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# *Politics and Procedure in a Minority Parliament*

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by Chuck Strahl, MP

*The minority government elected on June 28, 2004 will force everyone to rethink how the parliamentary system works. This article looks at some new realities facing legislators, standing committees, parliamentary and governmental officials, lobbyists and everyone who deals with Parliament.*



**W**e have to start by remembering that old adage: you have to deal with things the way they *are*, not the way you *wish* they were. This is especially true in a minority Parliament, with all its intrigue and tension, political posturing and real drama. Historically, the country has muddled through its share of minority governments, but none in recent times. Thus our elected officials have only

theoretical knowledge and zero practical experience about how to handle this situation. So the potential for misunderstandings, improper reactions and even out-and-out political blunders in our nation's capital is considerable.

Even so, it now appears that all of the official parties represented in the House of Commons have concluded that the electorate actually meant it when they gave 'none of the above' a decisive mandate for the 38<sup>th</sup> Parliament. Making it work – at least for awhile – is now everyone's stated intention, and that may well break new

ground for our democratic system in this first part of the 21<sup>st</sup> century. It will certainly not be business as usual.

## **Five realities of minority Parliament**

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First, the last election never really ended, and the next one has already begun. This has always been the case for a few political operatives in Ottawa but now it is truly the prism through which everything should be viewed. MPs and political parties have one eye on the business of the government and the other on the business of campaigning. Since the next election can happen at any time (either by connivance or by accident), votes, policy decisions, press releases, statements, motions and Bills will frequently have both a policy and a partisan *raison d'être*.

Secondly, all MPs want to be part of the next government, but they do not want to be blamed for forcing an election. This is the political equivalent of "everyone wants to go to heaven, but nobody wants to die". Political parties and MPs will be pushing for their ideas and policies harder than usual, but they will always be thinking about the electorate's reaction to their decisions. Push too hard and there could be an election, and if that happens, the writ could be nailed to your political coffin.

Third, backroom deals and tradeoffs will be standard fare on this minority diet. This is a consequence of the second reality, and added to that (for the same reason), any decisions that can be made at the executive level will be made there – privately – rather than in the messier and more public route of Parliament. That is why we have already seen executive deals on Health care fund-

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ing and equalization payments. Addressing the democratic deficit may have been an interesting political discussion during the last campaign, but the reality is that executive decisions are less likely to be derailed than Parliamentary debates and votes. That is why the opposition parties united to try to force a vote on the Missile Defence system- they know that the Executive can sign international agreements and Accords without Parliamentary input, but they are trying to keep themselves 'in the game' by forcing some decision making into the House.

Fourth, Private Members' Business, Motions, and Supply Days (when the Opposition Parties supply a resolution for debate and vote) actually matter, because they are not easily stopped by the government. In fact, Private Members' Bills and Motions can be even easier to get through the House than government orders, because much less time is required to debate those items before the vote is called and the decision taken. This is especially true on issues involving process, or non-money bills. The Opposition loves them because they generally transfer power to the House, and away from the Executive branch. The government hates it, but if they do not have the numbers to stop them, they can only sit and scowl as they make their way through the system.

Fifth, politics makes strange bedfellows, and strange Parliamentary couplings can occur at any time. One of the first press conferences held in the new session was an all-opposition affair to announce their collective support for a Private Member's Bill they believe will help fight organized crime. They did not even try to get the approval of the government in advance of the announcement, choosing a public display of intentions as their way of throwing down the gauntlet. Watching the three disparate Opposition parties working so closely, obviously and publicly together may take some getting used to, but it is a sign of things to come.

### **Implication for those who deal with Parliament**

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Besides the general voting public (who simply want their elected representatives to help them when help is required) there are three groups who should keep these new realities firmly in mind when they interact with the House of Commons.

The first is the bureaucracy. While Canada benefits hugely by having a professional and non-partisan civil service, a minority Parliament will be a new experience for many of them. They are used to having a Minister and Department who listens to their expertise and advice, and when necessary acts upon it. But taking action will be difficult now, and there are no more 'sure things' for any Minister. He or she does not control the agenda of

Parliament as they did in the past. For the good of the country, let's hope the bureaucracy realizes that everything is different.

For example, more Bills than ever will be referred to a Standing Committee before Second Reading. This means (essentially) that they will go to Committee in draft form, inviting MPs to make wholesale changes and amendments as they see fit. They will go to Committee quicker, pass the House votes more readily, and be in and out of the process before you can say, 'who's writing the regulations for this'.

*Gone are the days when all of the clause-by-clause grunt work of some official in the bowels of the Justice department would be passed through Parliament with a wink and nod. Nothing can be taken for granted anymore.*

In the past, if a Committee or an aggressive MP got the 'bit in his teeth' along the procedural way, changing the Bill too much or making amendments never before seen by a Clerk or Speaker, the Minister stepped in at the last minute and fixed the problem by getting his MPs to vote against anything egregious. A cooperative majority on Committee could delete every clause of a problematic Bill, or if necessary, (just in case the Committee had gone astray) re-instate clauses that had been amended out of recognition. But that tactic will not work any longer. The Opposition outnumbers the government on every single Standing Committee, so they control the agenda, the witnesses, the amendments and the time the Bill will be reported back to the House. This means the independent and technically qualified bureaucracy needs to be bluntly honest with MPs about what is critically important and what is not. The usual reticence to speak candidly about potential 'consequential amendments' or unforeseen problems has to be minimized.

MPs will listen to sage advice, but they cannot easily 'read between the lines' if the advice is coated in bureaucratic mumbo jumbo. Bureaucrats need to tell it like it is, and let the Committees and MPs benefit from their expertise.

Lobbyists are everywhere in Ottawa, but they are understandably in a different category than the bureaucrats. They are working directly for someone else, flogging a point of view that will primarily benefit their own clients. Still, Members of Parliament accept that lobbyists are also knowledgeable, and can be helpful with

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their advice and suggestions. Because it is their job to be heard, lobbyists should particularly remember that the last election never ended.

Since no one understands that better than an elected MP, the lobbyists need to ask themselves: "What is it that MPs or Parties are trying to accomplish with this Bill/Motion/amendment/private members bill/project/idea? Is the MP promoting something because he is fulfilling a past or future campaign promise? Is it part of an action plan for her pet project, something she has become known for in the public? Are they simply seeking publicity for a particular cause closely identified with their Party? Since the (virtual) campaign has begun, the MPs want and need to be particularly attentive to the people who may end up voting for them.

Knowing why the MP wants to get something done in Parliament will help lobbyists explain why their client's point of view will help them accomplish that goal. A lobby group promoting infrastructure investment, for example, can show how spending tax dollars on the initiative not only makes good economic sense, but might also want to provide data showing the popularity of the idea amongst other interest groups, levels of government, and the general public. Good luck trying to convince a MP that an exotic and unexplainable amendment to an obscure clause in a housekeeping Bill is worth going to the wall for, unless accompanied by information that shows how it may impact voters. Especially in that Member's riding.

The advice given to the bureaucracy and lobbyists also holds true for the business community, with one additional truth: there is a growing demand for businesses and politicians to address the issue of ethical conduct. There is no use complaining that most of those from the business or political world are honest, ethical people, or that a couple of Enrons or Martha Stewarts does not mean they should all be painted with the same ugly brush. Voters are already convinced that there is a growing need to place constraints and provide incentives to ensure ethical, open conduct. In fact, Canadians will be listening to the Gomery Commission, the Ethics Commissioner, the Security Commissions, the courts, and the media to see if a sea-change of ethics is taking place. Canadians want the truth, the whole truth, and nothing but the truth, and an unwillingness or inability to conduct themselves in an acceptable, ethical manner will incur the wrath of voters and shareholders down the road. Embracing the changes brought on by this new ethical real-

ity is therefore a necessity for both groups, and they should provide guidance and help – rather than hinder – efforts to make it happen.

### A Note About Procedure

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Finally, it is important to have someone watching for recent, present, and proposed changes to the procedures of the House of Commons. Already, changes in the selection process for the Deputy Speaker, creation of two new Standing Committees, and amending the Throne Speech show the increasing influence of the Opposition Parties throughout Parliament. Other changes could include: scrutiny of political appointees, tabling (and adopting!) controversial Committee Reports, changes to the Estimates Process, expanding the purview of the *Access to Information Act*, subpoena of witnesses, and (always) more openness, transparency and accountability. The Procedure and House Affairs Committee will be seized with much of this, but it can also happen in other Committees and on the floor of the Chamber.

Dusting off old procedural books is usually of interest only to political science students wrestling with term papers, a wannabe Clerk or Speaker, or perhaps an insomniac. But now (for the first time in ages), procedures and House Orders can make ideas and concepts leap from a simple theory to an actionable work-in-progress. In the first weeks of Parliament, for example, the Health Committee unanimously passed a motion that said all victims of Hepatitis C who contracted the disease through tainted blood should be compensated. That Report was brought to the House, where debate continued until the government used a procedural technique to squelch any decision or vote. Within hours, proposals to change (eliminate) the procedure were tabled in the Procedure and House Affairs Committee, and are likely unstoppable. Hundreds of millions of dollars may be at stake. Procedural issues finally matter!

The way things are, the way you wish they were, and the way they ought to be are all in play in a minority Parliament. Getting things done is both more difficult (for the government) and easier (for everyone else) than it has been in years. Knowing the people, the plans and the procedure is the best bet if you want something to happen in this unique Parliament. But do not wait too long before you get your oar in the water- we may only have a year or so before someone makes a decision (or a mistake) that takes the country to the polls.