

THE SENATE ORDER PAPER

Gary W. O'Brien

The Order Papers of both The Senate and The House of Commons can be somewhat bewildering to all but the most erudite experts. The Senate Order Paper is perhaps less so. It is not as lengthy nor is business arranged in as complicated a manner. Whereas procedure in the Commons has undergone considerable reform since 1867, Senate practice has remained basically unchanged. Thus, the Senate Order Paper reflects the more classical role of Parliament where there is no distinction between government and private member's orders and where there are comparatively few items of business on the agenda.

There is perhaps no more important parliamentary document than the Order Paper. Without it a legislative chamber could not hold orderly deliberations. The Order Paper tells members what the business will be on a particular sitting day, when items are to be called, and what has precedence. Mastering of the Order Paper is the key to understanding how that House functions.

The Senate Order Paper, like Senate procedure in general, was originally modelled after that of the British House of Lords. As in the Lords, it is not published as a separate document, but is attached to the *Minutes of the Proceedings*. Unlike the Commons Order Paper, there are no "maxi" or "mini" versions. The daily order of business does not change and since all items of business are usually dealt with in some way every day, they all must be published on a daily basis.

In the early years of Confederation, the daily routine consisted of: Bringing up Petitions, Reading Petitions, Presenting Reports of Committees, Notices of Motions, Motions and Orders of the Day. In 1906 two new categories were added: Notices of Inquiries and Inquiries. It was only in 1969 the rules were amended to provide for an oral question period. In 1973 the order of business was altered and is now arranged as follows: Presentation of Petitions, Reading of Petitions, Reports of Committees, Notices of Inquiries, Notices of Motions, Question Period, Orders of the Day, Inquiries and Motions. Since different kinds of proceedings take place under different headings and since some proceedings are unique to the Senate, each class of business will be explained.

PRESENTATION AND READING OF PETITIONS

These two headings reflect an earlier parliamentary era when petitions played an important role in proceedings of the Senate. In the first two Parliaments (1867-1873), for example, around 1,700 petitions were presented. Since 1974, the average per session has been about five. After a petition is presented, it is examined as to form and read in the chamber the following day.

Two additional proceedings take place under this heading. It is here where documents are tabled and bills introduced. All documents which by statutory authority must be laid before Parliament are tabled in both the Commons and the Senate. Occasionally, some government documents, especially those pertaining to a ministry presided over by a Minister who is in the Senate, are tabled only in the Senate. An interesting feature of Senate practice is that non-Cabinet ministers, such as Deputy Leader of the Government or a senator acting on behalf of the Leader of the Government, may table documents.

Rule 55(1) of the Senate *Rules* states: "A Senator may as of right present a bill to the Senate." No notice is necessary. The bill is given first reading and printed automatically. Senate bills were originally given letters. Those following Bill "Z" were assigned a double letter, for example Bill "AA", Bill "BB", etc. Commons bills were identified as "Bill from Commons". It was not until 1876 that bills retained in the Senate the same number that they had in the Commons. This system remained

until 1958, when Senate bills began to be identified numerically and divorce bills were distinguished from non-divorce bills. The former were numbered Bill SD-1, Bill SD-2; the latter Bill S-1, Bill S-2, etc. Commons bills also changed and they were now known as Bill C-1, Bill C-2, etc.

There have been no "SD" bills since the 1964-65 session, when the proclamation of the *Dissolution and Annulment of Marriages Act* established that divorce cases would proceed through the Senate by resolution, not by bill. Unlike in the Commons, there are no numbers reserved specifically for government, private members' or private bills. Whatever their type, bills are numbered sequentially as they are presented.

REPORTS OF COMMITTEES

Reports may be presented by the Committee Chairman or by a senator designated by the Chairman. Most are printed in both the *Minutes of the Proceedings* and in the *Debates*. Some reports, especially those dealing with the study of special subject-matter, are for the information of the Senate only, and are not printed in either the *Minutes* or the *Debates*.

After a report is presented, a Senator may move that it be placed on the Orders of the Day for consideration at the next sitting of the Senate or at a future sitting. When the order of the day is called at that sitting, a motion may be moved to adopt the report or it can be considered without a formal motion to that effect. When the debate on a report which is merely considered is completed, the Speaker announces that the order has been debated.

NOTICES OF INQUIRIES AND INQUIRIES

An inquiry is not a formal motion but merely a device whereby a member may call the attention of the Senate to a certain matter, such as the political situation in a foreign country, industrial problems or government policies. Since no question is being submitted to the House for a decision, inquiries encourage a less partisan debate and sometimes result in the establishment of a committee on the subject-matter of the inquiry or the introduction of legislation. This proceeding appears to be unique to the Senate as it is not found in the Commons nor is it like the inquiries of the British Lords. Sir John Bourinot, in the 1884 edition of his book *Parliamentary Procedure and Practice*, commented upon the peculiarity of Senate inquiries:

In the Senate the discussion is sometimes permitted to run over several days on such an inquiry, which is not customary in the Lords, since a debate on a mere question cannot be adjourned. Neither is any mention made in the Lords' journal of a debate on such an inquiry as it is not in the nature of a motion . . . The practice is, in the Lords, to ask a question and at the same time, to move formally for papers, and then the motion appears in the journals.

Originally inquiries were written questions. They were placed on the Order Paper under the heading "Notices of Motions". It was not until 1877 that the practice of using an inquiry to call the attention of the Senate to a matter was begun. Such inquiries were always followed by a question to the Government. It is interesting to note that in 1891 the Speaker ruled out of order an inquiry which drew the attention of the House to a subject but did not ask a question. The Speaker claimed "A practice of that kind would, in my opinion, be abusive, against the rule of this House and against parliamentary practice." Not until the late 1930's did it become the established practice to not follow such inquiries with questions.

Until 1977, Senators placed written questions on the Order Paper under the heading of "Inquiries". Such questions had to be asked orally after due notice in the House and were answered orally. In 1977, the Senate adopted a system whereby questions could be sent in writing to the Clerk of the Senate to be placed on the Order Paper until answered. When a response came, it was to be sent privately to the Senator and printed in the *Debates*.

Notices of inquiries must be given orally and in writing and are placed on the Order Paper under the heading "Inquiries". When debate has terminated, the *Minutes* record that the inquiry has been debated.

NOTICES OF MOTIONS AND MOTIONS

Like inquiries, notices of motions must be given orally and in writing. Notice varies with the kind of motion presented. For example, two day's notice is needed for the appointment of a special committee while only one day's notice is needed for the appointment of a standing committee. Most substantive motions require one day's notice. Once notice is given, it is placed on the Order Paper under the heading "Motions".

QUESTION PERIOD

Prior to 1969, questions could be asked when a document was tabled or just before the Orders of the Day

were read but compared to today's proceedings, very few oral questions were asked. The rules adopted in 1969 stipulated that questions could be asked only of the Leader of the Government. In 1970 the rules were changed so that questions could be asked of any Senator who is a minister relating to his responsibilities and of a committee chairman relating to the activities of that committee. There is no time limit to oral question period.

ORDERS OF THE DAY

An order of the day is any matter which has been appointed by an order of the Senate for consideration on a particular day. It is this section of the Order Paper which contrasts so greatly with that of the House of Commons. Since government orders do not have priority over private members' orders, there is no need to divide them into separate categories. There is also no need to classify items of business, such as public bills, private bills, etc., since the volume of business before the Senate is seldom great. In the Commons, due to the tremendous amount of business before it, the standing orders provide for changes in the daily order of business to ensure that different kinds of orders will be called in the course of a sitting week. In the Senate, all items can be reached during a sitting. Finally, in the Senate, orders of the day are separated from notices and have priority over them. In the Commons, Notices of Motions and Notices of Motions (Papers) may be intermingled with orders of the day. Such an arrangement is necessary in the Commons since the standing orders state that once debate on such business is adjourned or interrupted, they drop to the foot of the list on the Order Paper under those headings. Such a rule does not exist in the Senate.

Rule 21 states the general precedence of business. A more detailed description of the arrangement of Senate orders of the day is as follows:

- 1) Orders given priority by special order of the House.
- 2) Third reading of bills as follows:
 - a) Orders which had been debated on the previous sitting and the debate adjourned.
 - b) Orders not reached the previous sitting day (i.e. the Order of the Day had not been read). This situation may occur, for example, if the Senate had to suddenly adjourn.
 - c) Orders designated for consideration on a specific sitting and not appearing on the Orders of the Day until that sitting. Senators will sometimes request that an order be considered, not on the next sitting day but on some future sitting. The order is then carried on the Order Paper after the Orders of the Day with a note specifying the date when it will be considered. On that day, it is then placed on the Orders of the Day.

d) New orders which are on the Orders of the Day for the first time at that stage.

e) Orders which had been stood on the previous sitting.

3) Remaining stages of bills debated the previous sitting day and debate adjourned. These are the consideration of reports of committees which have passed amendments, committee of the whole stage, second reading stage and the consideration of Commons amendments to Senate bills. All stages are treated equally. Priority is assigned according to when the order is dealt with. Orders dealing with the consideration of the subject-matter of bills are not included in this category.

4) Remaining stages of bills not reached the previous sitting day (i.e. the Order of the Day had not been read).

5) Remaining stages of bills as follows:

a) Orders designated for consideration on a specific sitting day and not appearing on the Orders of the Day until that sitting.

b) New orders which are on the Orders of the Day for the first time at that stage.

c) Orders which had been stood on the previous sitting.

6) Remaining orders not dealing with stages of bills debated the previous sitting day and debate adjourned. Included in this category are Inquiries and Motions debated the previous sitting day and debate adjourned.

7) Remaining orders not reached the previous sitting day (i.e. the Order of the Day had not been read).

8) Remaining orders designated for consideration on a specific sitting day and not appearing on the Orders of the Day until that sitting.

9) New orders not dealing with stages of bills.

10) Remaining orders stood on the previous day.

Since priority can change, orders do not retain the same Order Paper number, as is done in the Commons. The date preceding the order signifies when it was first placed on the Orders of the Day or when the debate on the order was first adjourned. The name of the Senator that follows the order signifies who has adjourned the debate at the previous sitting, or, if it is a new order, who has originally placed it on the Orders of the Day.

CONCLUSION

The business of the Senate is carried out efficiently. The arrangement of the Order Paper well suits a chamber of 'sober second thought' which is not inundated by government or private members' business. A more partisan or politically active Senate would undoubtedly require some rule changes. Governments would perhaps be forced to ask for time restrictions on Question Period and insist that its business have some priority on the Orders of the Day. Such rule changes do not appear necessary at the moment since government and opposition show a remarkable degree of cooperation and business emanating from both sides of the House is adequately considered. The procedure followed for the last 114 years for the conduct of business has served the Senate well.