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# *Two Proposals for Reform in the Quebec National Assembly*

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by Diane Leblanc

*Just a few months ago, in June 2004, the National Assembly of Quebec launched an important exercise in parliamentary reform, when two documents containing numerous proposals were tabled almost simultaneously. One of these was prepared by the Minister for the Reform of Democratic Institutions and Government House Leader and the other, by the President, or Speaker, of the National Assembly. This article summarizes the main points of the two proposals and concludes with a few comments on parliamentary ethics, an important issue currently being examined by a special committee of the National Assembly.*



This is not Quebec's first reform effort since the current Standing Orders were adopted in 1984. The Standing Orders have been amended a few times over the years to iron out certain problems with their application. The first reform was set in motion in 1996 by then President Jean-Pierre Charbonneau. It aimed to enhance the role of MNAs and, at the same

time, that of the institution itself, without changing the operation of the National Assembly in depth.

The proposals put forward last June are both based on this 1996 reform, given, among other reasons, the need to ensure that parliamentary reform remains a seamless, steady process. While the proposals outlined in the two documents differ significantly from each other, they are nonetheless organized under four broad themes identified by both the Minister for the Reform of Democratic Institutions and the President of the National Assembly:

- Bringing citizens closer to the National Assembly;
- Promoting Members' independence and initiative;
- Increasing the efficaciousness of the Members' work, in particular by modernizing the way in which the National Assembly operates; and
- Reaffirming a democratic equilibrium in parliamentary proceedings.

The desire to bring citizens closer to the National Assembly, which is the first broad theme, has been expressed a number of times at both the political and the administrative levels. Because communications technologies continue to evolve and the citizens' expectations about their participation in public affairs continue to grow, the National Assembly must be quick to adapt and translate this resolve into concrete actions.

Both reform documents propose a revision of the exercise of the right to petition. The right of every person to petition the National Assembly for the redress of grievances is set forth in section 21 of the Quebec Charter of human rights and freedoms. The procedure for exercising this right is provided in the Standing Orders of the National Assembly. Yet the current rules make no provision for further action on petitions after they have been tabled in the Assembly. That is why the President of the National Assembly proposes that the temporary rules on

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petitions which were in effect from December 6, 2001, until the end of the 36th Legislature be made permanent. Under these rules the Government would be obliged to reply in writing within 60 days after a petition has been presented in the National Assembly. The President also suggests that a system be set up to allow citizens to initiate and sign petitions on-line, through the National Assembly's website.

The Minister for the Reform of Democratic Institutions, for his part, proposes that a standing subcommittee on petitions be struck. This subcommittee would be empowered to decide whether a petition is receivable and could hear the petitioners' representatives, if necessary, before reporting to the National Assembly. Petitions would be accepted both electronically and on paper.

To provide broader access to the public consultations held by parliamentary committees, both reform proposals suggest using videoconferencing technology when warranted and, during general consultations, allowing short statements by citizens who have given notice that they wish to address the committee but who have not filed a brief. The President of the National Assembly also suggests continuing the experiment started in 2000 with on-line consultations.

The Minister for the Reform of Democratic Institutions proposes that a committee examining a matter affecting a particular region or locality ought to travel to that region or locality to receive testimony on site.

Another of the President's proposals relates to how a citizen's conduct may be called into question in the National Assembly. Many MNAs and citizens have indicated the need to establish guidelines with respect to the adoption by the Assembly of motions likely to be detrimental to citizens' rights. The President's reform proposal suggests two distinct ways of addressing this concern:

The first would prohibit the moving in the Assembly of any motion that calls into question the conduct of a person other than a Member for words spoken or actions performed otherwise than in the exercise of a public office, except in cases involving contempt or a breach of privilege;

The second would allow debate on such a motion only after the person concerned has been given the opportunity to be heard by the Committee on the National Assembly.

### **The Members' Initiative**

The second broad theme has to do with the Members' independence and initiative, which have always been at

the crux of parliamentary reform. This concern demonstrates a sustained will to make the National Assembly itself more independent in relation to the Government in order to achieve a better equilibrium between the Legislature and the Executive. Several proposals under this theme are aimed at giving Members greater independence and allowing them to show more initiative so that they may exercise their roles as legislators and as overseers more freely and without feeling constantly obliged to toe the party line.

The first step in giving Members greater independence would be to allow them to elect the person who will chair their proceedings and protect their rights and privileges. According to the rules now in effect, any Member may propose the name of some other Member to be President of the National Assembly. This power is theoretical, however, since the National Assembly must vote first on the Premier's proposal, which is usually the outcome of an agreement among the parliamentary groups. Temporary rules in force during the second session of the 36th Legislature provided that the President of the National Assembly be elected by secret ballot, and the President's proposal is that these temporary rules be made permanent.

*The President of the National Assembly and the Minister for the Reform of Democratic Institutions have both formulated proposals to encourage free votes.*

While Members are in principle free to vote as they wish, this right will remain purely theoretical as long as its exercise is limited by restrictions stemming from the constitutional convention of responsible government. Both reform proposals therefore seek to give Members more room to manoeuvre, but each in its own way.

The President would allow the confidence of the Assembly in the Government to be put to the test only in certain circumstances expressly set forth in the Standing Orders, such as the votes on a want of confidence motion, on a motion by the Minister of Finance to approve the Government's budgetary policy, on a motion to pass the annual appropriation bill and, finally, on any motion regarding which the Government has expressly stated that its responsibility is at issue. Any other matter could, in principle, be decided by a free vote.

The Minister for the Reform of Democratic Institutions would have the Government House Leader inform the caucus when the matter at hand involves the responsibility of the Government and the support of all caucus

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members is consequently required. The Leader would likewise inform the caucus when a matter is a key component of the Government's program that only Ministers and parliamentary assistants are required to defend or, finally, when a matter is not vital to the coherence of the government agenda and all caucus members, including Ministers, may vote as they see fit.

The Minister for the Reform of Democratic Institutions also proposes that when the National Assembly has carried a want of confidence motion or any motion to which the Government is opposed, or has negatived a Government motion or bill, a motion of confidence be deemed to have been requested by the Premier and placed on the Order Paper in his or her name under Business Having Precedence. The motion would then be discussed during a two-hour limited debate at the next sitting.

### **Modernizing the Assembly**

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Both reform documents also include proposals to encourage initiative on the part of all Members of the National Assembly. Since the current Standing Orders came into effect in 1984, only motions filed by Opposition Members can be debated during a period of time set aside as part of the Orders of the Day on Wednesdays. Under the Standing Orders in effect from 1972 to 1984, however, all Members except Ministers could present motions on Wednesdays. The President of the National Assembly proposes that, for the sake of equity, Members of the Government party once again be allowed to file motions for debate and that such motions be debated twice a year on Tuesdays or Thursdays so as not to encroach upon the time reserved for business standing in the name of Members in Opposition.

The Minister for the Reform of Democratic Institutions proposes instead that one hour of every sitting be devoted to business standing in the name of private Members from either side of the House. The matters to be debated could be chosen by a random ballot and could include bills as well as motions.

Reasserting the role of elected Members is an ongoing concern at the National Assembly, since the credibility of the institution is partly tied to how Members are perceived. Since the effectiveness and visibility of Members' work are two key factors in achieving this goal, it is under this third broad theme that we find the greatest number of proposals. This theme encompasses all proposals aimed at improving the organization and effectiveness of Members' work as well as those that would give the standing committees means to enrich parliamentary debates. Here are a few of them:

Both reform proposals would continue the rationalization of the calendar and hours of meeting of the National Assembly that was begun in the 1990s. Both propose to increase the number of sittings by opening the spring sessional period in mid-February rather than in mid-March and the fall sessional period in mid-September rather than in mid-October. The Minister for the Reform of Democratic Institutions would abolish the so-called intensive sessions — during which the Assembly sits from 10 a.m. to midnight Tuesday through Friday — each of which now lasts about four weeks, while the President of the National Assembly would shorten them to about two weeks each.

Another proposal by the Minister for the Reform of Democratic Institutions concerns the recognition of parliamentary groups. Under the current Standing Orders a parliamentary group is any group of twelve or more Members returned to the Assembly by the same political party, or any group of Members returned to the Assembly by a political party that has received 20 percent or more of the popular vote in the most recent general election. Except for the President, Members who do not belong to any parliamentary group sit as independents. The Standing Orders therefore permit no changes to the status quo during a legislature even if, in that same time, the makeup of the National Assembly does change.

The Minister for the Reform of Democratic Institutions proposes to make the rules more flexible. He would lower the percentage of votes required for recognition as a parliamentary group from 20 to 15 percent. Furthermore, he would allow the recognition of a parliamentary group as soon as a political party is represented in the House by six or more Members, regardless of whether this minimum number is attained in a general election or through changes during the course of a legislature.

In another line of thought, although some progress has been made over the last 20 years, it would be accurate to say that our parliamentary committees still have not achieved the independence and effectiveness that the adoption of the Standing Orders in 1984 had led us to expect. This discrepancy is due, among other reasons, to the fact that their workload is far from equally distributed, the number of hours during which they can sit is significantly limited, the Government House Leader has a hand in how their work is organized, and resources, especially support staff, are lacking.

Both proposals would therefore redefine the areas of jurisdiction of the parliamentary committees and create a new committee called the "Committee on Relations with the Citizenry." The President also proposes that responsibility for the verification of the financial commitments and for the accountability exercises required under the

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Public Administration Act be returned to the sectorial committees according to their respective areas of jurisdiction. These tasks have been the responsibility of the Committee on Public Administration for several years but have proved too much for a single committee.

### Democratic Equilibrium

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Maintaining a democratic equilibrium in parliamentary proceedings is a basic principle of our parliamentary law. It is essential that the National Assembly protect this equilibrium in order to preserve the credibility of the debates held within its walls. To reaffirm this principle, both reform proposals contain several measures aimed at upholding and even extending Members' right to speak.

The current Standing Orders set no guidelines for the recourse to a motion to suspend certain rules of procedure, with the result that its effects are almost unlimited. This exceptional procedure allows the Government House Leader to make a motion to suspend the rules in force and to replace them with rules of his or her own choosing. As a result, important measures are sometimes passed without having been fully debated. The Government regularly uses this type of motion to rush a series of bills through to passage.

In an attempt to continue the reform effort started during the last legislature, the President proposes that the National Assembly make permanent the temporary rules regarding the exceptional procedure that were in effect from December 6, 2001, until the end of the 36th Legislature. These rules would guarantee a minimum amount of time for debate at each stage in the passage of a bill and would allow the Government to use this procedure for only one bill at a time. The solution proposed by the Minister for the Reform of Democratic Institutions would be to facilitate recourse to the closure motion. Such a motion, when carried, obliges a committee to conclude its detailed consideration of a bill and to report to the National Assembly, which then finishes such consideration in the committee's stead. Moreover, as in the President's proposal, a motion to suspend certain rules of procedure would apply to only one bill.

Proposals have also been made with regard to the role played by ministers in committee proceedings. Under the current Standing Orders the minister sponsoring a bill is a member of the committee to which the bill has been referred throughout the committee's consideration of that bill. Again under the current Standing Orders a minister may be a member of a committee for as long as the committee is considering some matter if the motion referring that matter to committee so provides. Previous reform efforts have argued in favour of significantly re-

ducing the role of ministers in committee proceedings, in particular within the legislative process.

The President's reform proposal argues in much the same vein but does not call into question the status of the minister sponsoring a bill as a member of the committee considering that bill. However, he proposes that this status be expressly limited to the committee stage of the legislative process and to the continuation of debate on the budget speech in committee. The Minister for the Reform of Democratic Institutions proposes that a minister never in any circumstance be a member of a committee but that ministers, like other Members not appointed to serve on any committee, be entitled to take part in the proceedings of any committee but not be entitled to vote.

### The Subject of Parliamentary Ethics

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The transparency that is so highly valued by our media-driven society and the public's lack of confidence in politics daily reinforce the requirement that public office-holders, and above all elected Members, act ethically.

In that context the Minister for the Reform of Democratic Institutions has proposed that a code of ethics be adopted and that an ethics commissioner be appointed as part of the parliamentary reform. This ethics commissioner would report to the National Assembly and would be appointed with the approval of two thirds of the Members. A parallel proposal by the President of the National Assembly suggested that a working committee on parliamentary ethics be established. The committee, made up of MNAs, legal experts and public servants of the National Assembly, began its work in October 2004.

Through a comparative study of statutes in legislatures based on the British parliamentary system, this committee has already reviewed the tools that these legislatures have developed to deter and, if need be, to curb unethical conduct.

*At a time when parliamentary action is often challenged, however, it seemed necessary to go further and to reflect on the values and principles that might lie at the core of what we call "parliamentary ethics."*

An examination of the work undertaken by certain parliaments in the British tradition to define parliamentary ethics has yielded a number of findings. The first is that many parliaments have undertaken such work. The second is that although the ensuing results share a few

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common traits, they are characterized above all by a considerable heterogeneity. Some legislatures limit themselves to briefly recalling a few abstract principles while others possess extremely detailed codes with very specific guidelines for Members' conduct.

Following this analysis, the working committee on parliamentary ethics has endeavoured, as a first step, to identify the ethical values specific to the National Assembly. Some of the values formulated so far relate to the representative function of Quebec parliamentarians. In addition to accountability, integrity and honesty, these values include promoting, and protecting the dignity of, the National Assembly and its elected Members and honouring the mandate conferred by the electorate. Other values relate to Members' roles as legislators and as overseers of government activity. These include placing the common good above personal interest, exercising independent decision-making and being transparent. Safeguarding the confidentiality of information obtained in the performance of parliamentary functions and using the means placed at the Assembly's disposal for the sole purposes of the office of MNA are other examples of such values.

At this stage the working committee is considering whether it would be expedient to state these values explicitly and to organize them in some kind of hierarchical order, what medium best lends itself to this purpose, whether they should be accompanied by standards and how they would apply to Members appointed to Cabinet positions.

### **Conclusion**

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Both proposals are far-reaching, and it would be no exaggeration to say that if most of the proposed measures

were adopted, our National Assembly would be deeply changed.

With regard to the process by which these reform proposals will be considered and revised Standing Orders eventually adopted, it is the Committee on the National Assembly that is responsible for determining our rules of procedure, which it submits to the National Assembly for final approval. This committee has a standing subcommittee whose mission is to study parliamentary reform issues. It is chaired by the President of the National Assembly and comprises the vice-presidents of the Assembly, the Leaders and Whips of the parliamentary groups and three parliamentary committee chairs, one of whom must be an Opposition Member. The membership of the subcommittee was expanded for the purposes of the current reform to allow the independent Members to be represented. It has already familiarized itself with both reform proposals and appointed a technical committee made up of the Secretary General of the National Assembly and his assistants as well as representatives from the offices of the House Leaders to assist it in its work. Once the subcommittee has completed its work, it will report its conclusions to the Committee on the National Assembly, which will in turn submit to the National Assembly the changes it proposes to our Standing Orders.

I make no predictions about the outcome of this process. However, the similarities in the themes identified in both reform proposals hold out the promise of a consensus on certain points, several of which are major. And nothing prevents us from proceeding in different stages and gradually testing various reform components in a determined logical order.