

Reluctant Reform: Procedural Changes During the 32nd Parliament

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Willingness to pursue parliamentary reform which waned so markedly after such an apparently promising start in the thirty-second Parliament has been revived in the new one. In the Speech from the Throne, the government declared its intention to establish a Task Force to examine the role of Private Members. No doubt the success of such an investigation will depend upon the relationship established between the government and the opposition. The fractious tension which existed among the parties in the last Parliament became a major obstacle to additional reform once the recommendations proposed in the Third Report of the Special Committee on Standing Orders and Procedure were implemented.¹

Nevertheless, considerable accomplishments were made: a parliamentary calendar was put into place, length of speeches reduced and the role of committees broadened. Equally important, perhaps, the Special Committee continued to work on and produce a handful of other reports which might possibly form the blueprint for more reform in the new Parliament.

The impetus behind reforms adopted during the last Parliament was the unprecedented bells episode of March 1982. Division bells for a recorded vote rang for more than two weeks when the whips failed to come into the House. The incident was indicative of some fundamental problems and illustrated the need to take some corrective measures, if only to restore credibility with the electorate. Mme Speaker Jeanne Sauvé underscored this aspect of the problem soon after the bells episode had been resolved. In her statement to members, she said that the failure of the House to bring the rules up to date had earned shrugs and even sneers from fellow citizens, and may even have strengthened an unfortunately widespread tendency to be skeptical of the actions of Parliament.² Members themselves expressed similar sentiments during a day-long debate on reform which took place the same day.

No action was taken, however, until late May, when the House established the Special Committee on Standing Orders and Procedure. Through most of the following summer and autumn, the Special Committee heard testimony from interested members,

procedural specialists and academics. It considered numerous suggestions for change. By mid-autumn, the Special Committee submitted a report which, in its view, represented "an initial step in a wide-ranging investigation".³ The Committee acknowledged that much more remained to be done and that it would address other problems in further reports. They noted with some measure of pride that the members of the committee had conducted their deliberations and had reached decisions in a spirit of compromise and accommodation. Unfortunately their laudable approach was not matched by the House as a whole.

The debate on the motion to accept recommendations of the Third Report took place on November 29. The report represented the most substantial package of reform to the practices of the House to be implemented since 1968. Nonetheless, the underlying frustration, distrust, and rivalry so characteristic of the 32nd Parliament were still discernable just below the surface of the warm words and congratulatory speeches.

While he expressed the hope that the new rules would upgrade the role of Members and enliven and update the institution of Parliament, Mr. Pinard, speaking for the government, could not forbear to mention that these reforms were only an experiment; and that the entire process of reform could easily be botched in the absence of good faith and co-operation among all Members. The same note of caution seemed to form the very theme for the remarks of the Opposition House Leader, Mr. Nielsen. He assessed the reforms as "overwhelmingly in favour of the Government". Their permanent adoption, he warned, would be contingent upon the implementation of further changes which would, in his view, restore and protect the rights of the Opposition. Mr. Blaikie, speaking on behalf of the New Democratic Party, tried to strike a more optimistic note. He hoped that the adoption of these new rules would help to "break the ice on parliamentary reform".⁴ Nonetheless, he, too, recognized that goodwill would be the deciding factor in determining the success or failure of these new rules and any others that he, as a member of the Special Committee, expected to see proposed.

The rather testy approach of the House to the reform process was evident in various ways. In the Spring of 1983, Mr. Pinard said that the experimental reforms would not be supported by the government unless the opposition proved more co-operative in expediting government legislations.⁵ In the end it proved an empty

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threat, but was an indication that the government was unlikely to push additional reform. Indeed, none of the substantive reports presented by the Special Committee was adopted and only one was even debated. Furthermore, for all its hard work and sincere attempt at consensus, the Special Committee was unable to address the problem of the bells. All they could manage to acknowledge was "that much valuable time is wasted with the present system" of voting and to suggest the possible adoption of the British system of "Lobby Voting". Meanwhile, on several occasions the bells continued to ring for hours on end only to be stopped by the intervention of the Speaker.

The tense atmosphere of the House throughout the Parliament directly affected the character of the new rules. This "initial step" represented a compromise. The reforms did not seek to favour one side of the House or the other, nor did they really enhance the role of individual Members. Instead, they had the general effect of rationalizing some day-to-day procedures and revising some others as a matter of convenience or in the hope of improved efficiency. On the whole, the reforms altered the surface operations of the House but not its structure. Nevertheless, the adoption of these rules encouraged the Special Committee to produce further reports which, in fact, proposed radical changes to the method of conducting business in the House. The consensus established among the all-party committee was not sufficient, however, to displace the atmosphere of distrust and hostility often prevalent in the House.

A major feature of the rule changes concerned the schedule of parliamentary sittings throughout the year and from day-to-day. A calendar fixing the time when Parliament will sit during the year has been incorporated into the Standing Orders. For the first time in some years, Members can confidently predict when the House will be sitting and plan accordingly. Without any prejudice to the Royal Prerogative of summons, prorogation, or dissolution, or to the government's right to seek a recall of the House when necessary, the new rules establish Fall, Winter and Spring terms which coincide very approximately with the supply cycle in place since 1969. This means that the House will sit for the better part of nine months each year from September through June, or roughly 175 sitting days. Short adjournments in November and at Easter in addition to a month-long break at Christmas were incorporated into the schedule. To assist the House in disposing of all necessary business before the summer adjournment of July and August, the reformed rules allow any member to propose "a motion to extend the hours of sitting to a specific hour during the last ten sitting days" and such motion shall be decided not more than two hours after it has been taken up.⁶

The timetable of the daily sittings has also been rearranged. Evening sittings, which imposed a great inconvenience on some Members, have been abolished in favour of a sitting which begins at 11:00 a.m. each weekday except Wednesday. Allowing only an hour for lunch between 1:00 p.m. and 2:00 p.m., the House is able to adjourn at 6:00 – 6:30 p.m. without any loss of time as compared to the old timetable.

The curious practice known as Standing Order 43, which preceded the Question Period, has been completely displaced. Under the old practice, Members (not of the Ministry) were able to claim the attention of the House to present "a matter of urgent and pressing necessity", (which in fact was often frivolous) by seeking

unanimous consent to waive the notice requirement for their motion. Under the new provisions a fifteen minute period is set aside to provide Members up to 90 seconds to make a statement and to place on the record a matter of some concern to them.

The slot known as Private Member's Business, during which the House considers motions and legislation proposed by back-benchers, was concentrated into Wednesdays instead of being spread through the week in one-hour parcels. However, members found this practice unsatisfactory and in December 1983 the House restored the distribution of Private Members' business through the week.

In an effort to introduce greater spontaneity and more cut and thrust into debate, the Special Committee proposed some significant remedies. Under the old rules, Members had the opportunity to speak a maximum of 40 minutes. In practice, the maximum often became a minimum and, in consequence, speeches tended to be exercises in drudgery having little impact or real purpose except to consume a great deal of time. Under the reformed rules most speeches are now reduced to 20 minutes with an optional 10 minutes for short, sharp exchanges between the Member who has just spoken and other Members. The old 40-minute rule, however, still applies to the first three speakers at the outset of second-reading debate on government bills. Thereafter members are limited to "20 and 10" during the first eight hours, at which point debate becomes limited to 10 minutes. This 10-minute maximum also applies to report stage, while "20 and 10" applies for all third-reading debate.

Reforms also touched the special problems associated with the committee system. The Third Report of the Special Committee acknowledged that it had received criticism that committees were too large and "ineffective in bringing about changes to legislation", mainly due to political party discipline. The Special Committee was able to make recommendations to resolve some of these problems, but was restrained from going further for fear of tampering with the government's obligation to "maintain the confidence of the House." Membership in committees was limited to between 10 and 15 rather than the fixed maximum of 12, 20 or 30. Moreover, substitution of committee members requires 24 hours notice before it can take effect unless the substitution is made from the alternate list drawn up by the striking committee. The objective of both proposals — reducing the size of committee and limiting substitution — is to better ensure the continuity of the committee's work.

The scope of committee work has been broadened to include enquiries into matters related to government departments and Crown corporations or their subsidiaries by allowing an automatic reference to the appropriate committee once the annual report of the department or corporation has been tabled in the House. In addition, the government, when requested, must furnish the House with a comprehensive response to committee reports within 120 days of its presentation.

Other matters raised in the Third Report concerned the quorum count, the simplification of parliamentary publications and the automatic review of House rules within the first months of a new Parliament. By statute, the quorum rule requires that twenty members be present in the House for the conduct of business. When a count is requested, the Speaker will immediately direct the House to be counted. If less than twenty are present the House will not be instantly adjourned as happened formerly; instead the bells will

ring for fifteen minutes to allow Members to return to the House for another count. Only after the second count will the Speaker take action to adjourn the House if necessary.

The role of committees remained the focus of the Special Committee in several of its subsequent reports. In large measure, this followed the pattern of reform proposals of the last twenty or thirty years. Committees are seen as the most effective way of augmenting the role of Members and, at the same time, of improving the House's responsibility to examine government legislation. The Fifth Report, by way of a dry-run to the substantive suggestions set out in the Sixth and Seventh Reports, recommended that within ten days of the adoption of the Striking Committee's report on the membership of House committees, the Clerk of the House be empowered to convene a meeting of each committee to elect Chairmen and Vice-Chairmen. The purpose of this recommendation was to assure there would be little delay in establishing committees.

As it happened, the Fifth Report was the only one debated during the trial period of the provisional rules. That debate occurred on October 14, 1983, within weeks of the prorogation of the first session. Just the day before, Mr. Nielsen, supported by Mr. Deans, proposed to the Government House Leader, Mr. Pinard, that all seven outstanding reports of the Special Committee be concurred in immediately without amendment or debate. The offer was refused and it was also revealed that the unanimity of the committee in recommending its reports had been based on an agreement that "there would be no move to concur in the House". The sharp differences between the Government and Opposition — the one advocating caution during the trial period of the provisional rules and the other urging further rule changes — became a major focus of the debate which took place October 14. Three days later an attempt to have a debate on yet another report of the Special Committee was thwarted when unanimous consent was denied.

The Sixth and Seventh Reports urged a radical rearrangement of the committee system. Anticipating likely bottlenecks within the current committee system because of their reduction in size and increased workload, the Sixth Report proposed to create ad hoc "legislative committees" to examine bills. Such a system follows from the success of the energy committee, which had been organized to study the energy-security bills of 1982. (A similar practice is used in the United Kingdom). The Committee expressed its confidence that "there are significant merits in a system in which a committee would be created for each bill coincident with second reading". Uppermost as a benefit to this proposal according to the Special Committee, would be that it could mutually accommodate "the desire of the government to have its legislative program dealt with expeditiously, and the desire of Members for more effective participation".

The Seventh Report, tabled more than two months after the Sixth examined the daunting task facing committees with limited resources and a fixed limit of time in evaluating the complex budgetary program of the government. The Special Committee recognized the fundamental importance of this "accountability" in a parliamentary democracy and, after much study and testimony from many witnesses, recommended a new mechanism to permit the House greater influence in the examination of public expenditures and finance. In addition to the current structure which includes the standing committees that examine departmental estimates and the Public Accounts Committee that performs a general

audit function, the Seventh Report suggested the creation of several other committees to carry out specific related tasks.

One of these, the proposed Fiscal Framework Committee, would "concentrate on the broad overview of the fiscal position and priorities of the Government and its management of the economy". Another committee, the Expenditure Proposals Committee, would "provide a specialized form and focus for the ongoing review of the government's expenditure plans. The Committee would (also) attempt to get an overview of spending within the envelope system... The Committee would make reports and recommendations on the basis of its findings with a view to influencing the estimates planning cycle for future years". Recognizing the importance of Crown corporations and agencies within the scheme of government operations, the Special Committee proposed the establishment of a committee charged with responsibility for the security of such corporations; its focus would be "the technical questions of corporate structure and operations, relationship to government, sound financial management practices, and so on".

Two other substantive reports submitted by the Special Committee dealt with the Board of Internal Economy and also with various procedures of the House which the Committee felt should be amended or updated. The Board of Internal Economy is responsible for the management of the House and its operations. By law, Board members (Commissioners) must be of the Privy Council; in practice they are Cabinet Ministers. However, in view of the diverse make-up of the House, the Special Committee decided that a broader base of representation would be more appropriate. Accordingly, it recommended that the Board include the Leader of the Official Opposition, or a designated representative, and four other Members, two from the government caucus and two from the opposition caucuses including at least one from the Official Opposition.

In the Tenth Report, the final one written during the First Session, the Special Committee made a series of proposals related to outstanding issues which had not been treated previously. Of these, the first had to do with the practice of Statements by Ministers. Such Statements, it was noted, have fallen into disuse in recent years; to restore its practice the Committee urged that the mini-question period which followed from the statement be abolished while retaining only comments from a representative of each of the opposition parties. Furthermore, any time taken up by the practice should be added to a normal sitting day thus guaranteeing that the government would not lose any time regularly designated for its business. In order "to make the House more relevant to Members and to the public," the Committee suggested that votes of no-confidence in the government be made more clear-cut. "Motions of no-confidence should not be prescribed in the rules but should be explicitly so worded in the text of the motion itself by the Member presenting the motion". Another recommendation urged that Ways and Means Bills be referred to legislative committees, as described in the Sixth Report, rather than to the Committee of the Whole House. Tax bills have become very complex and cannot be adequately studied by an unwieldy committee. As well, the proposal would have the effect of freeing more time in the House for other business.⁷

As noted before, there was no consideration of the reports of the Special Committee following the day-long debate on the Fifth Report. However, the reports were not left on the shelf to gather

dust. References were made to them in the House on numerous occasions, particularly to the Fourth Report, which addressed the subject of the Speaker's election.⁸

The New Parliament

The new Progressive Conservative Government, having declared its intention to pursue parliamentary reform, particularly to enhance the role of Private Members, put forward a motion to establish a Task Force on the Reform of the House of Commons. The terms of the motion make it clear that the Task Force will have a broad mandate to consider a wide-range of issues including, in addition to the role of Private Members, the accountability of Ministers, the legislative process, the Standing Orders and the role of committees. Significantly, the evidence and reports of the Special Committee on Standing Orders and Procedure have been referred to the Task Force and they will likely form a blueprint to its deliberations. Finally, the Task Force is required to submit its final report no later than June 28, the last sitting day before the anticipated summer adjournment.

The debate on the motion to establish the Task Force began November 22, 1984. In speaking as the sponsor of the motion, Ray Hnatyshyn, the Government House Leader, emphasized the determination of the Government to accomplish "real progress".⁹ The necessity of doing this sooner rather than later, he pointed out, was to avoid the risk of establishing a pattern of behaviour in the new

Parliament between the Government and Opposition and amongst Members themselves which might become an obstacle to any meaningful change. This aspect of the problem was highlighted in another way by Warren Allmand, a veteran MP and former Cabinet Minister. According to Mr. Allmand, reforms will not be effective until something is done about the question of confidence and the burden it is deemed to impose on Members of either side of the House. "The fact that any vote can be considered a vote of confidence," he said, "inhibits private Members in committee and in the House from putting forward amendments to criticize, even in a constructive way, because they feel that to vote against their own Party when in government, or to be in opposition with their own Party, might lead to a question of confidence which would defeat the Government and cause an election."¹⁰

Even as the debate took place, party differences again were manifest in the dispute between the Government and the Opposition over the proposal to allow committees of the House to hear evidence without the presence of an opposition Member contrary to recent practice. A deliberate and successful effort was made to prolong the debate until the adjournment hour, thus preventing a vote on the motion that day. While this was an unfortunate and inauspicious beginning, it did illustrate the necessity of co-operation, even in a House dominated by a vast government majority. Indeed, on procedural matters little can be accomplished without considerable co-operation among the parties.

Editor's note: Since this article was written the Task Force presented its first report on December 20, 1984. The report called for the immediate adoption of several recommendations by the Special Committee on Standing Orders and Procedure. These include the method of electing the Speaker, changes to the ways committees may be convened, the adoption of legislative committees, the use of a panel of chairmen, creation of a Board of Internal Economy, a proposal to give committees the power to hire their own staffs and other recommendations contained in reports of the previous committee.

Notes

¹ See John Stewart, "Procedure During the Trudeau Era", Paper delivered to Conference in Honour of Norman Ward, University of Saskatchewan, Saskatoon, November 17, 1984, pp 30-31.

² House of Commons, *Debates*, March 18, 1982, p. 15555.

³ House of Commons, *Proceedings of the Special Committee on Standing Orders and Procedure*, No. 7, November 4, 1982, p. 9.

⁴ See House of Commons, *Debates*, November 29, 1983, p. 2107; 21079

⁵ *Globe and Mail*, April 6, 1983.

⁶ Provisional Standing Order 9.

⁷ For additional material on the various reports see John Holtby, "The Work of the Special Committee on Standing Orders and Procedure", Background summary prepared for a meeting of the Canadian Study of Parliament Group, Autumn, 1984.

⁸ According to long established practice, the nomination of the Speaker is made by the Prime Minister and routinely confirmed by the House. The Special Committee considered the need for change if the Speaker were truly to be the impartial servant of the House. It advocated consultation among the parties and, as a means of securing it, recommended the election of the Speaker by secret ballot. At first glance such a proposal seems totally uncharacteristic; all decisions of the House are traditionally

obtained openly either by a voice vote or a recorded division. Yet it is not completely without precedent. In the early eighteenth century, balloting was introduced into the British House for a short time to resolve problems of contested elections and the idea of electing the Speaker in the same manner was considered. Significantly, however, the entire system was abandoned when the government administration realized that such a practice jeopardized its control over Members. (See Edward Porritt, *The Unreformed House of Commons*, vol. 1, Cambridge, 1903, pp. 537-8).

In any case, when Lloyd Francis was nominated to replace Mme Sauvé in January 1983, Ian Waddell described the present practice as a farce and expressed regret for the lost opportunity of a real election. This point of view was raised again at the outset of 33rd Parliament when Mr. Bosley was elected Speaker. In seconding the nomination, John Turner, the Liberal Opposition Leader, thought it might be well for future Parliaments to consider...the adoption of a new Standing Order which would provide for the election of the Speaker by secret ballot by all Members of the House.

⁹ Canada, House of Commons, *Debates*, November 5, 1984, p. 500.

¹⁰ *ibid.*, pp. 519-20.