

A Parallel Chamber for Canada's House of Commons?

The most valuable and perishable commodity one has, as a Member of Parliament (MP), is time. How we use our time in Ottawa and in the riding speaks to the value we bring to the people who elect us. The efficiency of Members' time is an integral principle throughout our Parliamentary procedures and conventions. Making efficient and effective use of the Member's time in Ottawa is paramount. In this article, the author explores how the creation of parallel chambers in two sister Westminster Parliaments has provided ways to make maximum use of the time MPs have during a parliament to engage in debate and discussion. In addition to streamlining the legislative process and reducing the need and/or use of closure and time allocation, the concurrent chambers have been used to test new proposals for procedures that eventually have been adopted by the main chamber.

Bruce Stanton, MP

There has been considerable discussion recently, within media and public forums, with respect to the health of our parliamentary system; specifically: its effectiveness in promoting quality debate and meaningful impact in lawmaking; its service to democratic principles of fair representation; and the ability of Members of Parliament (MPs) to represent their constituency interests in contrast with their party's priorities. The discussion often considers the overriding influence of political parties' leadership in directing the day-to-day affairs of Parliament; from message discipline in speeches and statements, to voting; from deciding which questions should or should not be posed in Question Period, to how long a bill can be debated before being voted upon.

For avid politics followers and activists, these discussions are surely intriguing. For most of the broader voting public, however, the discussions are entirely too academic and obscure, bearing little to no relevance in their day-to-day lives.



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So, it is left to legislators to grapple with issues involving the effectiveness of our Parliament as an institution. It is also fair to say we are persuaded in this work by media commentary, researchers, academia, political forums and think-tanks who contribute to this area of politics and political discourse.

The Member of Parliament is an essential link between Canadians and their Parliament. Their responsibilities include legislating, scrutinizing and holding the government to account, serving and being the voice of constituents, and upholding the commitment of political parties to their promises and values.

The recent *Samara Report on Democracy #4, Who's the Boss – Canadians' Views on their Democracy* elaborates on this theme: "...Canadians understand the importance of MPs and look to them to tackle public problems. For example, when asked to whom they turn when it comes to policy issues that concern them, Canadians' number one choice was Members of Parliament, followed by elected leaders at other levels."¹ It is this relationship, between representatives and their constituents, that is a vital link between the public and their foremost, lawmaking institution.

In this respect, it is MPs who have the means to improve how Parliament works. The Standing Orders of the House of Commons is the essential document that frames the procedures and practices in the House and Members have the ability to amend the Standing Orders to better serve the public interest.

As we look at how Parliament could be made to work better we should first understand the issue or problem we're trying to solve. Second, we should be asking ourselves how any measures to effect such improvements would serve Canadians better.

One can easily compile a list of deficiencies or areas of concern for MPs with our current system. Some of these areas of concern have direct implications for all Members, while others reflect differing roles and responsibilities between government and opposition. These could include: electoral reform, disorder and heckling in the House, omnibus bills, whipped votes (votes enforced by party whips), limitations on debate (time allocation, closure), repetitive and party-scrutinized speeches, limitations on Private Member's Business (via lottery), Committee Chair and membership being prompted by party leadership, and the list could go on. There are opinions on either side, but each of these has been criticized as being a

restraint on citizens' democratic expression via their elected Member of Parliament.

Two recent books on a number of these subjects describe the scenario well. The first is *Tragedy in the Commons*, by Alison Loat and Michael MacMillan (co-founders of Samara Canada), and the second, *Turning Parliament Inside Out – Practical Ideas for Reforming Canada's Parliament*, a compilation by eight, sitting Members: Niki Ashton, Michael Chong, Michael Cooper, Nathan Cullen, Elizabeth May, Scott Simms, Kennedy Stewart and Anita Vandenberg. Both are written from the perspective of MPs; their observations and experience from the "inside" of Parliament.

Would addressing the points these authors raise also serve the public's benefit as well? If we were addressing issues that, in the opinion of the media, academic commentators, and Parliamentarians themselves, are in need of improvement, then we could assume these measures would translate into improved trust and confidence in Parliament among the voting public.

This would surely be an area for further in-depth academic study, but in this article I have chosen to discuss an innovation adopted by our sister Westminster parliaments in Australia and Great Britain in 1994 and 1999, respectively, that have achieved considerable success and broad acclaim. Specifically, it was their creation of a parallel, or concurrent, chamber to their main House of Commons (House of Representatives, in Australia) for debates and business of the House. In the years since their debut, the parallel chambers have significantly improved the legislative process and helped MPs to be more effective in representing their constituents and holding the government to account.

Australia led the initiative in 1994 when it created a "Main Committee," a sort of Standing Committee of the Whole, since renamed the Federation Chamber, in 2012.

The Federation Chamber – Parliament of Australia

The Federation Chamber was seemingly born out of a legislative paralysis in the wake of the 1993 election, where the government was having great difficulty moving legislation through the process within the time constraints of the House. The House of Representatives' Standing Committee on Procedure was tasked to look into ways of "... streamlining legislative activity and provide additional time for

Members to consider legislation, without increasing the hours of the House."² That Committee's report in October 1993, *About Time: Bills, Questions and Working Hours*,³ noted there had been numerous proposals to reform and improve legislative processes going back 20 years, some of which were trialled and abandoned. None came to fruition and demands on the House remained.³

The Procedure Committee recommended the creation of a new Main Committee, and summarized the anticipated benefits of it as follows:

The proposals reorganise [sic] legislative business to allow Members to use their time more productively. The dual legislative streams should make a major contribution to minimising [sic] the need for closures and the use of the guillotine [time allocation]. It gives the House more time (by putting more of its business into committee and removing committee proceedings from the Chamber). More legislation can be dealt with in a given number of days. At the same time it is possible to give additional time to individual bills. The additional legislative time would open up fuller opportunities, in the House, for debate on the major and controversial items of the Government's legislative agenda. It would also provide more opportunities for backbenchers to make speeches for the record ... on routine bills which are of special interest to them or of importance to their electorate.⁴

In its *Celebrating 20 years of Operation (2015)* report, the Procedure Committee concluded that all of the benefits imagined at the Federation Chamber's debut had effectively been realized and it has become integral to the effectiveness of the House.⁵

It achieved its foremost mandate by streamlining the legislative process and reducing the use of time allocation in its first year. Where their guillotine, or time allocation, had been used on 132 bills in 1993, before the new chamber's debut, only 14 bills were guillotined in 1994.⁶

The Federation Chamber is used for legislation when the Chief Government Whip, in consultation with Ministers and Opposition Whips, and non-aligned Members, determine it can be deferred there.⁷ It works especially well for less contentious bills. This, in turn, takes the strain off of debate time in the House and gives Members more opportunities to participate.

Across those 20 years, the Federation Chamber has expanded from its initial role as an adjacent lane for the progress of legislation, to providing a means for additional debates on Committee Reports, Adjournment, Business of Supply, and Private Member's Business. It has also been used for presenting petitions and features reserved time for 90 second Member's Statements, and three-minute Constituency Statements.⁸

The last item, Constituency Statements, has been a remarkable success and was much sought by Members to speak up on matters of urgency and relevance to their constituents. In 2014, the usual 30 minute period for these three-minute statements was extended to 60 minutes on 17 occasions in order to accommodate demand. Ministers are also permitted to use these Constituency Statement time slots,⁹ but continue to be prohibited from using the usual Member's Statements, as it is in our own Standing Orders in Canada.

The Federation Chamber has even become a testing ground for new, proposed procedures before they might be implemented in the House and become Standing Orders. For example, they tested a new set of display screens that would inform the current item of business for Members in attendance and the public. They also tested a new potential Standing Order where Members could rise and interrupt a Member's speech to seek permission to pose a question, creating a more interactive debating style. Each was later implemented in the Main House.¹⁰ Another successful trial involved the use of a digital clock to display the Member's remaining speech time. This tool has also been implemented in the House.¹¹

The workload and hours of meeting in the Federation Chamber have steadily increased from 94 meeting hours in 1994 to approximately 280 hours in 2014. This compares with 760 hours of meeting time in the House of Representatives in 2014.¹²

On the whole, the Federation Chamber had an overwhelmingly positive response from Members, including those who were initially skeptical. As the Procedure Committee noted in its 1995 report:

Other comments have been made to the committee that there is a better interplay in debate and the more intimate environment encourages true debate and response to others' contributions. Signs of less formal and more responsive debate in the Main Committee are encouraging. It is to be hoped that this trend

will continue and any sterility in the atmosphere will dissipate in time.¹³

The Federation Chamber is also seen as a less intimidating forum for new Members to gain confidence and improve their skill in public speaking and debate, and also for new Chair Occupants to hone their presiding ability.¹⁴

The parallel chamber operates by consensus but any Member may force a division, at which point the question is referred to the House for its consideration. The quorum is low, usually the Chair and at least two other Members; one from the government, one from opposition. Debates are chaired by a presiding officer from their "Speaker's Panel of Chairs." In Canada it is interesting to note that our Standing Orders provide for the Speaker to appoint Members to the 'Panel of Chairs' for legislative committees (Standing Order 112). A similar system is also used for the presiding officers for Annual General Meetings of Parliamentary Associations.

Meetings of the Federation Chamber are open to the public, transcribed and televised. It is not an investigative forum, the way a Standing Committee operates. No witnesses are called to testify.¹⁵ Rules for debate are essentially the same as those in the House.

The House of Representatives in Australia has benefited greatly from its parallel chamber, where it was observed that the Federation Chamber "... epitomizes the best of the House of Representatives working in a collaborative manner and has earned its place as a permanent part of the operations of the House."¹⁶

It was the success of this innovation that prompted the United Kingdom's (UK's) House of Commons to consider it for similar challenges they were having with their legislative schedule. Their Select Committee on Modernisation [sic] took up consideration of the idea in 1998 but concerns were raised, not unlike those initially raised of Australia's proposed parallel chamber, namely that such a chamber would devalue the work of the Main House and Members might be conflicted as to which debates to invest their time and interest.¹⁷

As a result, the UK Parliament presented a detailed overview of Australia's Federation Chamber and invited the input of Members on how such a parallel chamber might best serve the House of Commons. With their comments in mind, the Select Committee

tabled a subsequent report recommending the adoption of a secondary debating chamber, and in May 1999 the House of Commons agreed to the establishment of a parallel chamber – what came to be known as Westminster Hall. In November of that year, Westminster Hall was convened for the first time. The name of the Hall was associated with its physical location, in one of the Grand Committee rooms, adjacent the historic Westminster Hall.

Westminster Hall

Although it took its lead from Canberra, the UK House of Commons opted for a different utilization of its concurrent chamber, chiefly that of expanding opportunities for Private Members. The House of Commons had not been able to keep up with requests from Members for the usual end-of-day adjournment debates¹⁸ (opportunities to raise questions and compel responses from a Minister or their representative). Members were eager for more opportunities to hold the Executive to account.

Its schedule today reflects that need. The majority of the time in Westminster Hall is taken up with what is called Backbench Business. The government allots time for Backbench Business and the debates that occur in these limited time-slots are managed by the Backbench Business Committee. Members are able to submit proposals to the Committee for debate, in Westminster Hall or the House, on topics which they deem relevant. Debate requests are vetted by the Backbench Business Committee, and those selected are then scheduled, usually on Tuesdays and Wednesdays, each sitting week.¹⁹

The proposals selected for debate are chosen on their merits, considering the subject's topicality and timing, the importance of holding a debate on the matter, the number of MPs that would likely take part, whether the debate has already been aired or arranged through other channels, and whether or not a substantive motion on the matter had already been considered in the House.²⁰

Westminster Hall also schedules time for debate on petitions and electronic petitions (e-petitions), and on Select Committee [Standing Committee] reports, managed by a Petitions Committee and a Liaison Committee, respectively.²¹ Other business in Westminster Hall is scheduled in coordination with the *usual channels* [Government and Opposition Whips] of the House.²²

Procedurally, Westminster Hall operates similar to the Federation Chamber: low quorum, no votes, no witnesses, and a defined schedule each sitting week.

After its first year in operation in November 2000, the Select Committee on Modernisation [sic] presented a report to the House noting the considerable success Westminster Hall had in providing additional opportunities for Members to debate. The Westminster Hall experiment had afforded Members 134 additional occasions to raise issues with Ministers, and 13 additional debates were held on Select Committee reports.²³

When it comes to attendance at debates, this varied between 5 and 30 Members with the average being 10 to 12, which is approximately 25 per cent of the capacity of the meeting room. The relatively low attendance was not a concern of the Committee, however, as the purpose of the chamber was to address the demand for debate time to give Members, particularly backbenchers, a chance to get on the record on topics of importance, and to address these matters to the executive branch of government.²⁴

A New Chamber for Canada's Parliament?

Within our Westminster family these two Parliaments took deliberate steps to streamline the legislative process. The strains on House time encouraged them down the path to a second, concurrent chamber. Along the way, they discovered valuable ways to enhance the work of Members of Parliament. Each has increased the available time for debates (by about 30 per cent), provided new channels for the expression of Private Members in holding the government to account, and opened the door to debates on matters of greater relevance to their constituents.

Their parallel chamber enables the testing of procedural changes being considered prior to their introduction in the Main House. They provide the Whips and House Leaders greater flexibility in managing the legislative agenda without resorting to time allocation. More available debate time in the Main House can ensure Members have the opportunity to get on the record on more controversial and consequential legislation.

Relieving the constraints on the House schedule could reduce the use of omnibus legislation. That would mean more bills accomplishing what an omnibus bill would have, but with separate debates and separate votes on key elements of legislation.

The most valuable and perishable commodity one has, as a Member of Parliament, is time. How we use our time in Ottawa and in the riding speaks to the value we bring to the people who elect us. The efficiency of Members' time is an integral principle throughout our Parliamentary Procedures and conventions. Making efficient and effective use of the Member's time in Ottawa is paramount.

Each year, MPs from 338 ridings across Canada convene in Ottawa for about 26 weeks. As of adjournment on December 13, 2017, the House had convened 250 days in this 42nd Parliament (since December 3, 2015); about 125 days per year.

To date in this Parliament, 35 Commons Bills have received Royal Assent; only five of them Private Member's Bills. Another 33 Government Bills and 51 pieces of Private Members Business remain pending, at different stages of the legislative process in the Commons and Senate.²⁵ There are likely just over 200 sitting days remaining before the 2019 election.

At just over the half-way point, there is more business on the Order Paper than what Parliament can, at this pace, likely complete before dissolution and the next federal, general election. Even to this juncture, the government has closed debate three times, and imposed time allocation on 27 occasions.²⁶

It therefore behooves us to consider how we could use this precious time more effectively. Thankfully, there are two good examples within the Commonwealth we can look to.

Earlier this Parliament, the Standing Committee on Procedure and House Affairs (PROC) undertook a study of the Standing Orders in relation to making Parliament more family friendly. The study considered how MPs could use their time in Parliament more effectively while also bringing greater predictability to their schedules. Then Acting Clerk Marc Bosc was invited to testify and his opening remarks included the following:

...with a view to alleviating some of the time pressures we are talking about, the committee may wish to examine the usefulness of a parallel chamber, a practice followed in Britain and in Australia, and perhaps elsewhere. Here, the committee could look at whether it would want to recommend such an alternate venue and if so, how it could function, when it could be convened to have its sittings, what limitations

could be placed on what it could and could not do, and so on. In other words, would it exist for debate purposes only or for more?²⁷

Following his remarks, committee members put questions to the Acting Clerk, including about a parallel chamber. On the issue of potential cost, it was noted that setting up and operating a concurrent Chamber would not necessarily be administratively cumbersome or expensive depending on how complicated a system is envisioned.²⁸

On the whole, a parallel chamber for the House of Commons would strengthen the democratic process in Canada's Parliament by giving MPs greater means to legislate and challenge the Executive Branch of government. As such, the idea deserves our careful consideration.

Notes

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- 4 *Ibid.*, p. 12.
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