

For a Consensual Style of Parliamentary Government

Vaughan Lyon

The political life of the House of Commons, like that of the country-at-large, is governed by unwritten conventions and traditions and by its 'statute-law'—the standing orders. This special statute has a constitutional aspect. In the course of outlining House procedures, it sets out some of the rights of the minority parties in the House of Commons vis-a-vis the majority party, and the rights of all backbenchers vis-a-vis the executive. While the standing orders can be amended by a simple majority (unlike most constitutional documents), they are regarded as a matter for the whole House to determine. The parliamentary system would rest on a shaky foundation if the rules were whatever a temporary majority deemed.

A consideration of standing orders is not, therefore, a narrow technical matter but one affecting fundamental power relationships. It follows that revision of the rules should be guided by a clear perception of what those relationships ought to be.

Objectives of Reform

Reform of House procedures could help alleviate three major concerns about the current operation of Parliament. First, changes in the rules might expedite the adoption of the government's program. While increased efficiency is desirable if the cost in other values is modest, this objective is not uppermost in the minds of most who believe that Parliament needs rehabilitation.

Second, procedural reform might reduce the excessive power wielded by the executive-bureaucratic hierarchy, especially that of the Prime Minister's Office, and strengthen means of enforcing executive accountability.

Third, and closely related, rule changes might allow a wider range of elected representatives to play a significant part in developing the program of the government. This would add authority to that program, badly needed credibility to the House of Commons and increase public confidence in the representative system.

The strongly negative feelings Canadians have currently about politics and politicians are documented.¹ The reasons for this disenchantment are many. Some, like the behaviour of a Prime

Minister, are ephemeral and passing, others more basic. The most fundamental has been identified by T. Lowi, the American political scientist:

With each significant expansion of government in the past century there has been a crisis of public authority. . . . each such expansion of government and its ensuing crisis of authority has been accompanied by demands for equally significant expansion of representation.²

There has been a tremendous expansion in government since the 1930s in Canada but without a corresponding expansion of representation. In fact, the formal opportunities for people and their elected representatives to influence government have contracted. It would be extreme to suggest that a crisis of democratic legitimacy is the result, but certainly public support for the system has been eroded.

The problem of shoring up the authority of government is compounded by two other factors. First, being an MP is now a full-time occupation and attracting an able group of people. Members must now get their job satisfaction from their parliamentary work. Most find themselves very busy, but they are conscious of the fact that given the 'pattern of power' in the House they can have little impact on policy development. Understandably, few parliamentarians are found giving ringing panegyrics on the merits of the parliamentary system: quite the contrary. The public is confirmed in its dim view of Parliament by parliamentarians.

Second, regional alienation from Parliament has seldom been as marked. These feelings are intensified because cabinet domination of the Commons makes it impossible for representatives of important regions (found on the opposition benches) to influence public policy to any significant extent.

Obstacles to Reform

Efforts to reform legislatures in Canada have been disappointing for three major reasons. First, parliamentary reformers have not faced and dealt with the power of the leader of the dominant party and prime minister. Second, reformers have not understood that achievement of their objectives required the rejection of the 'adversarial' model of parliamentary government and movement toward a 'consensual' model. Third, reformers have been handicapped by a colonial mental set.

Vaughan Lyon is professor of political studies at Trent University in Peterborough.

Executive Dominance

In virtually every article dealing with parliamentary reform, there is a reference to the fact that success depends ultimately on the members; that the executive will resist most change as inconsistent with its interests. While this reference protects the writer from charges that he or she has ignored this important point, insufficient attention is focused on this sensitive issue. The control of the executive is formidable, and it is that very control that is the target of most significant reforms.

The pattern of executive dominance has extra-parliamentary and parliamentary dimensions. The party leader/prime minister is chosen by the extra-parliamentary wing of the party putting him beyond the control of the parliamentary caucus and lessening his responsibility to the body which is charged by the public to hold him accountable. Every successful government candidate has campaigned with the support of the party apparatus headed by the party leader/prime minister and ridden into office on the leader's coattails as much or more than on his own merits. The expected *quid pro quo* for this support is loyalty. Further, in a time when, thanks to the mass media, leadership politics is even more dominant than in the past, all elected members have a powerful vested interest in enhancing the prestige and status of their chief. For the government member to challenge the power of the executive is, in most instances, damaging to his personal and party interests.

Inside the House, control is exercised through prime ministerial appointments and other perks. Equally important, the conventions of parliamentary government and the highly partisan nature of Canadian politics allow the party leader/prime minister to demand voting support. Members failing to provide this invite an election under circumstances unfavourable to their return. This pervasive control exercised by the party leader/prime minister makes a mockery of representative democracy. It also makes it exceptionally difficult to be sanguine about the work of a parliamentary committee set up to reform House rules and dominated by the government party. In the past the chief beneficiary of such efforts has too often been the executive.

The problem of getting reform touching executive power past the executive seems intractable. However, the force needed to accomplish this is more likely to be mobilized if there is a fuller recognition of the scope of the challenge and the sacrifices that reformers in parliament must be willing to accept. Perhaps only government members planning early retirement should be put on "reform" committees!

The Adversarial Model

Among those interested in parliamentary government there is general support for modifying the rules so as to allow MPs from all parties to have more input into public policy and also to allow them to check the executive more effectively. Winning an election in which the voter has limited choice, usually with considerably less than the support of the majority, is not seen as entitling one party to monopolize completely the policy process. Nor does it seem right that any elected representative be relegated strictly to a narrowly defined role as supporter or critic of the government when at times his reason, conscience and the interest of his constituents may

demand that he shift from one category to another. Somewhat inconsistently, however, there also seems to be a pervasive feeling that one party ought to be solely responsible for the legislative and administrative record of the government.

When the chips are down it seems always to be the latter of these two views that wins. Jettisoned are proposals to alter House procedures in such a way as require the cabinet to engage in truly democratic consultation with MPs from all parts of the country and all parties in developing its program.

There is a difference between consultation which amounts merely to listening to the views of others and 'democratic' consultation. The latter involves a willingness on the part of the listener to sacrifice his own policy preferences and embrace those of others wholeheartedly where they appear to represent a wider consensus. It is almost axiomatic that leaders will engage in the fuller form of consultation only when put in a situation where they cannot function successfully without doing so.

The case for one party bearing sole responsibility for government is implicitly the argument for executive power since in a legislature where roles are rigidly defined discipline must be strict. As is customary in these matters, a one-party monopoly on policy-making is rationalized as being in the public interest. It is claimed that, with sharing, the public would be confused about where to place responsibility for political developments. The government party's monopoly on policy-making supposedly simplifies the electorate's decision. However, there are now many factors affecting the performance of government, some of which are beyond its control. Citizens assessing political performance have to wade through claims that the mess left by predecessors in office, world economic conditions, the attitude of the provinces, constitutional restrictions, the actions of multinationals, of a disloyal bureaucracy, and on and on, are responsible for social and economic problems—not the current government.

To adopt House rules which might enable the government to argue also that some controversial action or inaction should be laid at the door of the Commons membership would not confuse the voters or in any significant way lessen their ability to hold the government accountable. The best a politically alert citizen can do is to base his ballot on a very subjective evaluation of how the government has performed and the general direction it promises for the future. After six years of minority government in Ontario, 1975-81, where opposition and government backbenchers certainly had much more direct impact on legislation than ever before, the voters experienced no new difficulty in assessing government performance and assigning responsibility.

While from the perspective of the electorate little or nothing would be lost by wider Commons participation in developing the government's program, a great deal could be gained. With rules allowing members greater freedom of action, even a majority House would be more effective in holding the cabinet/senior bureaucracy accountable. Government supporters would not automatically protect and support the executive. More important, from the point of view of the country, a broader sharing of responsibility for developing the government's program would allow regions which do not now elect government members to be more adequately represented in the policy process.

Our exaggeratedly adversarial style of parliamentary government does not meet Canadian needs and should be firmly rejected. In drafting new rules for the House, the Special Committee on Standing Orders and Procedure would do a great service to the Canadian polity if it sought to shift the system to a more open, less partisan model. In such a model the parties would continue to compete vigorously at the polls, presenting alternative perceptions of the general direction in which the country ought to move. The election would indicate the general policy thrust preferred by the public, and this would be respected by all parties. Within these policy parameters determined by the electorate, however, all MPs would have increased opportunities to contribute to the government's program. Those in the majority party would play a dominant role, but there would be a much larger place for the opposition MPs (representing well over half the voting population) than is now the case.

The recent period of minority government in Ontario provides a very rough example of the pattern of government that the Committee should seek to institutionalize. The Ontario Conservatives "won" the election and neither opposition party expected it to dramatically change direction with the loss of its majority, or challenged its right and responsibility to develop a comprehensive program for presentation to the legislature. But, as the price of their support, the opposition parties insisted that their views on a wide range of issues raised by the government be reflected in the legislation finally adopted. There was an unprecedented amount of government/opposition consultation on legislation. In moving, albeit only temporarily, some small distance toward a consensual model, the Ontario legislature gave us a glimpse of a different and better style of parliamentary government.

We are currently engaged in a debate about drastically changing the Senate and our electoral system in order to counter the failure of the House of Commons, as it presently operates, to adequately represent regional interests. A reformed Senate would likely see representatives of provincial governments comprising that chamber. A revised electoral system would bring the percentage of members each party has in the House more into line with its percentage of the popular vote in various regions of Canada and increase the likelihood of minority government. Wouldn't it be more satisfactory from a variety of perspectives to strengthen Parliament's ability to represent through rule changes rather than struggling with other more difficult to enact reforms?

Colonial Mental Set

Defenders of the parliamentary status quo throw up various lines of defence. One of the most effective has been simultaneously to exploit the patriotism of Canadians and their feelings of insecurity about institutional modification. All too often proposals for change have been rejected on the grounds that they represent either creeping Americanism or a departure from the tried and true principles of British parliamentary government, instead of being discussed on their merits.

Consider how lacking in validity these defences are. The essential element of the idealized British parliamentary model, firmly established in the mid 19th century before the arrival of modern disciplined parties, is that the executive is responsible, and not just formally, to the House. In this period, popularly regarded as

the golden age of parliamentary government, ministries were frequently replaced by the House without precipitating elections. We have moved a long way from this model. If one wants to argue about whether reforms are consistent with the British parliamentary government, it can be claimed that those which enhance the position of the House and its committees will restore the 'true' parliamentary system.

The central feature of the American model is the division of power between the three separate branches of government. The Executive, Congress and Judiciary are designed to check one another and any majoritarian impulses in the country, and do. The fragmentation of power extends to a truly bicameral legislature (where each chamber has roughly equivalent power) and where those legislatures are in turn decentralized into a network of highly autonomous committees. Nobody advocating parliamentary reform in Canada suggests a separation of the executive and legislature, but, rather, that the executive be made more responsive to the legislature.

If members of the current cabinet were really concerned about moving toward the American model they should not have supported recent constitutional developments which will, over time, give the Canadian judiciary powers which are somewhat comparable to its American counterpart. Use of the American bogey to protect vested interest in the existing distribution of power in Parliament has been very effective in the past but does not deserve to be taken seriously. Our responsibility to the future is to nurture a political system which meets unique Canadian needs by drawing on our own inventiveness and on any foreign models which appear helpful.

What Ought to be Done?

To this point I have been dealing in generalities. What might the Special Committee on Standing Orders and Procedure or other reformers recommend in order to broaden participation in the policy making process—to democratize Parliament? The current dominance of the executive must be challenged both by revising existing rules and by altering and making part of the 'statute law' of the Commons some of the existing conventions which give the executive its current stranglehold on the House.

Confidence and Calling Elections

By convention the prime minister has the right to recommend that the House be dissolved prior to the end of its term even when his party does not command a majority in the House. Except in the most unusual circumstances, his recommendation will be acted on by the governor-general.

It may be argued that this prime ministerial prerogative has nothing to do with the rules of the House. But it does. The rules are intended to allow the proper consideration of the public's business. But how can such consideration take place when the prime minister is able to intimidate his party colleagues and the opposition by threatening an election if the cabinet is not supported?

The cabinet should be prepared to accept with humility the defeat of any proposal, including those dealing with finances, at the hands of its master, the House of Commons (as indeed it does

when its interests are served by so doing). Revised rules should ensure this by stating that the government will only be considered to have lost the confidence of the House on a specific want-of-confidence motion. Only following the passage of such a motion should the prime minister be empowered to advise the dissolution of the House before the end of its term.

An incumbent government party now has enormous strategic advantages in an election. Why should the competition between parties be skewed further in favour of the governing party by allowing its leader the right to choose election dates which favour his partisan interest?

Permanent Speaker

An appropriate and necessary step in the direction of both recognizing the rights of the minority in the House of Commons (who usually represent the majority in the country) and in curtailing executive control would be the establishment of a permanent Speaker chosen jointly by the leaders of the major parties in the Commons.

Private Members' Bills

Another important reform would be to allow private members to place bills before their colleagues which involve the expenditure of funds, and to have their bills fully dealt with by the House.

Control of the Agenda

Finally, while it is natural that the business of the government will dominate the House, it is not appropriate that the government party exercise almost complete control over the agenda of the Commons. Working in collaboration with the House Leaders of the parties, the Speaker should be charged with the responsibility to ensure that bills originating with the opposition or with government backbenchers are brought to a vote in the Commons. Where the House leaders are unable to agree on an appropriate division of House time between government and opposition, the Speaker should arbitrate, and his decision should be final.

Conclusion

Our forebears started the task of democratizing parliamentary government when they wrested executive and legislative power from the monarch and insisted that it be exercised by a cabinet drawn from the House of Commons. That was a bold step forward. But now the domination of that executive has become overbearing and seriously interferes with the ability of members to represent their constituents and their regions. It is long past time that we took a further step and adopted rules which would ensure that in drawing up its program the cabinet is required to enter into genuine consultation with members from all sides of the House and would also ensure that the cabinet's responsibility to the House, and through it to the citizenry, is more than a fiction.

NOTES

1. See H. Clarke et al., *Political Choice in Canada* (Toronto: McGraw-Hill Ryerson, 1980).
2. T.J. Lowi, *The End of Liberalism* (New York: W.W. Norton & Co. Inc., 1969), pp. 93-94.