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# *Procedural Resources at the National Assembly of Québec*

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by Rémi Schenberg

*Over the past several years the National Assembly of Québec has produced a wide range of documentary tools and resources in the field of parliamentary procedure. This work of compilation, analysis and publication in a variety of formats is, by its rigour and variety, a highly original initiative in the world of parliamentary institutions. It attests to the vitality of parliamentary life in Québec and to the sophistication of its parliamentary law. It also demonstrates a real pedagogical preoccupation on the part of the Assembly's political and administrative authorities, whose concern is not only to make information more accessible to the "parliamentary community"—Members of the National Assembly (MNAs), political staff, public servants and parliamentary journalists—but also to disseminate the Assembly's work more widely and, indeed, to explain the workings of parliamentary institutions to the general public in everyday terms.*

**L**ike other parliaments based on the British model, the National Assembly depends heavily on parliamentary procedure in its day-to-day operations and proceedings. British-style parliamentary systems are characterized in general by a "soft" separation between the legislative and executive powers, a large degree of government control over legislative work in the House, and the existence of "windows of opportunity" for opposition voices to be heard, particularly that of the Official Opposition. The mastery of parliamentary procedure is therefore an important factor in the governance of Parliament, and one that nobody involved in the work of the House, on either the Government or the Opposition side, can afford to ignore. Most immediately concerned, of course, are the leaders and deputy leaders of the Government and the Official Opposition, who largely orchestrate the work of the House each day.

The heavy emphasis placed on documentation at the Assembly may be partly explained by the phenomenon of parliamentary privilege. Subject to a complex set of rules, the Speaker, known as the President of the National Assembly, is the guardian of these privileges, which constitute an essential aspect of parliamentary law and have given rise to a large body of jurisprudence and legal doctrine. By right of its parliamentary privilege, the Assembly has the exclusive power to manage its internal affairs free from outside influence or intervention. More specifically, this means that the Assembly's right to formulate, apply and interpret the rules of parliamentary law is unquestioned, and that the Speaker's rulings apply to all and may not be contested. In this context, the publication of precedents in a standardized form, and their *a posteriori* analysis, become at once the *sin qua non* for the smooth operation of the Assembly and a task for which it bears sole responsibility.

The diverse origins of Québec's parliamentary law are also a factor in the emphasis on documentation. In order of precedence, the current body of procedural rules is derived from the Canadian Constitution (Constitution Acts, 1867 to 1982); the statutes, of which the most impor-

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tant is the *Act respecting the National Assembly*, adopted in 1982; the *Standing Orders and Other Rules of Procedure*; the special orders of the Assembly; precedent, custom, tradition and practice, including those of other British-style parliaments; and, lastly, doctrine. Given this diversity of normative instruments, the Assembly's efforts to facilitate access to information by making it available to all potential users are certainly justifiable, if not indispensable.<sup>1</sup>

Another factor to be considered is Québec's cultural and political specificity. Since political stakes are high, and a long and vital parliamentary tradition forms the background for their discussion, exchanges in the House are frequently pointed. A thorough knowledge and mastery of the rules of parliamentary jousting is therefore a matter of no small importance.

Québec's judicial tradition also plays a role in the importance allocated to documentary resources at the National Assembly. In particular, the application in a French cultural environment of parliamentary law that is essentially Anglo-Saxon has resulted in a fair number of virtually unprecedented solutions.

Finally, we must consider the role the Assembly's administration has played in regard to documentary resources. As a result to some extent of the factors mentioned above, the Assembly has recruited a body of qualified employees capable of dealing with all aspects of parliamentary procedure, from proposal to formulation to implementation. It is significant in this regard that the Assembly's organizational chart includes a Parliamentary Procedure Research Directorate which answers to the Associate Secretary General for Parliamentary Affairs and is staffed by jurists, most of whom are lawyers, whose main task is to assist the Secretary General in his or her role as procedural advisor to the Speaker, the Assembly, and the standing committees.

### **The Standing Orders and the Annotated Standing Orders**

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The standing orders are indisputably the Assembly's basic set of rules in the field of parliamentary procedure. The full title of the publication, *Standing Orders and Other Rules of Procedure*, reflects the fact that the volume contains, in addition to the standing orders proper, the body of fundamental rules that directly govern the proceedings of the Assembly.

The latest edition of the *Standing Orders and Other Rules of Procedure* contains:

- rules for the conduct of committee proceedings and proceedings respecting private bills;
- the Constitution Acts (1867 and 1982) (extracts);
- the *Act respecting the National Assembly*;

- the *Election Act* (extracts);
- the *Interpretation Act*.

The current standing orders took effect in March 1984. Each subsequent modification has resulted in a new publication, the latest in January 2005.<sup>2</sup> Reprints of the entire document are favoured over partial updates, whether the changes are to a standing order or an appended document. This solution is less a matter of choice than of practical necessity, the Assembly having opted for a spiral-bound, user-friendly document that does not readily lend itself to partial updates.

Published in English and French, the *Standing Orders and Other Rules of Procedure* is a compact document measuring 20 cm x 15 cm, with the thickness of the average book (2 cm). An electronic version is available on the Assembly's Intranet and Internet sites.

Since procedural rules must be interpreted on the basis of individual circumstances rather than on a strict, literal reading of the text, a need arose for a practical version of the standing orders that would clarify, explain and comment on procedural rules in light of the interpretive tools—in particular the Speaker's rulings—used at the Assembly.

Today, there are two annotated versions of the standing orders in French. The first, entitled *Règlement annoté de l'Assemblée nationale*, is compiled by the Parliamentary Procedure Research Directorate for internal use only and distributed to the various departments of the Associate General Secretariat for Parliamentary Affairs, including the House Secretariat Directorate and the Committee Secretariat Directorate. This version is also one of the reference documents used by the officers at the Table.

Procedural advisors thus have an efficient tool with which to interpret rules of procedure in light of the questions that have arisen in the past. Under each standing order, the *Règlement annoté* provides interpretations, grouped by subject, for the application of that standing order. These interpretations are derived not only from the Speaker's rulings, but also from draft decisions that were never used in the House, as well as from legal doctrine, decisions made during "meetings of the Table"—that is, the periodic meetings that take place between the Secretary General, the Assistant Secretary General, the senior staff of the Associate General Secretariat, and the procedural advisors—and the analyses, opinions and comments prepared by the advisors themselves.

The document is an 8½" x 11" ringed binder containing an alphabetical index that sends users directly to the annotated procedural rule or rules on any given subject.

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Annotations may be brief or they may take up several pages. Updating, done by a procedural advisor, is quick and easy because of the binder format. A new version of the *Règlement annoté* is currently being prepared for publication on a much broader scale.

The second *Règlement annoté* differs greatly from the first in both form and content. It is the work of one man, Pierre Duchesne, Secretary General of the Assembly from 1984 to 2001, who wished to make the current standing orders generally accessible by means of short notes at the bottom of each page to explain their impact. Published in 2003 and annotated largely on the basis of the Speaker's rulings, this compact, hardcover book of 400 pages is similar in format to the *Règlement* published by the Assembly, and similarly organized. Mr. Duchesne's book has become an essential desk-top reference for public servants and politicians alike. Although not available on the National Assembly website, it is sold in the Assembly's gift shop.

### Parliamentary Procedure in Québec

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The most comprehensive document on parliamentary procedure to be produced by the Assembly, and probably the most original, is a book entitled *La procédure parlementaire du Québec*.<sup>3</sup> In 2000, when the first edition was being prepared, the goal was to provide a work on parliamentary procedure in Québec that would meet pedagogical needs yet still cover all areas of the subject. The book's 14 chapters do indeed address most procedural questions. The principles of procedure are described and analyzed through a running commentary on the standing orders and other legal and regulatory provisions, based on parliamentary jurisprudence and, where applicable, doctrine, practice and tradition. Ample use of footnotes makes the book an easy-to-read reference manual.

The appendix of the *La procédure parlementaire du Québec* contains the *Act Respecting the National Assembly* and the *Standing Orders and Other Rules of Procedure*, as well as a table of statutes, a table of standing orders and rules for the conduct of proceedings, a table of judgments and a table of rulings. Each item in the tables is cross-referenced to the page on which the item may be found. A subject index is also provided.

In concept and layout, *La procédure parlementaire du Québec* may be seen as a handbook that gives readers a solid overview of all aspects of parliamentary procedure in a single volume. Although it is used first and foremost by the parliamentary community—the Speaker, the parliamentary group leaders, committee chairpersons, MNAs, and clerks—the book's design and editorial approach make it a work of much broader interest and ap-

peal. The "Book", as it is commonly called, has become the textbook of choice not only for new Assembly employees and newly elected MNAs, but for teachers, students of law and political science, and anyone wishing to learn more about parliamentary life in Québec. Published by the National Assembly, *La Procédure parlementaire du Québec* can be consulted as a PDF document on the National Assembly website, a fact which attests to its vocation as a work meant for a wide audience.<sup>4</sup>

### Compilation of Rulings

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The rulings of the Speaker in the National Assembly, as in other British-style parliaments, are of fundamental importance in the interpretation and application of procedural rules. Such rulings are the expression of an essential parliamentary privilege, since they are the exclusive province of the Speaker and may not be contested. They also ensure that procedure retains the flexibility, inherent in the British parliamentary tradition, needed for Parliament to run smoothly.

First published in 1986, the *Recueil de décisions concernant la procédure parlementaire* comprises two volumes. The first gives rulings made by Speakers and Deputy Speakers of the Assembly since 1972 and the second, those made in standing committees since 1984, when the current standing orders took effect. Not all rulings are recorded in the *Recueil*.<sup>5</sup> Whether it involves the interpretation of a standing order or the formal consecration of a long-standing practice, a ruling must be seen as jurisprudentially significant for Parliament<sup>6</sup> in order to be included in the *Recueil*. A ruling that is similar to a jurisprudentially significant ruling already recorded will not generally be given detailed treatment in the *Recueil*, but recorded under the reference "similar decision."

The job of compiling and updating the *Recueil* is nonetheless considerable. The latest edition gives some 610 rulings in the "Assembly" volume and more than 210 in the "Committee" volume. Some aspects of parliamentary procedure are rarely if ever the subject of a ruling, while others have given rise to an abundant jurisprudence. Certain standing orders are actually the object of several dozen rulings sufficiently significant to be included in the *Recueil*.<sup>7</sup>

A ruling is not reproduced verbatim in the *Recueil* but presented in accordance with an editorial chart that includes, in most cases, the references to the ruling in the *Journal des débats* (Hansard), a series of standardized key words, a brief account of the context, the question of procedure at issue and a summary of the ruling. If doctrine, other rulings, or sections of a statute or regulation are cited in the ruling, these references are also given.



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Each ruling in the *Recueil* is given a sequential number based on the standing order involved and the chronological number of the ruling. An index sends the reader directly to the relevant ruling or rulings on a given subject. The *Recueil* also contains a list of the words and expressions that, since 1984, have been ruled by the Speaker of the Assembly or a standing committee to constitute unparliamentary language. Reference to the relevant ruling or rulings is provided in each case.

The *Recueil* comprises two spiral-bound documents of letter-sized (8½" x 11") sheets; the "Assembly" volume is approximately 450 pages, the "Committee" volume, 170 pages. Both are re-edited from time to time, with a preliminary version always preceding the final one. New rulings are included in each new edition, but it is also possible that previously included rulings will be removed. The latest edition (distributed in October 2005) gives rulings made up to June 30, 2005, and has already been updated by inserting loose sheets to accommodate six selected additional rulings. The *Recueil* is published on the Assembly's Intranet and Internet sites.

### The Samuel Phillips Data Base

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Faced with the diversity of sources of Québec's parliamentary law and the large volume of procedural documents to be maintained, the Assembly administration, and in particular the Parliamentary Procedure Research Directorate, were led to consider ways of providing rapid access to a wealth of widely dispersed documentary resources. It was eventually decided that a centralized in-house data base would be the best means of bringing together all the information needed to deal quickly and efficiently with the questions of the Speaker, the officers at the Table, and the standing committees.

Named in honour of the first clerk of the House, appointed in 1792, the Samuel Phillips data base became operational in 1994.<sup>8</sup> Although the design stages of the project required the participation of a number of administrative units, the data base is now under the sole responsibility of the Parliamentary Procedure Research Directorate.

Information in the data base is divided into 12 groups, by type of document:

- Procedure and related statutes (French): Various versions of the standing orders and rules for the conduct of proceedings in the National Assembly, particularly the current (1984) and previous (1972) versions, Geoffrion's annotated standing orders (1941), and various statutes;
- Procedure (English): English versions of the standing orders and rules for the conduct of proceedings in the

National Assembly, as well as the English version of various statutes;

- Work of procedural advisors: Notes, memorandums and draft decisions of procedural advisors since 1984.
- Doctrine: References to journal articles, tables of contents of works on parliamentary procedure, bibliographical references;
- Rulings (House): Rulings in the House since 1984 and selected rulings prior to that time;
- Rulings (committees): Rulings in committee since 1984 and selected rulings prior to that time;
- House of Commons: Standing orders of the House of Commons (French and English), Procedural Review, related documents;
- Other legislative assemblies: Documents on parliamentary procedure in other Canadian legislative assemblies;
- Other parliaments: Selected documents on parliamentary procedure in foreign parliaments;
- Judgments: Judgments relevant to parliamentary procedure;
- Québec Legislature (miscellaneous): Political and historical documents;
- Documentary tools: Tables of contents of standing orders, concordances, lists, thesauruses, and other research documents.

Additions to the data base are made by the procedural advisors. Their work, including the summaries they prepare of rulings made in the House or in committee, is submitted on standardized forms that allow the new information to be entered directly into the data base. It should be noted that the *Recueil* is compiled and updated on the basis of these summaries, excluding the advisors' comments, which are, however, entered in the data base. The advisors also select any additional documents to be entered in the data base. The hands-on task of adding the information is carried out by a legal technician, who is the data base manager in this regard.

Users may search the data base by the "full text" method, which produces all the relevant documents contained in the data base, or by narrowing down the search using any of eight query fields: Type of document; Date; Expanded title; Text; Author; Key words; Key articles; References. Hyperlinks allow the user to move directly from one document to another—from a French text to its English version, for example. The standing orders cited in summaries of rulings can also be accessed by hyperlinks.

The Samuel Phillips data base has proven an effective, user-friendly tool that has amply met the expectations of its designers. It now forms an essential part of the information resources used every day by the Assembly's procedural advisors.

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## Conclusion

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These numerous but complementary tools constitute a veritable document-management strategy in the field of parliamentary procedure, a strategy characterized by its consistency, reliability and adaptability.

The purpose of such tools is, first of all, to help the Assembly meet its internal objectives, such as improving the quality of services provided to the Speaker and to parliamentarians, increasing administrative efficiency and, more generally, ensuring that the Assembly performs well in all its essential roles. Yet these same tools also further some of the broader goals the Assembly has set for itself over the past several years: to raise public awareness of its functions and characteristics; to communicate its parliamentary know-how to emerging democracies; and to counter the political disenchantment that has been shown to result when citizens possess insufficient knowledge of their democratic institutions.

From either perspective, the Assembly's approach to documentary resources constitutes, in a number of ways, an original initiative in the field of parliamentary law, a field that remains largely unfamiliar to all but a few specialists.

## Notes

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1. As used in this article, "documentary tools" means any document made available in any form to parliamentarians, public servants or the public, in which rules of procedure are presented or examined. However, it does not include documents that may be considered part and parcel of parliamentary proceedings, such as the Order Paper and Notices, the Votes and Proceedings, and the Journal des débats (Hansard).
2. The Committee Secretariat Directorate is responsible for the publication of the standing orders.
3. Though unique in a number of ways, *La procédure parlementaire du Québec* is by no means the only work of its kind. Other jurisdictions with British-style parliaments have produced similar works, and such an exercise seems justified given the jurisprudential nature of parliamentary law. The authority in the field is indisputably Erskine May's *Parliamentary Practice*. First published in 1844, this "bible" of British parliamentarians is now in its 23<sup>rd</sup> edition (2004). The House of Commons in Ottawa published its work on procedure in 2000, entitled *House of Commons Procedure and Practice*. This book follows in the tradition of George Bourinot's *Parliamentary Procedure and Practice in the Dominion of Canada* (four editions between 1884 and 1916), and Arthur Beauchesne's *Beauchesne's Rules and Forms of the House of Commons of Canada* (four editions between 1925 and 1949). Both these men were parliamentary clerks. In a similar vein, Australia published the fourth edition of its *House of Representatives Practices* in 2001.
4. An English version of *La procédure parlementaire du Québec*, entitled *Parliamentary Procedure in Québec*, is being translated for the next edition.
5. A ruling handed down in private may appear in the *Recueil* with the reference "private ruling."
6. This judgment is made by the Parliamentary Procedure Research Directorate, under the authority of the Secretary General and the Associate General Secretary for Parliamentary Affairs.
7. Standing Order 67 on recognized rights and privileges, Standing Order 88 on requests for an urgent debate and Standing Order 197 on the admissibility of amendments as regards content have been the object, respectively, of 53, 52 and 41 rulings.
8. See Mathieu Proulx, The Samuel Phillips Data Bank in Parliamentary Procedure, *Canadian Parliamentary Review*, vol. 17, No. 4, winter 1994-95.