

The Procedure Committee One Year After

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Chairman Tom Lefebvre, with the assistance of Vice-Chairman Walter Baker, (left) and Bill Blaikie of the NDP were instrumental in having the committee's third report adopted unanimously by the House.

It has become a cliché in recent years to say that Parliament has become irrelevant to the governance of this nation. In fact it has almost become trendy to criticize Parliament and parliamentarians for lack of effectiveness.

The criticism is not based on a real understanding of the parliamentary system, but rather on some of the more superficial aspects of parliamentary life which are themselves not clearly understood, such as the nature of the Question Period and the way television has changed Parliament from a debating forum to high theatre.

I think a more useful way to view problems within the parliamentary system is to take the approach of the Business Council on National Issues which has just recently published a treatise entitled, *Issues for Reform*. The BCNI states that, "there are grow-

ing misgivings about Parliament's capacity to exact accountability from the government and to provide a credible vehicle for the efficient development of policies and legislation in response to the country's needs".

It is against the backdrop of this statement that one should view the two recent events that precipitated the establishment, in May 1982, of the Special Committee on Standing Orders and Procedure to examine ways by which the rules of the House of Commons could be improved to give Canadians better government.

Twice in the past three years the House has been paralysed by opposition tactics. In 1981 the Progressive Conservatives obstructed business of the House by using "points of order" and "questions of privilege" to show their displeasure with the Constitutional Resolution and in 1982 they again tied up the House in the famous bell-ringing incident as an effort to change legislation emanating from the National Energy Programme. These two events served as a lightening rod in developing a consensus among parliamentarians to try to improve the workings of Parliament.

The Hon. David Collenette was first elected to the House of Commons for York East in 1974 and re-elected in 1980. He has been an active member of the Special Committee on Standing Orders and Procedure. Since writing this article he has been appointed Minister of State (Multiculturalism).

The group of twenty MP's from the three parties who constituted the Committee, achieved an amazing success within three or four months under the leadership of Chairman, Tom Lefebvre, (L-Pontiac Labelle). After many hours of often heated debate within, members first put aside their natural suspicions about each other's motives and partisanship and then worked together to produce a unanimous report which was adopted by the House.

Analysis of Changes Adopted in 1982

The achievement of the unanimous report and its adoption by the House was as significant as the actual changes which were put into effect under the provisional standing orders adopted for one year in December 1982. Members have proven to the public, but more importantly to themselves, that apart from an obligation each member has to his constituents, to his party and to his conscience, an equally-important obligation must be to the institution itself. As the recently retired British Speaker, George Thomas, told the Committee during its visit to London last January, "Parliament must represent every point of view, every interest and the aspirations of every citizen in the country if it is to do its job properly and if we fail in this work then Parliament fails and if Parliament fails then the country fails".

The experimental reforms that are now in place really have three components. First, there was an attempt to bring some rational planning into the parliamentary and governmental cycle by adopting a parliamentary calendar. It is for the reason that Parliament adjourned for the summer recess on June 29th, rather than in late July or early August, thus giving members time not only to spend in their constituencies, but also time to have the normal summer vacation period with their families. It is something which has been much appreciated and hopefully will improve the atmosphere of the House when we return this fall and winter. One of the members of the Committee, James McGrath, (PC-St. John's East) mentioned to me when we met in July that he still cannot get over the fact that for the first time in his 27 years he has been actually able to plan his summer in the constituency and with his family, rather than living on the edge of a precipice not knowing when the House would adjourn.

The second major thrust of the provisional standing orders was to adopt a daily timetable which was to help organize our work in a more business-like fashion. Basically the two-hour evening sittings previously held on Monday, Tuesday and Thursday evening have been moved to the mornings on those days. This means that the House now rises at 6:00 p.m. or 6:30 p.m. instead of 10:00 p.m. or 10:30 p.m. Proponents for this change argued that the usefulness of night debate was questionable and that the free evenings would provide members more time for committee work and more time to use their free time like most other people who work a normal day shift.

I think it is here that one sees some disagreement as to whether or not it is a good idea for the House to rise at 6:00 p.m. or 6:30 p.m. each day (and 5:00 p.m. on Fridays). For members who have their families in Ottawa this change is welcome because they effectively can be home around 7 o'clock in the evening for dinner. Yet, many members with their families in their constituencies have

found the abolition of evening sittings a difficult adjustment to make. Life can often be lonely when one is working hundreds perhaps even thousands of miles away from one's family and the evening sittings did provide a focal point for people to sit in the lobbies and discuss issues and perhaps socialize after the evening debates. This is now gone and the House has become virtually deserted after 7:00 p.m. Even the dining room does not appear to be as busy as it used to be. The supposed great committee activity in the evenings has failed to materialize. In effect it appears that the parliamentary day has been cut short although I am sure that most members work in their offices or at their homes in the evenings.

For me the analogy of Parliament as a business is not a sound one. The business of the country just does not stop at 5 or 6 o'clock. It goes on. In fact, 6:00 p.m. in Ottawa is 3:00 p.m. in Vancouver. Besides, many thousands of Canadians have to be at their place of work after hours and keeping in mind Speaker Thomas' admonition, Parliament should try to reflect as closely the reality of the country as possible. More than that, I believe that there is a sense of excitement with Parliament working into the late hours of the day and for me the natural build-up to the end of the day did produce good debate and effective committee work.

I remember the Honourable Paul Martin at a farewell dinner in 1975 before he was to become High Commissioner to London, telling a jam-packed dinner in his honour in Parliament's West Block that "one day, many years from now I shall return on a cold blustery night with the snow whirling around and I shall walk along Wellington Street and look up to the House and see all of the lights blazing, knowing that the Chamber is sitting and that the vital issues of the day are being debated. I can imagine a stranger coming up to me and asking me why the lights were burning, why all of this activity and I would explain to him the work of Parliament and that I used to work there". For Paul Martin and most members over the years, Parliament is more than just a place of work. It is the centre of decision-making in the country and to try to shut it down artificially just because the switchboards turn off in most offices across the country at 5 or 6 o'clock, may not be conducive to good parliamentary government.

Perhaps though the most important objective in the provisional reforms was to try to enhance the role of the individual Member of Parliament and improve the quality of debate. I think here the Committee's recommendations have met with overwhelming success. Debates in most cases had become monotonous set pieces to which few people listened except perhaps the Hansard reporters. Very often speech material was churned out by research assistants, the Library of Parliament or the various caucus bureaus. Generally House speeches were used by the Whips to do nothing more than to kill time.

The Committee, in trying to come to grips with this problem, was most impressed with reports they had heard from both the House of Commons at Westminster and the House of Representatives in Washington where there was more cut and thrust, where a member permits another colleague to voice a worthy interjection or debating point. Rather than go the whole way towards the approach which American congressmen refer to as "yielding the floor", the Committee recommended that normal forty minute speeches, where called for by the rules, be reduced to twenty minutes with provision for a ten minute rebuttal period at the end.

There is no doubt this has been highly successful. First, members knowing that they will be subject to criticism are more careful about what they say. Fewer speeches are now read and more of the work is original. Second, other members in the Chamber, rather than signing letters, reading documents or chatting away as they used to — because there has to be a quorum of twenty members present at all times for the House of function — actually listen to what is being said! This has produced some dramatic exchanges between members which has made sitting and debating in the House much more appealing. I believe real debate is now being reintroduced into the House of Commons. This is better for the legislative process and therefore for the governance of Canada since more ideas are now being questioned, more positions are now being taken, and more alternatives are now being proposed. Together with a change which limits speeches to ten minutes after eight hours of debate have passed at second reading stage of a bill this means that members are encouraged to make their points quickly and succinctly.

Another change that has been accepted very readily by members has been the use of the first fifteen minutes of routine proceedings at two o'clock each day and at eleven o'clock on Fridays for member's statements. Previously this period was used for motions which required unanimous consent under Standing Order 43. The new Standing Order 21 gives a member 90 seconds to state a grievance or make a point. By the amount of media attention given, these statements have served to put a number of backbench M.P.'s into the spotlight, whereas before they would perhaps find it very difficult to attract attention.

The weakness in this procedure is that there is now no regular mechanism in the Standing Orders, with the exception of rising on a point of order, to get the House to consider an urgent motion. Although the previous Standing Order 43's were often abused there were a number that were given immediate approval and in the process generated much attention. Perhaps one of the more famous of these motions was raised one Friday morning in 1980 by William Yurko, the Independent M.P. from Edmonton East who was then sitting as a Progressive Conservative. He proposed that the House unanimously accept the principal of unilateral patriation of the Constitution with an amending formula. When the House subsequently approved the motion its passage generated much public interest and considerable internal pressure within his own party.

A popular and far-ranging change adopted in the Committee Report has given committees the ability to generate their own references based on the annual reports of departments, crown corporations and agencies. Furthermore the government must respond to recommendations made by committees within a set period. While there has not been enough time for this particular provision to take great effect, it does recognize the increasing pressure from M.P.'s to return to a more independent role in the House of Commons.

A change which has met with mixed approval is one that restricted the size of standing committees to 10 to 15 members. It was envisioned that a smaller group of people could be more effective in analysing a particular subject matter or bill. However it appears in retrospect that this has caused some problems for the official opposition. The government followed the spirit of the com-

mittee report by limiting most standing committees to ten members. This left many Progressive Conservative members without a particular committee place since on the 10 person committees only 3 members of the Official Opposition are permitted. While one can sympathize with the P.C.'s, perhaps the question that begs to be asked is whether or not every single Member of Parliament must be on one or more committees.



During the course of its work the Committee visited London. Pictured here with original BNA Act in Westminster are (l-r) Maurice Dionne, Claude-André Lachance, Roger Simmons, Ray Hnatyshyn, Bill Blaikie, Hal Herbert, Tom Lefebvre and Bud Cullen.

The experimental rules changes are only in effect until December 1983 when the House will revert to the previous rules unless a compromise is arrived at between the House Leaders during the fall session. When the House Leaders do consider these changes, they perhaps will also have to take into account subsequent reports the committee has made which have yet to be adopted by the House. Six of these reports are substantial in nature.

Subsequent Reports

The fourth report of the Committee dealt with the Speakership and particularly a problem that has developed because the Speaker is elected by the House upon the nomination of the Prime Minister. Originally, in England the Speaker was the person who was chosen by all members of the House as the one individual who would be able to express the will of the House to the King. This job was important and dangerous as more than one Speaker was executed in the early years of parliamentary government. Today of course Speakers need not fear of their lives, but they do have to fear

whether or not they have the confidence of all members of the House. In Great Britain there was a significant rebellion by backbenchers of all parties when government and opposition leaders agreed on the nomination of Selwyn Lloyd in 1972 without consultations with backbenchers. Although Mr. Lloyd was subsequently confirmed, his election was sufficiently tarnished that the point was made that the matter of election of a Speaker rests clearly with all of the members in the House.

Earlier this summer after her resounding election victory, Prime Minister Margaret Thatcher was confronted by the independence of the House when members made it clear that they would not accept her nominee, former Foreign Secretary Francis Pym, whom Mrs. Thatcher was easing out of the Cabinet. Instead the Deputy Speaker, Mr. Bernard Weatherill, who in a sense had been groomed by members to take over, was elected without opposition.

In Canada too in recent years we have seen a manifestation of independence by members over the election of the Speaker. This should not be taken as criticism of recent Prime Ministers or their nominees for Speakers, but viewed as the House trying to regain control over its own affairs.

In this regard the committee also addressed, in its ninth report composition of the Board of Internal Economy. Presently, four Ministers of the Crown and the Speaker effectively managed the administration of the House of Commons as Commissioners of Internal Economy. Members of the procedure committee felt that the overwhelming power of the Cabinet should be diluted and they proposed all-Party participation on a new body, the Board of Internal Economy.

The sixth report of the committee addressed the problem of lack of committee places for the Opposition by recommending the establishment of legislative committees similar to those found at Westminster. These committees are constituted for a specific piece of legislation and die when that legislation is reported to the House. Of course this is only a recommendation and has yet to be adopted by the House.

Perhaps the most important of the reports yet to be adopted by the House is the seventh which contains recommendations for financial accountability committees and ways whereby control of public expenditure by Parliament can be improved. This report flowed from the very innovative work done by two of the members of the committee, the Honourable Ron Huntington, (P.C.-Capilano) and M. Claude-André Lachance (L-Rosemont).

At meetings of the special committee dealing with financial accountability there was a lively debate as to whether Parliament's role was to act as a parallel government with the right to initiate expenditure proposals which of course would follow the congressional model of the United States or whether Parliament's role was to analyse and scrutinize that which emanated from the government. In the end, the principle of responsible government won out. A central element of our system is that a government once elected has the right to expect Parliament to examine but also to approve its legislative proposals. The seventh report if adopted, in my view, will go a long way to improving the public scrutiny of government proposals. With government becoming exceptionally more complex and with ministers becoming excessively burdened,

it is in the interests of government to have elected officials thoroughly examine all legislation.

Future of the Committee

It is this point, the right of a government to expect parliamentary approval of its programme after careful consideration, that has become one of the great debating points of the 32nd Parliament. The Special Committee on Standing Orders and Procedure was created in response to opposition to the Constitutional resolution and the National Energy Programme. It was generally felt that this kind of impasse should not occur again and that the committee should recommend ways to deal with the problem. The committee has not made any such recommendations and herein lies its failure.

How far can an Opposition go to frustrate the will of the government? There are some that would argue that if the opposition parties feel that a proposed measure is of such sufficient national importance. They are entitled to block it and force the government to call an election on the issue to clear the air. Others, like former M.P. and now professor at St. Francis Xavier University, John Stewart, in his book entitled, *The Canadian House of Commons*, think "the house ought to be prepared to deal with the government's business, for the government, which as the duty to govern under our constitution, must have the cooperation of the House. The procedures should assure that within a reasonable time the House takes decisions on the items of business put before it by the government".

There were good arguments pro and con on the propriety of opposition tactics dealing with the Constitutional Resolution but this argument began to wear a little thin with the bell-ringing episode dealing with the National Energy Programme legislation and perhaps can be called even more into question by the tactics of the third party, the NDP, on its opposition to the measures dealing with the Crow's Nest Pass legislation. As a result of our bad examples, the bell-ringing tactic has unfortunately spread to the Ontario and Manitoba legislatures. I suppose the real question to be asked is whether or not the parliamentary system is proving incapable of dealing with the strains of modern government or whether the attitude of Canadians legislators is becoming less and less compromising and more strident.

In any event, the Special Committee on Standing Orders and Procedure debated this matter strenuously over the months and failed to agree on any recommendations dealing with the bell-ringing or indeed with the question of how far an opposition should go in making its views known. This also entailed discussion on an ancillary point: whether an M.P. has the right to be heard at any time on any matter irrespective of the wishes of the majority of Members in the House of Commons.

Unless these points are effectively dealt with by the House of Commons within the next year or so, the future of parliamentary government in Canada may be in doubt. I believe that an outstanding effort has been made in changing our rules and we are close to making a major breakthrough. Until we make that breakthrough the jury is still out on the future of the parliamentary system in Canada.