

---

# Evolution of the Ontario Standing Orders since 1985

---

by Adam D. McDonald

*Westminster style government is steeped in a thousand year tradition. Many of the processes originate in historical fights or reactions to external events rather than as conscious decisions. Ontario shares this long parliamentary history but over the last few decades, the province has undergone a number of radical changes. These have, in turn, altered the operation and political culture of the Legislative Assembly. This article will discuss changes in Ontario's Parliament since 1985 and reactions to those changes. It will also suggest ways to improve the work of the Legislature.*

After the American Revolution, United Empire Loyalists fled to the British colony of Canada. They brought with them ideas about English representative government and set up a colonial government similar to that found in London. The government in Upper Canada (now Ontario) consisted of a governor, an appointed Legislative Council, and an elected Legislative Assembly. The Legislative Council and the governor (advised by a group known as the Family Compact) had most of the political power. In fact, it was the excesses of the Family Compact that led to the 1837 Rebellion and the introduction of responsible government.

The establishment of responsible government in the 1840s required that the executive (the Prime Minister and his Cabinet) are responsible to the elected Legislative Assembly. They must govern from within the House and with the permission of the House. For Upper Canada, this was a watershed moment. For the first time, the Legislative Assembly had the legitimate right to hold the government to account and to run the affairs of the colony effectively.

Responsible government also means that Parliament has four major functions.

- To form a government;
- To fund the government;
- To have a government-in-waiting;
- To hold the government to account.

It is these tasks – all performed within a parliamentary setting – that require rules to govern the processes of the House. The rules are found mainly in the Standing Orders.

In the last century Ontario had a reputation for “boring politics”, mainly because of the 42 year rule of the Tories starting in 1943. However the 1985 Liberal/NDP accord brought down this government and set in motion a number of procedural and behavioural changes that have given the Assembly a reputation for boisterous and raucous behaviour.

## The Hung Parliament of 1985

---

Elections do not come much closer than Ontario's in 1985. Frank Miller's Progressive Conservative government squeaked by with 52 seats in the then-125 seat Legislature. The Liberal Party, led by David Peterson, won 48 seats, while the New Democratic Party of Bob Rae earned 25 seats. The Conservatives had just watched their most beloved leader – Bill Davis – retire at the height of his popularity. They had governed the province

---

*Adam D. McDonald was an Ontario Legislative Intern for 2004-2005. This is a revised version of a paper presented at the Annual Conference of the Canadian Political Science Association on June 4, 2005. This author is grateful to present and former MPPs as well as to legislative staff interviewed in the preparation of this paper.*

---

for more than 42 years and believed as Bob Rae – and many others – said, that government was theirs “by divine right.”<sup>1</sup> This minority government was a blow to the party.

The Opposition, however, had not really won the election. They were in the same spot they were in 1975 and 1977; they could bring down the government or they could allow the Conservatives to continue to govern. Unlike the Davis minorities, however, Miller’s government had lost the popular vote and held power by the slimmest of margins. It is not hard to understand why the two Opposition parties reached an agreement.<sup>2</sup> By the beginning of July, the parties switched sides in the House. The Liberals with help from the NDP moved to the Government benches and the Conservatives became the Official Opposition.

These facts are actually less important than they seem on the surface. Minority governments are notoriously unstable and the Liberal/NDP accord only had a shelf life of two years. More important, however, was the cultural shift that the new Parliament underwent in those first two years. Interviews with Norm Sterling, the longest-serving Progressive Conservative MPP, indicate that the nature of the hung Parliament made sure that the government could not just “forge ahead” with its plans. In fact, Peterson’s minority government had to negotiate with the Opposition parties to make changes to the Standing Orders.<sup>3</sup>

Many of the changes were “housekeeping” in nature, but there were some significant reforms to the way the House does its business such as:

- Ending evening sittings;
- Dedicated time for Private Members’ Business on Thursday morning;
- Responses to Ministerial Statements;
- Member’s Statements;
- Order of Oral Questions<sup>4</sup>

These changes came about as a result of give and take between the parties but benefited the Opposition more than the Government. All of a sudden, private members had time specifically allocated to deal with Private Member’s Bills. They were also able to take ninety seconds to address any issue they liked in a ten-minute period called “Member’s Statements.” As the Speaker said on the first day of use:

Members’ statements give a private member, other than a party leader or a minister, an opportunity to make a statement of up to 90 seconds with a total time for such statements of 10 minutes. These times will be strictly enforced so that all members have an opportunity to participate ... .

In the past, there have been a number of members who have risen on different occasions on what I might call fictitious points of order or points of privilege. I hope this will relieve that situation. It will be my duty to call those members out of order because, in turn, they will have an opportunity to make their points during members’ statements.<sup>5</sup>

The other two major reforms to the Standing Orders also changed the way in which Members conducted House business. The first was “Responses to Ministerial Statements.” This new procedure allowed each Opposition party up to five minutes to respond to whatever policy statement the government made on a given day. It allowed the Opposition parties to respond outside debate to the government’s initiatives.

The final piece made an important change to parliamentary tradition. One of the Speaker’s jobs was to select MPPs to speak. In doing so, the Speaker used his discretion with regard to both order of questions and the number of supplementary questions each MPP may ask. Although the Leader of the Opposition traditionally gets the first questions, it was the Speaker who ultimately made that judgment.

The new Standing Order read:

In exercising his discretion pursuant to standing order 27(d) to permit supplementary questions, the House recommends that the Speaker permit supplementary questions as follows:

- Official opposition — one question and two supplementary questions;
- Official opposition — one question and two supplementary questions;
- Third party — one question and two supplementary questions;
- Third party — one question and two supplementary questions;
- All other questions — one question and one supplementary question.<sup>6</sup>

Although the Speaker retained his right to determine the order of speakers and the number of supplementary questions, the House expressed its desire to have a certain amount of order in its proceedings with this addition to the Standing Orders.

---

### **The Hot, Magical Summer of 1987**

---

When David Peterson signed the accord with Bob Rae, he knew he had two years to show Ontarians what he could do and what kind of Premier he would be. When the accord expired in 1987, Peterson called an election and won 95 out of a possible 130 seats. Arguably, this is when rule changes in the House became more important. The 1987 election started a process whereby the parlia-

---

mentarians of the Tory years left the Legislature to be replaced by rookie MPPs. The 1987 election elected a massive majority for Peterson, many of whom were new to the process; the 1990 election decimated the Liberals, bringing to power the NDP, which had never formed a government; in 1995, the Harris Tories swept to power with its own contingent of brand new members. In each case many members had no sense of the traditions of a stable parliament and little understanding of how Parliament is designed to work.

Although the 1987 election did not start the series of rule changes, it was the first Parliament in which massive numbers of new members replaced so many long-serving ones. With a majority government, the Peterson Liberals had a greater leeway to act in whatever way they chose. This, in turn, led the Opposition parties to act in a more disruptive fashion than they had before. By May 1989, matters reached a head. Peter Kormos, NDP member for Welland-Thorold at the time, rose on a point of personal privilege. He accused Premier Peterson of lying to the House, which is considered unparliamentary language. Mr. Kormos refused to withdraw the word, and the Speaker named him.

The current Standing Orders do not allow Members to challenge a Speaker's ruling. In 1989, however, individual Members could challenge a ruling and the House could vote to accept or reject the Speaker's ruling. The NDP House Leader did just that on May 29, 1989. The Speaker called in the Members at 4:43 p.m.

In those days the Whips of the parties used to walk into the Chamber together to indicate that the Members had assembled and were prepared to vote. In this case the Opposition Whip refused to appear and kept the bells ringing. At 6:32 on June 1, the Speaker suspended the sitting and ordered that "the bells are deemed to be ringing until the sitting is resumed at 9 am, Friday, 2 June 1989." He repeated this order each day until Tuesday, June 6. The Opposition's tactics had succeeded in disrupting the House for an entire week.

Two days later, the Government House Leader announced changes to the Standing Orders, a subject that caused some considerable consternation among the Opposition parties. Dave Cooke, the NDP House Leader, commented on the changes:

We went through a process between 1985 and 1987. Remember the time? No walls, no barriers, a new age in Ontario? We negotiated. We had the standing committee on the Legislative Assembly look at the rules of this place and make recommendations.

After the 1987 provincial election, when these guys got their majority and took on the arrogant attitude they are displaying here today, we sat down with the government

House leader — the Conservative Party did; my party did — and we said, 'We'll accept the entire package from the Legislative Assembly committee,' which included reforms for all the rules. The government House leader's representative, the chief government whip, negotiated that with my whip, the member for Oshawa (Mr Breaugh), our representative, and the member for Carleton. We had a package.

They took it to their caucus and their caucus rejected that package. They said as a majority at that time: 'To hell with the opposition. We'll get at the rules by imposing.'<sup>7</sup>

Sean Conway, the Government House Leader, responded to Opposition comments on his rule changes by saying that the Government would get its business done and would do so without continuous obstruction from the Opposition:

I have to say, on behalf of 94 members, that we have seen over the past number of weeks and months a pattern of obstruction that has nothing to do with opposition. It has to do with paralysing the business of this Parliament. This government believes it has a responsibility to ensure that Parliament works, that it is not hijacked, that it is not paralysed. ...

I find it strange that people who talk about opposition none the less engage in frivolous, sometimes outrageous challenges of your rulings, ring the bells on first reading, walk away and refuse to come to this place and engage in the public business, and read petitions endlessly so that we cannot get on with the business of this House, a House that it costs \$130,000 a day to operate.

We are here to do important business. We expect a vigorous opposition. These rule changes will provide the opposition with a range of new opportunities, but we will not tolerate endless bell-ringing<sup>8</sup>

Mr. Conway's reaction to the Opposition appears to be typical of governments which want to get their business done. They have a right to expect a certain amount of co-operation from the Opposition, which is why the rule changes were unnecessary until 1989. Simply put, the Opposition stopped working with the Government and became a hindrance to it.

The Liberal rule changes affected the operation of the House in several significant ways. They:

- Limited the division bells on a recorded vote;
- Allowed the Chief Whip of any recognized Party to defer a vote until the next sessional day;
- Created Opposition Days<sup>9</sup>

Mr. Conway noted that the Opposition was engaging in a more vigorous attack on the Government than what might otherwise be warranted. He acknowledged his role in mounting what he called "a vigorous Opposition," but also opined that "what we saw here through the spring of 1988 through late spring 1989 was unprece-



---

dented in so far as the traditions and the customs and the practices of this Legislature were concerned.”<sup>10</sup>

The rule changes Mr. Conway introduced formed the basis of the Standing Orders that exist in Ontario today. They are designed to make the business of Parliament more efficient. More importantly, they were in reaction to Opposition tactics. The debate itself was surprisingly civil. All parties agreed that the Standing Orders need changes. Although they did not all agree with the content, Members did appear to welcome them.

### **A Turning Point in 1990**

---

In 1990, Ontarians were stunned to learn that Bob Rae defeated David Peterson to become Premier of Ontario. Peterson had gone into the election with a commanding lead, but lost it over the course of the campaign. The reasons for his loss have been documented in great detail elsewhere. What is important to remember is that Rae's party won 74 of the 130 seats; the Progressive Conservatives (under brand new leader Mike Harris) increased their seat count to 20; and David Peterson's Liberals lost 59 of 95 seats, including his own.

It is at this point that the processes and procedures of Ontario's Standing Orders become much more important. Mike Harris won the leadership of his party just before the 1990 election. He and Bob Rae had diametrically opposed viewpoints of the role of government in Ontario. Harris's opposition to the Premier's policies resulted in a number of tactics designed to delay government legislation.

Perhaps the most famous stalling tactic was May 6, 1991 when Mr. Harris read into the record the name of every lake, river, and stream in the province. This started during Member's Statements, when Conservative MPP Norm Sterling said:

The members of our caucus, as representatives of many Ontarians, are angry. We are angry and frustrated by the atrocious budget which was introduced by the New Democratic government one week ago today. The anger has not gone away as the days have passed into a week. In fact, it has become more intensified as we watch and listen to individual Ontarians react to this budget. If the NDP's members made themselves available to the general public over the weekend, I am sure that they would have got this message.

The members of our caucus believe that the government is using the routine procedures of this House, specifically the ministerial statements, to deflect the tension away from this outrageous budget, that it is making ministerial statements unnecessarily long and drawn out and that it is attempting to market its schemes as good news announcements in order to deter the attention of members of this House and the general public.<sup>11</sup>

Mr. Sterling continued to try and delay the government by rising on related points of order before Oral Questions. It is after Oral Questions, however, that Mike Harris stood up to introduce a bill, the title which contained the name of every Ontarian body of water. Mr. Harris started just before 4:00 p.m. that day and the length of the bill's title (in addition to the interjections from frustrated MPPs and the repetition of the title by both the Speaker and the Clerk, as required by the Standing Orders) carried the House to the end of the sessional day.

Nor was this Mr. Harris's only attempt to delay government business in this way. Generally speaking, his tactics dealt with the use of time in the Legislature. Introduction of Bills, for example, lasted as long as it took the Member, the Speaker, and the Clerk to read the title of the bill in both English and French. As the Speaker ruled each time a complaint came forward, the Standing Orders were very clear on the subject of Introduction of Bills.

The Progressive Conservative attack on the NDP government was predictable. Parliamentary government assumes that the government will get its way, but the Opposition parties have the right to criticize and delay business from occurring. One of the difficulties with these kinds of delay tactics, however, is the change in civility. Parliament should be based on negotiation and agreement but the Government should be able to count on getting its business done after the opposition had had reasonable time to present its objections.

Opposition tactics led by Mr. Harris moved the culture at Queen's Park from civility to direct competition. The Opposition moved from simply debating the merits of bills to both attacking the bills and outright delay. It was, however, only a precursor of what was to come.

In response, the NDP made further changes to the Standing Orders. On June 8, 1992, MPP Jim Bradley rose on a point of order with respect to the NDP's proposed rule changes. Both he and MPP Ernie Eves decried the process by which the government introduced changes to the Standing Orders. Mr. Eves even went as far as to call the process "Gestapo."<sup>12</sup>

The New Democratic Party brought in some of the most restrictive changes to the Standing Orders. The most sweeping of these involved time limits. The new Standing Orders limited speech in debate; they limited the amount of time available for Introduction of Bills; and they provided for time allocation of bills. Essentially, these changes eliminated the possibility of the Opposition parties taking over the Legislature with the procedural tricks they used during the first two years of the NDP government.

---

## The Harris Government

---

To say that Mike Harris redefined Ontario politics is an understatement. His six years as Premier were some of the most controversial in Ontario's history. It is unsurprising, then, that the Opposition parties worked to disrupt the Government's agenda as much as possible. Mr. Harris, however, had other ideas. He wanted to make sure that the same tricks he had used to such success could not be applied to stop his agenda. So he changed the rules of the game.

On June 2, 1997, the government launched a review of the Standing Orders. Ostensibly, it was a private member's initiative spearheaded by John Baird, MPP for Nepean, although the Opposition expressed some disbelief. Liberal MPP Jim Bradley wondered how "a set of proposals from a 27-year-old trying to please the Premier for future considerations" could get the government's attention so quickly. Frances Lankin, MPP for Beaches-Woodbine, said:

You thought there was too much debate on the megacity. You thought there was too much debate on your overhaul of education. You thought there was too much debate on the creation of a hospital restructuring commission. You're tired of hearing from people who don't agree with you, and we're getting used to that from this government. Minister, I put it to you that in the past, government House leaders have either tabled rule changes in this House or proposed them at government or at House leaders' meetings or at both, and there's been a process of negotiation. Why are you changing the process here? Why are you pawning it off, letting someone else do your dirty work and insisting that members respond within two days?<sup>13</sup>

This was in response to a number of the crises that had erupted over the course of the implementation of the Common Sense Revolution. One of the more famous was the sheer volume of amendments made to the new *City of Toronto Act* in 1996. The Opposition parties, displeased with the Government's stance on amalgamating Toronto, moved over 12 000 amendments in Committee of the Whole House. The House had to sit around the clock to hear them all.

During Question Period, the Opposition parties hammered the government over the rule changes, which they said were introduced secretly. The Premier of the day, Mike Harris, responded to the criticisms:

In my recent memory of rule changes to deal with, as I think one reporter said, the tomfoolery as opposed to the business of the House, never, I believe, since I've been here, have we had a non-cabinet minister develop, in consultation with backbenchers, a proposal for discussion before anything has been tabled.

Once again I say to you that we are pleased to listen. We are prepared to meet with you. I think the member for Nepean has offered to meet with both House leaders. I am taking from your reaction that you're not 100% in favour of all the changes, but perhaps when you read through them and reflect on them, if there are some that you feel need to be changed or if you have some of your own, we'd be pleased to listen to those. I can tell you that the member for Elgin has already brought forward some proposals just today to the member. We're happy to listen to backbench members as well if the leadership isn't interested in participating.<sup>14</sup>

The changes made to the Standing Orders were introduced in the name of efficiency. They were designed to ensure that the government could do its business which, as we have already seen, is the purpose of Parliament. However, the combative nature of the 1990 and 1995 Parliaments resulted in the accomplishment of less business and major bouts of Opposition gamesmanship.

Arguably, the 1997 changes returned Parliament to its original design in allowing the Government to complete its agenda efficiently. An equally viable argument, however, is that the changes curtailed debate in the name of a business-like approach. The argument an individual selects is based primarily on the side of the House on which they sit.

---

### Scrap the Standing Orders and Start Over?

---

As each change to the Standing Orders made its way through the House, it became more acceptable to change them to suit the needs of the Government of the day. "When you make this change, when you implement these changes to procedures, no future government will change those to make it easier for the opposition. That is why it is so important to defeat, to eliminate these changes today, because governments like the convenience."<sup>15</sup> This is quite true. Governments want to get their business done and like the efficiency the Standing Orders provide.

Rule changes over the last twenty years have provided a structure to debate that was lacking. This observation is not always a happy one, however. One of the first problems is that everything is timed. Member's Statements, Petitions, and Introduction of Bills take a prescribed amount of time each day. All three portions of Routine Proceedings are also now used as much as possible, especially when MPPs want to delay progress to Orders of the Day. MPPs take up as much time as they are allowed in the Standing Orders so that the Government has less time to do its business. Although these tactical delays are less effective than they used to be, they can help Opposition parties slow proceedings somewhat.

---

One of the worst results of timing every part of the legislative day is during debate. MPPs used to be able to talk as long as they could hold the floor. While this periodically resulted in a filibuster – Peter Kormos once filibustered for 17 hours – it more often allowed Members to make their remarks in a shorter time than now. Instead, applying timing to speeches has resulted in the use of the entire time available, whether there is something constructive to be said or not.

The result of all these rule changes appears to be that the House is much less relevant than it was twenty years ago. Two long-serving MPPs, both elected in 1977, point out a number of the shortcomings of the House in the twenty-first century. Both Jim Bradley and Norm Sterling have served in Government and in Opposition, and both provided interesting perspectives on how they view House proceedings today.

Both commented on the use of television in the House. Although there is certainly an argument to be made – and Mr. Sterling did make it – that television is a useful extension of democracy, others believe that television makes the House that much less relevant. The reasons are obvious: why would anyone come into the House to listen to debates if it only requires the flick of a remote control?

To be sure, television does allow members of the public to see their elected officials at work, but it is equally true that it encourages fractious behaviour in the House. Both Mr. Sterling and Mr. Bradley commented on the changes in Question Period and in debates. They said that MPPs are now more interested in the sound bite or in the notoriety that comes with a successful TV stunt in the House. Without television, stunts would be less important and it is possible that House business could be more civilized.

In general, however, the comments on the Standing Order changes were mostly negative. MPPs did, however, have some suggestions for changes to the way the House conducts its business. Not all of the changes MPPs would make require changes to the Standing Orders, but they are constructive to think about nonetheless:

- Governments need to learn to share power over the House with the Opposition;
- Requiring unanimous consent on fewer items so that one MPP cannot scuttle the wishes of the others;
- Revise the Standing Orders to remove the references to parties;
- Increase the authority of the Speaker;
- Decrease the time for Oral Questions to 45 minutes;
- Let the Speaker decide whether to allow supplementary questions;
- Increase the power of committees to meet, create, and amend legislation;

- Require a Question Period for every sitting of the House;
- Ensure the House sits for its entire calendar allocation and not rise early;
- Provide speaking and questioning opportunities based on the number of seats a party has;
- Fewer government backbench MPP “lob-ball” questions;
- More opportunities for true Private Member’s business.

In light of these comments one may begin to ask whether the best course would be to scrap the entire Standing Orders and start over. This idea is not nearly as radical as it sounds. The Standing Orders have been modified by tinkering. As successive Opposition parties move into Government, they ensured that the tricks they played cannot be played on them. Perhaps all three parties need to sit down and determine exactly what is necessary to run Parliament. Once the bare bones are in place, the parties can add or remove the pieces they want to ensure that a) the Government can do its business and b) the Opposition can have a voice in debating the issues of the day.

One of the things the 2004-2005 interns heard most in the Orientation period was that the Liberal government was trying to change the tone of debate and return things to “the way they used to be.” Governments need to stop and think about what how Parliament is designed to work. By considering the roles each party and each individual Member have to play within the Ontario Legislative Assembly, the elected officials can truly make Parliament work better.

It is entirely possible that we will see significant changes over the life of this Parliament. The big question, though, is which has to come first: changes to the Standing Orders or a return to more civility in the House? One may not necessarily follow the other, but the likelihood of either happening increases when the other occurs. If, for example, the Government moves changes to the Standing Orders, it is somewhat more likely that the Opposition – with more opportunities to delay and debate legislation – will use fewer dilatory tactics. It is also possible that the Opposition could continue using the rules to its sole benefit and take advantage of the culture shift in the Government.

Conversely, the Opposition could become more conciliatory, opening the way for the Government to make changes to the Standing Orders. The Government, in turn, could ram through its legislation without regard for the help the Opposition is willing to provide. It is certainly not an easy debate to resolve, and it will require goodwill on both sides.



---

The Liberal Government elected in 2003 appears willing to move forward and to make some of the necessary changes or at least allow for a culture shift in the House. The election of Progressive Conservative leader John Tory has also changed the way the Opposition does its business. There is, for example, less heckling from the Opposition party and the House Leaders appear more able to negotiate. Whether this trend continues remains to be seen. It will also be interesting to discover whether Mr. Tory's stance on parliamentary behaviour and tradition remain if the Conservatives return to Government in Ontario.

Of course completely revamping the Standing Orders would require a great deal of commitment and goodwill by all three parties. It would require reflection on the purpose of Parliament and the role played by MPPs of all stripes. It would also require a commitment by all MPPs to be more concerned with the institution of Parliament and less concerned with making the nightly news.

The MPPs interviewed all pointed out the difficulty inherent in asking elected officials to stay off the news. Part of political life is ensuring that the politician can be re-elected. One of the only ways to do that is by capturing the attention of the media.

One of the questions the Members of Provincial Parliament could not answer was whether their responsibilities as elected officials were compatible with the need to run for election. For students of Parliament and parliamentary procedure, the answer seems to be "yes." After all, the institution of Parliament requires a certain amount of respect and requires a particular viewpoint.

This is not to suggest that MPPs do not have respect for parliamentary institutions. Far from it; many, if not all, of the MPPs in the Ontario Legislature have nothing but the deepest respect for the way Parliament functions. But

their responsibilities as elected officials must remain paramount.

The rule changes over the last twenty-five years have changed the way the Ontario Provincial Parliament works. These changes are not irrevocable, but require a change in the way MPPs and the Public think about the Legislative Assembly of Ontario. If that change occurs, the Ontario Legislature can return to what MPPs call a "more civilized" place. It can also operate the way Parliament is designed to without sacrificing the representative function of MPPs.

## Notes

---

1. Ontario, *Hansard*, June 7, 1985.
2. Interestingly, Bob Rae first offered Conservative leader and Premier Frank Miller the same deal he offered David Peterson. The cornerstone of this deal was an agreement to keep Parliament running for two years. Miller and his caucus rejected the deal, which led to the Peterson ministry. Source: <http://archives.cbc.ca/300c.asp?id=1-73-893> Ontario Elections: Twenty Tumultuous Years. Last visited: May 19, 2005.
3. Interview with Norm Sterling, May 4, 2005.
4. *Ibid.*
5. Ontario, *Hansard*, April 28, 1986.
6. *Ibid.*
7. *Ibid.*, June 8, 1989.
8. *Ibid.*
9. *Ibid.*, July 25, 1989.
10. *Ibid.*
11. *Ibid.*, May 6, 1991.
12. *Ibid.*, June 8, 1992.
13. *Ibid.*, June 2, 1997.
14. *Ibid.*
15. *Ibid.*, June 16, 1997.