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# Reforming the House of Commons: Lessons from the Past and Abroad

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by Christopher Garner

*Polls reveal that a majority of Canadians think Parliament is not working, and that they are wholly dissatisfied with politics. Such levels of dissatisfaction causes those concerned with parliamentary democracy to worry about its current and future effectiveness. This article argues that Canadian reforms have looked far too often at reforming the overarching principles and institutional structures of parliament, ignoring those parts that work well and focusing on those with which we see problems. This article looks at some moderate reforms to the procedures of the House that can be effective in making for more effective government and opposition.*

Gladstone is said to have reminded the House of Commons that "Honourable members are summoned to this place not to legislate or govern, but to be the constant critics of those who govern." Put another way, the principle function of the House is to call ministers to account thereby securing full discussion and ventilation of all the issues of the day. This same idea is echoed in works by Canadian political scientists and constitutional scholars as they outline with precision the principle ideas of responsible government.

Underlying responsible government is the idea that the House can hold the government to account effectively. That is, the House ought to have the power, through procedural channels, to scrutinise and criticise government policy, ministers, and actions. Thus, a fine balance must be maintained between the right of the government to govern, and those of the opposition parties to oppose. However, when former Prime Ministers suggest that MPs are simply 'trained seals' or 'nobodies once [they are] twenty minutes away from Parliament Hill' it becomes easy to question the operation of balance in the

House. This questioning is easily furthered when we hear of the government using closure rules to limit debate.

Has Canada's form of parliamentary responsible government become one of government omnipotence, prime-ministerial rule and unaccountability? Some might answer in the affirmative to such a question. Balancing the right of governments with those of oppositions is not an easy business (especially as politics is inherently and overtly about power games), but it is still the foundation upon which our parliament rests. Losing sight of this has, arguably, cost a lot of time and effort in past reform attempts, and perhaps has even added to the perception that Canada's parliament is in a state of decline.

The reform process in Canada has acted much like a pendulum, swinging between changes that aim to increase the power of government in executing its business more rapidly and effectively, and those seeking to empower parliament (especially backbenchers) while concomitantly decreasing the powers afforded to government. This centrifugal pull has done little for the implementation of a long term reform effort.

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## Lessons from the Past?

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If we take 1968 as our point of departure we can observe clearly the swing of this pendulum toward the government's advantage. In 1968 the Liberal government followed the recommendations of the Standing Committee on Procedure and adopted regular sittings of the House and revised the list of standing committees in accordance with the 'shadowing' of government departments.<sup>1</sup> These reforms effectively reduced the log-jam that was being made by government business stalled on the floor of the House, through redirecting all government bills to standing committees that could examine the bills and report back to the House at a later time. However, investigations into the operation of these committees between 1968 and 1976 reveal that they were largely ineffectual, and plagued by high-turnovers in membership and low attendance. Moreover, efficiency in dispensing with government business, not effective opposition, was the result – a result that only added to debate at a time when people were asking whether parliamentary government was developing into a prime-ministerial dictatorship.

It took a time of bitter partisan conflict for the next reforms to the House to be effected. In 1982 following the infamous 'bell ringing' incidents, the Special Committee on Reform of the Standing Orders (the Lefebvre Committee) was struck. Among the items dealt with in the committee's reports were:

- the fixing of an annual calendar for House sittings and recesses;
- elimination of night sittings of the House;
- reduction of speeches to twenty minutes;
- election of the Speaker;
- reduction of the size of standing committees, tighter regulations on membership substitutions and attendance; and
- the creation of legislative committees to review government bills.

These reforms were accepted in principle and implemented in their entirety on a provisional basis in 1983, as were moderate reforms to the procedures for voting in the House, thus reducing the prospect of parties using the division bells to delay House business indefinitely.

While the above suggested reforms would not present an affront to the principles of responsible government, the general theme of the Lefebvre committee moved in that direction. This theme is evident throughout the report, and can be summed up as a desire to reduce the control government has over the House through enhancing

the role and authority of the private member. This theme was very much influenced by the changes in procedure and general backbench behaviour that were taking place in the UK.

*Since 1970 Westminster has experienced an upsurge in dissenting behaviour by backbench MPs on both sides of the House.*

Governments were being forced to back down on a number of policies under the threat and, increasingly, actual experience of defeat on the floor of the House. Moreover, in 1979 the committee system was reformed. From this time onward Select committees would 'shadow' government departments, and most importantly, they would scrutinise departmental estimates and activities under broadly defined terms of reference.

The Lefebvre committee made note of these changes, believing that Canada's House of Commons should move in the same direction. In order to achieve this goal they believed institutional reform was necessary. Changes to parliamentary procedures were to be antecedent to behavioural change, and with this parliament would be empowered. The pendulum would swing away from government, to the advantage of the private member. Unfortunately for the Lefebvre committee, the 32nd parliament was quickly coming to an end, and with it the opportunity for reform.

The McGrath committee picked up the theme of macro-level reform of the House, seeking to change the rules of engagement between government, opposition, and private members. In the report, James McGrath stated his committee's objective as follows:

The purpose of reform of the House of Commons in 1985 is to restore private members an effective legislative function, to give them a meaningful role in the formation of policy and, in so doing, to restore the House of Commons to its rightful place in the Canadian political process.<sup>2</sup>

There is no doubt left in the mind of the reader of the *Final Report* as to the committee's attempt to push the pendulum of power back toward parliament through the empowerment of the private member. Many allusions to the 'golden age of parliament' are invoked, as is the idea of the private member as not only an effective scrutineer of government policy but as an effective 'legislator'. This allusion is bolstered further by many references to the changes in attitudes and actions of British MPs throughout the 1970s.

Arguably the only successes of McGrath, in terms of House business, were those changes made to the committee system and the procedures for dealing with private members' bills. These reforms, in themselves, are laudable and amounted to notable changes in the structure of parliamentary scrutiny. They should not, however, overshadow the greater problems that lie within the McGrath report.

First, though McGrath looked toward the 'golden age' when private members voted free from party constraints, the committee did not stop to consider whether it was eluding to myth or reality.<sup>3</sup> Secondly, and perhaps most importantly, McGrath's use of the British example was misguided in suggesting that Canada's MPs should imitate their British counterparts. The *Report* suggests a number of institutional reforms that should (they suggest) invoke a change in behaviour, along with a change in the attitudes held by governments and MPs. This approach puts the proverbial cart before the horse.

The attitudes and behaviour of British MPs was not simply the product of changes in the institutions of Westminster. In fact, no institutional change occurred until after the behavioural change was already evident. Changes to the behaviour and attitudes of British MPs was far more deeply rooted and systemic than that. Change resulted due to weak party leadership in a time of crisis, and was arguably a function of the career patterns of British MPs, stronger local constituency organisations and the development of a personal vote in 'safe seats', as well as the sheer number of private members in the House.

Needless to say, those changes which were implemented from the McGrath reports have not achieved a shift in attitudes nor behaviour of MPs and governments. In this exercise the McGrath committee fell short of the mark.

The next notable changes swing the pendulum back toward government. On February 7th, 1994, the Liberal government adopted a procedure which allows committees to examine bills prior to second reading. This procedure consolidates second reading and the committee report debate and vote, therefore displacing an important stage in the legislative processes and placing it off the floor of the House.

At first glance this change seems to enhance the scrutiny powers of the House through giving standing committees the ability to debate the principle of bills, therefore allowing a greater range of amendments free from previous restraints. However, there are serious questions that need to be addressed in regards to the operation of this system. First, how often and with what effect do standing committees amend bills such that the principle is affected? Are the whips off, or are these com-

mittees' hearings moribund by party discipline? Has this change simply enhanced the expediency of government legislation at the expense of opposition scrutiny?

What, if anything, can we learn from these past efforts at reform? First, it would appear that a government is unlikely to make changes that are not a net benefit to itself; especially if these involve a wholesale weakening of its place in the parliamentary system. The reforms adopted in both 1982 and 1985 attest to this point of view. Moreover, this is what is so impressive about the Reform Party's action on June 8, 1998, forcing government to accept what might seem like a small concession helps to redress some of the imbalance between the government and those seeking to scrutinise.<sup>4</sup>

### **Lessons from across the pond? The Select Committee on Modernisation**

Should we be looking to the UK for answers to Canadian problems? Advocates of this comparative approach suggest that because the British and Canadian parliaments represent like-systems there are many lessons we can learn from such an examination. This is true. In fact, my own academic work often leans in this direction. However, if we are going to use such an approach it must be tempered by the realisation that it is impossible to transplant institutional change, never mind the attitudes and behaviour, of one country onto the other in a wholesale manner. The following discussion of the Select Committee on Modernisation of the House of Commons will demonstrate that while we can use Westminster as a model, often the two countries have taken different routes in parliamentary practice with the UK sometimes trailing behind that of Canada.

### ***The 'New' Labour party of Tony Blair was elected to government with a broad mandate for constitutional and parliamentary reform.***

Scottish and Welsh devolution, Local government reform, electoral and House of Lords reform are just a few of the topics included in Labour's manifesto. Thus far the New Labour government have made significant movements on Scotland and Wales, reformed the electoral process for European parliamentary elections, and held a referendum on the desirability of an elected mayor for London. Furthermore, discussions are ongoing regarding reforms to the House of Lords.

Complimenting these moves is the Select Committee on Modernisation of the House of Commons. This com-

mittee's terms of reference do not suffer from macro-itis as did McGrath's. Rather the terms of reference emphasize procedural change thus:

[a] Select Committee of fifteen Members be appointed to consider how the practices and procedures of the House should be modernised, and to make recommendations thereon...<sup>5</sup>

This committee represents all parties within the House and is chaired by the Labour government's House leader, the Rt. Hon. Ann Taylor.<sup>6</sup> The committee has two full-time committee clerks assigned to it and can call upon special advisors at anytime. One of the most interesting elements of this committee's aims is its desire to survey the members themselves, in order to get both feedback and direction from those who will be affected most by any changes to the House rules. So far, this approach seems to be taking the committee in interesting directions as a majority of the members of the present House are novices.

As of August 1998 the Select Committee had made a total of seven reports in just under a one year period. These reports embody a number of topics, including discussion of the decorum in the House, voting procedures, the carry over of bills from one session to another, and the scrutiny of European Union legislation. These reports emphasize workable, micro-level changes to procedures which the committee believe will have a broader effect on the manageability and effectiveness of the House. Table 1 outlines some of the recommendations, and notes their adoption by the House.

Readers may note that many of the items listed in Table 1 have already been implemented in Canada: items 2, 4, and 6. Thus, in this regard it would seem as though the UK actually trails behind Canadian procedural reform. However, this should not derogate the point, that being that the reforms embodied in the Modernisation committee's reports are those which emphasize movement in the procedures of parliament—not grand scale design and attitude ideas. As Michael Ryle, a former Table Officer of the House of Commons at Westminster, suggests, such procedural tinkering has often resulted in change of a greater magnitude than expected, while safeguarding the balanced principle of responsible government.<sup>7</sup>

Finally, perhaps the most interesting of all the Modernisation committee's reports is that of 9 March 1998 (fourth report), where they discuss the rules and procedures for the conduct of members in the House. The objective of this discussion is to raise the public's opinion of the House through symbolic change, and to make greater use of that most scarce resource: time.

Here the emphasis is placed upon the office of the Speaker in limiting member's speeches to a maximum of

ten minutes, while allowing extra-time to compensate for interventions by other members; leaving to the Speaker's discretion whether or not to give precedence to Privy Councilors in debate; and giving the Speaker's office the ability to withhold a member's salary for a set period if that member has 'been named' (i.e. suspended from the House). These proposals certainly aid in the use of time on the floor of the House, without aiding and abetting in the expediency of business for the government party, as they leave the ultimate decision to the Speaker.

Table 1:  
Modernisation Committee's Recommendations

Recommendation	Rationale	Accepted (Y/N)?
1. Explanatory notes to bills.	Clearer notes for easy reference, comprehension and information.	Y
2. Pre- and Post-legislative scrutiny of bills.	"The time is ripe for change. [MPs] want to see a more effective legislature, more input into the legislative process..."	Y
3. Committees should be able to sit throughout a House recess.	This will alleviate time constraints, and add to the effectiveness of scrutiny.	N
4. Carry over of bills from one session to another, by the process of a 'Suspension motion'.	"We do not see this as an expedient to be resorted to if the government were to lose its grip on its own legislation... [rather] to spread legislative work more evenly..."	Y
5. Voting system: technology	A number of electronic systems considered, none proposed. Rationale is simpler voting, and ease of congestion in lobbies.	N
6. Voting: Abstentions	Abstentions should be recorded in Hansard as a matter of principle.	Y

On a more symbolic level, especially where the media and public are concerned, the report reiterates that such behaviour as "hissing, chanting, clapping, booing, exclamations or other interruptions... are not permissible." Nor is the reading of one's speech. To add teeth to this recommendation the committee suggests that the Speaker should actively discriminate against those members who cause a disruption during speeches and debates, refusing to call upon them when they wish to speak.

Canada's members would do well to note the Modernisation committee's recommendations on behaviour in the House as it is far too often one reads in the paper, or sees on the television, the failure of members of Parliament to observe rules of decorum. Moreover, during a recent visit to Parliament Hill I noted that the reading of questions and speeches has become something of a dominant practice in the present House. As one experienced member expressed to me, "it is a sorry state of affairs when the issue of the day, an issue you are supposed to feel passionately about, has to be written down so you can refer to in case you forget what it is."

### **The Many Roads to House Reform**

Perhaps the most revealing point to come out of the above discussion is that of utilising micro, as opposed to macro, methods of reform. It would seem from the British experience that micro-level changes (i.e., changes in procedural rules of the House which do not aim to change behaviour and precedence en masse) are often accepted by governments and can have noticeable effects. Second, macro reform tends to lead to a desire to swing the pendulum too far back towards some mythic golden age.

Thirdly, and following from the last point, Canada's 'reformers' have often misinterpreted the UK experience in their attempts to mimic it. In particular, the greater independence of MPs that they observe in Westminster is more a function of variables outside of, and quite apart from, the institutions of parliament. As such, this independence in behaviour and attitude developed prior to institutional changes, not before.

Where does this leave us? A discussion such as this would not be complete without some form of proscription. Two general points can be made. First, the decline in public confidence and respect for Canada's political institutions and politicians implores us to look seriously

at how we can stem this decline, and perhaps set it off in a positive direction once more. The most obvious, and perhaps easiest, way to achieve this is thought symbolic change such as raising the decorum in the House. This will take self discipline by members and will mean the end of such stunts as the recent flag waving incident. Perhaps it will take some of the fun out of the political game, but it would be a welcome change for the public.

Second, effective reform should take the form of small changes that balance the rights of both government and opposition parties, ensuring the management of House business and effective scrutiny of that business. Moreover, reform attempts should be made in consultation with MPs themselves, and with all parties.

If we aim toward reasonable changes at the procedural level and raise the level of decorum in the House by a couple of notches, Canada's House of Commons will begin its journey on the road toward recovery.

### **Notes**

1. Canada, House of Commons, Special Committee on Procedure, 1968, *Third Report*, para. 12.
2. Canada, House of Commons, Special Committee on the Reform of the House of Commons. James A. McGrath, Chairman, *Report* (June 1985).
3. Gary Cox *The Efficient Secret* (Cambridge: Cambridge University Press, 1987).
4. On June 8, in the absence of any Liberal MPs in the chamber, the Reform Party passed a motion aimed at preventing the government from cutting off debate through the use of time allocation and closure rules. Holding these rules hostage, the Reform Party was able to extract concessions from the Liberal Government. In particular, the Liberals have agreed to add two more Supply Days to the parliamentary calendar.
5. House of Commons, Parliament, *Hansard*, 4 June 1997; The reports of the Select Committee on the Modernisation of the House of Commons can be found at <http://www.parliament.uk>.
6. After a recent cabinet reshuffle, Ann Taylor has been promoted to the Office of the Chief Whip. Replacing her as the Committee's chair, and as Leader of the House of Commons, is Mrs. Margaret Beckett. The Committee is yet to resume sittings after the Summer recess.
7. Michael Ryle "Recent Procedural Changes in the Commons" *Parliamentary Affairs*, v. 44 no. 4, October 1991, p. 470-480.