

# *New Standing Orders for the National Assembly*

*Danielle Parent*

In recent years parliamentarians in a number of Canadian jurisdictions have been questioning some of the rules that underlie the way legislative assemblies operate.

The increased power of the executive branch and the increasingly important role played by the public service and other public agencies have led to a certain imbalance in our political system. Without wishing to denigrate the importance of executive power, and far from wishing for a return to some older practices, it is necessary to take into account the shift in powers that has taken place and consequently to adopt appropriate procedures for legislative assemblies.

Quebec is no exception in undertaking a reform of its rules. Over the past fifteen years the Standing Orders have been reformed on two occasions.

In 1972 the old code with its 812 sections was revised, updated and consolidated into 180 sections. The 1972 reforms emphasized modernization and efficiency of the rules without necessarily changing any fundamental way of doing things. The 1984 changes go much further and emphasize administrative autonomy for the legislature and legislative control of the executive.

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## **The National Assembly Act (1982)**

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In 1982 the Assembly passed a new *National Assembly Act* based largely on a report prepared by Denis Vaugeois MNA entitled *L'Assemblée nationale en devenir, pour un meilleur équilibre de nos institutions*. A sub committee on parliamentary reform was charged with preparing new Standing Orders which reflected certain recommendations in the report as well as principles identified by Richard Guay, the President of the Assembly and approved by the Assembly in June 1983. These principles can be summarized as follows: to modernize the organization and functioning of parliamentary institutions; to ensure better equilibrium between the democratic institutions in society; to allow better control over the executive and the public administration; to ensure better control and closer supervision of public finance and expenditure; and to more clearly distinguish between Parliament and the Executive.

Approved provisionally in March 1984 and permanently on April 16, 1985, the new Standing Orders increase the role of Members as legislators without interfering with their other role as

representatives of their constituents. The main amendments concern the parliamentary timetable, the organization and mandate of parliamentary committees, control over public finance and the procedure for studying and adopting bills.

The new rules established specified periods for parliamentary work. The setting of these periods therefore no longer resides exclusively with the government. Members of the Assembly normally meet in ordinary sitting from the second Tuesday in March to June 23rd and from the third Tuesday in October to the 21st of December. Members sit Tuesdays and Thursdays from 2 p.m. to 10 p.m. and Wednesdays from 10 a.m. to 6 p.m. At the request of the Government House Leader, the Assembly may also meet on Monday from 3 p.m. to 10 p.m. Outside of these periods, days or hours, the Assembly may meet in extraordinary sittings at the request of the Prime Minister. This fixed timetable should lead to better long term planning of parliamentary business.

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## **Parliamentary Committees**

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Despite many changes to the committee system adopted during the 1970s, a number of important new reforms have been put in place during the last couple of years. Changes reflect the growing importance of committees and the idea that smaller decentralized units are better suited to examining government policy.

The number of standing committees has been reduced. Henceforth rather than being structured in the image of the cabinet, they will be formed according to fields of activity. There are eight such standing committees with the following areas of responsibility

- 1) Committee on Institutions
  - The Executive Council, Justice, Intergovernmental Affairs and the Constitution
- 2) Committee on the Budget and Administration
  - Finance, the Budget, Public Accounts, Government Administration, the Public Service and Relations with Citizens.
- 3) Committee on Social Affairs
  - The Family, Health, Social and Community Services, the Status of Women, Housing, Consumers and Income Security.
- 4) Committee on Labour and the Economy
  - Industry, Commerce, Tourism, Labour, Science, Technology, Energy and Resources
- 5) Committee on Agriculture, Fisheries and Food
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*Danielle Parent is a legal advisor for the Parliamentary Law Service of the Quebec National Assembly.*

- 6) Committee on Planning and Infrastructures
  - Local Communities, Planning Transportation, the Environment, Recreation, Fish and Game.
- 7) Committee on Education
  - Education, Manpower and Vocational Training
- 8) Committee on Culture
  - Culture, Communications, Cultural Communities and Immigration.

In addition to these eight sectoral committees, there is a ninth standing committee on the National Assembly itself. It consists of the President of the Assembly, the two vice-presidents, the House Leaders, Whips and committee chairmen. This Committee coordinates and harmonizes the work of the other committees. It may also call each year the Chief electoral officer, the Auditor General and the Public Protector. The National Assembly Committee, assisted in its task by the Standing Subcommittee on Parliamentary Reform, is also required to establish procedural rules and to study any questions pertaining to the powers and operations of the Assembly or its committees.

Mandates assigned to parliamentary committees stem from two different sources: the Assembly and the committees themselves. In addition to assigning a committee the task of studying bills and budgetary appropriations, the Assembly may assign a committee the task of studying any subject. All mandates originating with the Assembly must be given priority by the committees.

The main new feature of the committee system is the *mandat d'initiative*. This gives committees the right to study any question over which they have jurisdiction. The committees themselves decide to study the quarterly financial commitments of departments as well as the annual study of the policies, activities and management of at least one public agency within their sphere. In addition to such topics, the committees study proposed changes in legislation that falls within their interests and any other subjects at their own discretion.

An initiative mandate originates with a motion put by a committee member and must be adopted by the majority of its Members from each party in the Assembly. This removes from the governing majority the monopoly over the choice of subjects. Since the new rule came into force, six initiative mandates on matters of public interest have been studied; in each instance the result was extensive consultations and exchanges among legislators and concerned members of the public.

As a result of the mandate assigned by the Assembly or its own initiative mandate, the committee prepares and tables in the Assembly a report in which it may include comments, conclusions and recommendations. If the report contains recommendations and does not pertain to a bill or entail financial commitments, the Assembly considers the report in a debate which may last up to two hours. The debate does not, however, necessitate a decision by the Assembly.

The new committee system breaks with tradition, in that it takes away from the Government Leader the exclusive right to plan the business of the committees by selecting the mandates to be carried out by them. The priority assigned to Assembly mandates nevertheless ensures that the governing majority can have its legislation passed rapidly.

The rules also deal with the membership and chairmanship of committees so as to increase their autonomy and stability. Each committee has at least ten members appointed for a term of two years and MNAs may not be a member of more than one committee. The selection of members mirrors the number of MNAs in the Assembly for the various parties and also

take into account any independent MNAs. The Chairman of each committee is selected by the majority of Members of each party. The Chairman organizes the business of the committee and takes part in its deliberations. He does not have the deciding vote. If the number of votes for and against a motion are equal the motion is deemed to have been defeated. To assist the Chairman in his work, committee members also elect a Vice-chairman who should belong to a party other than the Chairman's.

The National Assembly Committee assigns chairmanship of five committees to Members of the governing majority and three committees to the opposition. In cases of disagreement, the governing party has the first, second, fourth, sixth and eighth selections, and the official Opposition the third, fifth and seventh choices. The seventh is set aside for any opposition parties other than the official Opposition.

In keeping with the increased autonomy and independence of the legislative vis-à-vis the executive Ministers are no longer automatically granted membership on a committee. A Minister who sponsors a bill is nevertheless made a full member of the committee studying the bill. He may also be a member of any committee responsible for carrying out a specific mandate if the Assembly so decides.

Not wishing to restrict the freedom of speech of Ministers in any way, the rules provide that a committee shall hear any Minister who wishes to express himself on a specific matter. On the other hand, a committee may call upon a Minister, by means of prior notice of fifteen days (unless the Minister in question states willingness to appear prior to the fifteen day period).

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## Control of Public Finances

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Aside from the study of budget policy and the evolution of public finances each quarter during a sitting of the Budget and Administration Committee, there are very few innovations in terms of control over public finances. At most, a number of items have been reorganized to facilitate the implementation of parliamentary control.

The debate on the budget speech still lasts twenty-five hours but, unlike the old practice, ten hours of the debate takes place in the Budget and Administration Committee, which frees the House for other purposes.

For the study of estimates by the eight sectoral committees, the period allocated has been reduced from forty-five days to two hundred hours spread over ten consecutive sittings from Monday to Friday. During this period, the Assembly considers only routine business, thus making it possible for Members to devote themselves fully to the study and to allow the media to follow the progress of committee business.

The rules assign the task of the quarterly study of departmental financial commitments to the eight committees; formerly, only the Financial Commitments Committee performed this task. Following the new philosophy underlying the committee system, which tends towards specialization, the study of financial commitments by each of the committees should foster a more complete view of departmental activities.

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## Study of Bills

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Various changes in connection with public bills allow for improved discussion when bills are before both the House and committees. A new terminology has replaced the old terms of first, second and third readings.

Henceforth, every bill must pass through five distinct stages: introduction (first reading), adoption of principle (second reading), detailed committee study, consideration of committee reports and adoption (third reading).

In order to lighten the heavy debating workload that usually occur in June and December, and to avoid legislative marathons, a public bill introduced between May 15 and June 23 or between November 15 and December 21 may not be passed during the same period.

To make it possible for Members to become aware of and to learn more about the contents of bills, debate on the principle begins only one week after it is introduced unless the bill is tabled in the Assembly during the first week of the October or March session.

Similarly, if the bill is sent to a committee following its introduction and the report recommends its reprinting, the debate on the principle may commence at the third sitting following that in which the republished version is tabled.

In committee, two types of consultation are possible within the framework of the legislative process. Following the introduction of a bill, the Government Leader may send it to a committee if he feels that its importance justifies a general consultation (any individual may submit a brief to the committee) or a specific consultation (the committee invites specific individuals or organizations to submit briefs). During the detailed committee study, the committee may at any time decide, prior to beginning the study of section one, to hold specific consultations as part of the mandate. Such an exercise, which was prohibited under the old rules encourages the participation of interested individuals or groups and an improved understanding of a number of complex or contentious technical legislative provisions.

In an attempt to avoid omnibus bills which contain a number of important principles, the rules now include provisions for breaking down a bill into a number of components prior to passage. If the motion to break up the bill is agreed by the Assembly, the resulting bills must be reintroduced.

For bills to amend a number of different Acts, a new procedure provides for detailed study before the appropriate committee if the amended Acts fall within the jurisdiction of a single committee. If not, the Government Leader refers the bill either to the Committee of the Whole or to a special or standing committee of his choice. A Minister is a member of the special committee or standing committee for the duration of the study of the legislative provisions which concern him.

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## Amendment of General Procedure

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Under the old rules there were various types of motions. The new rules have reduced the number of types of motions to two: substantive and procedural. The former place specific matters before

the Assembly while the latter bear only on the manner in which a substantive motion is put or concern the procedure of the Assembly. Substantive motions allow any Member to speak for twenty minutes except for the Member introducing the motion, the Prime Minister and the leaders of the other parties or their representatives, who may speak for an hour. For procedural motions, ten and thirty minutes respectively are allotted.

This has led to a better framework for "Restricted Debates", which are now more frequent. In general, a Restricted Debate lasts a maximum of two hours. The President of the Assembly organizes these debates following a meeting with the leaders and allocates the time limits among the parties, taking into account any independent Members. For example, a Restricted Debate takes place during the consideration of committee reports and during debates on a motion to adjourn for more than fifteen days, a call for an extraordinary sitting, a motion to suspend the rules etc.

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## Conclusion

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The reform process in Quebec gave rise to a new *Act respecting the National Assembly*. It enhanced the administrative autonomy of the Assembly, reorganizing parliamentary procedure and, increased autonomy for committees, while at the same time maintaining the initiative of the Government Leader for the business of the House.

But, as the President of the National Assembly explained in his statement on parliamentary reform in 1983:

"The relative autonomy of committees, as well as their capacity to organize their business themselves, and the initiative allowed to them in determining themselves which matters within their jurisdiction to study, are unrealistic objectives if they are not framed within conditions that prevent unnecessarily placing the government at risk and do not compromise in any permanent fashion the will of the majority of Members.

... Similarly, if committees are successfully to carry out their control function, it is clear that the rule of government responsibility must be reviewed and restricted in such a way as not to automatically require committee members to follow a party line."

Parliamentary reform is a continuous process and the drafting of new rules is simply a stage towards a more complete reform in which changes in Members' attitudes lead them to revise the concept of government responsibility.

Following adoption of the new rules, parliamentarians immediately launched discussions on two areas: the control and study of delegated legislation and the protection of witnesses appearing before parliamentary committees. With the many innovations introduced since 1982, Quebec parliamentarians have come to see the importance of a continuous reform process, and many other subjects are currently under consideration. ■

(translation)