PARLIAMENTARY OBSTRUCTION AND THE "CRISIS" OF EUROPEAN PARLIAMENTARY POLITICS AROUND 1900

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At the end of the nineteenth century the crisis of the parliamentary system was a hotly debated topic.[1] The later crisis of interwar parliamentary democracy is already well known. The 1920s and 1930s, however, were not the first time the parliamentary system was perceived as being in 'crisis'. Around 1900 the appearance of organized 'obstruction' in European parliaments was seen as the most prominent sign that

1 Cf. the chapter about parliaments in Jan Romein, *The Watershed of Two Eras. Europe in 1900* (Middletown, Wesleyan U.P. 1978); among many other titles Jules Destrée, *La fin du parlementarisme. Discours pronounce à la séance solennelle de rentrée de l'Université Nouvelle de Bruxelles* (Bruxelles 1901). This contribution is a revised version of Henk te Velde, 'Die parlamentarische Obstruktion und die "Krise" parlamentarischer Obstruktion in Europa um 1900', in: Andreas Schulz and Andreas Wirsching ed., *Parlamentarische Kulturen in Europa. Das Parlament als Kommunikationsraum* (Düsseldrof: Droste 2012) pp. 267-283. I would like to thank James McSpadden, PhD candidate in parliamentary history at Harvard, for improving my English style.

the entire system was in danger. An 1882 article entitled 'The Crisis of Parliamentary Government' was devoted exclusively to obstruction.[2] Probably the most impressive comparative study of parliaments of this earlier period was the two-volume *Histoire de la discipline parlementaire,* published in 1884 by the Belgian parliamentarian Auguste Reynaert[3]; this study focused almost exclusively on questions related to obstructionism. Around 1900 Félix Moreau, the French constitutional lawyer who wrote a well-known book in defence of the parliamentary system, was among many who thought that obstruction was at least 'une crise importante', if not a demonstration of 'la faillite du parlementarisme'.[4] With the benefit of hindsight, it is safe to conclude that this crisis was in fact the adjustment of parliamentary politics to changes in the way politics operated in general. This new form of organized and widespread obstructionism made an enormous impression on contemporary commentators.

This contribution will analyze famous cases of nationalist obstruction in the British and Austrian parliaments. It will become evident that nationalists were more violent obstructors than socialists, whose goals were less radical. Finally, the relevance of obstruction for the development of the parliamentary system will be discussed. That obstructionism was important was clear to all the commentators worrying about the subject, and I will start by looking at different views about obstruction that were voiced by contemporaries.

Opponents of the parliamentary system used the violent obstruction in parliaments in Vienna, Berlin, Brussels, Rome, etc., as an argument that the system was doomed.[5] Even the defenders of parliamentarism

2 Frederic Harrison, 'The Crisis of Parliamentary Government', *The Nineteenth Century* (January 1882) pp. 9-28.

3 2 volumes, Paris: Pedone-Lauriel.

4 Review of Henri Masson, *De l'obstruction parlementaire.* Étude de droit public et d'histoire politique Academic dissertation (Toulouse: Bonneville 1902), by Félix Moreau in *Revue du Droit Public et de la Science Politique en France et à l'Étranger* (1902) II, p. 170. Moreau wonders why obstruction emerged in the 'mother of parliaments' and hardly existed in France, which was not considered to be such an example of parliamentary politics. Félix Moreau, *Pour le régime parlementaire* (Paris: Thorin 1903).

5 Constitutionalist and politician Charles Benoist, *La réforme parlementaire*

were discouraged by obstruction. The prominent professor of constitutional law Georg Jellinek, who was of Austrian descent and held a professorship in Vienna before moving to Basel and then to Heidelberg, was deeply pessimistic about the impact of obstruction on the development of the parliamentary system: 'Parliamentary obstruction is no longer a mere intermezzo in the history of this or that parliament. It has become an international phenomenon which, in [a] threatening manner, calls in question the whole future of parliamentary government' (1903).[6] Although it is obvious that the violent scenes in the Austrian House of Representatives were also on his mind, Jellinek was worried most about what had happened in the British House of Commons, the prime example of parliamentary politics, and perhaps to a lesser extent, about the American Congress.

Obstruction was perceived as one of the central problems of the parliamentary system around the turn of the century. Even according to a parliamentarian and future minister in France, one of the countries least afflicted by obstruction, the regime would be in danger if the disorder caused by obstruction continued.[7] Curiously, however, the subject has been almost ignored since the Second World War.[8] Parliamentary historians who have been familiar with this subject confined themselves to the history of their own country, and they seldom addressed fundamental questions related to the parliamentary system. Most likely the reason for this neglect is the disappearance of obstruction from most contemporary parliaments. There is no coincidence that most contemporary literature about the subject comes from the United States, where

(Paris: Plon 1902) p. 30.

6 Georg Jellinek, 'Parliamentary Obstruction', *Political Science Quarterly* (1904) 579-588, quotation from p. 579; German version: Georg Jellinek, 'Die parlamentarische Obstruktion', in: Id., *Ausgewählte Schriften und Reden* II (Berlin: Häring 1911) 419-430 (first published in *Neue Freie Presse* 26 July 1903).

7 André Lebon, 'La réforme parlementaire', *La Revue Politique et Parlementaire* (1894) II, pp. 222-245; p. 224: 'le crédit même du régime sera atteint et compromise'.

8 A recent exception being Barna Mezey, 'Die Obstruktion in der ungarischen Rechtsgeschichte', *Parliaments, Estates and Representation* 23 (2003), pp. 97-122.

the Senate still has to cope with the threat of filibustering which has an enormous impact on the way the institution works.[9]

Parliamentary obstruction has also been important in the European context. Even if the practice has not attracted much attention in Europe since the Second World War, it nevertheless marks an important phase in the evolution of Europe's parliamentary system, and it says something about the nature of parliamentary debate in general. This wider significance of obstructionism had already been noticed around the turn of the century. In the debate about obstruction, there were more or less four different positions.

First, the obstructionists themselves explicitly or implicitly regarded their work as legitimate, because they defended the rights or demands of their constituency. In their minds, the idea of parliamentary debate was hypocritical as long as an old elite did not make way for newcomers who represented socialist or nationalist outsiders. They believed that parliamentary debate was not an academic discussion but a struggle in which one should use whatever weapon works best.

Second, there was the position of most turn-of-the-century commentators, in particular writers about constitutional law. Besides political commentary, a large number of dissertations and scholarly articles were devoted to obstructionism in many different countries.[10] It was

9 For instance Sarah A. Binder & Steven S. Smith, *Politics or Principle? Filibustering in the United States Senate* (Washington: Brookings Institution Press 1997); Gregory J. Wawro & Eric Schickler, *Filibuster. Obstruction and Lawmaking in the U.S. Senate* (Princeton U.P. 2006); Gregory Koger, *Filibustering. A Political History of Obstruction in the House and Senate* (Chicago/London: the University of Chicago Press 2010).

10 E.g. Henri Masson, *De l'obstruction parlementaire. Étude de droit public et d'histoire politique* (Toulouse: Bonneville 1902); Erich Brandenburg, *Die parlamentarische Obstruktion. Ihre Geschichte und ihre Bedeutung* (Dresden: Zahn/Jaensch 1904); Adriaan Theodoor Louis Allard Heyligers, *Parlementaire obstructie* (Zaltbommel: Van de Garde 1908); Oswald Koller, *Die Obstruktion. Eine Studie aus dem vergleichenden Parlamentsrechte. Inaugural-Dissertation zur Erlangung der Würde eines Doctors der Rechte der hohen juristischen Fakultät der Universität Freiburg in der Schweiz* (Zürich: Verlag der Academia 1910). Mezey, 'Obstruktion', gives an additional list of literature mainly concerning the Habsburg case.

one of the most popular subjects of public law at the time. Most academic literature saw obstruction as a sign that the parliamentary system was in a serious crisis, caused by the advent of new parliamentary groups that did not belong to the classes for whom parliaments were originally designed. These newcomers did not know how to behave; they did not respect parliamentary rules, and they hampered the purpose of parliament—to hold serious debates.

Third, there was a minority who saw obstruction as a sign of crisis, but a constructive crisis brought about by adjustment to new circumstances. They agreed with the obstructionists that parliamentary debate was a struggle for power, but they came to another conclusion. In an article from 1882 with the title 'The Crisis of Parliamentary Government', the radical British constitutionalist and historian Frederic Harrison argued that obstruction was not the cause, but instead the effect, of a change in government. He argued that Parliament used to be a homogeneous aristocratic club and formed the basis of a government by discussion as 'a deliberative and consultative body'. Now, however, Parliament had to pass much more legislation than it previously did, and it had to work with 'efficiency' and act as 'an executive body'. Its members were also, first and foremost, the representatives or even the spokesmen of their constituency and their party. Debate in Parliament had become more or less a 'formality', because the issues had already been discussed 'in newspapers, in clubs, and in meetings'. It is no surprise that the old rules did not work any longer. A strengthening of the executive was what was needed, Harrison argued.[11]

Many admirers of the parliamentary system did not agree with Harrison's solution, which was a consequence of his radical political views, but his analysis was probably right. The workload of Parliament was growing, many more bills had to be dealt with, which made time more precious, which in turn presented the perfect opportunity for obstruction. Harrison wrote that 'it would be almost impossible to obstruct if a great majority made but one speech, and that speech was simply: "Divide!" [i.e.: Vote!]'. 'It is the extreme pressure of business which is the secret of the strength of the obstructor proper', the liberal leader and prime minister William Gladstone wrote in a confidential government memorandum,

11 Harrison, 'The Crisis of Parliamentary Government', esp. pp. 9-13.

'and which makes it pay him so well to pursue his vocation at all costs.'[12]

There was also a fourth position that opposed Harrison's plea for more executive government. These advocates did not criticize disciplined forms of obstruction, but applauded them. Paul Leroy-Beaulieu, a well-known French economic liberal and a political conservative, even went as far as to argue that 'we do not appreciate enough the enormous services rendered by obstruction'. He felt that obstruction ensured the peace and quiet of nations because it prevented radical governments from introducing too much, rash or superfluous legislation.[13]

These four positions differed widely, but they all had in common that they assumed that obstruction was an important feature of the parliamentary system at the end of the nineteenth century. Their main examples were the British Parliament and the violence of obstruction in the Habsburg parliament.

The Beginning: The British Parliament and Irish Obstruction

Like most writers about the subject, Jellinek observed that obstruction was not an entirely novel or modern thing. Nevertheless, everyone agreed that the modern version of the practice dated from obstruction by the Irish Home Rule party in the British Parliament in the late 1870s.[14] Even the word 'obstruction' was new, they said.[15] The attempt by Charles Parnell and his Irish party to bring all parliamentary work to a standstill shocked commentators and public opinion not only in

12 Quoted in extenso in the still useful Edward Hughes, 'The Changes in Parliamentary Procedure, 1880-1882', in: Richard Pares and A.J.P. Taylor eds., *Essays presented to Sir Lewis Namier* (London: Macmillan 1956) p. 295.

13 Paul Leroy-Beaulieu, *L'état moderne et ses fonctions* (Paris: Guillaumin 1890) p. 64. Cf. about him Sharif Gemie, 'Politics, Morality and the Bourgeoisie: the Work of Paul Leroy-Beaulieu', *Journal of Contemporary History* 27 (1992) pp. 345-362.

14 Cf. Michael Rush, *The Role of the Member of Parliament since 1868. From Gentlemen to Players* (Oxford U.P. 2001) pp. 66-69.

15 E.g. Edward D.J. Wilson, 'The Clôture in Parliament', *The Nineteenth Century* 8 (1880) p. 42.

Britain but also in other countries. Josef Redlich, the Austrian author of a famous book (1908) about the procedures of the House of Commons, wrote: 'Parnell was (…) the inventor of a new kind of political tactics [which] has since this time run its melancholy course of victory through nearly every parliament in the world. He was the founder of systematic obstruction.' Obstruction was seen as an attack on the parliamentary system as such. As Gladstone put it in the House of Commons: 'It is the first condition of parliamentary existence, for which we are now struggling, the House of Commons has never (…) stood in a more serious crisis'.[16]

The Irish MPs acted only as representatives of their constituencies and as members of a united and disciplined party. As long as Parliament did not grant Home Rule to Ireland, they considered themselves 'strangers' in the House of Commons.[17] They did not belong to the club at Westminster but belonged instead to their own nation. As was already noted at the time by Henry Brand, Speaker of the House of Commons, and has been commented on since by historians, the Irish were 'strong in numbers, discipline and organisation', as a united party the first of its kind in the British parliament.[18] The socialists in Britain and in other countries were also disciplined parliamentary parties and would sometimes copy the Irish nationalists' behaviour. The Irish were the heralds of a new time when parties would dominate politics, and when politicians would address parliaments but in reality would be speaking primarily to their constituency rather than their colleagues. At least, this is clear in the case of Parnell. He did not obtain his goal of Home Rule, but historians have argued whether that was what he wanted in the first place. According to these historians, Parnell wanted to win popular sympathy in Ireland, and become the undisputed leader of the radical nationalists; this goal he did achieve.[19]

Because Great Britain was the greatest world power and the House

16 Josef Redlich, *The Procedure of the House of Commons. A Study of its History and Present Form* (London: Constable 1908), p. 154.

17 For instance J. Redmond, quoted by Redlich, *Procedure* I, p. 199.

18 Speaker Brand (1881), quoted by Redlich, *Procedure* I, p. 157; Rush, *The Role of the Member of Parliament,* pp. 163-165.

19 David Thornley, 'The Home Rule Party and Obstruction', *Irish Historical Studies* 12 nr 45 (1960) p. 56.

of Commons the most admired parliament, everything that happened there had repercussions elsewhere. As Speaker Brand famously put it in 1880, a year full of obstructionism: 'The power and consequent responsibility of this House are constantly increasing', and 'every nation in the world now treading the path of Parliamentary Government watches our proceedings with the greatest attention and interest. It is, then, the more incumbent on us to set an example of freedom and order in debate, which constitute the life-blood of Parliamentary Government.'[20] From London a new type of obstructionism spread around the world, in particular across Europe. Especially Irish obstruction's technical aspects were copied. Indeed, obstructionism could take many forms. It could be just a means to block one particular law, and in this sense, it had been used before. It could also take the form of violating every rule in the House, by yelling, throwing things and impeding parliamentary business in every possible way. This was what was to happen in the Habsburg Empire.

Obstruction could also be principled, total, and at the same time at least formally obey the parliamentary rules. Irish obstruction stood out by its principled nature: it did not attack one law, but instead challenged the whole system of government in Ireland. It was also distinguished by its technical perfection. The Irish did not literally or formally transgress the rules of Parliament, they used them to their own advantage. That they were able to do so was because of their knowledge of the rules and traditions of the House of Commons. Perhaps they were Parliament's enemies, but they were also regulars and some of them even loved the place, including Justin McCarthy and Thomas Power O'Connor who were journalists and wrote extensively about their experiences in the House. Their dominating leader Charles Parnell, however, did not find 'the least pleasure in Parliamentary debate or in the life of the House of Commons'. [21] 'His parliamentary success was due not to speeches, but to determination, firmness, unconquerable will, and, above all, to

20 Quoted by Henk te Velde, *Het theater van de politiek. Rede* (Amsterdam: Wereldbibliotheek 2003), p. 11.

21 His previous supporter Justin McCarthy, *Reminiscences* (2 vols; London: Chatto & Windus 1899) II, p. 98.

the authoritarian command he exercised over a docile party.'[22] He had a charismatic but somewhat aloof personality.[23]

Irish obstruction was new and radical not only for its discipline but also in the sense that the parliamentarians did not just want to block one law – that had been done before – but slow the whole system of government. This made an enormous impression, not only in Britain but also everywhere in Europe. In the following decades this model was built on with the far more violent forms of obstruction in other parliaments, most notably in the parliament in Vienna. There civilized behaviour seemed to break down completely. This confirmed the worst fears of pessimistic commentators.

Habsburg Austria as an Extreme Case

In the final years of the nineteenth century, the American author and celebrity Mark Twain was living in the bustling capital of the Habsburg Empire. At that time, he wrote that everybody was talking about politics, and he heard that a parliamentary row was to be expected surrounding the language of the Empire. The German minority was determined to use any parliamentary means at their disposal to keep their language as the official language. The public gallery was crowded and many elegant ladies were present, but as a famous foreign guest Twain was able to secure one of the eagerly sought after tickets to the gallery. He was so famous that most MPs were aware of his presence and some came to meet him, but he described himself as only a spectator of an amazing play. The parliament building was 'a good place for theatrical effects', 'richly and showily decorated', 'its plan is that of an opera-house'. In a number of articles originally published in an American

22 An adversary: William Jeans, *Parliamentary reminiscences* (London: Chapman and Hall 1912) p. 89.

23 Supporter T.P. O'Connor, *Memoirs of an old parliamentarian* (London: Binn 1929) 235: 'Parnell was one of those magnetic personalities, at once so taciturn, so inscrutable, and at the same time so hypnotic, that everything about him, even the most trifling, took your attention, and perhaps set you guessing.'

magazine (but avidly read in Vienna as well), he described the incredible scenes he witnessed.[24]

Twain's piece is a lively contribution to the extensive debate about parliamentary obstruction that took place in European public life and academia at the time. The German party in the Habsburg parliament had a trump card to play. According to a formal agreement, the arrangements defining the relationship within the dual monarchy between Austria and Hungary, called the *Ausgleich*, would have to be reconfirmed within a matter of weeks, or the Empire would formally fall apart. By delaying, or preferably 'obstructing' parliamentary business for a couple of weeks, the German party could thus put the government in real trouble. This is what they set out to do, by using every possible tactic they could find, as Twain illustrates. 'Its [the German party's] arms were the rules of the House. It was soon manifest that by applying these Rules ingeniously it could make the majority helpless, and keep it so as long as it pleased. It could shut off business every now and then with a motion to adjourn. It could require the ayes and noes on the motion, and use up thirty minutes on that detail. It could call for the reading and verification of the minutes of the previous meeting, and use up half a day in that way. It could require that several of its members be entered upon the list of permitted speakers previously to the opening of a sitting; and as there is no time limit, further delays could thus be accomplished.'[25]

The frustrated majority became angrier day by day. One of the most amazing accomplishments of the obstructing minority was a calm and competent twelve-hour speech by Dr Otto Lecher, who succeeded, as was required, in talking all the time about the subject at hand. Meanwhile, the parliament was constantly in an uproar—members were shouting at the top of their voices and insulting each other – 'Die Grossmutter auf dem Misthaufen erzeugt worden', was part of an insult Twain caught amidst all the noise and commotion. Because of this, no-

24 Mark Twain, 'Stirring times in Austria', in: Id., *The man that corrupted Hadleyburg and other stories and essays* (1900; New York: Oxford UP 1996) 296. Cf. Carl Dolmetsch, *"Our famous guest". Mark Twain in Vienna* (Athens/London: University of Georgia Press 1992) chapter 4.

25 Ibid., pp. 294-295.

body heard a word that Lecher said; 'the official stenographers had left their places and were at his elbows taking down his words, he leaning and orating into their ears', in fact Lecher's speech was a 'pantomime'.[26]

Amidst the incredible chaos, the supporters of the government suddenly and irregularly changed the rules of parliament with the so-called Lex Falkenhayn which set limits on the freedom of speech within parliament. When this act became apparent – at first nobody had heard what was being said – the chaos reached a climax. The socialists, who refused to accept the new rules, stormed the seat of the president of the parliament ('one could see fists go up and come down') and were subsequently dragged out of the building by policemen. Twain concludes: 'It was a tremendous episode. The memory of it will outlast all the thrones that exist to-day.'[27]

These scenes caused an even greater sensation than they would have otherwise because of the enormous contrast between the grave 'dignity' of the institution and the unruly behaviour of its supposedly well-mannered and mostly upper-class members. Mark Twain could not understand that 'this convention of gentlemen could consent to use such gross terms'. He even wondered whether 'parliament and the Constitution [would] survive the present storm'. It is not surprising that the complete breakdown of ordinary parliamentary procedure led him to question the stability of the regime.[28]

This tempest in the Austrian parliament was one of the most extreme cases of parliamentary obstruction during this period. It happened in the parliament of one of the great powers of the day, and participants marshalled the whole array of parliamentary obstruction: from simply filibustering with endless speeches to ingenuous use of the rules of procedure, from endless voting and endless motions to shouting, insulting, singing, drumming the parliamentary lecterns, throwing things, ruining the furniture and resorting to physical violence.[29] It was a complete crisis of the parliament's image as the place for the reason-

26 Ibid., pp. 300, 302, 324.

27 Ibid., pp. 338, 340.

28 Ibid., pp. 329, 341.

29 Mezey, 'Obstruktion in der ungarischen Rechtsgeschichte', p. 100, distinguishes between simple (einfache), technical (technische) and violent (gewalttätige) obstruction.

able and dignified conversation of gentlemen which could include the *choc des opinions*, but certainly not this type of shocking behaviour. The Habsburg Empire did not count as a shining example of parliamentary politics anyway, and one German constitutionalist who wrote about the parliamentary obstruction of the time classified the rough type of obstruction described by Twain as 'animalische Obstruktion'.[30] Scenes of yelling, swearing and flinging all sorts of fruit and eggs became infamous, and the throwing of inkpots[31] became proverbial. When an angry Dutch socialist threatened obstruction around 1910, he reminded his fellows MPs of the scenes in the Austrian and other parliaments, where 'inkpots were turned into airplanes' and the lecterns and 'other musical instruments' were turned into a means of applause.[32] Austria was seen as an extreme case, but it contributed nevertheless to the impression that obstruction was the most pressing problem parliaments were facing at the time, and that this was more than just a problem, it was a 'crisis'.

Socialist Obstruction

Irish obstruction served as an example for radical Tories, the radical liberal Lloyd George and early socialists in Britain.[33] It also was an example for national minorities in the Habsburg Empire and socialists everywhere on the Continent. National minorities and socialists were the two main categories of obstructionists in Europe during this period.[34] At first glance, one might perhaps assume that the socialists were the most revolutionary of the two categories, as they still cherished the idea of a social revolution, whereas the Irish and other minority nationalists only wanted independence or Home Rule. Independence, however, entailed a real departure from the parliament to which they still

30 Koller, *Die Obstruktion,* p. 72.

31 Mezey, 'Obstruktion', p. 113.

32 Jan Duys, *Handelingen Tweede Kamer*, 20 september 1911, p. 18.

33 E.g. Brian Harrison, *The Transformation of British Politics 1860-1995* (Oxford UP 1996) p. 110; T.A. Jenkins, *Parliament, Party and Politics in Victorian Britain* (Manchester UP 1996) p. 123.

34 Overview among other things in Masson, *De l'obstruction parlementaire.*

belonged, whereas most socialists eventually decided that they wanted to gain a position within that parliament. Therefore, nationalist obstruction could be more fundamental, as some authors in the period already sensed.[35] Mark Twain had noted the similarities between the fundamentalist nationalist obstruction of the Irish and Habsburg minorities, and even used this comparison to explain the more violent nature of obstruction in Vienna: 'nine nationalities are represented in the Reichsrath; it makes nine Irish parties, so to speak, with all that that means'.[36]

Like the Irish, most socialists complied with the formal rules of parliament and, also like Irish MPs, they obstructed for reasons of principle, meaning their tactics were sometimes violent but in practice more often rather modest. The Belgian socialist party was one of the best organized and self-confident in Europe. In 1894, their leader Emile Vandervelde entered parliament with twenty-eight fellow socialists with the express intention 'to engage head on all institutions of the regime'.[37] Some MPs behaved purposefully in a provocatively non-bourgeois way, and the party used obstruction to prevent the introduction of laws it did not want and in order to wring universal suffrage from the government.[38] These actions were intended to use parliament, not to shut it down, and in practice obstruction was one of the means of reaching the goals the party wanted to achieve. In Germany this tactic was vindicated by

35 E.g. Koller, *Obstruktion*, p. 100.

36 Mark Twain, 'The Austrian Parliamentary System? Government by Article 14', *Lords and Commons* 25 February 1899, as quoted by Dolmetsch, *Famous Guest*, p. 79.

37 Émile Vandervelde, *Souvenirs d›un militant socialiste* (Paris 1939) p. 46: (in 1894) 'Vingt-huit députés socialistes, d'un bloc, pénétraient, comme par effraction, dans le Parlement le plus bourgeois de l'Europe. Ils y entraient avec le propos, nettement affirmé, de s'en prendre, sans ménagements, à toutes les institutions du régime.' Vandervelde also thought that the Belgian party could achieve more than its stronger German counterpart because of the more liberal nature of the Belgian constitution.

38 Jo Deferme, 'Van burgerlijke afstandelijkheid naar volkse betrokkenheid. De politieke cultuur van enkele socialistische mijnwerkers in het Belgische parlement, 1894-1914', *Brood & Rozen (*2004) I, pp. 11-29; Masson, *Obstruction*, pp. 119-127; Maarten Van Ginderachter, *Het rode vaderland. De vergeten geschiedenis van de communautaire spanningen in het Belgische socialisme voor WO I* (Tielt: Lannoo 2005) p. 192.

one of the most prominent (but also moderate) members of the socialist party. When the German socialist party obstructed parliamentary decision-making about one particular law around 1900, the revisionist socialist Eduard Bernstein explained that socialist obstruction differed from the Irish case, and that it was in fact a normal instead of a revolutionary parliamentary weapon.[39] It was hardly surprising that the British parliament had taken measures against Irish obstruction, Bernstein wrote, because this obstruction was directed against all parliamentary business. Socialist obstruction, on the other hand, was only '*Obstruction ad hoc*', directed against a single measure or law. It was not the dictatorship of a minority, on the contrary, it was the defence of legitimate minority claims against an oppressive majority. He even went a step further, by arguing 'that obstruction belonged to the nature of parliamentarism, which is not complete without the right to obstruction'.[40] Obstruction was seen as a weapon of last resort for minorities that were oppressed by a dictatorial majority.

Interestingly, Bernstein even used the power of the House of Lords in Britain as an example to defend his position. He said that by vetoing a measure, the House of Lords could, as it were, force a referendum on a certain issue because only the voters could decide what should happen in case of deadlock between the two houses of Parliament. He referred to the conservative leader Lord Salisbury, who argued along these lines.[41] Bernstein was right; according to recent research, 'the high Tory Salisbury was developing a theory of plebiscitary democracy as a check on an over-mighty executive.'[42] Salisbury came close to the arguments of the fourth position on obstruction laid out at the beginning of this article as defended by the Frenchman Leroy-Beaulieu, who also

39 Eduard Bernstein, ´Zur Bilanz des Kampfes gegen den neuen Zolltarif', *Sozialistische Monatshefte* (1903) I, pp. 1, 35-42, also for the next sentences. Cf. Elfi Pracht, *Parlamentarismus und deutsche Sozialdemokratie 1867-1914* (Pfaffenweiler: Centaurus Verlag 1990) p. 466 and passim, for the context of socialist obstruction and also for the attitude of the socialist parliamentary group in general.

40 Bernstein, 'Zur Bilanz', p. 37.

41 Ibidem, p. 38.

42 Jane Ridley, 'The Unionist Opposition and the House of Lords, 1906-1910', *Parliamentary History* 11 (1992) p. 238.

called for the introduction of a referendum to curtail executive power. The Lords even used the word obstruction, although in order to argue that they did not use it. 'What the House of Lords claimed', said the conservative unionist leader Lansdowne, 'was not the right to obstruct; it did claim and it meant to exercise the right of revising measures that came up to them from the other House of Parliament.'[43] He denied it, but what he said was the same thing socialists meant by using obstruction. Ironically, when the House of Lords used its veto power a couple of years later, it was against the progressive People's Budget of Lloyd George, and the outcome was a severe curtailment of the powers of the Lords.

Even if Bernstein's argument came close to conservative ideas of the same period and it came from one of the least radical socialists, his argument was not exceptional in socialist circles. In practical terms the same argument was used by socialists in the Netherlands in defence of their attempt at obstruction around 1910. They felt an obligation to obstruct, they said, because the majority refused to listen to their arguments in a particular parliamentary debate. The only thing they could do to gain attention was to use the means of obstruction. As they argued later, 'obstruction was the legitimate weapon of an oppressed parliamentary minority' – this echo of Bernstein's words may have been the result of the close connections between the Dutch and the German socialist parties. The Dutch socialist Johan Schaper seemed inspired by the methods of the Habsburg parliament when he threatened that inkpots would fly through the air. In practice, though, he limited himself to the classic means of technical parliamentary obstruction and the obstruction only lasted for a short period of time. He argued that, if it were used abundantly or as a normal political weapon, obstruction would 'denature' the parliamentary system. It was a symbolic protest against the attitude of the majority, and in that sense, it was also appreciated by liberal newspapers that did not normally support socialist politics.[44]

43 Lansdowne in 1906, quoted by Ridley, 'Unionist Opposition', p. 236.

44 Erie Tanja, *Goede politiek. De parlementaire cultuur van de Tweede Kamer, 1866-1940* (Amsterdam: Boom 2011) pp. 107-114; the socialist leader P.J. Troelstra in parliament in 1920; J.H. Schaper, *Een halve eeuw strijd. Herinneringen* II (Groningen etc. 1935) pp. 267-287; esp. 272, 284, 287.

This type of obstruction could only be the work of experienced members of parliament who knew the rules very well. It is probably no coincidence that socialists did not obstruct when they first entered parliament, but only after a while, when they understood the procedures, the atmosphere and the way to use the parliament. At first the question was whether parliament would accept these newcomers at all. In the Reichstag socialists were initially occasionally boycotted, and their speeches were sometimes hampered by the loud noises of their opponents. Although some socialists at first tried to change the tone of parliament by introducing the language and the behaviour of the common people—Wilhelm Liebknecht also famously attacked the 'comedy' of parliament—after a while socialists began to differentiate between the tone of mass meetings and that of the parliament. By using obstruction they wanted to show their adherents that they were still not a part of the aristocratic club and that they were still to a certain extent outsiders. At the same time, they could only use obstruction this way because they had become part of the parliamentary system and understood its rules.[45]

Were their tactics successful? Parnell and his Irish MPs were successful because their head-on collision with the British parliamentary system did not help them in Westminster but boosted their popularity in Ireland. The socialists, on the other hand, selected individual cases with which they could demonstrate the tyrannical nature of the ruling majority. Although they knew how to reach their audience by speaking out of the window, as the German and French phrase ran, and although they perhaps won some seats with their positions, their use of obstruction was not a resounding success. According to Georg Jellinek, the German 'Social Democrats decidedly overestimated the strength and energy of their public backing'.[46] Although even Jellinek acknowledges the socialists had gained many seats in parliament, he was probably right in downplaying the contribution of obstruction tactics to this electoral victory.

45 See besides Pracht, *Parlamentarismus und deutsche Sozialdemokratie,* Andreas Biefang, *Die andere Seite der Macht. Reichstag und Öffentlichkeit im System Bismarck 1871-1890* (Düsseldorf: Droste 2009) and Thomas Welskopp, *Das Banner der Brüderlichkeit. Die deutsche Sozialsdemokratie vom Vormärz bis zum Sozialistengesetz* (Bonn: Dietz 2000).

46 Jellinek, 'Parliamentary Obstruction', p. 586.

It is also clear that just pointing out the rude manners of the socialist newcomers from working-class backgrounds (as often happened) was not a valid explanation of obstruction. For instance, Dutch conservative analysts argued along these lines and dreaded aloud about the end of parliamentarism as it was known.[47] This was certainly the way their opponents depicted the obstructionists in many countries. As one of the obstructing Irish MPs said later: 'The comments in the British papers would make their readers think of them [the obstructing Irish] as illiterate rowdies; as a matter of fact, they were nearly all highly educated men.'[48]

That the newcomers lowered the level of parliament with their lack of inner refinement was an argument used to dismiss their criticism, but it is true that the newcomers did not automatically obey the rules of the aristocratic and upper-class milieu that had dominated parliaments during most of the nineteenth century. In the newcomers' eyes there were more important things to consider than the club's culture. The opponents of obstruction were probably right in stressing the importance of team spirit and the culture of the parliament as a club, but this did not necessarily have to do with social class, let alone with personal manners.[49] The literature on the U.S. Senate stresses the importance of the informal, relational club culture which relied on the norm of

47 E.g. W.J. Couturier, *Handhaving van de orde in parlementaire vergaderingen* (Den Haag: Brunt 1914) p. 54; also the remarks about parliamentary culture in Johan Huizinga, *Homo ludens. A study of the play-element in culture* Boston: Beacon Press 1955; original Dutch edition 1938); cf. Henk te Velde, 'Spelers en spelbrekers. De beschaving van de Tweede Kamer', *De Negentiende Eeuw* (2006) pp. 35-47.

48 O'Connor, *Memoirs* I, p. 146.

49 On the importance of the 'club', among other things, Thomas Mergel, *Parlamentarische Kultur in der Weimarer Republik. Politische Kommunikation, symbolische Politik und Öffentlichkeit im Reichstag* (Düsseldrof: Droste 2002); Biefang, *Die andere Seite,* pp. 215-231; Marc Abélès, *Un ethnologue à l'Assemblée* (Paris 2001); Christopher Silvester ed., *The literary Companion to Parliament* (London: Sinclair-Stvenson 1996); Te Velde, *Theater van de politiek*. Cf. on the U.S. also Donald Matthews, *U.S. Senators and Their World* (Chapel Hil: University of North Carolina Press 1960).

reciprocity.[50] The important thing was to know whether MPs regarded themselves as members of an extra-parliamentary party rather than a member of parliament itself. It was much easier to obstruct if you had not completely integrated into the group culture of parliament and had a primary audience outside of parliament. Committing obstruction was also playing to the gallery. This was true not only for the Irish but also for the socialists.

The End of Obstruction in Europe

The type of systematic obstruction introduced by the Irish emerged in the late 1870s and, for the most part, did not survive the First World War. The obstruction by National Socialists and Communists that Thomas Mergel describes for the Weimar Republic is something else than what the Irish MPs introduced.[51] It eventually brought the Reichstag to a complete standstill and was always violent action meant to destroy parliament. It was much more a *by-product* of the social action of these political groups, than the *cause* of social unrest, as sometimes was the case in the late nineteenth century when parliament was more the centre of politics than during the interwar period. Technical and simple obstruction was disappearing, and when it happened, it did not cause the anxiety that Irish and Austrian obstruction had caused earlier but was seen as just an isolated incident. Perhaps the antidemocratic obstruction of the interwar years removed obstruction of any kind as a legitimate parliamentary tool in Europe after the Second World War. In Western Europe the sober post-war parliamentary democracy did not accept obstruction by outsiders.[52]

As a general European phenomenon, violent and systematic obstruction belonged to a phase of the development of the parliamentary system, in which it had to cope with, on the one hand, the increasing

50 Wawro & Schickler, *Filibuster*, in particular.

51 Mergel, *Parlamentarische Kultur*, in particular part V.

52 See about the nature of this democracy e.g. Martin Conway, 'Democracy in Postwar Western Europe: the Triumph of a Political Model', *European History Quarterly* 32 (2002) pp. 59-84.

burden of legislative work and, on the other hand, newly emerging organized political parties. The growing role of the state with all the new legislation this entailed limited open debate. As Harrison pointed out, 'efficiency' was what the state now needed, not endless debates of an old aristocratic elite that saw the House of Commons as the best club in London. The emergence of organized obstruction was, on the other hand, related to the emergence of mass political parties and the broadening of suffrage rights. As the conservative liberal politician Robert Lowe, an opponent of obstruction, put it: 'there is the closest possible connection between the lowering of the franchise and the systematic and organized obstruction which now degrades and neutralises the House of Commons. The lower the franchise the more the voter is inclined to trust to mere numerical superiority, and to dispense himself from the necessity of thought and reflection.'[53] The implicit assumption here seems to be that the lower classes only thought about their direct self-interest, as opposed to the upper class which could stand above the fray. This is a misinterpretation of what really happened, which actually had to do with the change of the nature of parliamentary debate caused by the emergence of party organizations and the development of the government.

That so many lawyers and MPs dreaded the end of the parliamentary system was probably caused by their conception of the nature of parliamentary debate. They felt that this should be a sober but open exchange of arguments meant to find the truth and to reach compromises. The independence of MPs was a precondition for such a debate, and a severe curtailment of speaking time, let alone limiting this to the leaders of parliamentary parties was almost inconceivable, as was demonstrated by the time it took to convince a majority in the British parliament that the only answer to the Irish obstruction was changing the rules and allowing the 'clôture' of debates.

The new parties – of which the Irish and socialists were the most conspicuous examples – had often already decided what they thought about a certain issue before it reached parliament, and plainly said that they wanted to use parliament to reach their end; in their eyes parlia-

53 Sherbrooke (= Robert Lowe), 'The clôture and the Tories', *The Nineteenth Century* 11 (1882) pp. 149-156; esp. 154.

ment was a means, not an end in itself. In fact, at times the newcomers practiced that principle that parliament was a means by using obstruction in order to convince their rank and file that joining parliament was legitimate at all.

The American Practice

In order to further demonstrate that there was a close connection between obstruction and the change of parliamentary politics in Europe it is useful to compare briefly the European and American situations. Already in the nineteenth century, obstruction, or filibustering as it was called in the United States, was not unusual, although it was more of a problem in the House of Representatives than in the Senate. In the last decades of the nineteenth century, when obstruction appeared in European parliaments, it also grew in the American Congress; partly for the same reason as in Europe: because the increasing burden of legislation meant that time was scarce and thus the opportunities for obstruction multiplied. On the other hand, the condition of new and emerging mass political parties was not present, which suggests that, in general, the demands of the executive were perhaps an indispensable precondition for the emergence of the modern type of obstruction.

In the United States severe time limits were introduced in the House, and obstruction disappeared. The Senate maintained rather liberal rules, and when it finally introduced limits to debates, the result was the opposite of what one would expect. The new rules did not abolish obstruction in the Senate, but only regulated it so that eventually one did not even really have to filibuster to get what one wanted, but only had to use the threat of filibustering. This is the reason why a bill in the Senate has for quite some time now for all practical purposes needed a supermajority of three fifths of the members (which is what is needed to vote to end debate) instead of just a simple majority.

The Senate is an upper chamber, like the House of Lords or senates in a number of other countries. Normally these houses are rather quiet, but this is not the case with the American Senate. An important difference is that the Senate is based on a direct vote and on ac-

tive campaigning for a seat. There is thus a close connection between a senator and his constituency. According to recent interpretations, the increase in filibustering around 1900 was due to the rather sudden increase in the size of the Senate which loosened social control and team spirit.[54] Although these reassessments downplay the change in connection with the constituency, closer ties with the constituency after the introduction of direct election in all states in 1913 must also have played their part, at least in the long run. It has always been easier to commit obstruction without strong ties with the fellow representatives, and the urge to obstruct has more often than not been related to strong ties with one's constituency.[55]

Because mass political parties did not emerge in the United States during this particular period, American obstruction was not associated with a crisis of the parliamentary system to the extent that its European counterparts were. It was easier to use obstruction as almost an ordinary instrument of parliamentary politics. The German socialist Bernstein had tried to argue that European parliaments should also use obstruction in this way, but he did not succeed. Nor was the romanticism that prompted a prominent American constitutionalist speak about filibustering as 'physical sacrifice and in essence no whit different from trial by battle, the ordeal, the duel, war itself', ever copied by commentators on the parliamentary establishments in Europe.[56]

Conclusion

Obstruction has been institutionalized in the United States. This confirms Bernstein's argument that it could be a more or less ordinary tool of parliamentary politics. All literature on the subject demonstrates,

54 Wawro & Schickler, *Filibuster*, and Binder & Smith, *Politics or Principle.*

55 Binder & Smith, *Politics or Principle,* 46, say as much by implication about the early Senate which hardly knew obstruction: 'In this environment of low visibility, senators were unlikely to feel public pressure to filibuster measures they opposed. It would also have been difficult to use potential support for their positions to gain concessions from a chamber majority.'

56 Robert Luce (1922), quoted by Koger, *Filibustering*, p. 78.

however, that the instrument should not be idealized; it has almost always been used for party-political and opportunistic reasons. However, this is the nature of parliamentary action in general. In this sense, study of obstruction calls for a new study of the nature of parliamentary debate. What is its purpose, what is the purpose of recounting arguments in a plenary debate when more often than not one will not convince anybody, and also: what is a good *parliamentary* debate as opposed to a good discussion in a debating society? A nuanced answer to these questions would avoid simplicity: the changes at the end of the nineteenth century demonstrated clearly that the assumption that parliamentary debates could or should be akin to the pure playfulness of debating societies was flawed.

Even though contemporaries often interpreted obstruction this way, it was not by itself a sign of the degeneration of the parliamentary system. It was a sign that some functions of parliamentary debates came into conflict with others. Parliamentary debates have to fulfil many functions. They (1) have to come to a timely conclusion because governments need to act, (2) are used to legitimize government action, (3) fulfil the rhetorical function of addressing the audience of voters and party members outside of the parliament and (4) serve the dialectical function of trying to convince the opponents of one's arguments. If we really want to understand parliamentary debates, we have to take into account all of these functions. In the debate about obstruction around 1900, each one played a role. Most critics of obstruction argued that it destroyed function (4), some of them thought that the conclusion should be a strengthening of (1); and the obstructionists themselves took position (3).

It could be argued that parliamentary debate had never been the type of *choc des opinions* the Enlightenment had thought would miraculously lead to the 'truth' because considerations had always dominated the discussion. However, until the end of the nineteenth century, no organized parliamentary party addressed this issue systematically. The obstruction crisis could be interpreted as a sign of a clash between two forms of parliaments' legitimacy: legitimacy by government action and legitimacy by representing the people. Both asserted themselves in a new way at the end of the nineteenth century, the second one by the emergence of

well-organized, disciplined parties within parliaments. These two legitimizing methods conflicted, but at the same time, the combined action of a new type of executive government and the new presence of organized parties set limits on parliamentary debate. These changes both could be interpreted as consequences of growing democracy. In that sense the obstruction crisis demonstrated that the nature of parliamentary debate was changing with the advent of more democracy.