
Obstruction in Ontario and the House of Commons

by Chris Charlton

In parliamentary government there is a constant tension between the government's right to govern and the opposition's right to oppose. But when does legitimate opposition become obstruction? This article examines some of the problems of defining obstruction and compares the incidence of obstruction using data from the House of Commons and the Ontario Legislative Assembly. Data used in the article are drawn from research for the author's doctoral dissertation on legislative obstruction in the House of Commons and the Ontario Legislature.

Sir Erskine May's seminal work on parliamentary procedure in Britain makes eight separate references to obstruction. The first six pertain to the rights of Members of Parliament, Officers of Parliament, petitioners, witnesses, and counsel not to be interfered with in the exercise of their duties before Parliament. All these can be classified as breaches of privilege and contempts; and thus constitute punishable offences. The other two, obstruction of the business of the House, and obstruction by prolongation of debate, are qualitatively different. These forms of obstruction occur within the framework of the rules, and as such can be practised by members with relative impunity.

A Member who "abuses the rules of the House by persistently and wilfully obstructing the business of the House", that is to say, who without actually transgressing any of the rules of the debate, uses his right of speech for the purpose of obstructing the business of the House, or obstructs the business of the House by misusing the forms of the House, is technically not guilty of disorderly conduct. It would seem, therefore, that a Member so obstructing the business of the House cannot be required ... to withdraw from the House for the remainder of the sitting. He may be, however, guilty of contempt of the House, and may be named.

Comparatively little use has been made of this power by the Chair.¹

Indeed, in Britain, there have only been four instances where obstruction has led to Members being named, none in the last seven decades.

Herein lies the difference between the two broad types of obstruction. Breaches of privilege and contempts are subject to punitive remedies which limit their impact on the overall legislative process, whereas obstruction of the business of the House escapes such remedies, and thus it is obstruction of the House, which must be understood in order to draw meaningful conclusions about the legislative process.

What is Obstruction?

While academic literature, both on the Ontario Legislature and the Canadian Parliament, is replete with references to obstruction of the business of the House, only C.E.S. Franks has offered a definition. He suggests that "legitimate dissent becomes obstruction when it has no other purpose than to delay, when it is not exposing weakness or moulding opinion, but simply preventing legislation from being passed"². Franks traces the roots of obstruction to "a change in the attitudes of the opposition to government business", and laments the increasingly slow pace at which the House of Commons processes the government's agenda.

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Although the Ontario Legislature and the House of Commons do not share the same rules of procedure, their overall legislative processes are strikingly similar.³ Both Houses follow the general framework developed in Great Britain. All bills require three readings.

First Reading refers to the introduction of a bill. It is tabled, printed and made public. A brief explanation of the bill may be given by the person moving its introduction, but no amendment or debate is permitted. *Second Reading* seeks approval of the bill in principle, and represents the first opportunity for debate. An affirmative vote on Second Reading is followed by detailed consideration of the bill in committee, which may either be done by a standing committee or the Committee of the Whole House.⁴ At this stage the bill is scrutinised and voted on clause-by-clause. Once approved in committee, the bill is then reported back to the House. *Report Stage* gives all Members of the House an opportunity to move and debate amendments, after which they are asked to concur in the committee's report. Once concurrence is granted, the bill then goes to *Third Reading* for a final, overall appraisal and vote. If that vote carries as well, the bill proceeds to one last stage which, by convention, has simply become a formality: it is given to the Queen's representative for *Royal Assent*. At that point, the bill becomes law, and takes effect on the proclamation date as set out in that law.⁵

Measuring Obstruction

One way to measure obstruction would be to look at the number of bills passed as a percentage of the bills introduced. If that percentage were less than 100%, a *prima facie* case could be made that the opposition had been successful at obstructing the government's agenda. In the federal House, the average percentage of bills passed was 79%⁶ between 1974 and 1993, whereas in Ontario that percentage was 75% between 1975 and 1995. In both legislatures, therefore, over one-fifth of the government bills introduced died on the Order Paper.

However obstruction alone cannot account for the discrepancy between the number of bills introduced and passed. Indeed just a few examples will suffice to make the point. As Bob Rae has noted there are all kinds of pressures from different sources to get legislation onto the parliamentary agenda.

Halfway through the life of the government in the winter of 1993, we were still doing far too much. Every minister had a pet project, which she or he wouldn't, and couldn't abandon. In addition, every ministry had its own policy shop determined to solve every conceivable problem with legislation, legislation, legislation.... The result was an agenda that was huge and almost impossible to manage.⁷

Yet managed it needed to be, and a new process was set up by the government to subject each emerging legislative proposal to the scrutiny of a newly formed House Management Committee.

The primary focus of this committee's work was to prioritize items on the Ministers' wish lists to create a manageable legislative agenda. A key criterion guiding this exercise was the perceived availability of House time for dealing with the government's legislation. This was highlighted in one of the committee's reports to Caucus:

The House will have a capacity to make progress on 40 legislative items at any stage during the Fall sitting; this represents a slight increase over the actual progress made in previous sittings. A larger capacity was not selected because, notwithstanding the rule changes, many items are quite controversial and most of the carryover bills have only received first reading. Note that the priority list of 40 items includes both new and carryover legislation; as well as items that are expected to receive progress at only one stage.⁸

A key constraint on the magnitude of the government's legislative agenda was thus the *anticipated* opposition to some of its priority initiatives which was deemed to reduce the available House time to deal with other matters. As a result, only 40 items were categorised as legislative priorities for the upcoming session, whereas 49 further initiatives were designated as non-priorities. To put this into the context of first readings, 41 additional bills would have been introduced, had the government not felt constrained by the opposition's ability to manipulate available House time. Indirectly, therefore, the opposition did have a significant impact on constraining the government's legislative agenda, although this fact could not have been gleaned from a simple analysis of the number of bills passed as a percentage of those introduced.

A purely statistical analysis may also over-represent an opposition's ability to influence the government's agenda. In the spring of 1990, the worst-kept secret around Queen's Park was that Premier David Peterson had decided to call an election during the summer. Yet in the last month of the Spring Sitting alone, the government introduced 29 new bills. There was, of course, no expectation that all of these bills would pass.⁹ Rather, their purpose was symbolic: If you want these bills passed, re-elect us. In fact, in this particular case, 24 of the 29 bills received no consideration at all beyond First Reading.

While this is not unusual in pre-election periods, it does highlight the problem of using the ratio of First to Third Readings as being indicative of an opposition's success at obstructing a government's program. If one examines the total number of bills passed in the 2nd

Table 1
Federal Government Legislation 1974-1993

| | 1974-79 30th Parliament | 1979 31st Parliament | 1980-84 32nd Parliament | 1984-88 33rd Parliament | 1989-93 34th Parliament |
|--|------------------------------------|---------------------------------|------------------------------------|------------------------------------|------------------------------------|
| Bills introduced at 1st Reading that were passed | 63.9% | 24.1% | 77.9% | 84.5% | 87.9% |
| Bills called at 2nd Reading that were passed | 91.7% | 58.3% | 93.8% | 96.0% | 98.1% |
| % of House time spent on 2nd Reading | 57.3% | 53.3% | 56.0% | 59.1% | 49.2% |
| Bills requiring less than 2 hrs debate at 2nd reading | 49% | 36% | 55% | 61% | 54% |
| Bills requiring more than 9 hrs debate at 2nd Reading | 16% | 18% | 15% | 16% | 10% |
| Average time per bill spent at 2nd Reading (hrs:min) | 5:02 | 3:53 | 4:28 | 3:49 | 3:31 |
| Average time per bill at report stage (minutes) | 172 | 38 | 323 | 141 | 135 |
| Average time per Bill spent in Committee of the Whole | 156 | 362 | 68 | 39 | 45 |
| Total time at Report Stage and Committee of the Whole | 30% | 43% | 34% | 23% | 26% |
| Eligible Bills sent to Standing Committee | 62% | 46% | 42% | 53% | 74% |
| Average time spent at 3rd Reading ((minutes) | 76 | 28 | 53 | 71 | 110 |
| Average House time spent on all stages of a bill's passage (minutes) | 535 | 473 | 489 | 392 | 435 |

Session of the 34th Parliament as a percentage of those introduced, then the value is 60%. If, however, one were to exclude the 24 bills that were introduced, but not passed, in the last month of that Session, then the percentage rises to nearly 80%. Surely a government's success at completing its legislative agenda cannot be measured by including bills that it never intended to pass. Or, put differently, an opposition's success at obstruction cannot be measured by including those same bills. The discrepancy thus inflates the actual impact that opposition parties had on the Liberals' legislative agenda, and must be taken into account when using First Reading analyses as being indicative of obstruction.

Only government insiders know for certain whether items introduced in the House were intended to receive further consideration. And without such information, it is impossible to draw accurate conclusions about an

opposition's impact on the government's legislative agenda from statistics on first and third readings.

Perhaps a more accurate picture of obstruction can be drawn by focusing on those bills that did receive consideration beyond their introduction. While calling a bill for Second Reading may not be a conclusive expression of a government's intent to see the legislation passed, it is a much more reliable indicator than the First Reading stage. Indeed, in both the federal House and the Ontario Legislature, the number of bills passed as a percentage of those called for Second Reading is 95%. No wonder that Canadian legislators deem the Second Reading stage to be "the high and decisive point of the [legislative] process".¹⁰

In part, the importance ascribed to Second Reading can be explained by the modern day reality that it represents the first stage at which a bill is subject to legislative

debate. It provides a legitimate forum for both government and opposition parties to stake out their positions on proposed legislation, and to use it as a launching pad for public education and persuasion. While such debate is technically limited to the principle of a bill, Chairs both in the House of Commons and the Ontario Legislature tend to be "indulgent of members whose remarks stray across the nebulous line between principle and detail".¹¹ Thus they uphold the potential for Second Reading to become the primary legislative forum for the articulation of the competing views espoused by political parties.

An equally significant reason for the importance attributed to Second Reading, however, arises out of an anachronism in House procedure. As John Stewart explains,

When the basic legislative process was evolving in England most public bills were what we today would call private members' public bills. The debate whether or not to have a bill read a second time came to serve as a final screen, after various coarser screens, such as the question on leave to introduce and the question on first reading, which then were debatable, to prevent weakly supported bills from advancing to the time-consuming committee stage. But the situation is very different now. It is assumed now that the government has the duty to take the lead in providing for the governance of the country, ... [and] the House has put most of its time at the disposal of the government. ... In other words, the House has arranged to have the decisions as to which bills are to go forward made in an entirely different way. Yet the Canadian House of Commons continues to use the second reading motion as if it were performing a genuine screening function.¹²

Thus, despite the fact that the Second Reading stage no longer serves its original purpose, it is still being treated by legislators as the most important stage in the entire legislative process.

Evidence of the significance attributed to this stage of the process can be found by looking at the amount of time spent on Second Readings as a proportion of the total time spent on all stages of a bill's consideration. Debates at Second Reading consume well over half of the total time spent on government business, both in the House of Commons and the Ontario Legislature. The only exception is the 34th Parliament at Ottawa, (1989-1993) but even it spent over 49% of its time on Second Readings. And, in Ontario, the average time spent at this stage of the process is closer to two-thirds of the total time. Second Reading clearly does dominate the entire legislative agenda.

That being the case, students of legislative obstruction would expect to find critical evidence at this stage of the process. After all, if Second Reading dominates the legislative agenda, and obstruction is an attempt by

opposition parties to have an impact on that agenda, it would follow that evidence of obstruction would manifest itself at this stage of the process. Indeed, Ned Franks pursues precisely this line of reasoning.

He draws on an analysis of time spent at Second Reading. "In 1969-70, thirty-four out of sixty-five government bills, or 52 percent, were debated for less than two hours at Second Reading. By 1974 this proportion had dropped to only three out of fifteen, or 20 percent, and it is still at this low level. ... This situation is not a satisfactory one".¹³ For Franks, therefore, the level of debate at Second Reading is indicative of the existence of obstruction, and by quantifying those levels, he has created a yardstick against which to measure the pace at which subsequent Parliaments have processed the governments business. If the levels have remained at the above levels, it would follow from Franks that obstruction has continued to exist.

Applying this test to subsequent Parliaments two things become apparent. First, Franks is wrong in asserting that the percentage of bills passed at Second Reading in less than two hours has remained at its 20 percent low. That figure, however, was only intended to show that, in the consideration of government business, obstruction had become worse. Thus, even the 1969 level of 52 % must be read as being indicative of obstruction. After all, Franks did suggest that the hostile attitudes of opposition parties has congealed by 1964, and by 1969 obstruction had already become the norm. Any data falling in line with the 52 percent range that he identified in 1969 must be read as evidence of obstruction. And indeed, for the five Parliaments starting with the 30th in 1974, the percentages of bills that were passed at Second Reading in less than two hours approximate Franks' threshold: the respective levels are 49% in the 30th Parliament, 36% in the 31st, 55% in the 32nd, 61% in the 33rd, and 54% in the 34th. *De facto* evidence of obstruction would thus appear to exist for the House of Commons.

Franks does not quantify an absolute level at which one can separate "normal" debate from obstruction. In the absence of comparative data from the early 1950s, one could be forgiven for thinking that the 61 percent level of the 33rd Parliament is far enough away from Franks' yardstick of 52 percent that obstruction may not have been a factor from 1984 to 1988. Here, however, the Ontario data prove illustrative. In Ontario, from 1975 to 1990, over 80 percent of all government bills passed Second Reading in less than two hours. The data are: 83% in the 30th Legislature, 90% in the 31st Legislature, 84% in the 32nd Legislature, 80% in the 33rd Legislature, and 80% in the 34th Legislature. It was not until the 35th Parliament that the level in Ontario dropped to 47 percent. By using these data in a comparative context, it

thus becomes possible to support Franks' conclusion that obstruction has indeed become the norm in the Canadian House of Commons, and to suggest further that, in Ontario, obstruction only became a factor after the 1990 election.

Further evidence of this conclusion can be derived from an analysis of the other extreme of Second Reading debates: those bills which took more than nine hours to complete. Since Franks' definition of obstruction suggests that it has no other purpose than to delay, it needs to be determined whether that objective is actually being met. After all, it is possible that all of the bills that required more than two hours of consideration passed Second Reading after two hours and one minute of debate. This would make Franks' conclusion suspect. Fortunately, however, a closer look at the data prove those fears to be groundless.

Beginning again with a look at the House of Commons, it becomes apparent that in every Parliament from 1974 to 1993 over 10% of all government bills required more than nine hours of debate at the Second Reading stage. In Ontario, by comparison, less than 3% of the government bills in each Parliament between 1975 and 1990 required that amount of time. In fact, 8 of the 17 Sessions in these five Legislatures had no bills in this category at all. Only in the 35th Legislature did that number rise to over 10%. And that, of course, would seem to confirm the earlier conclusion that obstruction did not emerge in Ontario until after the 1990 election.

One final set of data lends credence to this case. While thus far the discussion has focused on the percentages of bills passed at Second Reading within certain time frames, an analysis of the average length of time spent at this stage of debate leads to a similar conclusion. In each of the federal Parliaments from 1974 to 1993, the average length of debate at Second Reading was well over three hours. In Ontario, however, bills in each of the five Legislatures from 1975 to 1990 were debated, on average, for less than an hour and a half each. Not until 1990 does this average increase dramatically. In the 35th Legislature, the average length of debate on government bills at Second Reading increased to three hours and fifty-three minutes. Once again, therefore, it is not until 1990 that the Ontario Legislature appears to conform to the obstructionist norm which Franks would suggest is reflected in the federal data.

Analysis of Second Readings alone, however, cannot suffice to prove the existence of obstruction. After all, if obstruction has no other purpose than to delay and to prevent legislation from being passed, one would expect that opposition parties would use each stage of the legislative process to draw out the discussion of bills. If that were not the case, one would simply be able to

confirm that Second Readings merited increased attention because they were the high and decisive point of the legislative process. To prove the existence of obstruction, therefore, it is imperative to search for corroborating evidence at each of the subsequent stages of the legislative process.¹⁴

For purposes of tracing the existence of obstruction, therefore, the critical next stages for gathering evidence are the report stage and debate in Committee of the Whole. In all but one of the five federal Parliaments, it would appear that referrals to a standing committee have not precluded opposition parties from pursuing lengthy debates on the floor of the House at Report Stage.

Since the standing committees provide ample opportunity for legislation to be scrutinized in detail, one would expect that a "short" debate upon a bill being reported back to the House could be concluded in less than an hour. And yet, between 1974 and 1993, more than 30% of all bills coming out of committees required in excess of one hour of debate. In fact, over the whole period, almost 10% of such bills were considered for more than nine hours. In the earlier discussion on Second Reading debates, a statistic of that magnitude was deemed to be conclusive in proving the existence of obstruction. If that case could be made persuasively for the "high and decisive point of the entire legislative process", then surely it applies with equal force to a stage that was intended to be but a short part of the process.

Ontario's rules of procedure do not entail the automatic referral of legislation to standing committees that Ottawa adopted in 1968. In this respect, the process in Ontario mirrors the conditions prevailing in the House of Commons prior to committee reform. While this is not to suggest that data drawn from Ontario will be an exact representation of the pre-'68 House of Commons, they likely do portray a reasonable approximation. If anything, they may under-represent the amount of time spent at Committee of the Whole. Ontario's emphasis on Second Readings leaves even less time for debate at subsequent stages than does the House of Commons.

Since the Report stage in the Ontario Legislature is "almost invariably *pro forma*" it is Committee of the Whole which in fact becomes the forum where the work of standing committees is reviewed. Thus, in Ontario, Committee of the Whole encompasses all of the debates which in the federal House are delineated by two separate stages of the process: the Report stage and Committee of the Whole. For comparative purposes, therefore, data from Ottawa's several stages need to be combined in order for them to be consistent with Ontario. And, when that analysis is undertaken, it is clear that the committee reforms did not reduce the total percentage of House time consumed by debates between Second and

Table 2
Ontario Government Legislation 1975-1995

| | 1975-77 30th Legislature | 1977-81 31st Legislature | 1981-85 32nd Legislature | 1985-87 33rd Legislature | 1987-90 34th Legislature | 1990-95 35th Legislature |
|--|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|
| Bills introduced at 1st Reading that were passed | 66.7% | 85.3% | 78.5% | 61.3% | 77.9% | 78.9% |
| Bills called at 2nd Reading that were passed | 92.4% | 97.8% | 97.6% | 92.9% | 98.3% | 95.9% |
| Percentage of House time spent on 2nd Reading | 62.7% | 65.3% | 64.3% | 63.3% | 65.4% | 66.2% |
| Bills requiring less than 2 hours debate at 2nd Reading | 83% | 90% | 84% | 80% | 80% | 47% |
| Bills requiring more than 9 hours debate at 2nd Reading | 1.6 | 0 | 1.7 | 2.8 | 2.6 | 10.3 |
| Average time per Bill spent at 2nd Reading (hrs:mins) | 1:08 | :49 | 1:20 | 1:37 | 1:25 | 3:53 |
| Total time spent at Committee of the Whole | 37% | 34% | 33% | 38% | 27% | 15% |
| Eligible Bills sent to Standing Committee | 4% | 9% | 12% | 17% | 24% | 38% |
| Average time spent in Committee of the Whole | 75 | 57 | 97 | 95 | 81 | 163 |
| Bills that by-passed Committee of the Whole | 42% | 55% | 57% | 52% | 56% | 65% |
| Average time spent at 3rd Reading | .5 | .5 | 4 | 14 | 10 | 68 |
| Average time spent on all stages of a bill's passage (minutes) | 107 | 73 | 121 | 155 | 129 | 355 |

Third Readings. In Ontario, an average of 29% was taken up by debates at Committee of the Whole, and in Ottawa, the Committee of the Whole and Report stages together took up 31% of the time. Even if data from the 31st Parliament are excluded because they represent only eight bills, the percentage in the federal House is still at 28%. Clearly, committee reforms in the House of Commons have not achieved any significant savings of time on the floor of the House. As Franks puts it:

Regardless of the hopes reformers might have had, standing committees have not noticeably reduced the pressures of time in the House. Debate ... is still prolonged, repetitive and unproductive. Whatever the satisfaction committee members might have found in the examination of legislation in the standing committees, this had little impact in the House itself. Although members from all parties might be happy with a piece of legislation in committee, other members of the opposition caucus might be less happy when it reaches

the House and would insist on having their say then. ... As long as the opposition has nothing to gain by expediting business, and the government is unable to impose some discipline on the parliamentary timetable, this problem will remain regardless of improvements made to committees.¹⁵

And since obstruction is defined by Franks as having no other purpose than to delay, continued long, repetitive and unproductive debates are a tell-tale sign that obstruction has continued to exist in the House of Commons.

In Ontario, obstruction at Committee of the Whole is not as readily discernible. In part, this can be attributed to the absence of automatic referrals of bills to standing committees after Second Reading. An average of less than 17.5% of all government bills were sent out to committee between 1975 and 1995, compared to 55.4% of bills in the federal House from 1974 to 1993. In Ontario,

it was thus inevitable that those that did go to committee represented "the most contentious and most significant in the government's program".¹⁶ That being the case, one would expect that debates on such bills would be lengthy, even in Committee of the Whole, and it would be difficult to suggest that such debates are indicative of obstruction. After all, even Franks concedes that "the opposition must have the opportunity to examine legislation, expose weakness, and allow opinion to form".

Conversely, in almost every Ontario Legislature from 1975 to 1995, more than 50% of the government bills that eventually were enacted, by-passed altogether consideration in Committee of the Whole. That, of course, is not possible in the House of Commons, where every bill must be dealt with either in Committee of the Whole, or at the report stage of the process. For students of legislative obstruction, therefore, a more fruitful line of analysis flows out of Third Readings, where federal and provincial procedures are once again the same, and where relevant comparisons allow themselves to be made.

Third Reading

In both the House of Commons and the Ontario Legislature, one would expect Third Readings to be simply *pro forma*, since neither Parliament allows amendments to be made at this stage of the process. While technically it would be in order to move that a bill be sent back to committee with instructions to make specific amendments, such motions, which once were quite common, are all but unknown today. Third Readings thus have evolved into a stage for "rubber-stamping" decisions made elsewhere in the process. Since they do not affect the legislative outcome, debates at this stage of the process are generally deemed to be entirely unproductive. And, according to Franks, of course, unproductive debates are always indicative of obstruction, since they serve no other purpose than to delay the passage of a bill. It is little wonder, therefore, that Franks is convinced that "any debate at Third Reading is a sign that obstruction exists".

While Franks, once again, has offered a yardstick for measuring the existence of obstruction, it may seem extreme, at first, to interpret that yardstick literally. After all, "any" would suggest that even a single sentence spoken in support of a bill would constitute obstruction. While that likely was not the original intent, it nonetheless proves worthwhile to pursue that line of analysis. Both in the House of Commons and the Ontario Legislature, a significant number of bills in fact were not subject to "any" Third Reading debate. In Ottawa,

between 1974 and 1993, a total of 330 bills fall into that category, accounting for 41% of all bills passed, whereas in Ontario, between 1975 and 1995, the figures are 1,007 bills, or 82%. These percentages are hardly insignificant, and they speak to the fact that it is indeed possible for bills to pass Third Reading without "any" debate. Conversely, however, these data also demonstrate that 59% of federal bills and 18% of provincial ones fall into the category that Franks deems to be indicative of obstruction.

In light of these latter percentages, one may well wonder why as recently as 1989, Graham White was able to conclude that, in the Ontario Legislature, debate at Third Reading was still unusual. While 18% does indeed represent a minority of the overall legislation, the figure is hardly insignificant. And yet, rather than undermining Frank's general observation, White's analysis in fact points to the veracity of an earlier contention: obstruction in Ontario did not emerge until after the 1990 election. Only when the 18% are broken down by Parliament does a true picture of obstruction emerge.

White suggests three categories for analyzing the time spent at Third Reading: bills that required no debate at all; bills that required fifteen minutes or less; and bills that required more than fifteen minutes. The average length of time spent on Third Reading debates is less than 15 minutes in each of the five Parliaments prior to 1990: half a minute in both the 30th and 31st Parliaments, 4 minutes in the 32nd, 14 minutes in the 33rd, and 10 minutes in the 34th. But in the 35th Parliament, the average time spent at this stage of the process was over a full hour, or 68 minutes of debate.

Clearly, in each of these instances, the 35th Parliament stands out as the exception that proves White's rule. Debate at Third Reading in Ontario was indeed unusual up until 1989. Only after 1990 were the majority of bills subjected to lengthy Third Reading debates. While, according to Franks, that in itself is indicative of the existence of obstruction, a comparison with the federal data from 1974 to 1993 lends credence to that assertion by showing that the provincial data from Ontario's 35th Parliament are entirely consistent with the period in the federal House where obstruction was said to be the norm. In Ontario, only 33% of all bills required no debate at Third Reading, whereas in Ottawa, the average over the five Parliaments was 41%. Fifty-three percent of the bills required more than 15 minutes of debate in Ontario, whereas 49% fell into that category federally; and while the average length of Third Reading debates was 68 minutes in Ontario, it was 78 minutes in Ottawa. If Franks is thus correct in asserting that obstruction has become the norm in the Canadian Parliament, then one can only

conclude that the same thing has become true for Ontario's 35th Parliament.

Conclusion

In the federal House, from 1974 to 1993, the average amount of House time required for a bill to become law was 7 hours and 45 minutes. From 1975 to 1989, the average time in Ontario was 1 hour and 57 minutes. Only in the 35th Legislature did the time spent in Ontario once again come to approximate the data from the House of Commons: from 1990 to 1995, the average time required was 5 hours and 55 minutes. And if delay is a measure of obstruction, then the 35th Legislature again fits Ottawa's mold.

What the foregoing analysis makes clear, is that it is indeed possible to build a quantitative case to prove the existence of obstruction. By building on the data offered by Ned Franks, it is possible to update his analysis to show that obstruction has remained the norm in Canada's House of Commons, and to suggest even further, that obstruction has also emerged in the legislative process of Ontario, albeit not until after the election of 1990. The only prerequisite to building such a case is to apply, uncritically, the criteria drawn from Franks. For if one challenges those assumptions, the proof is much less definitive. But that potential distortion is the subject for another article.

Notes

1. Sir Charles Gordon, ed., *Ersine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 20th ed., (London: Butterworths, 1983). p. 446.
2. C.E.S. Franks, *The Parliament of Canada*, (University of Toronto Press: Toronto, 1987) 131.
3. For a detailed review of the legislative processes in the House of Commons and the Ontario Legislature see John Stewart, *The Canadian House of Commons*, (McGill Queens University

Press: Montreal, 1977) Chapter 4, and Graham White, *The Ontario Legislature*, (University of Toronto Press: Toronto, 1989).

4. In 1994, the House of Commons adopted rule changes allowing a bill to go to committee after First Reading, before it had been approved in principle. Since this article is limited to the period of 1974-1993 federally, that change is of little consequence for the study at hand.
5. In Ottawa, all bills need to pass Third Reading in identical form in both the House of Commons and the Senate. Since the Ontario Parliament does not have an Upper House, the comparative focus of this study will limit itself solely to the legislative processes of the House of Commons in Ottawa and the Legislature in Toronto.
6. This calculation does not include the 1979 minority government of Joe Clark, since it was aborted prematurely when the government lost the confidence of the House and an election was called.
7. Bob Rae, *From Protest to Power*, (Penguin Books: Toronto 1996), p.236.
8. House Management Committee, Presentation to the NDP Caucus Retreat in the Fall of 1992, 1.
9. Interview with Jim Bradley, MPP (St. Catharine's), Nov. 25, 1996.
10. Stewart, *op. cit.* p. 83.
11. White, *op. cit.* p. 124.
12. Stewart, *op. cit.* p. 83-4.
13. Franks, *op. cit.* p. 130.
14. The one exception to this imperative is the review of government bills by standing committees. Admittedly, such an exception likely seems counter-intuitive at first. After all, bills that are sent to a standing committee generally receive more attention in that forum than in all other stages of the process combined. One would thus think that committees represent the ideal forum for the deliberate prolongation of debate. And yet, standing committees to date have not been a strategic focus of opposition attempts at obstruction.
15. Franks, *op. cit.* pp. 170-1.
16. White, *op. cit.* p. 129.