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Toward a Stricter Separation of Powers? Toward a Parliamentary Model? Or Does It Matter?

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DEBATE:

**TOWARD A STRICTER SEPARATION OF
POWERS? TOWARD A
PARLIAMENTARY MODEL? OR
DOES IT MATTER?**

TIMOTHY MURIS,* MODERATOR

It is a pleasure to be here to discuss separation of powers and whether we could have a better system than our divided government.

My own introduction to the difference between the legislative and the executive branches occurred when I was just out of law school. You may not remember, but in the summer of 1976, Americans faced the great canning lid crisis. Suddenly one could not buy canning lids. There were rumors, for example, that thousands of trucks with millions of canning lids were circling Indianapolis. Once prices went up these lids would be released to the market. Our elected representatives convened a hearing and demanded that the appropriate federal agency, which happened to be one in which I worked at the time, the Federal Trade Commission, do something. The congressmen explained that our job was to do what they told us. Congress wrote the statute and the FTC was to enforce it. I once had the stupidity to point out that all the statute said is that the FTC was supposed to protect against unfair methods of competition and unfair and deceptive acts or practices and that this was rather vague. I was told, "Young man, if you have a problem just call me and ask me what it means."

There are some things that I think need to be said often concerning Congress. One is that you can say "no" to them. This reminds me of what happened to a friend of mine after the stock market crash a few years back. If you remember that Monday the stock market went down some 500 points. He was essentially wiped out. All that day he tried to call his broker to get something done, and he could not get through. The next day he finally got through to his broker's secretary. The broker's name was Mr. Smith. He said he wanted to talk to Mr. Smith, and she

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said, "I am terribly sorry, it was too much for Mr. Smith. He died." So my friend hung up the phone. On Wednesday he called back again and asked to speak to Mr. Smith. The secretary replied, "I am sorry. He died." On Thursday, he called back again and she said the same thing and asked why he kept asking about Mr. Smith. He answered, "Well, I just like to hear you say it."

I have found that when dealing with Congress one knows that "no" is one of those things that needs repeating. Tonight's speakers, whom I have heard many times before, have many things that are worth saying. I am sure tonight they will once again live up to that high standard.

Let me introduce tonight's speakers. Lloyd Cutler, it is fair to say, is a Washington institution. He has been prominent both in and out of government circles. One of the most impressive things about Lloyd Cutler is his continual participation in public policy. Despite all of his years in Washington, which tend to make many people cynical, he still retains a belief in the importance of public participation.

Richard Epstein is one of the most prominent, dynamic, and important members of the academic community. Tonight he will have at least one substantial advantage—he will speak at least four words to every one of Lloyd's. In those words you will hear more ideas, and more *good* ideas, from Richard in a minute than most of us have in a week. Lloyd Cutler will go first.