

# THE INNOVATIVE USE OF STANDING COMMITTEES

Keith Penner, MP

**When legislators get together they frequently complain about the slowness of reform. At the same time, in their day to day work they often fail to use the powers they already have. In this article the author describes how a committee chairman, co-operating with his members, can uphold the principle of "grievance before supply" despite rules which tend to impinge on this fundamental element of parliamentary democracy.**

When the House of Commons refers the main estimates to standing committees, the committees are given considerable leeway in planning their work. Under vote number one of the estimates, a standing committee can do virtually as it pleases. It can call whomever it likes; it can focus attention on any aspect of departmental responsibilities or programs. But can it ever be really effective in bringing about significant change?

Once a committee has studiously and conscientiously examined the estimates and has some thoughts to voice about what it has learned, it encounters a difficulty. The problem is that a committee cannot do very much with the information it has garnered. Strange as it may seem, substantive reports to the House of Commons are not encouraged when the reference from the House to a committee is that of the estimates. Under certain circumstances such reports can even be ruled out of order.

How this peculiar situation came to be deserves some explanation. A number of years ago when Speaker Lucien Lamoureux was in the Chair, several committee reports came forth under the reference of estimates. The tabling of such a report was sometimes followed by placing on the Order Paper a motion to concur. If a member wished to have that motion called, it became debatable, along with the contents of the report. This was the dilemma the Speaker faced. A number of such reports came to the House and concurrence was moved; the House was then required to debate them. Under these circumstances the dog, the House of Commons,

was being wagged by its tail, the committees. Obviously, it must be the other way around. The House of Commons is, and must remain, the master of the committees. The Speaker thus was compelled to rule such reports out of order.

The conditions which discourage committees from reporting to the House when examining the estimates cry out for correction. What is the purpose of spending hours and hours studying the estimates when the end result is negligible? Surely it is possible to make some modification to our rules which would enable committees to report on their observations.

At present, a committee may approve of the estimates or it may reject them. An item in the estimates may be reduced, but either a rejection or a reduction in the estimates can easily be restored by a parliamentary majority in the House. Some committees, therefore, decide to do little or nothing, since, on a certain given date anyway, the estimates are deemed to have been reported back to the House.

If members thus do not rush to each committee meeting with great enthusiasm can they be blamed? What are they doing after all? Is this not just another example of parliamentary busy work? To a certain extent it clearly is. Occasionally, however, a committee can be convinced of the need for concerted action and it can then be rather effective if it wants to be.

By way of illustration, in 1976 an important bill, the bill to ratify the James Bay Agreement, was referred

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to the Standing Committee on Indian Affairs and Northern Development. This agreement was a land claims settlement involving the Cree people of Quebec living in the James Bay area, the Inuit people of Northern Quebec, the Government of Quebec and the Government of Canada. These Indian and Inuit people had been successful in obtaining a court injunction against Hydro Quebec to stop a major hydro development in the James Bay area. As a result of that injunction they sat down at the bargaining table with government and hammered out an agreement which the Parliament of Canada and the Quebec National Assembly then had to ratify.

At that time, I was serving as Parliamentary Secretary to the Minister of Indian Affairs and Northern Development. The Cree and Inuit people who were signatories to the agreement believed it to be a good one. They were anxious to get it approved as quickly as possible so they could enjoy the benefits which they believed would flow from this accord. Eventually, the agreement was ratified. Despite some opposition, it was approved by Parliament. It was put into effect, so to speak.

Moving ahead several years to 1981, the Standing Committee on Indian Affairs and Northern Development, having as its reference the main estimates, met to hear the Quebec Cree and Inuit regarding the James Bay Agreement. A most effective presentation was made before the committee. The Cree and Inuit explained forcibly that in their view they had been cheated and short-changed by the manner in which the agreement had been implemented. They felt they had been misled by the two levels of government. The terms of the agreement, they emphasized, were not being met. The leaders of the Quebec Cree and Inuit people not only expected the standing committee to hear their case politely, they wanted some action to follow.

The committee saw itself faced with a conundrum. With the main estimates as the reference, a substantive report to the House regarding the implementation of the James Bay Agreement did not seem to be an effective way to proceed. In addition, if the tabling of that report was followed by a motion for concurrence in its recommendations, the report would certainly be ruled out of order. Yet the Cree and Inuit leaders of Quebec had made such a compelling case that all members of the committee — Liberal, Progressive Conservative and New Democrat — felt compelled to overcome somehow the committee's impotency. Something had to be done, but what?

After some thought, the committee decided to draft a report, but to bypass the House of Commons and all the inherent procedural difficulties that could ensue. Instead, the committee determined it would go directly to the government, that is, to the Minister of Indian Affairs and Northern Development, and would present him with the report (the committee clerk urged us to call it a statement for purposes of procedural propriety).

Accordingly, a clear, concise but strongly-worded statement was prepared and members of the steering committee (i.e. the sub-committee on procedure and agenda) requested a meeting with the Minister to be attended by him and his senior officials.

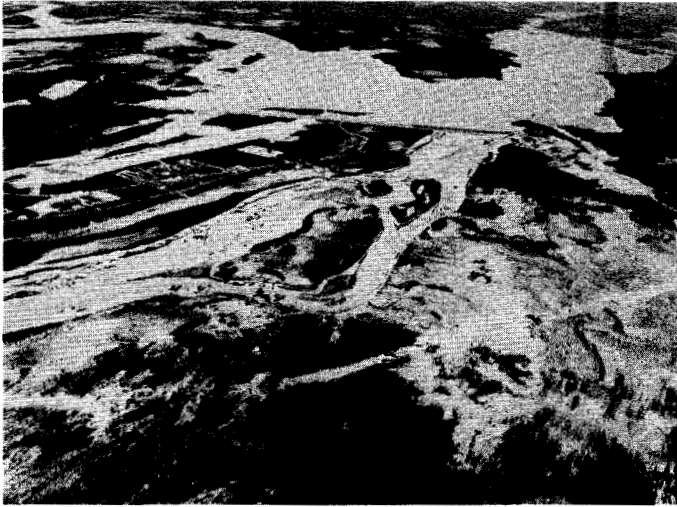
This meeting was duly arranged with the members of the steering committee representing the three political parties. The Chairman read the statement, questions from the Minister followed and a useful and honest discussion resulted. Following the meeting, a press conference was held in order to release the committee's statement and to explain to the news media why this particular course of action had been pursued. The Minister asked to attend the press conference and he himself participated actively.



John Munro, Minister of Indian Affairs and Northern Development, (centre) addressing a meeting in Rupert's House, Quebec. Also present (from left to right): Keith Penner, MP, Chairman of the Standing Committee on Indian Affairs and Northern Development; Brian Craik, Grand Council of the Crees of Quebec; Billy Diamond, Grand Chief, Grand Council of the Crees of Quebec; René Gingras, M.P. (Photo: Gordon McCaffrey)

The procedures outlined above seemed obvious and straightforward enough at the time to the members of the committee who were involved. Only later was it realized that perhaps some fresh ground had been broken. A part of that poor, weak legislative arm of government, so dominated and cowed by the executive, had briefly prodded itself into action. On an issue of high principle, namely that of honouring an agreement, a committee had been compelled to act in a decisive manner.

Further direct action ensued when the Minister appointed one of his more senior officials to undertake a comprehensive review of the implementation of the James Bay Agreement. When completed, it was given to the Cree Grand Council and the Inuit Association of Northern Quebec for their comments and views. Early in 1982 the Standing Committee on Indian Affairs and Northern Development will review, with all parties concerned, what progress has been made toward a full and fair implementation of this major agreement.



Aerial view of James Bay Territory. (Photo: Gordon McCaffrey)



The Minister of Indian Affairs and Northern Development Hon. John Munro; Walter Hughboy, Chief of the Old Factory Band, Wemindiji; Keith Penner, PM and Billy Diamond during a visit to Paint Hills, Quebec. (Photo: Gordon McCaffrey)

Was the innovation effective in any way? It appears that it was. Shortly thereafter the Minister, in company with the Chairman of the committee and the local Member of Parliament, visited a number of the James Bay communities in Northern Quebec. The Minister saw for himself what conditions existed in these communities and he heard on the site how the people felt betrayed by an agreement that had once held out so much promise for them. A news reporter was on hand and her impressions were widely communicated in a series of articles that followed the visit.

To conclude, the case study briefly described above has demonstrated how a committee was stirred to unexpected life because it felt strongly about a perceived question of injustice. The muscles of the committee were flexed and in this instance employed — as they always should be — in such a way as to make government responsible, to cause it to respond appropriately. The committee system in the Parliament of Canada badly needs major reform. In the meantime, and the wait may be a long one, committees need not be completely idle and useless. If the will exists, they can be effective in some way or another. All they need to do is try.