

YUGOSLAVIA:

# Parliamentary Model?

By James C. Lowenstein

Since the break between Tito and Stalin in 1948, there have been many bold departures from Marxist orthodoxy in Yugoslavia, which have resulted in the development of a political and economic system fundamentally different from any other in the Communist world. The regime's first major experiment in developing new institutions took place in 1950, when elective Workers' Councils were established in every factory and given a voice in management unknown before in centrally-planned Communist economies, or indeed in prewar Yugoslavia. The latest of the regime's unique institutions, established by the new constitution of 1963, is the Yugoslav Federal Assembly, a body of considerable complexity and broad powers which may prove to have far-reaching significance not only for Yugoslavia but for the rest of the Communist world.

The Assembly is composed of a general political body called the Federal Chamber (which has within it a separate Chamber of Nationalities), and four bodies known collectively as the Chambers of Work Communities, dealing respectively with economic questions, social welfare and health, education and culture, and organizational-political matters. This parliamentary system was conceived by its founder,

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Edvard Kardelj—the principal drafter of the new constitution and now the Assembly's President—as “a specific kind of bicameral system,” in which the Federal Chamber would be “the general political body, with all the legislative and political competences granted to the Federation,” and the other four chambers would operate more or less as “supreme Workers' Councils,” supplementing the work of the Federal Chamber within their own areas of competence “but not in political affairs.”<sup>1</sup> Thus it is in the Federal Chamber that the real power of the Assembly, and therefore of the government, resides.

The unusual character of the Assembly applies to its functions as well as its structure. According to the constitution, it is responsible not only for legislative decisions but for “political supervision over the work of the political, executive and administrative organs of the Federation” (Art. 14). In addition, its powers include issuing authentic interpretations of federal law; calling referenda; adopting and then supervising the federal budget and the annual federal financial statement; electing and removing the President and Vice-President of the Republic, and the President and Judges of the Constitutional Court, the Supreme Court, and the

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<sup>1</sup> “On the Principles of the Preliminary Draft of The New Constitution of Socialist Yugoslavia,” report of Sept. 20, 1962, printed in *The New Yugoslav Law*, July-December 1962.

Supreme Economic Court; appointing and removing the heads of the Federal Secretariats (as the administrative departments are called) and the Deputy Commander-in-Chief of the armed forces (the President of the Republic is the Commander-in-Chief); deciding on any alteration of the country's boundaries; declaring war; ratifying certain international agreements; and amending the constitution.

While the constitution does not define the Assembly's overall power of "political supervision," it does list certain functions through which this power is to be exercised. Thus, it is the Assembly's responsibility to "decide on political matters and determine the foundations of internal and foreign policy," to determine the duties of federal authorities and organizations responsible for enforcing the laws, to debate the reports of federal courts and the Federal Public Prosecutor concerning the enforcement of federal law or the general problems of the judiciary, and to "enact declarations and resolutions and make recommendations to state organs and autonomous organizations giving its opinion on matters of general concern."

**T**he President of the Republic, Marshal Tito, is nominally subordinate to the Assembly. He is elected by it and (under Art. 219) is "accountable" to it. While he may nominate certain top officials, the Assembly must confirm his designees. He has no veto power *vis-à-vis* acts of the Assembly; and while he may stay certain actions of the Federal Executive Council, even in this case he must place "the dispute" before the Federal Chamber for decision. He is required to inform the Assembly on all matters of state policy, and specifically on problems of internal and foreign policy. Finally, he has no authority to propose a bill but only the right to recommend that the Assembly discuss a certain subject or consider passing a decision.

Similarly, the Federal Executive Council, which was formerly the most important organ of governmental authority, is under the new constitution "an organ of the Federal Assembly" and is "responsible for its work to the Federal Assembly." The President and members of the Council are elected by the Federal Chamber from among the members of the Assembly. The Council has no appointive power but only a nominating role. It can only propose internal and foreign policy to the Assembly. It can prepare draft laws, the draft social plan and a proposed budget, but final action must be taken by the Assembly. The Assembly may rescind or cancel any Council decision or regulation "that is at variance with the constitution or law." Conversely, if the Assembly passes a law to which the Council is op-

posed, the only action the Council may take is to submit its resignation to the Assembly.

The federal administrative departments are even farther down the chain of command. Under the constitution they are charged with enforcing federal laws and regulations in accordance with "the policy determined by the Federal Assembly and the general instructions of the Federal Executive Council." The heads of federal administrative departments—the Federal State Secretaries and Federal Secretaries—are nominated by the President or the Federal Executive Council but appointed or dismissed by the Assembly.

**I**t is clear, then, that the new Assembly is constitutionally the supreme governmental body in Yugoslavia, with full responsibility for policy as well as for legislation. How does this parliamentary amalgam operate?

All five Assembly chambers may meet in plenary session, and must do so to elect the President and Vice-President of the Republic and the President and Vice-Presidents of the Assembly. All five chambers must also meet to extend the Assembly's term or "to debate questions of general political significance." Plenary sessions are rare, however; there were less than half a dozen in the first year of the Assembly's existence.

Thus, most of the Assembly's work is done by the Federal Chamber acting alone or in concert with one of the four Chambers of Work Communities.

Matters under the exclusive jurisdiction of the Federal Chamber include the election or recall of the President, members of the Federal Executive Council, and certain federal court officials, as well as the appointment or recall of the heads of federal administrative departments and the Deputy Commander-in-Chief of the armed forces. The Federal Chamber meets alone to debate or legislate on foreign policy, national defense, state security or "general domestic policy." It also ratifies international agreements within the Assembly's general jurisdiction. On all other matters requiring legislation, it meets with one or more of the other chambers.

Each of the four Chambers of Work Communities may also meet independently to debate or study various matters that concern "working organizations" (Workers' Councils and management boards) in their fields of activity. These chambers can make recommendations on their own to a working organization but they cannot legislate alone—that is, without concurrent action on the part of the Federal Chamber.

The Chamber of Nationalities is required to meet as a separate body only when the Federal Chamber has on its agenda a proposal to amend the constitu-

tion. It may meet when the Federal Chamber is considering a draft law which might affect "the equality of the peoples of the Republic"; at such meetings, however, it has no right to vote but may only propose that the draft law in question be amended or rejected.

Obviously, the Yugoslav leadership would not have created this constitutionally powerful parliamentary instrument without at the same time insuring that it would remain under party control. The key to such control lies in the system of electing members of the Assembly. Altogether, the membership totals 670 deputies. In each of the four Chambers of Work Communities sit 120 members elected by the Chambers of Work Communities in municipal assemblies (there are 577 assemblies at this lowest level of local administration, grouped into 120 election districts).

The election of Federal Chamber deputies is a more complicated matter. This Chamber has 190 members, 70 of whom are concurrently members of the Chamber of Nationalities and are elected by the assemblies of Yugoslavia's six republics and two autonomous provinces. The remaining 120 members are elected by the Municipal Chambers of Municipal Assemblies (the general political chambers of the local legislatures). Technically, the election of these 120 deputies is only provisional, pending confirmation by popular referendum. Yugoslav authorities refer to the process of confirmation as "popular elections," obviously hoping to give Yugoslav citizens a feeling of participation in the selection of the national parliament. However, the only option given the voters is to approve or not approve the Municipal Chambers' choice. It is interesting to note that in the first election under the new constitution, held in the spring of 1963, every Federal Chamber deputy elected by a Municipal Chamber was confirmed in the referendum by from slightly under 95 to over 98 percent of the voters.

By contrast, deputies to the Municipal Assemblies are directly elected, although the process by which they are nominated again denies any real choice to the voters. In the 1963 elections, nominations issued from voters' meetings in which the League of Communists of Yugoslavia (as the Communist Party is called), working through the mass front organization, the Socialist Alliance of the Working People of Yugoslavia, played a decisive role in selecting the candidates. Only about 55,000 nominees were selected for the approximately 43,000 Municipal Assembly seats. Thus in most cases there were not even two candidates from which voters could choose.

In sum, then, the present body of federal deputies was elected indirectly by directly-elected munic-

ipal deputies, who were nominated in voters' meetings tightly controlled by the party, and who often ran unopposed. Through this system the one-million member League of Communists assured its control of an Assembly representing almost 20 million people.

The party's dominant role can be seen from an examination of the political backgrounds of Federal Chamber members. According to biographic information published in the 1964 Yugoslav World Almanac, 184 of the 190 members of the Federal Chamber have held office at some time in a party organization, and the other six are almost certainly party members (before becoming deputies, two were Slovenian Assembly deputies and the other four respectively a trade union official, an army general, a student leader and a university dean—all positions in which it would be most unusual to find non-party people). Furthermore, the Chamber includes 10 of the 14 members of the Executive Committee of the Central Committee of the League of Communists (the new name of the party Politburo), 48 of the 130 members of the Central Committee (14 other CC members are deputies in other chambers), and 56 members of the Central Committees of the six republican party organizations (*i.e.*, one-half to two-thirds of the total membership in each republican CC).<sup>2</sup> Finally, the Assembly President, Edvard Kardelj, is one of the three top leaders in the party.

A new election to the Federal Assembly is scheduled to take place in the spring of 1965, and under the terms of the constitution, half of the deputies in each chamber will be new figures. It will be interesting to see what shifts take place in the make-up of the membership.

What is the significance of the new Yugoslav Assembly? Those who view it in a favorable light see it as an evolutionary step toward further democratization, paving the way for the expression of more liberal political tendencies in Yugoslav society, providing a forum for more discussion and debate on national policies, and giving Yugoslav citizens a greater voice in the selection of their representatives. To others more critical, the new Assembly appears to represent primarily an attempt to legitimize the regime, to give the Yugoslav people the illusion but not the reality of free elections, and to perpetuate party control in a more subtle and palatable fashion.

<sup>2</sup> This analysis was made before the Eighth Party Congress in November 1964, which enlarged the party's Central Committee and Executive Committee and elected new members to both bodies.

Like so much else in a country noted for contrasts and contradictions, the new Assembly may be all of these things. Constitutionally, however, the new parliamentary system indisputably provides a framework for introducing a measure of democracy and curtailing arbitrary political intervention and control. The extent to which this framework will be utilized remains to be seen.

It is also too early to gauge the effect that Yugoslavia's experiment will have on other Communist

countries. The Soviet Union is in the process of drafting a new constitution which, according to reports, may well provide for a similarly increased emphasis on the role of parliamentary institutions; this possibility has often been mentioned in the public statements of Soviet officials and in the Soviet press. No doubt Moscow and others in the Communist world are watching to see what effect a taste of parliamentary rule will have on the popular appetite in Yugoslavia.

#### TO OUR READERS—

Due to its unusual length, this issue of *Problems of Communism* has been considerably delayed. The editors hope to be back on schedule with the May-June issue. Among articles soon to appear:

Soviet Agriculture: The Lean Years, *by Nancy Nimitz*  
Agriculture and Literature in the USSR, *by Ronald Hingley*  
The Vocabulary of Indonesian Communism, *by J. M. van der Kroef*  
Communism in Iran, *by Sepehr Zabih*  
Khrushchev's Fall and Aftermath—A Discussion

## Soviet Courts Observed

GEORGE FEIFER: *Justice in Moscow*.  
New York, Simon & Schuster, 1964.

Reviewed by Frederick S. Wyle

THIS BOOK, written by a young American exchange student, provides a lively account of various types of court trials and legal proceedings in the Soviet Union, including generous excerpts of apparently verbatim testimony and comments by participants. These excerpts furnish the student of the Soviet legal system with useful raw material and in this reviewer's opinion, comprise the most valuable part of the book.

Unfortunately, Mr. Feifer does not stick to reportage. He includes his own lengthy com-

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*Mr. Wyle is the author of "The Soviet Lawyer: An Occupational Profile" (Soviet Society—A Book of Readings, edited by H. Inkeles and K. Geiger, New York, Houghton Mifflin, 1961). As a former practicing attorney, he interviewed a number of Soviet lawyers in connection with the Harvard Project on the Soviet Social System (1950-51).*

mentary on the Soviet legal structure, on the comparative worth of Soviet and American legal institutions, on "justice," and on all manner of subjects. Aside from these often naive discourses, there are few surprises in the information he furnishes. The staples of other research on Soviet legal institutions are more or less confirmed: the wide variety and informality of Soviet "legal" institutions and courts; the undeveloped state of the law, technically, intellectually, and professionally speaking; the relatively unimportant place of the law and legal institutions in Soviet society; the Soviet indifference to precise proof of particular charges of crime; the conversion of the court trial, for reasons compounding Russian cultural and Soviet ideological factors, into a probe of the defendant's entire life, motivations and general attitudes; the role of the Soviet court "assessors"—a supposed substitute for

the jury—as mere court "furniture," and so on.

What is notable about Mr. Feifer's commentary is the extraordinary lengths to which he goes to avoid the shadow of any suspicion that he may be prejudiced against the Soviet legal system by his Western background, or by his native common sense. The results of these efforts do not, unfortunately, reflect favorably on his perspicacity or on his claim to "objectivity."

MR. FEIFER MIGHT HAVE made a rational case for his views. For example, he might have argued as follows: One cannot expect the Russian system of law to equal the Western systems. The "rule of law" as it is understood, say, in the United States, is a product of our particular happy history of Anglo-Saxon juridical inheritance, a stable society in which