institution in a way which entirely ignored the individual interests of the Member States. The Council of Ministers is an institution of federal character, which means that it is here that individual interests and the Community interest are brought into balance and harmony. This means that there are limits on its freedom of choice: where it is so laid down in the Treaty, it must come to a decision, and its decision must be consonant with the objectives of the Treaty. The Council of Ministers is not therefore faced with a simple "yes or no", it is given the direction to be followed. In other words, the Council is a Community institution and not a diplomatic conference; in taking their decisions the members of the Council must watch the needs of the Community even if they do so through their own spectacles.

In practice this produces three results:

First, no compromise is to be worked out on the basis of the lowest common factor of the interests of the Member States, but agreement is to be sought on the basis of the highest common factor between Member States and Community.

Secondly - and this goes together with the first point - there is no absolute principle of unanimity. The Treaty provides increasingly for majority decisions in the Council. This majority principle exerts its influence - as the Parliamentary Report rightly points out - not only in being,

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as did the "Grand Fleet", but it must really be put to use. It is of prime importance for the life of our Community that this majority principle is already in action - within limits which are at present narrower than they will be in the final stage of our Community. Decisions have been and are being taken by majority vote. It is therefore already established that the progress of the Community cannot be held up by a veto. We would perhaps not be in the happy position of being able to make this finding if - and this is our third point - the functioning of the Council were not bound up with the interplay of the two other constitutional organs of the Community, Parliament and Commission.

When we come to relations between Council and Parliament, it will be apparent from what has already been said why the Parliament has sought to establish with the Council a direct relationship which goes beyond what was envisaged in the Treaty. What we now have is a constitutional practice, perhaps already an element of unwritten constitutional law. It is already a regular practice that once a year Council and Parliament hold a joint meeting and that from time to time the Council makes an oral report to Parliament and that it replies not only to written but also to oral parliamentary questions.

All functions of the Commission, on the other hand, are directly related to the activities of the Council: its function as guardian of the Treaty, to which reference has already been made; its function as mainspring of the Community, since as a rule the Council as legislative organ acts on a proposal from the Commission and only on a proposal from the Commission, and

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can deviate from the proposals made by the Commission only after a unanimous decision to this effect (the Commission is not convinced that it has at any time shown a lack of initiative in the exercise of this function); and finally its function as a broker, which places on it the responsibility for protecting the interests of the Community when a compromise has to be sought.

2. And that brings me to the Commission.

a) The most important of the internal questions in connection with its operation is that the Commission should have the requisite administrative sub-structure. I must take this opportunity to give a warning that the Commission has reached the limits of its capacity. In connection with the policy for agriculture, the pace of work has fallen behind the plans that were laid down because budgetary decisions have left the Commission without the necessary additions to its staff. With the final say on budget matters the Council has been given responsibility in an essential field. We must urge that this decision, like others, despite the importance attaching to fiscal considerations, be taken in full cognizance of the work and development problems facing our Community. We wish to thank the Parliament that it has never failed to give us its support in this matter.

b) The role of the Commission, too, cannot be understood unless we see it as a part of the general organizational system of our Community. The Parliamentary Report is therefore right in devoting considerable attention to this subject. It has two aspects: the relationship with the Council of Ministers and with national Governments, and the relationship with Parliament.

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aa) First, the relationship with Council and Member Governments. What are the facts?

The Commission and its staff work together with the Council, with Member Governments and their staffs closely and fully, and this co-operation covers all stages of the work from the time a concept for any given action begins to take shape till it ends in a legislative act by decision of the Council (or whatever other ending may be appropriate to the procedure). To give some quantitative idea of this co-operation, I would like to quote a few figures: in the period under review 910 meetings were organized by the Commission with experts and officials of the Member States; more than 16,000 officials from Member States have taken part in these meetings (an increase of 40% on the previous year's figure). To these must be added many forms of co-operation in the Council and in the numerous special committees at various levels which are laid down in the Treaty or in Community legislation. To give a qualitative picture, I would like to select a particularly instructive example from the work covered by the Directorate General for Economic and Financial Affairs, namely the preparation of the quarterly Economic Survey: a draft is prepared by our staff, one of our officials checks the facts with the relevant ministry, the Central Bank, the institutes of economic research and so on in each member country; the Committee of Experts on Economic Trends, which consists of officials and academic experts, then reviews the draft, and this is followed by a discussion with representatives of the High Authority of the Coal and Steel Community; only then is the survey published. In addition to all this there is the contribution made by the Economic Policy Committee and its subsidiary organs and by the Business Survey Panel.

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How then are these facts to be assessed? Do they accord with the intentions of our Treaty, our Constitution?

Broadly, we can only say in reply to this question that the Treaty has two sets of provisions which deal with the matter; the provisions defining the competence of each institution and, secondly, the principle of co-operation enunciated in Article 162.

Two extreme interpretations of the situation are in theory possible. One of these would give strict priority to the system of "competence", on the lines of a sort of principle of separation or exclusive right. Everybody does his own job, he thinks of his own responsibilities and of them alone. The other extreme is referred to in the Parliamentary Report in a markedly depreciatory tone as a "mixed administration", a method which produces results - I quote the report -'which cannot be imputed to one party or another but only to the whole, which means that each institution not only racks its own brain but the other's brain too, at all levels and at all stages of a procedure'. Neither of these extreme interpretations is correct. It would be more correct to say that the division of responsibilities laid down in the Treaty and the principle of co-operation are complementary. Indeed they must fit in with each other - the force of logic may even force them to fit in. A clear allocation of responsibilities to various institutions in an action intended to produce a homogeneous result is only conceivable with co-operation as an essential corollary. This means refusing to let the assertion of exclusive competence be pressed to the point of dogma - <u>fiat justitia pereat communitas</u> - as well as refusal to accept a free-for-all in which no one can tell who made what contribution to the final result.

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To show how sterile, how paralyzing a strict application of the principle of exclusive competence can be, I would like to give an example drawn from experience. There was a discussion between Council and Commission on the question whether and how far the cartel legislation of our Community should be applied tel quel to a certain economic sector. The Commission considered that the general rules were in principle sufficient, while the Council was inclined to prefer special legislation and requested that the Commission should make a proposal. The Commission had the impression that the Council would take a unanimous vote altering its proposal to an extent which the Commission considered would go beyond what was acceptable in the interests of the Community. It therefore delayed its proposal till a gentleman's agreement was reached on reasonable lines. The tension was resolved in an atmosphere of satisfaction.

There are in fact good grounds why the Commission and the Council do not restrict their contacts to the impersonal form of an exchange of finished documents.

1. As has already been pointed out when dealing with the transition period, we are moving from separate and individual national responsibilities to Community responsibilities. It is only natural in such a situation that in taking over our new functions we should maintain close contact with those who have so far performed them and who will in any case retain some influence on their further development. And this brings us to point two.

2. A new institution - and all Community institutions are now - cannot possibly collect by direct means all the information

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required for the efficient exercise of its responsibilities. If the Commission wants to have a reliable and factual basis on which to work, there is no place where it can obtain more objective information than from the national offices which have up till now been concerned with the business that has to be settled. Of course the Commission also makes use of every other source of information, and it is somewhat paradoxical that the Parliamentary Report seems to look a little askance at our action in obtaining the views of independent experts.

3. The execution of Community measures on the ground, in other words their application to the citizen whom they affect, is by no means always the business of our Community staff. It has already been stated that in many if not in most cases it is the business of national authorities. This too is a reason why there should be close co-operation. The most instructive example of the need for such co-operation can be found in the Management Committees set up under our agricultural policy.

4. More generally speaking, too, it is a good thing if we let those who have so far had sole responsibility in a given field take part in the working out of new solutions. We don't want to force our new European system on anybody, we want to win everyone over to it; and there is no better way of doing this work, which we may frankly call an educational work, a European educational work, than participation in the shaping of Europe itself.

5. This co-operation is based on the concept of reciprocity; indeed co-operation is by definition reciprocal. There could be no greater mistake than to imagine that in this co-operation it was only the Commission or its staff which made concessions. The Parliamentary Report puts forward at one point a picture which

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suggests a standing conference of Governments going on at various levels with the assistance of three secretariats: the Commission with its staff, the Secretariat of the Council and the Permanent Representatives of the Member States. If that were intended to be a description of the actual state of affairs it would be, as far as the Commission is concerned, at best a gross caricature. It is, however, intended as an extreme expression of an anxiety, of anxiety about the democratic functioning of the Community's institutions and the trend it is following.

6. Finally, if the Commission clung rigidly to what it considers to be right, this would lead to a policy of all or nothing which in many cases would just put a stop to all progress.

So much then can be expressed in general terms; anything else is an individual case. The suggestions which reach the Commission as a result of the co-operation described above may be better than what we thought out for ourselves (for we have not of course made a corner in truth); in such a case we are fully open to conviction. Or we may feel that the suggestions do not go as far as could be desired; that brings up the question whether we should do nothing at all, or should be satisfied for the moment with what falls short of perfection but can at least be attained. Experience will then show whether we have made the right choice.

Allow me therefore to round off these comments with a glance at the experience gained so far. The practical result of our co-operation can be summed up in a few observations. In many cases this co-operation has made it possible to close a procedure at lower levels without ever bringing them up at the Council

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(since 1 June this year the Commission has adopted 62 regulations and 2 decisions using the administrative committee procedure, without placing them before the Council at all). What is more, all proposals which the Commission has made to the Council have so far led to decisions - with the one exception of the silly question of a tobacco mould; despite many hours of debate, it has not yet proved possible to agree on methods - paper methods - of combatting this disease. Many of the proposals put forward by the Commission have been adopted by the Council without discussion or after only very brief exchange of views (in the period under review this has applied to one-third of the 52 decisions taken by the Council). The points which were still in dispute were so clearly defined that it was possible for the deliberations in the Council to be concentrated on the essentials of the matter.

But all this must never be allowed to lead to the infringement of two golden rules in the organizational provisions found in our Constitution.

It must not lead to one of the two institutions becoming subordinate to the other; the Treaty has from the outset endowed both Council and Commission with individual responsibilities; neither derives its competence from the competence of the other. Parliament may rest assured, Parliament can be certain, that the Commission will never in deference to anyone be ready to take a decision in which the interest of the Community is subordinated to its own convenience; the Commission is aware that the strength and dynamism of our Community depends in very large measure on the maintenance of its external and internal independence.

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Nor must co-operation lead to a situation in which it is no longer possible to recognize where the responsibility of the one or the other institution lies. Here, if I am not mistaken, we find the root of the worry which led the authors of the Parliamentary Report to deal with these problems at such length. That the Parliament should be worried on this score is fully understandable, for legally it is only the Commission which is subject to control by Parliament, and the Commission would escape from this control if it could hide behind a sort of joint responsibility with the Council.

bb) And that brings me to the last basic problem of our constitutional organization, the control exercised by Parliament. The Parliamentary Report deals critically with this problem and links it with that of Parliament's share in the legislative process, in other words the need to consult Parliament before a Council regulation is issued. The two problems do indeed hang together.

The Community has its own legislative powers, and these are exercised in the main by the Council. Regulations issued by the Council do not need to be ratified by national Parliaments. At the same time it is difficult for a national parliament to exercise control over an individual member of the Council, for the deliberations of the Council are secret and in addition certain decisions are taken by majority vote. The constitutional problems connected with the share of the Parliament in legislation and in control of the Executive are thus transferred to Community level. Unquestionably, the solution offered at this level differs markedly from the familiar picture of parliamentary democracy in individual countries. During the passage of a legislative act through the Council Parliament is only consulted, and it exercises control not over the

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Council but over the Commission, which as a rule shares in the legislative process only through its right of initiative, in other words the right to put forward proposals.

It is very understandable that the European Parliament feels this state of affairs to be unsatisfactory. Nor can there be any doubt that a fundamental improvement can only be made by altering the present legal situation and increasing the powers of the Parliament, in particular the part it plays in the legislative process itself. It is only natural that the Parliament is not, however, satisfied with this hope, but is looking for means of strengthening the functions of Parliament within the framework of the existing Constitution. Till such time as the present rules are altered, this strengthening of its position can only be attained by more effective application of the existing possibilities. Before going into various suggestions put forward with this aim in view, I would like to say that by and large the Commission not only understands this tendency but agrees with it and will do what it can to ensure its success. The members of the Commission are democrats, not technocrats.

The Parliament would like to be consulted after the opinion of the Economic and Social Committee has been obtained. In practice, it seems to me, this problem has long been solved: Parliament is in the habit of issuing an opinion only after the views of the Committee have been made available. On points of substance the Parliamentary Report regrets that in a number of cases its views on important points have not been taken. Examples of such cases are given.

The Report goes on to raise a legal question: if in its regulations the Council includes provisions which cannot be found

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even in embryonic form in the draft put forward by the Commission, and which have therefore not been discussed in the Parliament, have the rules of procedure been observed in passing the regulation? The answer is that the regulation is procedurally not in order if the Council has introduced something which is new in principle and on which Parliament has not therefore been consulted. For in such a case - and only in such a case - the content of the original proposal has been turned down and the Council - this is the assumption in our fictitious case - has reached a decision on a fresh proposal from the Commission, on which the Parliament has not been consulted at all. This, however, is very unlikely to occur in practice; the thoroughness of the debates in Parliament means that there is little likelihood of a finding that the idea behind a given solution has not been referred to at all and therefore no view has been expressed.

The Parliamentary Report raises a further legal question, namely, whether and how far the Commission may be authorized to reach decisions or to issue regulations without being required to consult Parliament. In practice, however, the Report supplies the answer itself: where it is the implementation of a basic regulation that is concerned, the Treaty only requires that Parliament shall have been consulted when the regulation itself was issued. The importance of the implementing act makes no difference.

As the authors of the Report clearly saw, the position is not the same when the Council of Ministers has simply not accepted a proposal made by Parliament. There is then no legal problem, as the opinions of Parliament are not binding on the Council. But there is a political problem, in that the responsibility of the Commission to Parliament comes into play. Parliament asks and has

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a right to ask how the Commission has reacted in the course of the legislative process. The Report puts it thus: has the Commission merely passed over in silence the proposal made by the Parliament, has it defended this proposal, has it refused to accept it or has it made a change in its own proposal without defining its own attitude to the content of the parliamentary proposal? Legally, as the Report also rightly points out, the Commission is no more bound by the views of the Parliament than is the Council: but politically it requires the confidence and support of the Parliament and must therefore, as the Report brings out, justify and accept responsibility before Parliament for the divergence of views, as Parliament can expect from the Commission - and from the Council of Ministers - that, to quote the Report, 'its carefully prepared opinions shall be given serious consideration and not simply ignored'.

This line of thought presents no difficulty. It would run counter to the whole purpose of having a European Parliament and of the tasks allotted to it if we disputed this idea. What is more, the Commission must state, and is glad to state, that the principle of consultation with Parliament and the ensuing discussions in committees and in the House are an invaluable addition to the Commission's source of appreciation and help it to decide the line it is to follow. This view means not only that the Commission must, in any case where it wants to deviate during the legislative process from the views expressed by the Parliament, reflect carefully before it decides to act, but that it must keep Parliament informed and put forward its reasons. Here we have at least part of the answer to another wish expressed by the Parliament, which would like to be better informed on the preparation of Council regulations. Of course the Commission must inform the Parliament (and this means something more than publication to the world at large) when it has deviated from the opinion expressed by

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Parliament and say why it has done so; the Commission must hope that the reasons put forward will suffice to gain the understanding of Parliament for the action taken. If the matter is handled in this way, we shall obviate the danger already referred to when we were discussing administrative co-operation between Commission and Council, namely the danger that responsibilities become blurred because it is no longer possible to see who, in a particular process, has made what contribution or taken what action. It is perhaps more realistic if Parliament relies on this source of information than if it presses for the publication of reports by the Council concerning its activities and for detailed explanations of the Council's decisions.

VII

I will close these remarks with a glance at the constitutional situation of our Community as a whole. In the last resort a constitution and the way it is applied must be judged by the extent to which it enables those who are given responsibilities to perform good and useful work. If we use this yardstick, we must say that our constitutional system has made it possible to do great things in the almost five years during which our Community has existed. Let us be thankful for that and let us not forget it. Only if we keep this steadily in mind will we be able to avoid a mistake which could be fatal - the mistake of underestimating the possibilities offered by the existing system, with the result that the efforts of thought and will needed to execute the work which could be performed even with the means available to us today may be wasted on schemes for tomorrow, schemes which, as things now stand, may be beyond our grasp. Of course we would all like to have a better, a more perfect system. But we are still far from the point where we have to say that everything has been done that can be done within the framework given to us for our activities and that further progress is being held up by boundaries which it is therefore essential to bring down. To

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those, too, who are watching us, including those who have announced that they wish to join forces with us, we ought not by loud clamour over our dissatisfaction with the present state of affairs to give the impression that what we have today is a sorry, a feeble thing. That would be a completely untrue picture of the facts. I am certain that the House will agree with me when I say that our Community is not yet fully grown, but it is strong, and it is healthy.

Summary for the Press
of President Hallstein's address to the European
Parliament at Strasbourg on 17 October 1962

I

The comments of the European Parliament on the Fifth General Report on the activities of the Community set a new pattern, which is heartily welcomed by the Commission. The Commission has repeatedly pressed for the opportunity of holding a general discussion on the current situation and future prospects from time to time with the Parliament.

II

In these comments both presentation and development itself are criticized. The Parliament's powers of supervision of the Executives are not exercised on the basis of the annual report but more especially through the regular co-operation of this Assembly and its Committees with the Executives. Our Report is intended to review the general situation in preparation for a broad debate and as information for the public. The Commission has consequently endeavoured for some years not to let this report get too bulky. This means that we must be selective.

III

Two subjects present themselves as themes that run through the many individual acts and events in the life of the Community. One of these is the transition from the customs union into the stage of

common policies, and the other is the internal build-up of the Community. As regards the first theme, we may count upon it being dealt with in this year's colloquy of the Parliament. The Commission will shortly be submitting a preparatory memorandum.

What the report says about our second subject is a fascinating summary of the Community's constitutional problems; it is realistic, but not without sceptical undertones. I say "constitutional" advisedly. I am not going to speak any more of "institutional" but of "constitutional" questions. The word "institution" does not render the fact that the Community is rapidly developing a personality of its own, a personality that to express itself needs constitutional rules.

These constitutional problems have two causes and two aspects: on the one hand there is the balance between Community and Member States, and then there is the division and allotment of powers within the Community itself. The two planes are interconnected. To answer these questions we must think in terms of a federation.

IV

The report to the Parliament starts from the premise that the Community is steadily gaining strength in that the weight is shifting more and more from the Member States to the Community authorities, so that concrete constitutional forms are gradually emerging. It is no coincidence that the very consolidation of the Community has brought its constitutional problems to the fore.

The report very properly demands that the Commission should be entitled and enabled to act as the Community's representative and conduct negotiations for association in accordance with Article 238. It also makes the justifiable complaint that the Community does not have its own diplomatic missions. It pertinently observes that not only the policies but also the legislation of Member States will inexorably grow together in the Community. Lastly, it is seen clearly that the inner logic of development will not come to a halt at what on a strict interpretation would be the limits of the Treaty, so that budgetary and tax policies, among others, will eventually be drawn along in its wake.

V

The question of how far the province of the Community extends and how far that of the Member States may not however be put in the same terms as the question of what are the responsibilities of the Community bodies and what are those of the authorities in the Member States. Community law, i. e. the Treaty and its implementing enactments, is not put into effect only by the Community institutions; it is in fact given effect much more by the Member States, so that there is some justification for saying that the Member States and their governmental bodies are really organs of the Community. The question whether governmental or Community bodies implement Community legislation is a question of administrative expediency.

Where the Treaty is implemented by the Member States, they are subject to the oversight of Community institutions, more especially the Commission.

VI

1. More important than the role of the Member States in implementing Community legislation is the part they play in framing this legislation. This is done in the Council of Ministers.

   A. The Council labours under the handicap of being overburdened. In the experience of the Commission, probably everything that can be done, by way of organization and procedure, to ease this burden has already been done. But the problem has not been solved. We cannot lightly delegate more of the Council's work to subordinate bodies. The best answer to the Council's difficulties probably lies in a better organization of the internal distribution of work among the Member Governments themselves. But this is a delicate question and must be handled with care if we are not to risk being accused of improper intervention in the domestic spheres of the Member States.

B. The central problem in the Council is the part played by the individual national interests of the Member States. The Council of Ministers is a federal body, i. e. in its deliberations it must balance and reconcile these individual interests with the interests of the Community. The Council is obliged to come to a decision where the Treaty so requires, and its decision must be in keeping with the aims of the Treaty. The Council is a Community institution, not a diplomatic conference. The members of the Council in coming to a decision must have an eye to the needs of the Community, even if their view is coloured by their own preoccupations. This means:

1. that the decision must not be a compromise on the lowest common denominator of Member States' interests, but rather on the highest level of interest between the Member States and the Community;

2. that the development of the Community must not be at the mercy of a veto. The Treaty provides on a growing scale for Council decisions to be taken by majority and this majority principle must remain an effective force;

3. that the functioning of the Council is grounded in the interplay with Parliament and Commission.

The Parliament is striving for a direct relationship with the Council. Once a year there is a colloquy between the two. Oral reports are presented and questions by members of the Parliament are answered by the Council.

C. I turn now to the Commission

(a) The most important internal matter for the functioning of the Commission is that it should have an adequate administrative

structure. I take this opportunity to say in all seriousness that the Commission has strained its capacities to the limit. Its work on agricultural policy is already behind schedule, because the staffing budget refused it the necessary reinforcements. The Council has assumed a heavy responsibility in having the final word on the adoption of the budget. We must urge that this decision, however important financial considerations may be, should be taken with a proper appreciation of what the Community needs for its work and its development. We are grateful to the Parliament for never having refused us its support in this matter.

The Commission and its administrative services co-operate very closely with the Council, Member Governments and their departments in all aspects of its work. A few figures will give us an idea of how much this co-operation entails: in the period under review, the Commission held 910 meetings with officials and experts from the Member States; a total of more than 16,000 officials of the Member States took part in these meetings (an increase of 40% on last year).

The Treaty on the one hand lays down that the various institutions of the Community should have distinct spheres of competence and on the other hand, in Article 162, establishes the principle of co-operation. Both these provisions are necessarily complementary to one another. A clear-cut demarcation of competence between various bodies in a process that is aiming at a single result is only conceivable if it is accompanied by co-operation. This means desisting from any claim to exclusive competence that is elevated to a dogma (fiat justitia pereat communitas) and from

any merging of action such that it is no longer clear who has made what contribution to the result. There are good reasons for the intimate collaboration between the Commission and the Council. It facilitates the transition from national to Community jurisdiction; it provides the Commission with the information it needs to carry out its duties; and it makes concerted action easier where Community regulations are put into effect by national authorities. Furthermore, it helps to foster a European outlook in the government departments of Member States.

However, the collaboration between the Commission and the Member States must also be a two-way process. It would be the greatest possible mistake to believe that this involves unilateral concessions by the Commission or its services. All too often a policy of all or nothing would simply lead straight to a deadlock.

In many instances our collaboration has in practice allowed matters to be settled at subordinate levels, so that there has been no need at all to bring them before the Council again. Thus, in connection with the agricultural policy the Commission has been able to use the procedure of its own administrative committees to determine 62 regulations and 2 decisions, none of which were referred to the Council. What is more, all the Commission's proposals to the Council have issued in Council decisions, except in the single matter of a tobacco disease. Many of the Commission's proposals have been adopted by the Council immediately without debate, after a very brief exchange of views (during the year under review, one third of the 52 decisions taken).

All this of course had to be done without prejudice to two of the basic precepts of our constitution; there should be no subordination of either authority - Council or Commission - to the other, since each has full competence to initiate action. Collaboration must never take such a form as to blur the responsibilities of either institution at any time. Parliament may have confidence, it may rest assured, that the Commission will never be prepared to reach a decision complaisantly, subordinating the interests of the Community to its own convenience; the Commission is aware that our Community's driving force and enduring strength chiefly depend on the conservation of its own external and internal independence.

b) It is not easy for national parliaments to keep a check on individual members of the Council since the latter's proceedings are secret, and the decisions are taken by majority. Accordingly the parliamentary functions of bearing a share in the legislature and keeping a watch on the executive are transferred to the Community.

In the work of law-giving the European Parliament is merely consulted, and exercises oversight not of the Council but of the Commission, which as a rule only takes part in the process of legislation through its right to initiate proposals. So long as the present rules remain unaltered, the only way of strengthening the function of Parliament is to make effective use of all the available possibilities. The Commission shares your endeavours in this respect and will do all it can to help. The members of the Commission are democrats not technocrats.

The Parliament's report poses the question of whether and how far authority for making decisions or issuing regulations can be conferred on the Commission without at the same time laying on it the obligation to consult Parliament. Actually the report itself supplies the answer: insofar as it is only a matter of observing rules, it suffices under the Treaty that the obligation of consultation shall have been duly observed when the rules were enacted.

Parliament must be acknowledged to have the right to ask how the Commission has performed its legislative function, i. e. more especially during the debates in Council. Did it let the Parliament's proposals go by default, did it defend them or reject them, or did it amend its own proposals without materially adopting a position on Parliament's proposals? Legally the Commission is not bound by the views of the Parliament, but politically it must justify and answer for what the report calls divergent views; for, in the words of the report, the Parliament may expect "its careful work and measured views to be given earnest consideration, and not merely overridden".

This last observation is directly illuminating. It follows that if the Commission wishes to depart from the position adopted by the Parliament it must not only give its conclusion mature consideration, but also notify, and be called to account by, the Parliament. Certainly the Commission must inform the Parliament that it has departed from the latter's opinion, and give its reasons. This will avoid the danger of any blurring of responsibilities, due to the fact that it is no longer possible to tell in any concrete instance who did what. "Possibly it would be more realistic for Parliament to rely on this source of information than to press for publication of the Council's reports on its own proceedings and the detailed grounds for the conclusions it has reached."

VII

A final judgement on any constitution and its workings will always depend on how far it permits those on whom it confers responsibility to act efficiently. By this yardstick we may claim that our constitutional system has enabled great things to be achieved. Only by keeping this fact present in our minds shall we avoid the error of underestimating the possibilities afforded by the existing system. Naturally everyone would like to see a better and more perfect one, but we are still far from the point of having to say that the programme of work drawn up for us today has been fully executed, and that our future development will be kept within bounds which for that reason it will be a sheer vital necessity to trace. It would also be wrong, by proclaiming too loudly our dissatisfaction with the existing system, to give those who now look to us, and in particular those who have announced their purpose of joining us, the impression that this system is a feeble and half-formed thing. This would be to traduce reality. I am sure I shall carry the House with me if I say: our Community is not yet fully grown, but it is a sturdy and a healthy plant.