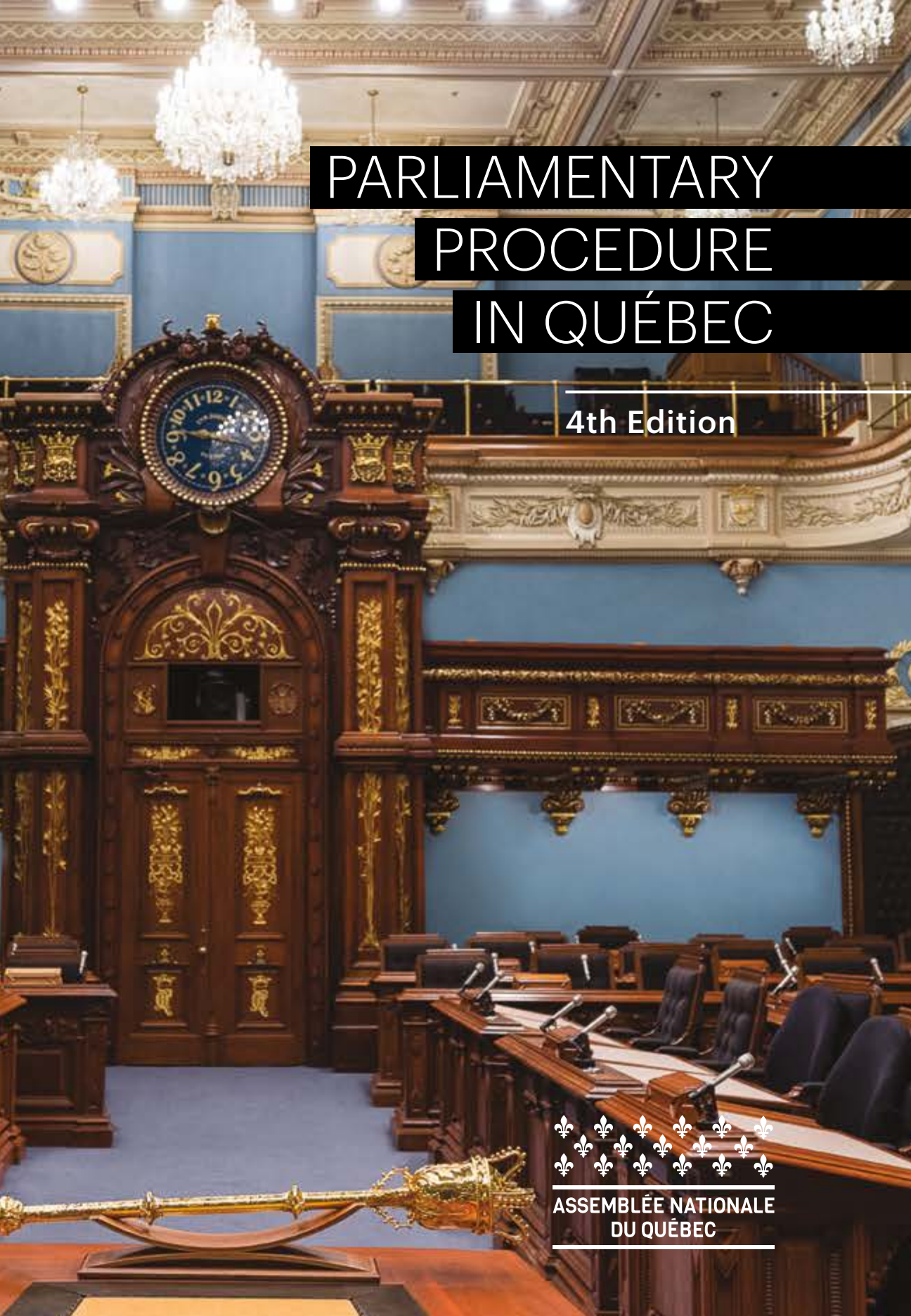


The background image shows the interior of the National Assembly of Quebec. It features a grand, ornate wooden structure with a large clock face on the left. The room has blue walls, gold accents, and a balcony. Rows of wooden desks and chairs are arranged in the foreground, and a large chandelier hangs from the ceiling.

PARLIAMENTARY PROCEDURE IN QUÉBEC

4th Edition



ASSEMBLÉE NATIONALE
DU QUÉBEC

PARLIAMENTARY PROCEDURE IN QUÉBEC

4th Edition

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DU QUÉBEC

PARLIAMENTARY PROCEDURE IN QUÉBEC

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NOTICE

This book may at times suggest interpretations for various rules of procedure. However, its content does not necessarily reflect the views of the President of the National Assembly, who is ultimately responsible for interpreting the rules of procedure and protecting the privileges of the National Assembly and its Members.

Content disclaimer

As parliamentary procedure and the law are subject to change, readers should remember that this edition of *Parliamentary Procedure in Québec* contains information and precedents dating up to the last part of the 42nd legislature (June 2021). Changes in the law and in practice introduced since then are not reflected in the text.

LIST OF ABBREVIATIONS

ANA

Act respecting the National Assembly (CQLR, c. A-23.1)

Code

Code of ethics and conduct of the Members of the National Assembly
(CQLR, c. C-23.1)

CAE

Committee on Planning and Infrastructures

CAN

Committee on the National Assembly

CAP

Committee on Public Administration

CAPA

Committee on Agriculture, Fisheries and Food

CAPER

Committee on Agriculture, Fisheries, Energy and Natural Resources

CAS

Committee on Social Affairs

CAT

Committee on Planning and the Public Domain

CBA

Committee on the Budget and Administration

CC

Committee on Culture

CCE

Committee on Culture and Education

CE

Committee on Education

CET

Committee on Labour and the Economy

CFP

Committee on Public Finance

CI

Committee on Institutions

CRC

Committee on Citizen Relations

CSESM

Select Committee on the Sexual Exploitation of Minors

CSSS

Committee on Health and Social Services

CTE

Committee on Transportation and the Environment

Geoffrion 1941

Règlement annoté de l'Assemblée législative (Standing Orders in force between 1941 and 1972, including an English part containing the *Rules and Standing Orders of the Legislative Assembly of the Province of Québec*)

JD

Journal des débats

RCP

Rules for the Conduct of Proceedings in the National Assembly

RCP, TR, 2001–2003

Temporary amendments to the *Rules for the Conduct of Proceedings in the National Assembly* regarding petitions, in force between December 6, 2001, and the end of the 36th Legislature

RCP, TR, 38th Leg.

Temporary amendments to the *Rules for the Conduct of Proceedings in the National Assembly* regarding committees, in force during the 38th Legislature

RCP, TR, 40th Leg.

Temporary amendments to the *Rules for the Conduct of Proceedings in the National Assembly* regarding committees, in force during the 40th Legislature

RCP, TR, 41st Leg.

Temporary amendments to the *Rules for the Conduct of Proceedings in the National Assembly* regarding committees, in force during the 41st Legislature

RCP, TR, 42nd Leg.

Temporary amendments to the *Rules for the Conduct of Proceedings in the National Assembly* regarding committees, in force during the 42nd Legislature

RDPP

Recueil de décisions concernant la procédure parlementaire (collection of rulings on parliamentary procedure)

RDPP (Com. Vol.)

Recueil de décisions concernant la procédure parlementaire (rulings on parliamentary procedure, committees volume)

SO

Standing Orders of the National Assembly

1972–1984 SO

Standing Orders of the National Assembly of Québec in force from 1972 to 1984

1985 SO

Standing Orders of the National Assembly in force from April 16, 1985, to April 21, 2009

2001–2003 TSO

Temporary amendments to the *Standing Orders of the National Assembly* regarding petitions, the exceptional procedure, extraordinary sittings and the time frame for the passage of bills, in force from December 6, 2001, to the end of the 36th Legislature

2002–2003 TSO

Temporary amendments to the *Standing Orders of the National Assembly* regarding the election of the President by secret ballot, in force from June 5, 2002, to the end of the 36th Legislature

TSO, 38th Leg.

Temporary amendments to the *Standing Orders of the National Assembly* regarding committees and quorum in the Assembly, in force throughout the 38th Legislature

TSO, 40th Leg.

Temporary amendments to the *Standing Orders of the National Assembly* regarding committees and quorum in the Assembly, in force throughout the 40th Legislature

TSO, 41st Leg.

Temporary amendments to the *Standing Orders of the National Assembly* regarding committees and recognition of the office of Deputy House Leader for the Second Opposition Group, in force throughout the 41st Legislature

TSO, 42nd Leg.

Temporary amendments to the *Standing Orders of the National Assembly* regarding the concept of a parliamentary group and the operation of the Assembly and committees, in force throughout the 42nd Legislature

VP

Votes and Proceedings of the National Assembly

PREFACE

I am very pleased to present the second English edition of *Parliamentary Procedure in Québec*, which is a translation of the fourth French edition. This monumental work required a great deal of effort from all the contributors, who in their daily roles are committed to keeping the Québec Parliament running smoothly and to raising its profile. This book would not have been possible without the many dedicated people helping to push the boundaries of knowledge on parliamentarianism.



It is an honour to present this collective work, and I thank everyone who contributed to it, directly or indirectly, from the very beginning.

I hope that this book will make the various concepts that are part of the parliamentary cycle or mentioned in the news more concrete, so that the related rules, traditions and customs become more accessible and not just vague notions. I like to think that readers will be transported to the heart of Québec parliamentarianism, so they can see it from the inside and better understand how it operates. The goal is to bring the National Assembly of Québec closer to the people it serves, but also to open a window on its functioning for students of parliamentarianism, no matter where they are in the world.

This work has several target audiences. It is meant especially for those working directly in democratic life: elected officials in the National Assembly and their political staff, to help them master all the subtleties of their specialized duties; those in public administration who interact with Parliament on various levels; and foreign dignitaries and parliamentarians who want to understand the way we operate and compare it with their own practices. This book raises the Assembly's profile in Canada and abroad and will be useful for those who, like

me, are intensely interested in parliamentary proceedings in both the British and French traditions. It is also for university students who analyze our institutions during their studies and research, and for the young people who participate in the National Assembly's many model parliaments, an approach to citizenship education that I find particularly valuable.

Of course, many events have marked our parliamentary history since the last edition, and these have led to noteworthy precedents that are included here, sometimes with a historical perspective and sometimes to explain new rules of procedure or decisions by the President. Developments in our parliamentary law include, for example, the impact of the election of a minority government for the second time in recent Québec history, the passage of the *Act to amend the Election Act for the purpose of establishing fixed-date elections*, and the recognition of four parliamentary groups for the entirety of the 42nd Legislature. Improving our democracy is obviously an ongoing process: other changes are inevitable, and that is the beauty of the enthralling, constantly evolving parliamentary world. That said, this edition accurately reflects the key changes over the last decade from a parliamentary point of view and, thanks to the exceptional work that has been done by historians, sheds new light on the origins of Québec parliamentarianism and highlights the close existential connection between Parliament and parliamentary procedure.

In conclusion, I sincerely hope that readers will enjoy reading this book on parliamentary law as much as we enjoyed writing it. May it serve as a guide to help you better understand the workings of our parliamentary system and fully appreciate all its nuances.

Siegfried Peters
Secretary General

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INTRODUCTION

Québec has a rich heritage based on a long tradition. Our current parliamentary system, rooted in British tradition and the Constitution of 1867, has gradually changed over time. In 1968, the original bicameral parliament became unicameral, with a single house of elected officials, and the Chamber called the Legislative Assembly was renamed the National Assembly of Québec.

The Assembly is composed of 125 Members who, along with the Lieutenant-Governor, form the Parliament and exercise legislative power in Québec. Under the Constitution, the Québec legislature has a maximum term of five years but, as we will see, this term has in fact been reduced to four, with a few exceptions, since legislation prescribing fixed-date elections was passed in 2013. The Assembly is summoned, prorogued and dissolved by the Lieutenant-Governor, who is the only person who can put an end to its term prior to expiry. In addition to the legislative powers conferred on it by the Constitution, the Assembly exercises oversight with respect to the actions of the Government, government departments and public bodies.

Although Québec's parliamentary institutions are over 200 years old, even today few people fully understand the mechanics and inner workings of the National Assembly. Assembly proceedings have been televised since 1978 and streamed online since 2001, so the public has live coverage of some aspects of Parliament, but it is still not easy to understand how the Assembly's work is organized or to grasp the rules and principles governing it. This book attempts to get a grip on these elusive topics.

The Assembly as we know it today was born out of the Constitution of 1867, but it is also the culmination of more than four centuries of history. Chapter 1 of this book traces the evolution of Québec's political and parliamentary institutions up to the present day. Chapter 2 then examines the foundations of parliamentary procedure and the elements underpinning the organizational structure of Québec's parliamentary institutions, including the Constitution, law, jurisprudence, tradition, and rules and customs.

The *Constitution Act, 1867*, states that the Constitution of Canada rests on the same principles as that of the United Kingdom. With that as a starting point, Chapter 3 goes on to explore a subject of great importance stemming from the British tradition: the parliamentary privileges that enable the Assembly to fulfill its mandate with complete independence, free from outside interference. These privileges also protect Members, both individually and collectively, in the performance of their parliamentary duties.

The players on the parliamentary stage are the subject of the next two chapters. Chapter 4 is devoted to the leading role played by the President of the National Assembly, an officer usually referred to as the Speaker in other legislative assemblies. In addition to ensuring that the *Standing Orders of the National Assembly* are observed, the President, who is also a Member of the National Assembly, must ensure that Members' rights are respected. This is a delicate balancing act in many respects since the President must maintain order in the House while applying the letter and the spirit of the rules of procedure in a strict, fair and just manner. Chapter 5 deals with the status of the Members of the National Assembly, who, once they are elected, either belong to a parliamentary group or sit as independents. The parliamentary offices that some Members hold are also covered.

Chapter 6 explains the organization of time, including how legislatures and the sessions within them start and end. The number of sittings varies according to the session's length, which is not formally set. In addition to regular sittings, which are held according to a calendar and schedule set out in the Standing Orders, extraordinary sittings can sometimes be held in conformity with specific rules that are examined in the chapter.

One of the basic principles of our parliamentary system is ministerial responsibility, by virtue of which the government must have the support of the legislative assembly in order to continue governing. Chapter 7 deals with this subject and focuses specifically on the circumstances in which the Assembly's confidence in the Government may be called into question.

One important right that citizens hold, and which is set out in the *Charter of human rights and freedoms*, is to petition the Assembly to obtain redress for a grievance within the jurisdiction of the Québec State. Chapter 8 discusses the various rules for exercising that right and explains how petitions are processed, according to whether they are in paper or electronic form.

The actual work of the Assembly is covered in the next few chapters, starting with Chapter 9 on the conduct of proceedings, which normally follow a predetermined order, have a well-defined logic and include Routine Proceedings and Orders of the Day. As we will see, parliamentary publications make it possible to keep abreast of the daily proceedings of the Assembly and its committees.

Routine Proceedings includes the period for oral questions and answers, commonly known as Question Period, which is reserved for exchanges between opposition and government Members that shed light on topics of current interest reported in the media. Question Period is governed by written and unwritten rules, which are dealt with in Chapter 10. Other rules concern order and decorum when the Assembly is sitting, which is the subject of Chapter 11.

During a term, the Assembly takes a stand on many matters of public interest in Québec. Whether expressing an opinion or intention, or adopting a binding order, the Assembly follows the decision-making process explained in Chapter 12. The debates held prior to decisions follow a set of rules that regulate both the speaking time allotted to Members and the duration of parliamentary debate, as described in Chapter 13.

A great deal of parliamentary activity is dedicated to law-making. Chapter 14 examines all the stages that a bill, whether public or private, must go through before being passed by the National Assembly and assented to by the Lieutenant-Governor. It also explains why, although all Members can sponsor bills, certain types of bills must be introduced by a minister.

Consideration of bills constitutes a significant portion of the Members' work, but they also have a key oversight role to play with respect to government spending. Chapter 15 details how the Government presents its budgetary policy, has the budget approved and reports on its management of public money.

Although parliamentary work is regulated by a set of written rules, in Chapter 16 we look at exceptional procedures, which are mechanisms that allow the Assembly to override its own rules in special circumstances.

Parliamentary bodies have been created to help the Assembly handle its sizeable workload. The role of the Committee of the Whole and the parliamentary committees, as well as their contribution to parliamentary work and the success of the Assembly's mission, are topics that deserve special attention. Chapter 17 outlines the specific rules governing the Committee of the Whole, while Chapters 18 and 19 deal with the organization, functioning, procedural rules and mandates of parliamentary committees.

Tables, diagrams, flow charts and illustrations clarify points throughout the book, showing statistical data from the most recent legislatures and summarizing parliamentary mechanisms.

The National Assembly is proud to have developed many educational activities and teaching materials for a wide audience over the years. This is in keeping with its educational mission, which has always had one aim: to explain to people in Québec and elsewhere in the world how the National Assembly works and especially the key role it plays as a fundamental institution in Québec

democracy. Although the book is intended primarily for those versed in parliamentary procedure, parliamentary law and political science, it will also be of interest to history buffs and anyone who simply wants to better understand the world around us. Along with the information available on the National Assembly's website (assnat.qc.ca), this book is designed to demystify the inner workings of our parliamentary system so that it can be understood by everyone.

■ CHAPTER 1

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1

THE HISTORY OF QUÉBEC'S POLITICAL AND PARLIAMENTARY INSTITUTIONS

Over their 400-year history, Québec's political institutions have undergone profound changes.¹ The colony inherited administrative models based on those of the imperial powers: the absolute monarchy of *ancien régime* France and the constitutional monarchy of Britain. However, very early on, these European constitutional frameworks took on a local colour: the *Canadiens* under the French regime, the French Canadians under the British regime and the Quebecers of today all made these political institutions their own and, in the wake of ongoing democratic progress, fashioned them according to their needs.

The rules and customs that govern the proceedings of the National Assembly of Québec today are, in the final analysis, a composite of tradition and modernity. The process of change is still unfolding, of course, and even now Québec's parliamentary procedures are continually being adapted to the demands of the 21st century.

1.1 NEW FRANCE

Under the French regime there were two branches of political power: civil and military. At the top, embodying both branches, was the King of France.

To govern New France, the King delegated his powers to administrators, making them responsible for applying royal policies and decisions. From the founding of the settlement at the site of the present-day city of Québec in 1608 to the British Conquest of 1760, New France was governed under a series of administrative systems.

1 See Appendix I, "Governance Diagrams", of this chapter.

1.1.1 THE TRADING COMPANY ERA (1608–1663)

From 1608 to 1612, New France had no political institutions to speak of. Samuel de Champlain, as lieutenant to Pierre Dugua de Mons, was given authority over the enlisted men living in the settlement at Québec. François Gravé Du Pont retained all powers in matters of trade and commerce.²

L'ARRIVÉE DE CHAMPLAIN À QUÉBEC



Oil on canvas by artist Henri Beau, commissioned in 1902 to hang in the Legislative Council Chamber. The work depicting Champlain's arrival in Québec has been part of the collection of the Musée national des beaux-arts du Québec since 1933.

From 1612 to 1627, New France was governed through its viceroys. The machinery of government was rudimentary and trading-company monopolies continued to finance colonization. As the Viceroy's lieutenant, Champlain was given wide-ranging powers. For example, he could negotiate treaties with the Indigenous nations and "commit officers for the dispensation of justice and maintenance of policing, regulations, and orders".³ However, he shared some of his duties, such as that of judging misdemeanours, with the chief factors of the fur-trading companies.

2 For the 1608–1663 period, see Christian Blais, Gilles Gallichan, Frédéric Lemieux and Jocelyn Saint-Pierre, *Québec : Quatre siècles d'une capitale* (Québec: Publications du Québec, 2008), chapters 2 and 3.

3 John A. Dickinson, "Champlain, Administrator", in Raymonde Litalien and Denis Vaugeois, eds., *Champlain: The Birth of French America* (Montréal: McGill–Queen's University Press, 2004), p. 211.

The *Compagnie des Cent-Associés* subsequently administered New France from 1627 to 1663. After Champlain's death in 1635, the *Cent-Associés* appointed governors to represent the King in the colony. The governors were vested with the highest authority in both civil and military matters.

As civil authorities, the governors were at once legislators, judges and administrators. They could make ordinances and possessed broad judicial powers. As military authorities, they were the commanders-in-chief of the soldiery, and as diplomats, they were in charge of maintaining good relations with the Indigenous peoples.

Around 1643–1644, New France was divided into three governments.⁴ In the towns of Québec, Trois-Rivières and Montréal, there were *gouverneurs particuliers* who shared military and administrative powers, and also acted as judges in disputes arising in their jurisdictions.⁵

With the creation of the *Communauté des Habitants* in 1645, the habitants (French settlers) of New France became responsible for managing the colony's public expenditures. The *Compagnie des Cent-Associés* retained ownership of the Seignury of New France and continued to appoint the governors. At the head of the *Communauté*, a council of 12 directors, elected by "the principal and most considerable" habitants of New France, regulated the fur trade and paid the costs of maintaining the governors, clergy and soldiers.⁶

In 1647, a new administrative system was instituted. Management of the *Communauté des Habitants* was placed in the hands of the *Conseil de Québec*. The Governor of New France, the Governor of Montréal and the Superior of the Jesuits were ex officio members of the *Conseil*, which also included three procurator-syndics. The procurator-syndics were each charged with acting on behalf of the community (Québec, Trois-Rivières or Montréal) that had elected them, taking care of its business and answering for it.⁷ They could attend *Conseil* meetings, which were held in the town of Québec, but had no voting rights.

4 Acadia and Louisiana had the same administrative structure: they each also had a *gouverneur particulier*, a *commissaire-ordonnateur* and a *conseil supérieur*.

5 The Governor of New France was also the *gouverneur particulier* of Québec. A *gouverneur particulier* was an officer who resided in and ruled a fortified garrisoned town. The military strongholds were the towns of Québec, Trois-Rivières, Montréal, Louisbourg and New Orleans.

6 Marcel Trudel, *La seigneurie des Cent-Associés, 1627-1663*, Vol. 2 (Montréal: Fides, 1983), pp. 175–177.

7 Marcel Marion, *Dictionnaire des institutions de la France aux XVII^e et XVIII^e siècles* (Paris: A. & J. Picard, 2013), p. 523.

Major changes were made to the *Conseil de Québec* in 1648: the Governor of Trois-Rivières became a member and the procurator-syndics were replaced on the *Conseil* by three councillors. The councillors were elected every three years by the governors of Québec, Montréal and Trois-Rivières, the Superior of the Jesuits and the three procurator-syndics. The procurator-syndics continued to serve the habitants' interests by addressing their communities' requests to the *Conseil*. They also acted as liaisons to inform the settlers of the decisions made in the upper echelon.

The *Conseil de Québec* was further reorganized in 1656. The procurator fiscal (investigating prosecutor) of the *Compagnie des Cent-Associés* became a member, while the Superior of the Jesuits was discharged. Once again far-reaching changes were made, and in 1657, the *Conseil de Québec* became the *Conseil de la Traite* (Fur Trade Council). Members included the Governor, a director appointed by the *Compagnie des Cent-Associés*, the *Compagnie's* procurator fiscal, and four elected councillors of whom two were elected by the habitants of Québec, one by those of Trois-Rivières and one by those of Montréal.

Acting on his own authority, Governor Pierre Dubois Davaugour replaced the *Conseil de la traite* by a *Conseil général* in 1661. He appointed three, then ten councillors to the new *Conseil*, as he saw fit. The following year he also abolished the offices and elections of the procurator-syndics. As the governance structure of New France did not include municipal officials, the procurator-syndics had naturally tended to take on that role and to represent the interests of their communities.

Monsignor François de Laval was also excluded from the *Conseil général* in 1661, only a few years after he had taken office. He appealed to Louis XIV to divest Davaugour of his authority. The Sun King, who had assumed his position as ruling head of state that same year, set about establishing a new colonial program. The *Compagnie des Cent-Associés* understood that its Seignury of New France would be integrated into the royal domain.

In 1663, New France became a royal province, with colonial affairs administered from France, first by ministers Hugues de Lionne and Michel Le Tellier, then, from 1669, by Secretary of State for the Navy Jean-Baptiste Colbert.⁸ The colony was given institutions that put the monarchy in direct control, without a trading company as an intermediary.⁹

8 Luc-Normand Tellier, *L'émergence de Montréal dans le système urbain nord-américain : 1642-1776* (Québec: Septentrion, 2017), pp. 168–169. New France ceased to be a royal province in 1664, when it was retroceded to the *Compagnie des Indes occidentales*. However, in December 1674, the King reannexed the colony by claiming the *Compagnie des Indes* for the Crown.

9 Marie-Eve Ouellet, *Le métier d'intendant en France et en Nouvelle-France au XVIII^e siècle* (Québec: Septentrion, 2018).

1.1.2 THE ROYAL GOVERNMENT (1663–1760)

On September 18, 1663, the *Conseil souverain* was instituted in Québec.¹⁰ It consisted of the Governor, the Bishop, a royal commissioner, an attorney general, five councillors and a clerk. Its powers were broad: until 1665 it could rule on civil and criminal cases, register royal ordinances, draft public order regulations, manage public funds and administer the *Communauté des Habitants*.

In 1665, Jean Talon landed at Québec as Intendant of Justice, Public Order and Finances. The appearance on the scene of this new political figure dramatically transformed the administration of New France. From then on, the Intendant was the main intermediary between the King and his administrators, the pivot between France and the colony.¹¹

Responsible for civil administration, Talon oversaw the justice system, made policy regulations for the maintenance of public order (roads, fire protection, markets, etc.) and controlled the revenues and expenditures of the administration. The *ancien-régime* system placed the Intendant's areas of intervention and regulatory tools in a legal framework,¹² although the workings of the French political institutions did not correspond to the English-style separation of the legislative, executive and judicial powers.

The Intendant's job was essentially to administer justice while protecting the King's interests. Although many ordinances were at the Intendant's initiative, others were in response to requests from habitants for redress. Righting wrongs meant striking a balance between, on one hand, social order and the public interest and, on the other hand, the constraints imposed by a society of caste and privilege, in which arbitrariness and discrimination remained.¹³

From 1665 onwards, the Intendant's broad powers reduced those of the Governor and the *Conseil souverain* proportionately. As head of the military, the Governor did, however, continue to make ordinances, play a leading diplomatic role with the Indigenous people and exercise direct, supreme command

10 For the 1663–1760 period, see Blais et al., *Québec : Quatre siècles d'une capitale*.

11 Marie-Eve Ouellet, "« Et ferez justice » : le métier d'intendant au Canada et dans les généralités de Bretagne et de Tours au 18^e siècle (1700-1750)", PhD dissertation (Rennes: Université de Rennes 2, 2014), pp. 160 and 224, online: <http://www.theses.fr/2014REN20018>.

12 Ouellet, *Le métier d'intendant en France et en Nouvelle-France au XVIII^e siècle*.

13 Ouellet concludes: [TRANSLATION] "As a judge whose power was strictly delegated, the Intendant was not equipped to consider development as a whole or to devise foundational measures of a general nature."

over the regular troops and the militia.¹⁴ The *Conseil souverain* became limited to judicial functions, acting as a court of appeal with the additional duty to register edicts, declarations, ordinances, decisions and deeds. The Intendant could also subdelegate his powers to administrators to support him in his functions, and the captains of the militia remained on hand to relay the colonial government's decisions to the countryside.

As the King's personal representative, the Governor remained at the top of the colony's hierarchy. He was the Intendant's superior, although they also held some powers in common, such as the granting of seigneuries. Until the turn of the 18th century, the jurisdictional boundaries between the two positions were ill-defined, however, and in cases of disagreement it was always the Governor's opinion that prevailed.

From 1665 to 1760, New France's two-headed government was officially nothing more than an intermediary between the King and his colony. However, the Governor and the Intendant did more than merely carry out the King's orders.¹⁵ They sent dispatches and briefs to the Secretary of State for the Navy, often encouraging the King to follow a particular policy.

The Intendant's opinion carried weight in the French administration. Given the distance that separated France from the colony, the Intendant, who had broad discretionary powers, often had to take the initiative to maintain order and find solutions to local problems. He nevertheless had to ask Versailles for approval afterwards, since the authority delegated to the Intendant remained subject to the King's approval whatever the circumstance.¹⁶

The notables of New France participated indirectly in public affairs. They had various means of making their voices heard by authorities in the colony and in France.

The *Conseil souverain* reinstated the election of a procurator-syndic in Québec in 1663, and then did the same for Trois-Rivières and Montréal in 1664. Elected by notable habitants, the syndics watched over public affairs and, when there were complaints from the community, advocated on behalf of the community

14 The Governor was a prominent figure and held the rank of lieutenant general in the royal armies. He was a high-ranking officer who enjoyed ceremonial privileges worthy of a field marshal in France. He had his place of honour at the cathedral, possessed his own company of guards and always travelled to the sound of drums, accompanied by officers and footmen. In the colony, his word was law.

15 Ouellet, *Le métier d'intendant en France et en Nouvelle-France au XVIII^e siècle*.

16 Ouellet, "« Et ferez justice » : le métier d'intendant au Canada et dans les généralités de Bretagne et de Tours au 18^e siècle (1700-1750)", pp. 8, 107-110, 160, 317, 347 and 364.

to the political authorities. As of 1673, there were three elected aldermen responsible for law and order in the town of Québec, but Minister Jean-Baptiste Colbert (who had also curtailed the power of municipal bodies in France in 1667) asked Governor Louis de Buade, Comte de Frontenac et de Palluau, to abolish the positions of syndic and alderman in the colony. This was done in 1677.

In exchange, the colonial administration created a new forum where prominent habitants could promote their interests. In 1677, Intendant Jacques Duchesneau instituted public meetings, known as “policy assemblies”, where the colony’s notables could voice their opinions on various subjects. This system was used until 1712, but from 1706 to 1711, annual information and consultation meetings were also held by Governor Philippe de Rigaud, Marquis de Vaudreuil, and by Intendant Jacques Raudot.

In 1717, with the initial goal of promoting trade and commerce, Attorney General Mathieu-Benoît Collet revived the idea of electing syndics for the towns of Québec and Montréal. That same year, a decision by the *Conseil d’État du roi* meant that the bourgeoisie could assemble and express themselves on the economic, civil, political and military affairs of the colony. Briefs and requests were sent to the Governor and the Intendant, who, whether they supported the opinions presented or not, passed them on with their comments to the Minister for the Navy. The merchants’ syndic played an active role in New France right up until the surrender of Montréal in 1760.

1.2 THE PROVINCE OF QUEBEC*

After the British Conquest of New France, Governor James Murray and his successor Guy Carleton modelled their civil administration of the Province of Quebec on the parliamentary traditions of Westminster. This was a turning point in Québec’s parliamentary law: the parliamentarianism that originated with the Council of Quebec in 1764 and continued to develop under the Legislative Council of 1775 was a prelude to the post-1791 parliamentary institutions.¹⁷

In the mid-18th century, Great Britain’s administrative control of its royal colonies overseas was becoming increasingly efficient. Commissions and royal instructions, which vested the governors with powers, were among the instruments

* Translator’s note: An effort has been made to respect both the historical spelling of Quebec used in the statutes and official designations of the time and the modern spelling of Québec as recommended by the Commission de toponymie du Québec.

17 Christian Blais, “Aux sources du parlementarisme dans la Province de Québec, 1764-1791”, PhD dissertation (Québec: Université Laval, 2019), online: <https://corpus.ulaval.ca/jspui/handle/20.500.11794/37604>.

of this centralizing, interventionist, mercantilist bureaucracy. Under the *ancien régime*, the true power lay with London, and the Governor remained an agent of the Crown. This system persisted until the emergence of a modern liberal State in the mid-19th century.¹⁸

1.2.1 MILITARY RULE (1759–1764)

After the surrender of Québec in 1759 and of Montréal in 1760, the British set up a system of military occupation. The governments of Quebec, Trois-Rivières (Three Rivers) and Montreal were administered by James Murray, Ralph Burton and Thomas Gage, respectively. They implemented a policy of conciliation with the French-Canadians, or *Canadiens*, as they were called.

To ensure that its ordinances were publicized and executed, the British administration employed captains of the Canadian militia. As magistrates of first instance, these persons also became veritable auxiliaries of the State for keeping the peace among the local populations. At the next judicial level, temporary tribunals were set up by the governments of Quebec, Trois-Rivières and Montreal. In accordance with the terms of surrender, French civil law remained in effect and citizens were free to practice the Roman Catholic religion.

With the signing of the Treaty of Paris on February 10, 1763, New France officially became a British province. The *Canadiens* had 18 months to decide whether to stay in the Province of Quebec or choose self-exile in France. In the meantime, the colony remained under British military rule.

1.2.2 THE CIVIL GOVERNMENT (1764–1774)

The British Crown's October 7, 1763 Royal Proclamation established the administrative and judiciary structures of the new colonies ceded to Great Britain under the Treaty of Paris, to which it gave the names of Quebec, East Florida, West Florida and Grenada. Along with the Governor's commission and royal instructions, the Royal Proclamation was one of the elements in the Province of Quebec's constitutional framework.¹⁹

18 From the late 19th to the mid-20th century, Britain's *ancien régime* was often referred to as the "old colonial system". The period covered by the term "modern liberal State" is also referred to as the period of "state formation" or, in Britain, as the "nineteenth-century revolution". The chronological boundaries between these historical periods are nevertheless arbitrary: Donald Fyson, "Between the Ancien Régime and Liberal Modernity: Law, Justice and State Formation in Colonial Quebec, 1760–1867", *History Compass*, Vol. 12, No. 5 (2014), pp. 412–432.

19 "Proclamation royale (1763)", *Encyclopédie du parlementarisme québécois* (Québec: National Assembly of Québec, September 25, 2014), online: [http://www.assnat.qc.ca/fr/patrimoine/lexique/proclamation-royale-\(1763\).html](http://www.assnat.qc.ca/fr/patrimoine/lexique/proclamation-royale-(1763).html). The constitutions of the Crown colonies at the time were based on common law, certain British Acts and British constitutional customs.

The Proclamation referred to a general assembly to be held “in such Manner and Form as is used and directed in those Colonies and Provinces in America”.²⁰ The commission that, on November 28, 1763, designated Murray as Captain General and Governor in Chief of the Province of Quebec also empowered him to call “General Assemblies of the Freeholders and Planters” as soon as conditions permitted.²¹

Under the royal instructions Murray received on December 7, 1763, he was to administer the colony with the assistance of a council combining legislative, executive and judiciary powers, at least until circumstances allowed the government to establish a legislative assembly. As was recommended by the Board of Trade of Great Britain, the Province of Quebec would be governed solely by the Governor in Council.²²

This administrative model was not unheard of in Britain’s colonial history. In Nova Scotia, for example, the Council of Twelve, also constituted by royal instructions, served as an advisory committee to the Governor. It had legislative and executive powers and held its meetings first in Annapolis Royal and then in Halifax, from 1720 to 1758.

In the Province of Quebec, civil government was established on August 10, 1764. The first meeting of the Council of Quebec was held in the Château Saint-Louis on August 13, 1764. This “legislature” consisted of the Governor, the Chief Justice, the Surveyor General of Customs and five councillors chosen by the Governor “from amongst the most considerable of the Inhabitants of, or Persons of Property” in the province. As all councillors were required to take the Test Oath, Catholics were barred from participating in the Government unless they repudiated their religion.

From 1764 to March 23, 1775, the Council of Quebec sat 280 times to make regulations on matters of justice, public order, trade and grants of Crown land. The councillors were empowered to make regulations necessary for peace, order and good government, but not to impose taxes,²³ and they also had to ensure “that nothing be passed or done, that shall any ways tend to affect the Life, Limb or Liberty of the Subject”.²⁴

20 *Royal Proclamation of 1763* (UK), Geo. III, reprinted in RSC 1985, App. II, No. 1.

21 Adam Shortt and Arthur G. Doughty, eds., *Documents Relating to the Constitutional History of Canada, 1759–1791*, 2nd ed., Vol. 1 (Ottawa: J. de L. Taché, 1918), p. 175.

22 The “Lords Commissioners of Trade and Plantations”, commonly known as the “Board of Trade”, was an advisory body to the British Privy Council, the Treasury and the Secretary of State for the Colonies from 1696 to 1782.

23 Christian Blais, ed., *Procès-verbaux du Conseil de Québec : 1764-1775* (Québec: National Assembly of Québec, 2019).

24 Shortt and Doughty, eds., *Documents Relating to the Constitutional History of Canada, 1759–1791*, 2nd ed., Vol. 1, p. 185.

The legislative procedure that regulated the adoption of ordinances and governed Council of Quebec debates was inspired by the customs of the British Parliament. Getting things done meant following pragmatic, unwritten rules. Just one standing rule was officially made: from 1768 to 1775, draft ordinances had to be translated into French and approved by the councillors at Council meetings.²⁵

Certain mechanisms governed the workings of the colonial administration: the right to petition, quorum rules to ensure the legality of the civil administration's proceedings, committee examination of briefs and petitions, the tabling of committee reports before the Council, the readings required before an ordinance could be adopted, the procedure for amendments made to draft ordinances, the rules for speeches, etc.

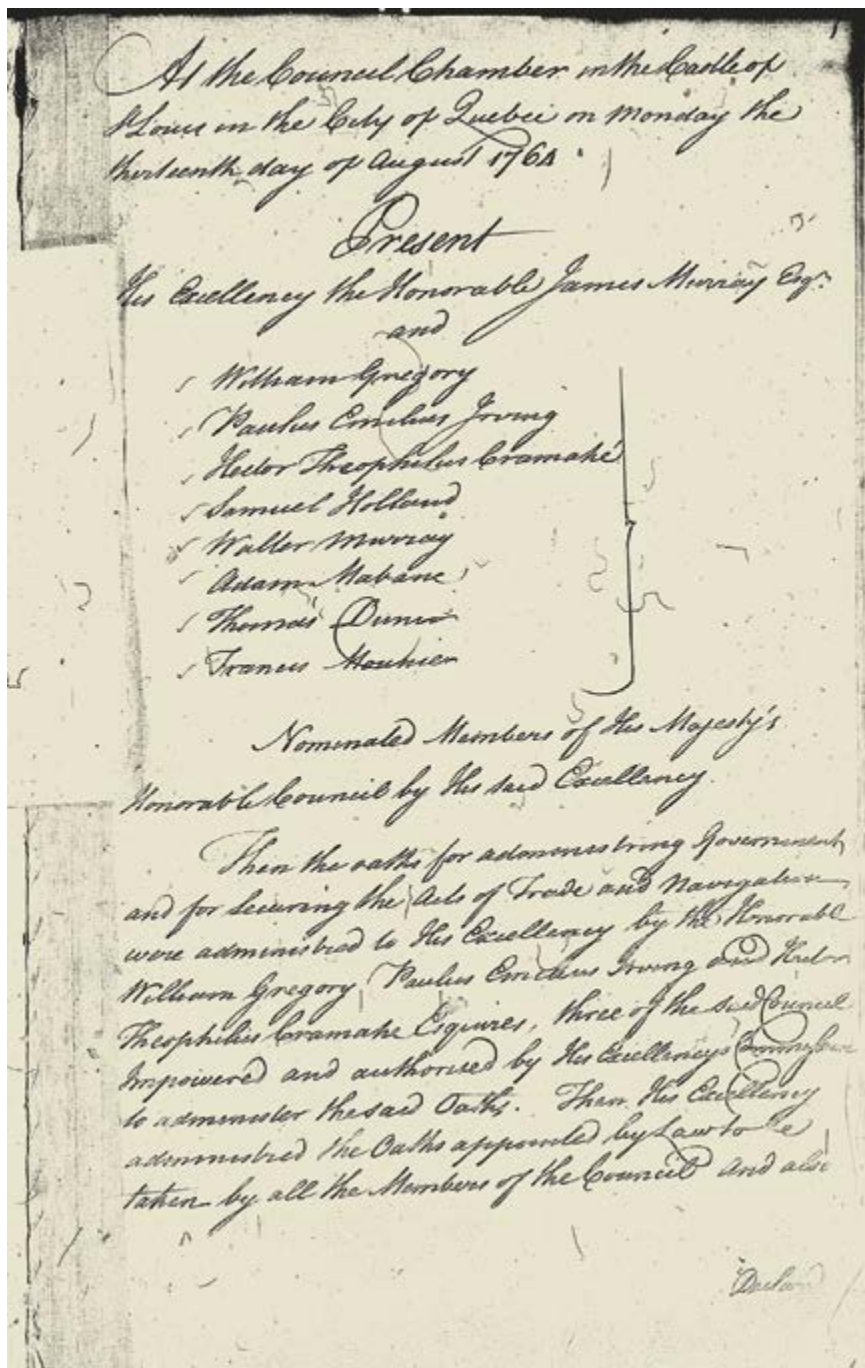
The Council of Quebec is where Québec's first parliamentary practices took root.²⁶ A parliamentary framework patterned on the Westminster model grounded the Council from 1764 on: ritual oath-taking, the exclusive collective privilege regarding the right to sit and to decide on the qualities required of a councillor to retain his seat or not, parliamentary decorum relating to the rank and title of Council members (Esquire, Honourable, etc.), the right to debate and deliberate on competing opinions, the advent of the first political parties, the assembly chamber as part of parliamentary precincts and the presence of a clerk to keep official, though cursory, minutes of sittings. Even though no members of the Council were elected, these elements speak to emerging parliamentary practice in the Province of Quebec.

Public expenditures were paid in part by Britain. Military credits were paid to the colonial government, which could also avail itself of revenues derived from Crown lands.²⁷ Under Guy Carleton's governorship, a committee was formed to examine public accounts. The Receiver General was responsible for producing, under oath, a statement of the colony's expenditures. This document was then examined by the Council of Quebec and compared with the report of the public accounts committee, made up of Council members. The fiscal year was divided into two periods: June 25 to December 24 and December 25 to June 24.

25 Blais, "Aux sources du parlementarisme dans la Province de Québec, 1764-1791", pp. 293 and 375.

26 Ibid., p. 358.

27 The military chest was an amount provided by the British Treasury and voted on annually by the Westminster Parliament for military expenses outside of Great Britain. Crown reserves were made up of the casual and territorial revenues that had previously been collected by the King in New France. The casual and territorial revenues came from the tax-farming of Tadoussac trade, a sales tax known as the *lods et ventes*, the *droit de quint* (the King's right to one-fifth of a seignury's sale price) and the revenues derived from the Jesuits' holdings, the St. Maurice ironworks, the King's wharves and ungranted lands (mineral and timber rights).



Excerpt from the minutes of the first meeting of the Council of Québec. From 1764 to 1775, the Council held both the legislative and the executive power in the "civil administration" of the Province of Québec.

To ensure harmony between the central administration and the local communities, new civil officers were elected in the parishes in province-wide elections held every year from 1764 to 1775. The officers were known as bailiffs, and they performed substantially the same functions as those the militia captains had assumed under military rule.

Neither the *Canadiens* nor the British immigrants found this political system to their liking. The *Canadiens* called for the exclusive use of French civil law and felt victimized by their exclusion from working as judges or councillors on account of their religion. The British immigrants agitated for a chamber of assembly in order to enjoy the same privileges as other British subjects.

In the end, legal scholars called the very constitutionality of the Council's ordinances into question.²⁸ This was because the Proclamation of 1763, the commission and the royal instructions clearly established that all laws were to come from the Governor, the Legislative Council and an elected assembly and, according to the royal instructions of 1763, the Council had the power to make "Rules and Regulations" only, not ordinances.²⁹

The British parliamentarians in Westminster resolved the matter in 1774. The *Quebec Act* confirmed that the Council of Quebec had overstepped its regulatory powers, so every ordinance "made by the Governor and the Council of Quebec for the Time being relative to the Civil Government and the Administration of Justice" was revoked and declared void.³⁰

1.2.3 THE COLONIAL ADMINISTRATION UNDER THE QUEBEC ACT (1775–1791)

On June 22, 1774, the British Parliament passed the *Act for making more effectual Provision for the Government of the Province of Quebec in North America*.³¹ This was the first Québec constitution, handed down by Westminster.³² The *Quebec Act*, as it was known, empowered the King, "with the Advice of the Privy Council", to implement the Constitution of 1774. In other words, the executive branch of the British government gained the right to administer the colony by decree, which is to say through commissions and royal instructions—and dispatches—addressed to the Governor by the Secretary of State for the Colonies.

28 James Marriott, *Plan of a Code of Laws for the Province of Quebec; Reported by the Advocate-General* (London, 1774), p. 48.

29 Shortt and Doughty, eds., *Documents Relating to the Constitutional History of Canada, 1759–1791*, 2nd ed., Vol. 1, p. 185.

30 Ibid, p. 556.

31 *Quebec Act* (UK), 14 Geo. III, 1774, c. 83, reprinted in RSC 1985, App. II, No. 2.

32 "Acte de Québec (1774)", *Encyclopédie du parlementarisme québécois* (Québec: National Assembly of Québec, July 10, 2017), online: [http://www.assnat.qc.ca/fr/patrimoine/lexique/acte-de-quebec-\(1774\).html](http://www.assnat.qc.ca/fr/patrimoine/lexique/acte-de-quebec-(1774).html).

The *Quebec Act* also reinstated French civil law as part of Quebec's justice system and abolished the Test Oath. Former captains of the militia were again called up, this time to perform the duties of the bailiffs, whose offices were transformed under the new system.³³ Lastly, the boundaries of the province were extended westward as far as the Great Lakes watershed.

The *Quebec Act* created the Legislative Council to act as the colony's legislative body, with a membership of between 17 and 23 prominent settlers. Initially, London appointed 12 British immigrants and eight *Canadiens* to the Council, on the recommendation of the Governor. The first meeting took place on August 17, 1775, and each parliamentary session was limited to the period "between the first Day of January and the first Day of May, unless upon some urgent Occasion".³⁴ From 1775 to 1791, there were 18 parliamentary sessions, totalling 378 sittings.

The legislative councillors could "make ordinances for the peace, welfare and good government" of the province,³⁵ but to have force of law those ordinances required the assent of both the Council and the Governor. Hence, even though there was a "Quebec chamber", the Imperial Parliament retained unlimited legislative power over the colony.³⁶ The British government could issue decrees repealing ordinances made in the colony. It should also be noted that the Legislative Council could not impose duties or taxes except, under certain conditions, for the maintenance of public roads and buildings.

The activities of the Council were much perturbed by the American Revolution (1775–1783). Martial law was invoked, reducing legislative work to the absolute minimum. The Council met only three times in 1775, picking up its work again in 1777.

The Executive Council of the Province of Quebec remained separate from the Legislative Council. As of August 8, 1776, the Governor invited only Hector Theophilus Cramahé, Hugh Finlay, Thomas Dunn, John Collins and Adam Mabane to sit on his privy council, barring a few rare exceptions.

33 Donald Fyson, "Judicial Auxiliaries Across Legal Regimes: From New France to Lower Canada", in Claire Dolan, ed., *Entre justice et justiciables : les auxiliaires de la justice du Moyen Âge au XX^e siècle* (Québec: Presses de l'Université Laval, 2005), pp. 398–401.

34 *Quebec Act* (UK), 1774; Alfred Leroy Burt, *The Old Province of Quebec*, Vol. 1. (Toronto: McClelland and Stewart, 1968), p. 173. The councillors met initially in the Château St. Louis but moved to the Bishop's Palace sometime in 1781–1782: Blais, "Aux sources du parlementarisme dans la Province de Québec, 1764–1791".

35 Joseph Desjardins, *Guide parlementaire historique de la province de Québec, 1792 à 1902* (Québec: [n.p.], 1902), p. 45.

36 Henri Brun, *La formation des institutions parlementaires québécoises, 1791–1838* (Québec: Presses de l'Université Laval, 1970), p. 8; Blais et al., *Québec : Quatre siècles d'une capitale*, p. 198.

In 1777, the British government directed Governor Carleton to ensure that his executive consisted of all the members of the Legislative Council, but it was not until January 15, 1781, that all the members of the Legislative Council were finally invited to sit on the Executive Council. Although the boundaries between the legislative and executive powers were porous, from 1775–1776 the proceedings of the legislative and executive councils were nonetheless recorded in separate registers. Moreover, the Governor was not authorized to attend sittings of the Legislative Council, unless to assent to an ordinance or to convene or prorogue a session; those sittings were presided over by the Lieutenant-Governor, or in his absence the Chief Justice of the province.

New rules of parliamentary procedure—fashioned after Westminster’s—were implemented in the Legislative Council. The outcome of a vote was first recorded in the minutes in 1777. Next came councillor-sponsored bills in 1778, and then recorded divisions (in which the names of those who voted for and against were officially registered) in 1782. The year 1779 is worthy of mention, since the Throne Speech appeared in both English and French; to be more precise, an English version was read aloud, and a French translation was recorded in the Journals of the Legislative Council.

The Legislative Council of the Province of Quebec was, it would appear, the first upper house of all the British North American colonies to have written rules for maintaining order and discipline. The rules were adopted on March 23, 1784, numbered 11 and covered voting, debates, minutes, motions, committees, the Speaker and decorum.³⁷

A new framework was put in place. On April 3, 1784, the Journals noted a meeting of the “Committee business of the House”, responsible for organizing proceedings. Starting in 1785, an order paper was also drawn up to expedite parliamentary affairs.³⁸

Legislative procedure was inspired by the traditions of Great Britain. Under one standing rule, three readings had to precede the passage of draft ordinances. However, in 1787, Chief Justice William Smith, who was then presiding over the House, noted particularities in the “parliamentary custom” employed by the legislative councillors. Smith noted that, contrary to the Parliament of Great Britain, draft legislation was referred to a committee for study after the first rather than the second reading.³⁹ The ability of the Legislative Council of the

37 Christian Blais, “The Oldest Parliamentary Rules in Quebec and Canada”, *Canadian Parliamentary Review*, Vol. 38, No. 4 (2015), pp. 28–34, p. 30.

38 Blais, “Aux sources du parlementarisme dans la Province de Québec, 1764-1791”, pp. 330 and 337.

39 Extract from Proceedings of Council, Monday, March 26, 1787, in Shortt and Doughty, eds., *Documents Relating to the Constitutional History of Canada, 1759–1791*, 2nd ed., Vol. 2, p. 854.

Province of Quebec to adapt British parliamentary practices to its own needs⁴⁰ can also be seen in the fact that the rule on reading was amended in 1789: from then on, draft ordinances were read twice before being studied by committee. The members of the Council adopted new legislative techniques to ensure their work proceeded smoothly.

In short, the Legislative Council was a proper legislature. Its parliamentary system was rudimentary, but in terms of form, customs and traditions, it was a parliamentary system all the same. However, until the late 18th century, parliamentarism was distinct from elective democracy in the political context particular to the Province of Quebec.⁴¹ In other words, Québec's parliamentary system was built on site, empirically, on the foundations of tradition, well before the Legislative Assembly was created in 1792.⁴²

Until 1791, the system was unicameral with no elected chamber. Sufficiently representative though the Legislative Council might have appeared from London's perspective, the colony was less than well served by an unelected council. The colony's British merchants continued to agitate for a legislative assembly, and the *Canadiens* joined them. Petitions in English and French, dated November 24, 1784, called for the creation of a "a Free, Elective House of Assembly" composed of "Your Majesty's Old and New Subjects".⁴³ In all, 2373 people, including 1518 *Canadiens*, signed the petitions.

1.3 THE PROVINCE OF LOWER CANADA

The independence of the United States in 1783 brought waves of British loyalists northward. This new political situation compelled Britain to rethink the organization of its North American colonial empire.

The constitutional *Quebec Act* of 1774 was amended on June 10, 1791. The *Constitutional Act, 1791*, formally, the *Act to repeal certain Parts of an Act, passed in the fourteenth Year of his Majesty's Reign, intituled, An Act for making more effectual Provision for the Government of the Province of Quebec*,

40 The situation was the same in the other American colonies: Peverill Squire, *The Evolution of American Legislatures: Colonies, Territories, and States, 1619–2009* (Ann Arbor: University of Michigan Press, 2012), p. 59.

41 Blais, "Aux sources du parlementarisme dans la Province de Québec, 1764-1791", pp. 166, 262, 335, 366 and 375.

42 Henri Brun, Guy Tremblay and Eugénie Brouillet, *Droit constitutionnel*, 6th ed. (Cowansville: Éditions Yvon Blais, 2014), at para. VII.31.

43 John Hare, *Aux origines du parlementarisme québécois, 1791-1793 : étude et documents* (Sillery: Septentrion, 1993), p. 20.

in North America; and to make further Provision for the Government of the said Province,⁴⁴ divided the Province of Quebec into two distinct political entities: Lower Canada and Upper Canada, which would evolve into modern-day Québec and Ontario, respectively.

The British model of mixed government—made up of the King, the House of Lords and the House of Commons—was transplanted to the colony, along with the doctrine of the separation of powers. Once an elected assembly was established in Quebec, the three organs of the Legislature—the Governor, the Legislative Council and the Legislative Assembly—went on to gradually develop collaborative methods to ensure that the colonial government would run smoothly and efficiently.⁴⁵

1.3.1 THE PARLIAMENT OF LOWER CANADA (1792–1838)

On December 17, 1792, the first 50 Members of the House of Assembly of Lower Canada met in the chapel of the Bishop's Palace in the city of Quebec.⁴⁶ Subsequent re-drawings of the electoral map increased the number of Members to 84 from 1830 to 1832, 88 from 1832 to 1836, and 90 from 1836 to 1838.

The Members were elected by simple majority. Most ridings had only one polling station, and the ballot was not secret: the returning officer proceeded with the election of the candidate or candidates (a single riding could be represented by two Members) by show of hands. If the returning officer was unable to discern a clear majority, he would record the votes in a poll book. After writing down the name of each voter and checking the name of the voter's candidate or candidates of choice, the returning officer would name the candidate(s) with the most votes.

44 *Constitutional Act, 1791* (UK), 31 Geo. III, c. 31, reprinted in RSC 1985, App. II, No. 3.

45 According to constitutionalist Henri Brun, parliamentary law was born of the confrontations arising out of the way the legislative function was exercised: Brun, *La formation des institutions parlementaires québécoises, 1791-1838*, p. 253.

46 In 1792, there were 21 counties, 2 cities—Quebec (Upper Town and Lower Town) and Montreal (East Ward and West Ward)—and 2 boroughs—Three Rivers (Trois-Rivières) and William Henry (Sorel). Ridings were represented by two Members each, except the borough of William Henry and the counties of Gaspé, Bedford and Orléans, which had only one Member each. There were only 48 Members out of a possible 50 at the start of the first session: one candidate had died shortly after being elected, and another, elected in two ridings, was obliged to choose between them. The first electoral map was created on May 7, 1792, by a proclamation of Lieutenant-Governor Alured Clarke. It was only in 1829 that the House of Assembly of Lower Canada redefined its electoral divisions itself.



An 1829 engraving of the Bishop's Palace, which was built in the days of New France for the Bishop of Québec. The parliamentarians of Lower Canada met in its chapel from 1792 to 1833.

The monetary qualification for the franchise was quite low, consisting only of a small amount of capital.⁴⁷ However, an elector had to be 21 years old, either a freeholder or a tenant paying quit-rent, a British subject by birth, naturalization or right of conquest, and not convicted of treason.⁴⁸ Contrary to Britain during the same period, and through sheer oversight, women,⁴⁹ Indigenous people and Jews had the right to vote in Lower Canada, provided they met the other criteria.

47 Historian Pierre Tousignant estimates that 15 to 20% of the population had the right to vote: Pierre Tousignant, "La genèse et l'avènement de la Constitution de 1791", PhD dissertation (Montréal: Université de Montréal, 1971), p. 308.

48 Brun, *La formation des institutions parlementaires québécoises, 1791-1838*, p. 24.

49 Some widowed or unmarried women who met the 1792 property requirements possessed and exercised the right to vote. In 1834, new legislation stipulated that "no female shall vote at any Election . . . unless such persons hold such property as Co-heirs": *Act to regulate the manner of proceeding upon contested Elections of Members to serve in the House of Assembly, and to repeal certain Acts therein mentioned*, 4 William IV, 1834, c. 28. The Act disenfranchised women but was disallowed by London by an Order in Council on July 6, 1836, and by a proclamation from Governor Archibald Acheson, 2nd Earl of Gosford, on February 7, 1837.

On December 18, 1792, Jean-Antoine Panet, Member for Upper Town Quebec, was elected Speaker by his peers. On behalf of the Assembly, he called upon the Governor to grant “the freedom of Speech, and generally all the like privileges and liberties as are enjoyed by the Commons of Great Britain”. He also requested, by order of the House, “access to the person of His Excellency the Governor” for the public good.⁵⁰

THE LANGUAGE DEBATE



This painting illustrates the January 21, 1793, sitting of the House of Assembly of Lower Canada. Artist Charles Huot depicted Michel-Eustache-Gaspard-Alain Chartier de Lotbinière delivering a flamboyant speech in defence of the French language. The work was created between 1910 and 1913 to hang in the Assembly Chamber.

In 1793, on the express recommendation of Lieutenant-Governor Alured Clarke, the Members adopted their first set of Standing Orders designed to expedite the business of the House.⁵¹ This bilingual collection of rules and regulations grew out of the traditions, usages and practices of the English Commons. It contained 75 articles under 14 chapters, and dealt with such subjects as quorum, the Speaker, committees, bills and motions.⁵²

⁵⁰ *Journal of the House of Assembly, Lower-Canada*, December 20, 1792, pp. 20 and 22.

⁵¹ André Beaulieu, “Genèse du premier règlement de l’Assemblée (1793)”, *Bulletin de la Bibliothèque de l’Assemblée nationale*, Vol. 18, No. 3–4 (1989), pp. 6–9. The Legislative Council adopted its first Standing Orders in 1817: Brun, *La formation des institutions parlementaires québécoises, 1791-1838*, p. 121.

⁵² *Rules and Regulations of the House of Assembly, Lower-Canada/Règles et Règlements de la Chambre d’assemblée du Bas Canada* (Québec: John Neilson, 1793). Gary W. O’Brien, “Pre-Confederation Parliamentary Procedure: The Evolution of Legislative Practice in the Lower Houses of Central Canada, 1792-1866”, PhD dissertation (Ottawa: Carleton University, 1988), pp. 61 and 200, online: <https://curve.carleton.ca/22ea83e1-478c-4675-81fb-3c9b8ab29156>.

A debate on language broke out as the set of Standing Orders was being passed, leading the House to enact legislation on January 23, 1793, recognizing French, alongside English, as a parliamentary language. Members would be able to introduce bills in French or English, and a translation of each bill would follow. The Act would be drafted in French when the bill was introduced in French, and in English when it was introduced in English. On October 2, 1793, Henry Dundas, Home Secretary and responsible for the colonies, wrote to Governor Dorchester that the laws of Lower Canada were to be made in English.⁵³ However, Dundas's letter was of no constitutional value, not being a royal decree, formal instruction or legal opinion, and so the Governor did not follow up on it. No proclamation giving pre-eminence to English was drafted, and the Standing Orders remained unchanged.⁵⁴

Although Lower Canadian Members could frame, debate and vote on legislation, they shared the legislative power with the Legislative Council—effectively an upper house consisting of “not fewer than Fifteen” legislative councillors.⁵⁵ In this bicameral system, the Legislative Council acted as an “aristocratic” body that was meant to temper the “democratic” impulses of the lower house.

The Legislative Council of Lower Canada adopted written rules on January 28, 1793. They were made up of 37 articles defining the Speaker's role, the conduct of a sitting and the rules of debate. Other articles regulated exchanges between the upper and lower houses. Members of the upper house were not empowered to introduce bills involving taxation or public spending (money bills): this remained the prerogative of the Assembly, even though all allocation of public funds had to be recommended by the Governor.⁵⁶

53 Letter from Dundas to Dorchester, October 2, 1793, in Thomas Chapais, *Cours d'histoire du Canada*, Vol. 2 (Trois-Rivières: Boréal Express, 1972), p. 80.

54 The 1793 rules and regulations were republished in 1796, 1802, 1809, 1815, 1820, 1823 and 1830. All editions were bilingual and indexed. The title page of the 1830 print run noted that the rules and regulations had been “revised and corrected”. As with the 1823 edition, marginalia made it possible to track how parliamentary procedure had evolved since 1793. There were 79 articles in 1802, 100 in 1825 and 101 in 1837 (see O'Brien, “Pre-Confederation Parliamentary Procedure: The Evolution of Legislative Practice in the Lower Houses of Central Canada”, pp. 61 and 200). However, the *Rules and Regulations of the House of Assembly, Lower-Canada* remained essentially intact until the end of the 1791 constitutional regime.

55 Shortt and Doughty, eds., *Documents Relating to the Constitutional History of Canada, 1759–1791*, 2nd ed., Vol. 2, p. 1032. According to the *Constitutional Act, 1791*, the King could create a hereditary right to be summoned to the Legislative Council, but this was never done.

56 Brun, *La formation des institutions parlementaires québécoises, 1791-1838*, pp. 35 and 235.

In the colony, the executive power resided solely with the Governor. Under the terms of his commission, he was an agent representing the Crown's authority and he reported to the British government department that looked after colonial affairs.⁵⁷ He convened the two houses and delivered the "harangue" (Throne Speech) that inaugurated each session. He could arbitrarily prorogue a session or dissolve the House of Assembly and, by exercising his right to refuse assent, had veto power over all bills. Until 1832, it was the Lieutenant-Governor who automatically replaced the Governor when he was absent from the province.⁵⁸

A number of hand-picked councillors assisted the Governor in his duties. In 1791, this Executive Council consisted of nine members appointed "during pleasure and good behaviour".⁵⁹ In Lower Canada, executive councillors were not responsible for any specific administrative departments, except for the management of Crown land. Together, they also saw to matters of security, education and the preservation of the Executive Council's fiscal independence from the Assembly.⁶⁰ Executive councillors could exercise other official functions simultaneously and were sometimes also judges, legislative councillors or Members of the Assembly.

Starting in 1764, the colony's main administrative departments reported directly to the British Privy Council. Those departments were run from the city of Quebec by high-ranking officials—the Attorney General, Provincial Secretary, Receiver General and Surveyor General—who were appointed "during pleasure". Other senior civil servants—such as the Chief Road Officer, the Inspector General of the Public Accounts and the Solicitor General—were appointed by the Governor.

Until the early 19th century, the three branches of the legislature worked co-operatively. However, the Lower Canadian Members grew restless as they were increasingly confronted with the limitations of their representative institution within the colonial State. Their leaders began to call for more autonomy, pushing for the colonial government to be accountable to the legislature. As far as they were concerned, legislative power should rank above executive power, in a manner consistent with the institutional and parliamentary law of

57 Ibid., p. 29.

58 Frédéric Lemieux, Christian Blais and Pierre Hamelin, *L'histoire du Québec à travers ses lieutenants-gouverneurs* (Québec: Publications du Québec, 2005), p. 27.

59 Ibid., p. 42.

60 Alexander M. C. Wright, "The Executive Council of Lower Canada, 1791-1805", Master's thesis (Montréal: McGill University, 1982), online: http://digitool.library.mcgill.ca/R/?func=dbin-jump-full&object_id=62615&local_base=GEN01-MCG02.

Great Britain, as described by great theoreticians such as Locke (1632–1704), Montesquieu (1689–1755), Blackstone (1723–1780) and Delolme (1740–1806). But both the British and the colonial governments remained opposed to any constitutional change. In short, the reform-minded elite took on the mantle of Britain's constitutional legacy and accused the Administration of disregarding it.⁶¹

At about the same period, members of a local oligarchy subordinate to the Governor were on the civil list payroll.⁶² They held positions as civil servants and judges, often simultaneously. The vast majority of executive and legislative councillors belonged to this Tory elite. Patronage also favoured a number of Assembly Members who shared the views of the colonial power. Called “bureaucrats”, the “Château Clique”, “placemen” and “*chouayens*” (meaning *Canadiens* who supported the Government), they were mostly of British origin. This did not sit well with the majority of the Members of the House of Assembly, who were allied with the Parti Canadien, which became the Parti Patriote in 1826.

In the years between the 1801 debate on a school bill with the potential to accelerate the anglicization of *Canadiens* and the insurrections of 1837 and 1838, acrimonious political battles were waged between the parliamentary majority (the Parti Canadien) and the Bureaucratic Party (also known as the British Party). In 1805, the two groups were at odds over funding to build prisons in Lower Canada, with the *Canadiens* favouring a sales tax to raise funds and the British merchants favouring a land tax.⁶³

From 1808 to 1810, the Parti Canadien and the Bureaucratic Party fought bitterly over the eligibility of judges to sit as Members. Finally, on February 9, 1810, the House of Assembly passed a bill that barred judges from sitting in the Assembly. It received royal assent on March 21, 1811.⁶⁴

61 Donald Fyson, “Jurys, participation civique et représentation au Québec et au Bas-Canada : les grands jurys du district de Montréal (1764-1832)”, *Revue d'histoire de l'Amérique française*, Vol. 55, No. 1 (2001), pp. 85–120, p. 110.

62 The civil list refers to the employees and expenses of the colonial government: “Liste civile”, *Encyclopédie du parlementarisme québécois* (Québec: National Assembly of Québec, February 22, 2016), online: <http://www.assnat.qc.ca/fr/patrimoine/lexique/liste-civile.html>.

63 The majority of the Legislative Council supported the *Gaols Bill*: Wright, “The Executive Council of Lower Canada, 1791–1805”, p. 231.

64 *Journals of the House of Assembly of Lower-Canada*, February 9, 1810, pp. 104–107: *An Act for declaring Judges to be disabled and disqualifying them, from being elected, or from Sitting and Voting in the House of Assembly*, 51 Geo. III, 1811, c. 4.

Pierre-Stanislas Bédard,⁶⁵ Member of the Assembly and leader of the Parti Canadien, had further demands. During the parliamentary session of 1809, he maintained that the Assembly must have the power to censure the actions of the Executive and hold the Administration accountable for its actions.⁶⁶ The supply (appropriations) question—the Assembly's claim that it should have the right to examine public finances—and the civil list question—the Assembly's claim that it should have the right to review the salaries paid to state employees—further exacerbated tensions between the House of Assembly and the Governor. The parliamentary majority also deplored *Canadiens'* under-representation in key colonial government positions.

Governor James Henry Craig allowed himself to be convinced by the main players on the Executive Council (Jonathan Sewell, Herman Witsius Ryland and Jacob Mountain) that the House of Assembly's demands threatened London's interests. He riposted by dissolving Parliament in 1808, 1809 and 1810. However, at each subsequent general election, the population maintained its support for the Parti Canadien, and even increased its majority.

Craig opted for a show of force. In 1810, Pierre-Stanislas Bédard, other heavy-weights in the Parti Canadien and various contributors to the opposition newspaper *Le Canadien* were imprisoned without trial by the Governor for "seditious practices". Incarcerated and unable to campaign, Bédard was nonetheless re-elected. The political impasse was resolved with Bédard's release 13 months later and the arrival in 1812 of Governor George Prevost, who took a more conciliatory approach to the *Canadiens*.

This power dynamic, originating in the confrontation between the legislative and executive branches, prompted many to think long and hard about the exercise of the legislative function and the very nature of a parliamentary majority. The Government of Lower Canada not only declined to be accountable to a simple deliberative assembly, but perennially spoke for the minority. This first parliamentary crisis thereby contributed to the emergence of an increasingly democratic point of view on the part of the Lower Canadian majority and of a corresponding willingness to take concerted political action. It was in this reform-minded climate that Louis-Joseph Papineau⁶⁷ became leader of the Parti Canadien and Speaker of the House in 1815. From then on, the office of Speaker was considered as belonging to the leader of the parliamentary majority.

65 Pierre-Stanislas Bédard, Member from 1792 to 1812, was one of the great minds in constitutional law in Lower Canada: Gilles Gallichan, "Pierre Bédard, le devoir et la justice; 2^e partie – La politique et la magistrature", *Les Cahiers des Dix*, No. 64 (2010), pp. 145–207, p. 206.

66 Blais et al., *Québec : Quatre siècles d'une capitale*, p. 208.

67 Louis-Joseph Papineau was Member for Kent from 1808 to 1814, for the West Ward of Montreal from 1814 to 1837, for St. Maurice from 1848 to 1851 and for Two Mountains (Deux Montagnes) from 1852 to 1854.

There followed a period of calm. But after 1820, the key issues of supply and the civil list resurfaced as bones of contention between the Administration and the Parti Canadien. Seeking to reduce the *Canadiens'* political clout, the Bureaucratic Party proposed the legislative union of Upper and Lower Canada as a solution to the problem. The union plan had been in the air since at least 1806 but it came to the fore in 1822–1823, and the Bureaucrats found allies to champion the idea at Westminster.

There was huge opposition to the proposal to unite the two Canadas. Resolutions against it were passed at public meetings and a petition was signed by 60,000 citizens. Papineau, dispatched to Great Britain to plead the *Canadiens'* case with fellow Member John Neilson, learned that the War and Colonial Office's plan for the legislative union did not enjoy the support of the House of Commons. In spite of everything, Papineau returned to Lower Canada disillusioned with Britain and the English political model.⁶⁸ He proceeded to map out a new liberal program calling first and foremost for an elected legislative council.

The quarrel over supply sparked back to life. The Executive continued to act as the sole administrator of Crown revenues, while the House of Assembly's only source of income was the monies it could raise from taxes. Starting in 1793, Members endeavoured to oversee Government spending by examining public accounts in the Committee of the Whole, and, after 1812, by submitting those accounts to a five-member special committee. Then in 1818, since Crown revenues were no longer sufficient to meet the Administration's ordinary expenses, the House of Assembly was given the exclusive right to vote on appropriations. An expenditure budget was tabled in the House and examined by the special committee. Although the Members would have preferred to approve the budget items for the various administrative departments one by one, the Governor demanded that the Assembly vote on the whole package.⁶⁹

In 1828, London sought to end the dispute between the legislative and executive branches in Lower Canada. The Westminster Parliament set up a committee that concluded that control over expenditures of Crown revenues should be given to the House of Assembly in return for passing standing appropriations for civil servants. Then the passing of the *Canadian Revenue Control Act* in London on September 22, 1831, granted the House of Assembly of Lower Canada the power of appropriation of all Crown revenues, except casual and territorial

68 Blais et al., *Québec : Quatre siècles d'une capitale*, p. 221.

69 O'Brien, "Pre-Confederation Parliamentary Procedure: The Evolution of Legislative Practice in the Lower Houses of Central Canada", pp. 175–176; Marc Bosc and André Gagnon, eds., *House of Commons Procedure and Practice*, 3rd ed. (Montréal: Éditions Yvon Blais, 2017), chapter 18, note 35.

funds. In exchange, the House was asked to adopt standing appropriations for the civil list in the amount of £19,000. However, the Parti Canadien majority nevertheless refused to vote on the appropriations because the Assembly was not allowed to examine them first.

On January 21, 1832, Governor Matthew Whitworth-Aylmer proposed a solution in the form of a permanent civil list in the amount of £5,900, which would include only the salaries of the Governor, the Governor's Civil Secretary, the Provincial Secretary, the Attorney General and the Solicitor General, and be "for the life of the King". It was examined by a select committee of the House of Assembly; however, no report was tabled and in the end it was rejected. According to Louis-Hippolyte LaFontaine, this was due to the [TRANSLATION] "salutary control that the people have the right to exercise".⁷⁰ The privileges of the Assembly, democratic rights and freedom were the foundations of this course of action, not to mention the fact that the parliamentary majority had no confidence whatsoever in the colony's Executive, certain members of which were considered to be corrupt autocrats with scant regard for *Canadiens*.

During the 1832-1833 session, the Committee of Accounts⁷¹ concluded that the House "has no control and . . . no means of judging . . . the accuracy of the Amount of Public Monies in the hands of the Receiver General".⁷² Insisting on its prerogative to legislate on the use of public funds, the House refused to vote on the budget package. This effectively paralyzed the Administration: short of funds, it was now forced to resort to monies that Great Britain had allocated for defence and fortifications.

A further reform was initiated in 1831, when the House voted to establish a per diem allowance to help Members cover their living expenses in the capital. This measure was blocked by the Legislative Council until 1833 and took effect only in 1835.⁷³

The political climate deteriorated. The Patriots' sense of being oppressed was amplified following a riot that took place during a Montreal by-election on May 21, 1832. The British army, whose poor reputation preceded it, opened fire on the crowd. Three *Canadiens* were killed, souring ethno-linguistic relations.

70 Louis-Hippolyte LaFontaine, *Les deux girouettes, ou l'hypocrisie démasquée* (Montréal: Ludger Duvernay, 1834), p. 63.

71 In 1831, an 11-member public accounts committee was formed at the House of Assembly. *Journals of the House of Assembly of Lower-Canada*, January 29, 1831, p. 28.

72 *Journals of the House of Assembly of Lower-Canada*, January 7, 1833, p. 282.

73 Blais et al., *Québec : Quatre siècles d'une capitale*, p. 225.

Another recurring fact also offended the Members from the majority. Every session, some of the bills passed by the House of Assembly would be struck down by the Legislative Council. Dominated by the Bureaucrats, the upper house was thought to be little more than the Governor's vassal. This situation fuelled plans for colonial emancipation among the Parti Patriote Members of the Assembly, whether they were *Canadien*, English, Irish or Scottish.

The time for compromise had come and gone. Papineau no longer held the English mixed constitution in the same esteem. His eye had now turned to the republic of the United States, whose democratic institutions he had come to admire. It was in this context, in the new Parliament Building constructed between 1831 and 1833, that the House of Assembly of Lower Canada adopted the 92 Resolutions on February 21, 1834. This manifesto contained the Parti Patriote's demands, grievances and complaints, and was mostly devoted to an all-out attack on the Legislative Council. Light was also shone on the Executive's abuses, although there was little elaboration on the principle of responsible government. The 92 Resolutions were sent to London.

In 1835, royal commissioners began an inquiry into the colonial government's administration, but they were not mandated to propose real constitutional change. The standoff over public finances continued, leading to the parliamentary "strike" of 1836 and the subsequent boycott of English commercial products.

In 1837, the Parliament of Westminster adopted 10 resolutions put forward by British Secretary of State for the Home Department John Russell. Not only did the Russell Resolutions categorically reject the 92 Resolutions, but they also authorized the colonial government to take £142,160 and 14 shillings from the public purse to pay arrears, without the consent of the House of Assembly.

In the ranks of the Parti Patriote, the mood was one of profound indignation. Cries for justice rang out at a series of public meetings. The tense climate culminated in the Rebellions of 1837, which were crushed by the British army.

Meanwhile, insurrection had also erupted in Upper Canada. There, too, convinced that co-operation must reign between the executive and legislative branches, reformers urged that the Governor's appointees to the Executive Council be accountable to the House. In Nova Scotia in 1836, Joseph Howe presented a similar program to the citizens of that province: "all we ask for is what exists at home—a system of responsibility to the people".⁷⁴

74 James Murray Beck, "Howe, Joseph", in *Dictionary of Canadian Biography*, Vol. 10 (Québec: Université Laval, 2003), online: http://www.biographi.ca/en/bio/howe_joseph_10E.html.

1.3.2 THE SPECIAL COUNCIL OF LOWER CANADA (1838–1841)

On February 10, 1838, the British Parliament reacted to the Rebellions by passing the *Act to make temporary Provision for the Government of Lower Canada*,⁷⁵ which suspended the Constitution of 1791.⁷⁶ A Special Council formed of “such and so many special Councillors as to Her Majesty shall seem meet” was to assist—jointly with the Executive Council—the Governor in his functions.⁷⁷ A quorum of five special councillors was required for the Council to pass ordinances.

In Lower Canada, a proclamation dated March 27, 1838, replaced the colonial government by an interim government whose term was limited to three years. Interim Governor John Colborne established his headquarters in Montreal. On April 18, 1838, he swore in 22 councillors; two days later, the Special Council of Lower Canada adopted 25 rules to govern its proceedings.⁷⁸ These rules could nonetheless be suspended under certain circumstances, on the recommendation of at least two councillors.⁷⁹

May 27, 1838, marked the arrival in the city of Quebec of the new Governor, John George Lambton, Lord Durham, who was charged with inquiring into the political affairs of Britain’s colonies in North America. On May 31, he dissolved both the Special Council and the Executive Council. A new six-person executive was sworn in on June 4; then on June 28, five new members of the Special Council were sworn in to oversee the province’s legislative affairs. This Special Council was to meet only four times, in the city of Quebec, during the brief five-month term of Durham’s government.

Meanwhile, on August 17, 1838, London amended the *Act to make temporary Provision for the Government of Lower Canada*. Henceforth the Special Council was to be composed of at least 20 members, with quorum set at 11.⁸⁰ Its power to levy taxes was limited, except where public improvements and certain municipal purposes were concerned.⁸¹

75 *Act to make temporary Provision for the Government of Lower Canada* (UK), 1838, 1 Vict., c. 9.

76 Desjardins, *Guide parlementaire historique de la province de Québec, 1792 à 1902*, p. 74; Blais et al., *Québec : Quatre siècles d’une capitale*, p. 250.

77 Desjardins, *Guide parlementaire historique de la province de Québec, 1792 à 1902*, p. 24.

78 *Journal of the Special Council of the Province of Lower Canada*, Vol. 1 (Montréal: A. H. Armour and H. Ramsay, 1838), pp. 19–21.

79 Antonio Perrault, “Le conseil spécial, 1838-1841”, *La revue du Barreau de la province de Québec*, Vol. 3, No. 4 (1943), pp. 213–230, p. 218.

80 Edmond Lareau, *Histoire du droit canadien depuis les origines de la colonie jusqu’à nos jours*, Vol. 1 (Montréal: A. Périard, 1889), p. 227.

81 Antonio Perrault, “Le conseil spécial, 1838-1841”, *La revue du Barreau de la province de Québec*, Vol. 3, No. 3 (1943), pp. 130–44, p. 136.

Durham sent the principal leaders of the insurrection into exile without a trial and granted amnesty to the other prisoners. London disallowed these actions, and Durham resigned as a result. Colborne replaced him and again installed his government in Montreal. On November 1, 1838, he recalled his former councillors to the Executive Council and the Special Council and added new members. Further rebellions erupted that same year and were again put down by military might.

The Durham Report was put before the British Parliament on January 31, 1839. On the grounds that a francophone majority in the House would always be a political problem, Durham recommended the legislative union of the two Canadas. But he also recommended that the new entity thus formed be granted responsible government for its domestic affairs.

The new Governor, Charles Edward Poulett Thomson, future Lord Sydenham, arrived in the city of Quebec on October 19, 1839, to administer Lower Canada from Montreal. On November 13, 1839, the Special Council, in a recorded division of the 15 councillors present, passed six resolutions signalling their acceptance of the legislative union. An address adopted the next day fully ratified the resolutions. In Upper Canada, the Parliament in Toronto had taken similar action on February 24, 1838: it had passed resolutions to transfer its debt to Lower Canada, ensure an equal number of seats for the two provinces (despite Upper Canada's lower population), prohibit the use of French and establish the new capital in Upper Canada.⁸²

Until February 9, 1841, the Special Council continued to administer Lower Canada under Sydenham or, in his absence, under a member designated by him. Executive power remained exclusively in the hands of the Governor. In the legislative sphere, only the Governor had the power to introduce draft ordinances. After deliberations, or examination by a special committee, the ordinances (totaling 218) were read three times before being voted on by the Governor and his councillors. To have force of law, ordinances had to be published and translated into French in the *Quebec Gazette*. The British Parliament maintained its power to disallow legislation.

82 Blais et al., *Québec : Quatre siècles d'une capitale*, p. 255. On December 13, 1839, the Upper Canadian Parliament adopted another address in favour of union.

1.4 THE PROVINCE OF CANADA

Queen Victoria gave the *Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*,⁸³ royal assent on July 23, 1840. On February 10, 1841,⁸⁴ this new Constitution was proclaimed in Montreal. The first capital of United Canada was established in Kingston. Then Montreal became the capital and seat of Parliament in 1844 and remained so until 1849, when Tory rioters burned down the Houses of Assembly. Parliament subsequently alternated between Toronto (1850–1851 and 1855–1859) and the city of Quebec (1852–1854 and 1860–1865). In October 1857, Ottawa was finally designated the permanent capital of the Province of Canada, and the parliamentary session of 1866 was held in that city's new Parliament Building.

THE BURNING OF PARLIAMENT IN MONTRÉAL



This painting by Joseph Légaré illustrates the burning of the Houses of Assembly at St. Ann's Market in Montreal on the evening of April 25, 1849. At the time, Montreal was the capital of the Province of Canada (from 1844 to 1849).

83 *Union Act* (UK), 1840, 3–4 Vict., c. 35, reprinted in RSC 1985, App. II, No. 4.

84 A British ministerial order dated August 10, 1840, authorized Sydenham to promulgate the new imperial law. The proclamation is dated February 5, 1840: Antonio Perrault, "Le conseil spécial, 1838-1841", *La revue du Barreau de la province de Québec*, Vol. 3, No. 6 (1943), pp. 299–307, p. 303.

The advent of the 1840 Constitution marked, broadly speaking, the end of the *ancien régime*. A modern liberal state system, like the one that began to take shape in Great Britain following the *Reform Act* of 1832, was gathering steam in the Province of Canada. In concrete terms, from 1841 to 1861 the province gradually inherited the administration of domestic affairs from the colonial government. Former British and *Canadien* senior civil servants, who had been appointed to lead departments “during pleasure”, had to step down and—unless they were elected Members or appointed to the Legislative Council—give way to members of the Executive Council, who were appointed ministers, commissioners or secretaries by the Governor. Since to be a minister, one also had to be a Member of Parliament (or become one), the result was a soft separation between the legislative and executive powers. The establishment of responsible government also meant that, in principle, the Government had to have the confidence of the majority of the Legislative Assembly if it was to remain in power.

THE CABINET IN 1841

Examination of the colony's new administrative system turns up more examples of continuity than of breaks with the past. In 1841, Governor Sydenham invited the senior civil servants at the head of departments to hand in their resignations. Two days prior to the proclamation of February 15, 1841, announcing a general election would be held, the Governor formed his “new” Cabinet, thus enabling his ministers to stand for election with a Cabinet title to their name. Sydenham was not shy about employing patronage to ensure moderate Reformers and Tories were elected and that his government would win a parliamentary majority.

After the votes were counted, the ministers were Members of Parliament. John Henry Dunn—appointed Receiver General of Upper Canada in 1820 and elected to the Legislative Council of Upper Canada in 1822—was elected one of two Members for Toronto in 1841 and stayed on as Receiver General. Dominick Daly, Provincial Secretary for Lower Canada from 1828, was elected in the constituency of Mégantic in 1841, which meant that he could remain Provincial Secretary for Canada East, as Lower Canada was now known. Meanwhile, Charles Richard Ogden, who had been Attorney General for Lower Canada since 1833, was elected Member for Trois-Rivières in 1841 and retained his Cabinet duties. Robert Baldwin Sullivan, Commissioner of Crown Lands since 1836, remained in his position when appointed to the Legislative Council in 1841, while Charles Dewey Day, Solicitor General for Lower Canada since 1840, also retained his post, being elected in the constituency of Ottawa. Likewise, Hamilton Hartley Killaly, Chairman of the new Board of Works of Lower Canada from 1840 onwards, retained his position when elected in the constituency of London. Lastly, William Henry Draper, who was made Attorney General for Upper Canada in 1840, was returned for Russell and continued his role as Attorney General for Canada West, as Upper Canada was now known.

There were two exceptions: Samuel Bealey Harrison and Joseph Cary. Harrison joined the Cabinet in 1841 as Provincial Secretary for Canada West, after having served as Civil Secretary to the Lieutenant Governor of Upper Canada as of 1839. Defeated in the 1841 general election and in a by-election shortly thereafter, Harrison was finally elected on July 1, 1841, in the riding of Kingston. Cary had been Inspector General of Public Provincial Accounts since the department's creation in 1826 and continued his work there without standing at the general election. In 1842, when Member Francis Hincks was made head of department, Cary was relegated to the rank of Deputy Inspector General, a position he retained until 1863.

1.4.1 THE LEGISLATIVE UNION (1841–1867)

The Parliament of the Province of Canada consisted of the Governor, the Legislative Council and the Legislative Assembly. The first session of the new Legislature began on June 14, 1841.

From 1841 to 1854, the lower house comprised 42 Members each from Canada East and Canada West,⁸⁵ for a total of 84; from 1854 to 1867, there were 65 for each of the Canadas, for a total of 130 Members. Under this new system, the electoral laws that had been in force in Lower and Upper Canada were initially maintained,⁸⁶ meaning that the women in Canada East kept their right to vote until it was abolished in 1849.⁸⁷ Then, in 1853, for the first time since 1792, the property qualification for franchise was raised.⁸⁸ In 1857, Indigenous men's right to vote was restricted to those who voluntarily renounced their Indian status.⁸⁹

85 "Canada-Est, Canada-Ouest", *Encyclopédie du parlementarisme québécois* (Québec: National Assembly of Québec, January 19, 2015), online: <http://www.assnat.qc.ca/fr/patrimoine/lexique/canada-est-canada-ouest.html>.

86 Katéri Lalancette, "La contestation des résultats électoraux au Québec (1841-1875)", Master's thesis (Québec: Université Laval, 2017), p. 18, online: <http://hdl.handle.net/20.500.11794/28293>.

87 *An Act to repeal certain Acts therein mentioned, and to amend, consolidate, and reduce into one Act, the several Statutory provisions now in force for the regulation of Elections of Members to represent the People of this Province in the Legislative Assembly thereof*, 1849, 12 Vict., c. 27. Under common law in Upper Canada, women had been excluded from voting since 1792.

88 Under the Act, every male person being of the full age of 21 years and having been for six months or more owner or freeholder or tenant or occupant of real property within any city or town of the assessed actual value of 75 pounds or upwards or the yearly value of 7 pounds 10 shillings or, outside a city or town, a property of the actual value of 50 pounds or the yearly value of five pounds could exercise the right to vote: *An Act to extend the Elective Franchise, and better to define the qualifications of Voters in certain Electoral Divisions by providing a system for the Registration of Voters*, 1853, 16 Vict., c. 153.

89 *An Act to encourage the gradual civilization of Indian Tribes in this Province, and to amend the Laws relating to Indians*, 1857, 20 Vict., c. 26.

At the sitting of June 19, 1841, the Members adopted the *Rules and Regulations for the Government of the Legislative Assembly*⁹⁰ to govern the conduct of parliamentary proceedings. Largely based on the rules of the House for Lower Canada,⁹¹ its 91 sections dealt with adjournments, quorum, the Speaker, motions, questions, supply, public and private bills, petitions, the tabling of documents, committees, the Order Paper, the library, etc. For situations not provided for, rule 34 stipulated that “resort shall be had to the Rules, Usages and Forms of [the] Parliament [of Great Britain], which shall be followed until this House shall think fit to make a Rule applicable to such unprovided cases”.

Although section 41 of the *Union Act* decreed that the official language of the Legislature would be English only, in practice, French was still used in the new Parliament. The Assembly rules themselves provided for a certain degree of latitude in this regard. For example, though no longer translated as a matter of course, the Throne Speech, addresses, Assembly records of proceedings and other documents continued to be translated on an order of the House at the request of at least two Members. Only the statutes were required by law to be translated, under legislation passed to that effect in 1841. The English version of the statutes nonetheless remained the sole official version.⁹²

Louis-Hippolyte LaFontaine⁹³ stands out among those who fought to gain recognition for the legal and parliamentary status of the French language. On January 31, 1845, after much political wrangling, the Assembly unanimously adopted an address asking the Queen to recommend to the British Parliament that the Constitution be amended with regard to French.⁹⁴ London went ahead with the constitutional amendment in 1848.⁹⁵

90 *Journals of the Legislative Assembly of the Province of Canada*, June 19, 1841, pp. 40–49. Updated editions were published in 1844, 1845, 1851, 1853, 1856, 1860 and 1863. Each time, a committee reviewed the rules and added subsequent amendments. French and English editions were published separately in 1844, 1850, 1851 and 1853. It was not until 1973 in Québec that the two editions began to be published separately again.

91 O'Brien, “Pre-Confederation Parliamentary Procedure: The Evolution of Legislative Practice in the Lower Houses of Central Canada”, p. 134.

92 *An Act to provide for the translation into the French Language of the Laws of this Province, and for other purposes connected therewith*, 1841, 4–5 Vict., c. 11.

93 LaFontaine was Member for Terrebonne from 1830 to 1838, for York from 1841 to 1843, for Terrebonne from 1844 to 1848 and for Montreal from 1848 to 1851. Amnesty for Patriotes who had been sentenced and compensation for the victims of the Rebellions of 1837 and 1838 were also among LaFontaine’s priorities as leader of the Government (1842–1843, 1848–1851) and as an opposition Member (1843–1847).

94 On February 26, 1845, the address was also approved by the Legislative Council.

95 In Montreal on January 18, 1849, Governor James Bruce, 8th Earl of Elgin, delivered the Throne Speech in both English and French.



The Parliament Building of the Province of Canada following construction of the second wing circa 1851, based on plans by Thomas Baillairgé. The building was located where Montmorency Park is today, but it burned to the ground in February 1854.

The first parliamentary reform of the Union was undertaken during the 1852–1853 session. Under the leadership of Louis-Hippolyte LaFontaine and Robert Baldwin, the Assembly appointed a select committee “to consider and devise means calculated to expedite the performance of its duties”.⁹⁶ Its mandate was not only to “simplify the practice in matters of ordinary routine” but also to rescind the permanent amendments passed since 1841. These reforms mostly affected private bills. In all, the new Rules of the House of 1853 had 96 rules and 23 standing orders.

The second parliamentary reform began during the 1860 session. The “new Code of Rules” contained 116 articles and three Sessional Orders. It came into effect after the closing of that session⁹⁷ and modernized the Assembly’s work by limiting debate “so as to facilitate the transaction of business”. For example, the first reading of bills and certain motions was from then on put to a vote without debate or amendment, as was already the practice in the House of Commons at Westminster. This new procedure stemmed from the desire of the majority groups—in the context of responsible government—to better control debates in the Legislative Assembly.

⁹⁶ *Journals of the Legislative Assembly of the Province of Canada* September 1, 1852, p. 79.

⁹⁷ *Journals of the Legislative Assembly of the Province of Canada* May 4, 1860, p. 316.

The 1860 rules also improved the organization of proceedings in the lower house since sittings at the time were growing longer and longer. Under the new rules, the procedure for sittings—the “Business of the House”—was arranged into six sections to be considered one after the other. Sittings began with “Routine Business”, known today as “Routine Proceedings”, which included presenting petitions, reading and receiving petitions, presenting reports by committees, motions and (written) questions from Members. Then came, at last, the “Orders of the Day”. The new rules, however, did no more than codify practices that had gradually become established after 1841.

The other branch of the Legislature, the Legislative Council, was initially composed of not fewer than 20 members appointed by the Crown.⁹⁸ Appointees were chosen from among the most prominent and wealthy citizens. This haute bourgeoisie was supposed to provide a counterweight to the apprehended hotheadedness and radicalism of the lower house.⁹⁹ By 1843, allegiance to a particular political faction as a selection criterion for Council membership had already made its appearance on the political landscape.

Returned from exile, Louis-Joseph Papineau was elected to the Legislative Assembly in 1848. It was he who rekindled the proposal for an elected Legislative Council. Other Members likewise favoured a democratically mandated upper house. This came about in 1856, when a reform of parliamentary institutions made the Legislative Council an elected body.¹⁰⁰ In all, 48 electoral divisions were defined, 24 each for Canada East and Canada West. Council members served for an eight-year term and, in a manner analogous to that of the US Senate, one-quarter of the Council members came up for election every two years. In the first election, held in 1856, 12 councillors were elected. The remaining councillors were elected in 1858, 1860 and 1862. The 48 elected councillors sat alongside those who had been appointed for life.¹⁰¹ Further elections were held in 1864 and 1866.

98 In 1841, the Legislative Council adopted its own Standing Orders. These were the *Standing Rules and Regulations of the Legislative Council of Canada: Adopted in the First Session of the First Provincial Parliament* (Kingston: G. Desbarats & T. Cary, 1841). Updated editions were published in 1847, 1853, 1858, 1861 and 1864, respectively.

99 André Garon, “Le Conseil législatif du Canada-Uni : révision constitutionnelle et composition socio-économique”, *Histoire sociale*, Vol. 4, No. 8 (1971), pp. 61–83, p. 61.

100 *Act to change the Constitution of the Legislative Council by rendering the same Elective*, 1856, 19–20 Vict., c. 140. It should be noted that the electoral qualification was higher for candidates running for election to the Legislative Council than for those running for election to the Legislative Assembly. The former had to own property with a value of at least £2,000.

101 Christian Blais, “‘Le Québec n’est pas une province comme les autres’ : le Conseil législatif, 1775-1968”, *Cap-aux-Diamants : la revue d’histoire du Québec*, Vol. 94 (2008), pp. 16–21.

Another reform concerned the Speaker of the Legislative Council. Since 1792, he had been appointed by the Governor; from 1860 to 1867 he would be elected by the councillors themselves.¹⁰²

Under the Union, the issue of the Assembly's right to oversee public spending was resolved. Since 1841, the Members had had at their disposal the duties and revenues from the former legislatures of Upper and Lower Canada and, contrary to the pre-1841 system, the revenues of the Crown also belonged to the Assembly.¹⁰³ This was the first consolidated revenue fund. Although the Legislative Assembly then held the initiative on all bills authorizing any portion of the surplus of the revenue fund or authorizing the imposition of any new tax or duty, financial legislation nonetheless needed to be recommended beforehand by a message from the Governor.¹⁰⁴

By performing a detailed examination of appropriations, the Legislative Assembly had been exercising oversight of all amounts allocated by the Government since 1841. A committee on public accounts was also set up in 1845 to audit the province's revenues and expenditures.¹⁰⁵ Although the initiative with regard to spending ("money bills") leaned in favour of the parliamentary majority, some departments headed by members of the Executive continued to spend credits before they had been authorized by Parliament. In order to facilitate parliamentary oversight, the *Act to secure the more efficient Auditing of the Public Accounts* was passed in 1855. The Board of Audit was tasked with examining ongoing expenditures by all departments and public institutions and to report back. This information then enabled the Parliament to pass budget estimates based on accurate knowledge of the previous year's revenue and expenditures.¹⁰⁶

With regard to public employees, the *Union Act* of 1840 imposed a standing civil list in the amount of £75,000 without the consent of the Assembly.¹⁰⁷ In 1843, the House voted an address to the Queen so that this provision might be abrogated, and on May 18, 1846, a new civil list was established under legislation passed by the Assembly.¹⁰⁸ As in the past, the Executive Council retained

102 *An Act to provide for the election of the Speaker of the Legislative Council*, 1860, 23 Vict., c. 3. This Act took effect at the following legislature, and the first election was held on March 20, 1862.

103 Jacques-Yvan Morin and José Woehrling, *Les Constitutions du Canada et du Québec : du régime français à nos jours*, 2nd ed., Vol. 1 (Montréal: Thémis, 1994), p. 70.

104 *Ibid.*, p. 111.

105 Norman Ward, *The Public Purse: A Study in Canadian Democracy* (Toronto: University of Toronto Press, 1975), p. 25. A Standing Committee on Public Accounts was formed in 1852-1853.

106 *An Act to secure the more efficient Auditing of the Public Accounts*, 1855, 18 Vict., c. 78; Ward, *The Public Purse*, pp. 24, 32-34.

107 Lareau, *Histoire du droit canadien depuis les origines de la colonie jusqu'à nos jours*, p. 239.

108 *Ibid.*, p. 248.

the power to appoint the highest public officials;¹⁰⁹ however, after 1847 the “patronage” by which these positions were filled was controlled by the party in power, since Governor James Bruce, Lord Elgin and his successors, in keeping with the Whig policies of Secretary of State Lord Grey, moved away from engaging in partisan appointments.

1.4.2 RESPONSIBLE GOVERNMENT

The principle of responsible government was established in 1841, but for that a true local executive had to be established in the colony first.¹¹⁰

Under the *Union Act* of 1840, the first government departments were set up along the same lines as the former departmental administrations established under British civil government in 1764. Starting in 1841, it fell to the Governor to appoint the Executive from among the Members of the Parliament;¹¹¹ before then, from 1764 to 1841, the permanent public servants at the head of those departments were appointed by the British Crown.

The Members of United Canada’s first Executive Council were appointed on February 13, 1841, by Governor Charles Edward Poulett Thomson, who had become Lord Sydenham.¹¹² Each Council member was assigned a specific department.¹¹³ When the proceedings of the First Legislature began, every minister was either a Member of the Legislative Assembly or of the Legislative Council. Close ties were thus created between the legislative and executive in 1841. This was the origin of the soft separation of powers.

109 Antoine Gérin-Lajoie, *Catéchisme politique; ou élémens du droit public et constitutionnel du Canada, mis à la portée du peuple* (Montréal: Louis Perrault, 1851), p. 47.

110 Christian Blais, “Brève histoire du gouvernement responsable”, *Bulletin d’histoire politique*, Vol. 22, No. 2 (2014), pp. 111–138.

111 An October 16, 1839, dispatch from the Secretary of State for War and the Colonies empowered the Governor to remove and select civil officers to perform the duties of Provincial Secretary, Treasurer, Solicitor General and Attorney General. Upper Canada was first to end the practice of life-time appointments. J. R. M. Butler, “Note on the Origin of Lord John Russell’s Despatch of Oct. 16, 1839, on the Tenure of Crown Offices in the Colonies”, *Cambridge Historical Journal*, Vol. 2, No. 3 (1928), pp. 248–251, p. 251. This dispatch is considered to be “the charter of Responsible Government”.

112 The first Council had eight members, including three from Canada East, but none were francophone. Moreover, Governors Sydenham, Bagot, Metcalfe and Cathcart, each for his own reasons, continued to attend Cabinet meetings and watch over the province’s executive.

113 Although there were, strictly speaking, no ministers without portfolio in United Canada, some parliamentarians sat only as President of the Executive Council or, as of 1847, as Speaker of the Legislative Council, which meant that they were not ministers but nonetheless were part of the Cabinet. They had no administrative duties. After Confederation, ministers without portfolio began to be appointed in Québec starting in 1887. (Pierre Boucher de Boucherville had appointed ministers without portfolio on January 24, 1876, but they were each given a department the following day.)

The Cabinet included the Receiver General of the Province of Canada,¹¹⁴ along with two attorneys general, one for Canada East and one for Canada West,¹¹⁵ two solicitors general, one each for Canada East and Canada West,¹¹⁶ and, from 1841 to 1843, and two provincial secretaries. The Department of Crown Lands and the Department of Public Works were each led by a minister. Internally, however, administration of those departments was split into two separate sections.¹¹⁷ Two education systems were also set up, each with its own superintendent.

Though not officially a federation, the new legislative and financial union nevertheless operated along the lines of one. In practice, there were two parliaments—one for Canada East and one for Canada West—sitting together under one roof, with two administrations corresponding to two distinct legal systems.¹¹⁸

In 1841, the first Cabinet could not rely on a healthy parliamentary majority, but it managed nonetheless to remain in power thanks to the support of independent Members. Ministers (anglophones to a man) unequivocally adhered to the principle of responsible government, affirming in the Assembly that they would resign if they lost the confidence of the House.¹¹⁹ This did not lead to the Government toppling even though, during the session, an opposition alliance was made between Canada West and Canada East Reformers, and a new parliamentary majority emerged: Sydenham's cabinet was, from the end of the first session, on the brink of collapse.

114 An Inspector General of Public Provincial Accounts was appointed in 1842. The Office of Surveyor General was abolished by Sydenham in 1841, then by an Act of Parliament in 1845: *An Act to abolish the Office of Surveyor General, and to provide for the performance of the duties of that Office by the Commissioner of Crown Lands*, 1845, 8 Vict., c. 11. In United Canada, surveying fell within the remit of the Commissioner of Crown Lands.

115 In government departments, the terms "Canada East" and "Canada West" were sometimes used to refer to Lower and Upper Canada. In 1849, however, Parliament passed an Act that enshrined the geographical names "Lower Canada" and "Upper Canada": *An Act for putting a legislative Interpretation upon certain terms used in Acts of Parliament, and for rendering it unnecessary to repeat certain provisions and expressions therein, and for ascertaining the date and commencement thereof, and for other purposes*, 1849, 12 Vict., c. 10.

116 In United Canada, the Solicitor General was a Member of Parliament, but was not systematically a member of the Executive Council. This was the case in Lower Canada from 1845 to 1847 and from 1848 to 1858. According to Governor Elgin, "Solicitors-General [were] not to be in the Council". Donald Swainson, "Blake, William Hume", *Dictionary of Canadian Biography* Vol. 9 (Québec: Université Laval, 2003), online: http://www.biographi.ca/en/bio/blake_william_hume_9E.html.

117 This was also the case for the Provincial Secretariat after 1843.

118 Blais et al., *Québec : Quatre siècles d'une capitale*, p. 256.

119 Phillip Buckner, "Thomson, Charles Edward Poulett, 1st Baron Sydenham", *Dictionary of Canadian Biography*, Vol. 7 (Québec: Université Laval, 2003), online: http://www.biographi.ca/en/bio/thomson_charles_edward_poulett_7E.html. The resolutions in favour of responsible government that Robert Baldwin and Denis-Benjamin Viger got adopted on September 3, 1841, show that the ministers and Members adhered to the principle by a majority of 56 to 7.

THE ORIGIN OF POLITICAL PARTIES

The advent of responsible government raised the profile of political parties. Party structures in the early legislatures of United Canada were nonetheless weak and fragile.

In the mid-19th century, the political landscape was colourful and constantly shifting. There was the French-Canadian block, Reformers, moderate Reformers, anti-union Reformers, Clear Grits (radical Reformers in Canada West), Conservatives (Bleus, Tory imperialists, Tory annexationists) and Liberals (Louis-Joseph Papineau and Antoine-Aimé Dorion's Rouges in Canada East).

After 1847, control of patronage—in this context, the attribution of public offices—by Cabinet contributed to further cementing political parties. The main political groups clashed in election campaigns and formed coalitions in order to obtain or retain a parliamentary majority.¹²⁰ Even in the late 19th century, however, the structure of political parties remained ill defined. Parties were first and foremost associations of parliamentarians rather than of citizens.¹²¹

Parties had sprung up before this period, however. As far back as 1764, there was a French Party, supporting the interests of the Canadiens, in the Council of Quebec and, after 1775, in the Legislative Council. During the time of the 1791 Constitution, the Parti Canadien, and later the Parti Patriote, faced off against the Bureaucrats (the British Party).

In order to keep the Assembly's confidence, new Governor Charles Bagot transformed the Cabinet through the addition of new parliamentarians. But it was not until the new Baldwin-LaFontaine ministry was formed on September 16, 1842, that the Governor ensured that Cabinet had the Assembly's support. The new Executive was not always made up exclusively of members from a single party. It included Reformers for the most part, but also Tories, independents and, most notably, the former Patriote leader Augustin-Norbert Morin. Bagot's failing health enabled the Reform leaders Baldwin and LaFontaine to play a prominent role in the governance of public affairs and in patronage.

Bagot died in 1843. The Governor who succeeded him, Charles Metcalfe, turned back the clock, refusing to defer to "a party government". His preference was for a government of parliamentarians without party affiliations. Metcalfe, as Governor, remained head of the Executive, and insisted above all on not having

120 The "party line", if it could be said to exist at all, was more flexible than it is today, and individual Members voted according to their conscience.

121 Paul-André Linteau, René Durocher and Jean-Claude Robert, *Histoire du Québec contemporain*, Vol. 1 (Montréal: Boréal, 1989), p. 309.

his hands tied on the matter of patronage. On more than one occasion, he went ahead with civil service appointments without consulting the Executive Council. As far as he was concerned, “the Governor is the responsible Government . . . his subordinate executive officers are responsible to him, not to the Legislative Assembly”.¹²² This vision of the Governor’s role was akin to the one held by Robert Peel’s Conservative government in London. The royal instructions to the Governor—and those addressed to his successors—gave him the right, in cases where he saw “sufficient cause”, “to dissent from the opinion of the major part or of the whole of [the] Executive Council”.¹²³

On November 27, 1843, the members of the Baldwin–LaFontaine Cabinet (except the Provincial Secretary) resigned en masse, continuing to call for control over patronage and for a liberal (Whig) interpretation of responsible government.¹²⁴ For them, the cohesive force of the system of ministerial accountability depended on ministers’ partisan solidarity. Above all else, they insisted on the party in power having sole control of patronage.

It was, however, the Tories and the Conservatives, backed by Metcalfe, who won a slim majority in the 1844 general election. This ensured that the “non-partisan” Executive Council appointed by the Governor before the elections would not be dethroned, since the Reformers were in the minority in the Assembly. Nonetheless, starting in 1844–1846, governors ceased playing a directive role in public affairs.¹²⁵

The Reformers emerged as the big winners in the 1847 general election, even though Henry Sherwood’s Tory-Conservative government remained in power. When the first session of the new Legislature opened, a Reformer was elected Speaker by his peers and, on March 6, 1848, the Government lost the confidence of the House after being defeated on an opposition amendment to the

122 Metcalfe to Stanley, August 5, 1843, William Paul McClure Kennedy, *Documents of the Canadian Constitution, 1759–1915* (Toronto: Oxford University Press, 1918), p. 565.

123 “Viscount Monck Instructions”, November 4, 1861, *Report concerning Canadian Archives for the year 1905*, Vol. 1 (Ottawa: S. E. Dawson, 1906), p. 131. It was not until the mid-20th century that the Governor General of Canada was authorized to exercise the powers and responsibilities belonging to the Sovereign, “with the advice of members of the Privy Council”: *Letters Patent Constituting the Office of Governor General of Canada*, 1947, *Canada Gazette*, Part II, Vol. 81, No. 12, Extra, October 1, 1947, p. 1, reprinted in RSC 1985, App. II, No. 31.

124 The resignation was announced in the Assembly on November 27, 1843, and took effect on December 11, 1843.

125 J. E. Hodgetts, *Pioneer Public Service: An Administrative History of the United Canadas 1841–1867*, Canadian Government Series, No. 7 (Toronto: University of Toronto Press, 1955), pp. 74–76.

address in reply to the Throne Speech. This was the first time a government had fallen in the House following a vote. The next day, Governor James Bruce (Lord Elgin) announced that he would take measures to form a new Executive Council.¹²⁶ The LaFontaine–Baldwin ministry, the seventh since 1841, was sworn in on March 10 and 11, 1848.

THE SPEAKER AND RESPONSIBLE GOVERNMENT

The practice of having a Member elected as Speaker by fellow parliamentarians goes back to 1792. The 1793 House rules note that the Speaker's role is to "preserve Order and Decorum". While not allowed to take part in any debate, the Speaker could take the floor when the House formed a Committee of the Whole.

*The election of a Speaker expresses the will of the parliamentary majority. With the development of political parties in the mid-19th century, and the advent of responsible government, the Speaker was ordinarily from the governing party. Consequently, impartiality became an issue of the highest importance. Speakers since that time have refrained from participating in parliamentary debates. This is mentioned by Antoine Gérin-Lajoie in the *Catéchisme politique* he published in 1851:*

[TRANSLATION]

The Speaker presides over the sittings of the Assembly. He maintains order and the rules of the Chamber, which he serves in all circumstances. He is the chief functionary of the Assembly, and the arbiter of all difficulties of procedure or form that may arise.

... He does not take part in deliberations. A rule of the Chamber prevents him from voting in a general committee. He may, at most, speak at such times, but since the Union, Speakers have abstained from doing so, except in cases involving them personally.

He must be seen to be impartial, and even when called upon to decide a point of order, must limit himself to explaining the rule relating to the circumstance in question, without commenting on it. He may not vote except in the case of a tie in the House, when he has the casting vote.

Responsible government in United Canada had the peculiarity of being based on the principle of simple or double majority. The choice was up to the Executive. To hold on to power, and according to the circumstances, the Government sometimes deemed it necessary to have the confidence of an absolute majority in the House. On other occasions after 1848, the confidence of both the

¹²⁶ *Journals of the Legislative Assembly of the Province of Canada*, March 7, 1848, p. 22.

majority of the Members representing Canada East and that of the Members representing Canada West would be sought instead. This meant that following a confidence vote, the Cabinet members of one of the two Canadas might resign while those of the other remained in office, as happened in May 1856.¹²⁷

Since responsible government brought with it a soft separation of powers, Parliament passed the *Act for better securing the Independence of the Legislative Assembly of this Province* in 1843.¹²⁸ Its purpose was to draw a clearer distinction between the legislative and executive powers. The Governor initially reserved the Act, but finally gave it assent in 1844. From then on, upon accepting paid employment from the Government, a Member would have to give up his seat and stand in a by-election to have that appointment approved by voters. Members who had been made ministers had been doing just that since 1842: resigning and having their Cabinet appointment approved through a by-election.¹²⁹ However, starting in 1857, a minister who resigned a Cabinet appointment to take up another one within the space of a month no longer had to face the electorate. This rule was used by John A. Macdonald and George-Étienne Cartier in their “double shuffle”, which allowed their government to regain power in 1858, only a few days after losing a non-confidence vote.¹³⁰

After 1856, governments found it difficult to muster majority support in both of the Canadas at the same time, so United Canada was characterized by the instability of its governments. Until 1867, parliamentary majorities could not be relied upon, and a number of governments resigned after suffering defeats in the House on the great political issues of the day.

When the 1851 census confirmed that Canada West’s population was larger than Canada East’s, Reformer Members and Canada West’s Clear Grits demanded representation proportionate to the population in each of the Canadas—“Rep by Pop.” Changing the Constitution required a two-thirds majority in the

127 The principle of Cabinet solidarity did not yet carry the weight of an inviolable rule.

128 *An Act for better securing the Independence of the Legislative Assembly of this Province*, 1844, 7 Vict., c. 65. The Act was amended by *An Act further to secure the independence of Parliament*, 1857, 20 Vict., c. 22.

129 The same had been true in Lower Canada since the *Act for vacating the Seats of Members of the Assembly, in certain cases therein mentioned*, 1834, 4 William IV, c. 32. A similar Act was passed in Upper Canada in 1838.

130 On August 2, 1858, the new George Brown and Antoine-Aimé Dorion government was sworn in. As they were being sworn in, the members of the Brown-Dorion Cabinet resigned to stand in by-elections. That same day, a non-confidence vote was carried in the House since the resignations had left Brown and Dorion with a minority in the House. A Government falling on the day of its swearing-in was without precedent; it went down in the annals of Parliament. On August 4, the “48-hour government” announced its resignation, effective two days later. The new Cartier-Macdonald government had its ministers sworn in at around 11 p.m. on August 6. Then, shortly after midnight on August 7, the ministers were all reshuffled and sworn in again, thereby sparing them from having to resign.

House, which effectively meant that no change was possible in that respect, since the Canada East Members refused to relinquish the principle of equal representation for the two Canadas that had prevailed in Parliament since 1841. Even after 1854, when the British government authorized the making of constitutional changes on a simple House majority, successive governments succeeded in maintaining the “equal justice” principle until 1867, however inconvenient the arrangement may have seemed to some. In a sense, the parliamentary collaboration of the two Canadas allowed French and English Canadians to stake out their separate political spheres.

Meanwhile, Conservatives and Reformers were promoting a federal union of British North America, and Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland were discussing the possibility of a union of maritime colonies. This was the context in which John A. Macdonald, Étienne-Paschal Taché, George-Étienne Cartier and other political leaders of the Province of Canada attended the Charlottetown Conference held from September 1 to 9, 1864.

The Maritime colonies and the Province of Canada agreed on the proposal to form a federation of British provinces in North America. At the Québec Conference, which was held from October 10 to 27, 1864, the delegates adopted 72 resolutions that served as a basis for debate on Confederation during the session of 1865. The last remaining issues were resolved at a final constitutional conference in London, England, in December 1866.

1.5 THE 1867 CONSTITUTION

On March 29, 1867, the Queen gave royal assent to the *Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith*, better known by its short title, the *British North America Act, 1867*.¹³¹ On July 1 of that year, the Canadian Confederation consisted of the provinces of Québec, Ontario, Nova Scotia and New Brunswick, all under the umbrella of a federal administration. The federal government had jurisdiction in some matters, the provincial governments in others.

131 *Constitution Act, 1867* (UK), 30–31 Vict., c. 3, reprinted in RSC 1985, App. II, No. 5. Although in the text of the Act, the first French translation read “Acte de l’Amérique Britannique du Nord, 1867”, in the years that followed “Acte de l’Amérique du Nord britannique” was used instead. It wasn’t until 1982 that the *British North America Act* was renamed the *Constitution Act, 1867*. The constitutional acts prior to 1982 were renamed by the *Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c. 11, reprinted in RSC 1985, App. II, No. 44), s. 60 and schedule.

Nova Scotia and New Brunswick already had constitutions of their own, dating back to 1758 and 1784 respectively, and each had a legislative assembly and a legislative council.¹³² The provinces of Ontario and Québec, meanwhile, had their respective administrative structures, which had been defined by 15 resolutions of the Parliament of the Province of Canada in 1866.¹³³ It was decided that Ontario's system of governance would be unicameral, and Québec's bicameral.¹³⁴

1.5.1 THE PARLIAMENT OF THE PROVINCE OF QUÉBEC (1867–1968)

The Parliament of Québec consisted of the Legislative Assembly, the Legislative Council and the Lieutenant-Governor. On July 4, 1867, Lieutenant-Governor Narcisse-Fortunat Belleau asked Joseph-Édouard Cauchon to form Québec's first government, but Cauchon was unsuccessful in rallying the support of Protestant Conservatives. The job of Premier went instead to Pierre-Joseph-Olivier Chauveau, who was sworn in on July 15, 1867. Under a writ dated August 8 of that year, a general election was scheduled for the months of August and September.

Québec's 65 electoral districts remained as they had been defined in United Canada in 1854. The first redrawing of the electoral map was carried out for the general election of 1890. Over the years, the Assembly would be composed successively of 73, 74, 81, 85, 90, 86, 91, 92, 93, 95, 108, 110, 122 and finally 125 Members.

Until dual representation was abolished in 1874, a Member from Québec could hold a seat in Ottawa concurrently.¹³⁵ Similarly, between 1792 and 1952, candidates could run in two ridings simultaneously; if elected in both, they simply chose which one they would represent in the House.¹³⁶ Prior to 1875, the ballot was not secret, and voting could take place over several days and be held at different times in different ridings.¹³⁷

132 The constitutions of the Maritime provinces of British North America were created by commissions and royal instructions determined at the highest levels. No constitutional act was passed for those Crown colonies until 1867.

133 The creation of these provinces was provided for in the 72 resolutions of the Québec Conference. The 1791 borders of Upper and Lower Canada were used for those of Ontario and Québec in 1867.

134 Other provinces and territories were later created or joined the Confederation: Manitoba and the North-West Territories (1870), British Columbia (1871), Prince Edward Island (1873), the Yukon (1898), Alberta and Saskatchewan (1905), Newfoundland (1949) and Nunavut (1999).

135 In New Brunswick and Nova Scotia, dual representation was prohibited from the outset in 1867; it was abolished in Ontario in 1872, and by the federal Parliament the following year.

136 *An Act to amend the Quebec Election Act*, 1952, 15–16 Geo. VI, c. 19, ss. 2 and 3.

137 The returning officer (in charge of a polling station) had to abide by the date set for the "return of the writs", that is, the date when the name of the elected candidate had to be disclosed.



Built in 1859–1860, the Parliament Building was where the Members of the Parliament of the Province of Canada met until 1865. It subsequently housed the Legislative Assembly of the Province of Quebec from 1867 to April 1883, when it burned down. It stood on Côte de la Montagne, on the same site as the first Parliament, where Montmorency Park is today.

As prior to Confederation, the property qualification for franchise was still in effect. Under the *Act respecting the Election of Members of the Legislative Assembly of the Province of Quebec*,¹³⁸ passed in 1875, the right to vote was restricted to males at least 21 years old who were registered owners or occupants of property worth at least \$300 in city municipalities or \$200 in other municipalities, or who were registered as tenants paying annual rent of at least \$30 in city municipalities or at least \$20 in other municipalities.¹³⁹ In 1912, the government of Lomer Gouin lowered these requirements and abolished multiple voting, which had allowed an individual to vote in each riding in which he possessed property.¹⁴⁰ Finally, in 1936, the government of Maurice Duplessis abolished the property qualification altogether.

138 *An Act respecting the Election of Members of the Legislative Assembly of the Province of Quebec*, 1875, 38 Vict., c. 7.

139 It was also in 1875 that the first measure on election expenses was adopted.

140 In 1915, a law was passed to take the right to vote away from Indigenous voters living on reserves: *An Act to amend the Quebec Election Act*, 1915, 5 Geo. V, c. 17.

The right to run for election and become a Member was restricted to males aged 21 or over. It was only in 1940, under Joseph-Adélarde Godbout's government, that women were granted the right to vote and to stand for a seat in the Assembly. The age of majority was lowered to 18 in 1963. The franchise was extended to Indigenous people in 1969, judges in 1978 and prisoners in 1979.

The powers of the Legislative Council (Québec's upper house) were set out in the *British North America Act* of 1867. There were 24 legislative councillors, one for each of the electoral divisions established for Canada East in 1856.¹⁴¹ The Council was not an elected body: its members were appointed for life by the Lieutenant-Governor in Council, in the name of the Queen. A bill assented to on July 11, 1963, set the maximum age for councillors at 75, at which time they ceased, "by operation of law", to exercise their functions. However, this applied only to councillors appointed after July 1, 1963.¹⁴²

The upper house, like the federal Senate, was invested with all the powers of the lower house except that it could not initiate "money bills". The *Act respecting the Legislative power*, passed by the Legislative Assembly and the Legislative Council on June 21, 1886, upheld the principle of the 1867 money bill provisions, stating that "every bill for the appropriation of public moneys, or for the imposition of taxes, or for the creation of imposts, must originate in the Legislative Assembly".¹⁴³ However, the definition of "money bill" was extremely vague and the Legislative Council continued on occasion to amend this type of bill.¹⁴⁴

There was also nothing to prevent the Council from rejecting the budget in its entirety. This was precisely the fate of the budget of Henri-Gustave Joly's government on August 28, 1879. The Legislative Council adopted an address to the Lieutenant-Governor "to delay the passage of the Supply Bill until His Honor should be pleased to select new constitutional advisers whose conduct could justify the Council in entrusting to them the management of the public monies".¹⁴⁵

141 On June 21, 1886, the term "electoral colleges" was replaced by "divisions of the province": *Act respecting the Legislative power*, 1886, 49-50 Vict., c. 97.

142 *Act to amend the Legislature Act and respecting the pensions of members of both Houses*, 1963, 11-12 Elizabeth II, c. 12. The other councillors could sit for life if they so desired; however, the Act stipulated that any councillor who had reached the age of 75 years "or resigns after having held office for at least ten years or ten parliamentary sessions, or who resigns and at the same time gives proof that he is permanently disabled so that he cannot effectively carry out his duties" could retire on a lifetime annual pension of 75% of his contributions.

143 *Act respecting the Legislative power*, s. 32.

144 The definition of "money bill" left room for interpretation in the Standing Orders of the Legislative Council: *Québec Rules & Orders of the Legislative Council* (Québec: Le Conseil, 1867), p. 15; *Rules, Orders and Forms of Proceedings of the Legislative Council of the Province of Quebec* (Québec: Le Conseil, 1919), pp. 14-15.

145 *Journals of the Legislative Assembly of the Province of Quebec*, October 29, 1879, p. 354.

Joly, after being defeated on three separate votes, lost the support of the majority in the House and resigned on October 30, 1879. In 1892, the Council again claimed it had the right to reject a supply bill, but it no longer dared do so.

GOVERNMENTS DEFEATED IN THE HOUSE

In the 19th century, two governments were defeated on votes in the House: that of Henri-Gustave Joly on October 30, 1879 (2nd Session, 4th Legislature) and that of Louis-Olivier Taillon on January 28, 1887 (1st Session, 6th Legislature).

In the general election of 1878, Joly's Liberals won 31 seats versus 32 for the Conservatives, and two other Conservatives sat as independents. To remain in power, Joly offered the office of Speaker to independent Conservative for Trois-Rivières Arthur Turcotte, who was duly elected by a vote of 33 to 32. Finding himself in the position of tie-breaker between two blocs of 32 Members, Turcotte, by casting his deciding vote with the Government, allowed it to remain in power until five Liberals—nicknamed the “cinq veaux” (the “five featherbrains”)—crossed the floor to join the Conservatives, causing Joly to lose his majority.

In the general election of 1886, the Conservatives led by John Jones Ross won 26 seats versus 33 for Honoré Mercier's Liberals. Three independent Conservatives and three Nationalists took the remaining six seats. On October 28, 1886, in a declaration published in a daily newspaper, 35 Members signalled their opposition to the Conservative government. Uncertain of his support in the House, Ross waited before asking that Parliament be convened. He then resigned on January 25, 1887, leaving it to fellow Conservative Louis-Olivier Taillon to form a Cabinet. The new session opened two days later, with the Government unsure whether it could garner majority support in the House. Its doubts turned out to be justified: Premier Taillon's candidate for Speaker was defeated by that of the Opposition, and Taillon was subsequently defeated on a simple adjournment motion. Mercier had demonstrated that he commanded majority support in the House, and Taillon, after only four days in office, had no choice but to hand over power to his rival.

Governments in the 19th century were defeated on motions with fair regularity, but these seldom involved confidence votes compelling the Government's resignation. And while it is true that, in the first part of the 20th century, recorded votes in the House were usually won by the party in power, this was not always the case. In 1934, for example, the majority government of Louis-Alexandre Taschereau failed to gain majority support in the House and lost a vote on the third reading of a bill. However, as it was not a confidence vote, Taschereau remained in power.

The third branch of Québec's Parliament, the Lieutenant-Governor of the Province of Quebec, is appointed by the Governor General in Council. Today, the Lieutenant-Governor convenes, prorogues and dissolves Parliament. Formerly, however, the Lieutenant-Governor was also responsible for overseeing the affairs of the provincial Parliament. If a bill passed in Parliament was seen by the Lieutenant-Governor as encroaching on federal jurisdiction, he could exercise his royal prerogative and reserve the bill, refusing assent to it. Ultimately it was the Governor General, on the advice of the federal Cabinet, who decided whether a bill reserved by the Lieutenant-Governor would be assented to or disallowed.

In the 19th century, the Lieutenant-Governor could still play a distinctly political role. For example, in March 1878, Lieutenant-Governor Luc Letellier de Saint-Just dismissed the government of Charles-Eugène Boucher de Boucherville for allegedly wasting public funds,¹⁴⁶ and on December 16, 1891, Lieutenant-Governor Auguste-Réal Angers took similar action against the government of Honoré Mercier over the Baie-des-Chaleurs scandal.

In 1892, the Privy Council in London ruled that lieutenant-governors were sovereign in their respective provincial spheres, and as such did not have to follow the advice of the Governor General in Council.¹⁴⁷ The role of lieutenant-governor increasingly came to be viewed as neutral and non-partisan, and the power to reserve a bill fell gradually by the wayside (the last bill to be reserved in Québec dates back to 1904), as did the Governor General's power to disallow a bill (used for the last time in Québec in 1910). Nowadays, the Lieutenant-Governor acts only on the advice of the Premier.

The Executive Council and the Lieutenant-Governor together constituted the government. The executive power was designated "Lieutenant-Governor in Council", even though the Queen's representative did not attend the governing party's Cabinet meetings, which were presided over by the Premier.

146 Letellier de Saint-Just asked Opposition leader Henri-Gustave Joly to form a government, despite Joly's Liberals having won only 19 seats out of 65 in the general election of 1875. Joly formed a Cabinet on March 8, but was defeated in the House the same day. The next day, Joly requested that the Lieutenant-Governor dissolve Parliament and call a general election, which he won by a slim margin.

147 *Maritime Bank of Canada (Liquidators of) v. New Brunswick (Receiver General)*, [1892] UKPC 34. At the provincial level, the overriding powers of the lieutenant-governors rankled advocates of increased provincial autonomy, who could only stand by as bills passed in the House were rejected by the representative of the Crown. The hotbed of opposition was in Ontario where, in 1872, the government of Oliver Mowat, objecting to federal interference in provincial affairs, systematically appealed to the Privy Council in London. In Québec, the movement for more provincial autonomy began in earnest in 1887, under the government of Honoré Mercier.

In the matter of finances (appropriations), the powers of the Executive Council of the Province of Quebec were analogous to those of the executives of 1792 and 1841. Only the Council had the power to recommend to the Assembly a bill that entailed the spending of public funds. It was for this reason that only ministers were authorized to introduce such bills.

The first government departments were headed by an Attorney General, a Solicitor General, a Treasurer, a Provincial Secretary, an Agriculture and Public Works Commissioner, a Public Education Commissioner and a Crown Lands Commissioner. Also, from 1867 to 1882, the Speaker of the Legislative Council, who was appointed by the Executive, still sat on the Executive Council. This changed on May 27, 1882, when the *Act relating to the Speaker of the Legislative Council* prohibited the Speaker from being a member of the Executive Council.¹⁴⁸ It changed back with the *Act respecting the Speaker of the Legislative Council*, assented to on January 12, 1895, which stipulated that “the Speaker may be a member of the Executive Council of the Province”.¹⁴⁹ However, that possibility was abandoned after 1905.¹⁵⁰

Finally, as of April 1, 1927, under an amendment to the *Act respecting the Independence of the Legislature*,¹⁵¹ Members appointed as ministers were no longer required to resign their seats and stand for re-election in a by-election.

1.5.2 THE STANDING ORDERS OF THE PARLIAMENT OF QUEBEC (1867–1968)

The proceedings of the Assembly were governed during this period by four sets of Standing Orders adopted in 1868, 1885, 1914 and 1941, respectively.

On December 28, 1867, the Members of the Legislative Assembly decided, as an interim measure, to conduct their debates according to the rules of procedure of the House of Commons of Canada.¹⁵² Compared to the rules of the old Legislative Assembly of the Province of Canada, the only real innovation to

148 *Act relating to the Speaker of the Legislative Council*, 1882, 45 Vict., c. 3, s. 7. The Act was passed as a result of a disagreement between Premier Joseph-Adolphe Chapleau and Speaker of the Legislative Council Pierre Boucher de la Bruère concerning the Conservative government’s railway policy.

149 *Act respecting the Speaker of the Legislative Council*, 1895, 58 Vict., c. 13.

150 Louis Massicotte, *Le Parlement du Québec de 1867 à aujourd’hui* (Québec: Presses de l’Université Laval, 2009), p. 116. Thomas Chapais and Horace Archambeault were the last Legislative Council speakers to also sit on the Executive Council. The ties between the Executive Council and the Legislative Council were even closer when premiers Charles-Eugène Boucher de Boucherville (1874–1878 and 1891–1892) and John Jones Ross (1884–1887) directed the affairs of the province from the upper house.

151 *An Act to amend the Revised Statutes, 1925, respecting the Independence of the Legislature*, 1927, 17 Geo. V, c. 13.

152 *Journals of the Legislative Assembly of the Province of Quebec, December 28, 1867, Vol. 1, p. 6.*

speak of concerned the consideration of private bills.¹⁵³ At the same sitting, a Select Committee chaired by Speaker Joseph-Godric Blanchet was appointed by a resolution of the Legislative Assembly of Quebec to assist “in framing Rules, Regulations, and Standing Orders for the government of this House”.

Adopted on February 22, 1868, the *Rules and Regulations of the Legislative Assembly of Quebec* were much like the rules at the federal level. They consisted of 116 articles divided into seven sections.¹⁵⁴ The last article concerned situations not provided for, which were to be resolved according to “the rules, usages and forms of the House of Commons of the United Kingdom of Great Britain and Ireland”.¹⁵⁵

The Rules and Regulations of 1868 were updated 11 times before being completely re-edited.¹⁵⁶ On May 9, 1885, the House adopted the *Rules, Orders, and Forms of Proceeding of the Legislative Assembly of Quebec*.¹⁵⁷ These consisted of 123 articles divided into 14 sections.¹⁵⁸ In cases of disputed meaning, it was stipulated that the French original would take precedence over the English translation. Narcisse-Henri-Édouard Faucher de Saint-Maurice, who was both a Member of the Legislative Assembly and a writer, had been tasked with polishing the French version by introducing a richer, more varied vocabulary. The use of the *mot juste*, as opposed to literal translations of the English, can be seen for example in terms such as “irrespectueuse” instead of “irrévérente” and “inscrit au Feuilleton” rather than “placé sur les ordres du jour”.¹⁵⁹

153 Bosc and Gagnon, eds., *House of Commons Procedure and Practice*, p. 721.

154 The sections were as follows: I. Regulation and Management of the House; II. Rules of Debate; III. Conduct of Members; IV. Business of the House; V. Intercourse between the Two Houses; VI. Officers and Servants of the House; VII. Library.

155 *Journals of the Legislative Assembly of the Province of Quebec*, February 22, 1868, pp. 137-147. Following this article were three orders for the session concerning the election of a Member, corruption and offers of money. Certain rules were amended on April 3, 1869, and a new edition appeared in 1875, the *Rules and Regulations of the Legislative Assembly of the Province of Quebec* (Lévis: L'Écho de Lévis, 1875).

156 Massicotte, *Le Parlement du Québec de 1867 à aujourd'hui*, p. 35. See also Louis-Georges Desjardins, *Decisions of the Speakers of the Legislative Assembly of the Province of Quebec, 1867-1901* (Québec: Legislative Assembly, 1902).

157 *Journals of the Legislative Assembly of the Province of Quebec*, May 9, 1885, pp. 301-316.

158 The new rubrics concerned journals, the printing and distribution of bills, newspaper subscriptions and the library reading room, election returns, corruption and offers of money. The 1885 rules were updated 14 times.

159 André Beaulieu, *Évolution de la procédure parlementaire depuis 1793* (Québec: National Assembly of Québec, 1987), pp. 3 and 5.

What the French gained in quality, it lost in legal clarity. To remedy the situation, Jonathan Saxton Campbell Würtele, Speaker of the Legislative Assembly from 1884 to 1886, published his bilingual *Manual of the Legislative Assembly of Quebec* in 1895.¹⁶⁰ This abridged version of the first edition, published in 1885, is considered to be the first compendium of parliamentary law in Québec. It corrected legal shortcomings while retaining the French character of the rules written by Faucher de Saint-Maurice. The Manual collates 33 “Usages of the Legislative Assembly” and provides references to classic writers such as Luther Stearns Cushing, Thomas Erskine May and John George Bourinot in order to draw parallels between parliamentary practice in Québec and parliamentary law in Britain and the rest of Canada.¹⁶¹

In 1912, a select committee recommended that the Assembly’s unwritten rules of procedure be incorporated into the Rules.¹⁶² This job was given to the Clerk of the Assembly, Louis-Philippe Geoffrion.¹⁶³ On February 18, 1914, the Assembly adopted the *Rules and Standing Orders of the Legislative Assembly of the Province of Quebec*, which took effect the following day. The new Rules contained 688 articles grouped under 18 titles and into 77 chapters, with 40 appendices dealing with motions.¹⁶⁴ It was the longest set of standing orders in the history of the British Empire.¹⁶⁵ In contrast to previous versions, cases not otherwise provided for were to be resolved “by the forms as followed in the House of

160 The first edition from 1885 contained the *British North America Act, 1867*, relevant provincial statutes, the *Rules, Orders, and Forms of Proceedings of the Legislative Assembly of Quebec*, and the *Rules and Usages of the House of Commons of the United Kingdom of Great Britain and Ireland*; Carman Miller, “Würtele, Jonathan Saxton Campbell” *Dictionary of Canadian Biography*, Vol. 13 (Québec: Université Laval, 2003), online: http://www.biographi.ca/en/bio/wurtele_jonathan_saxton_campbell_13E.html.

161 Beaulieu, *Évolution de la procédure parlementaire depuis 1793*, pp. 9–10; Jonathan Saxton Campbell Würtele, *Manual of the Legislative Assembly of Quebec* (Québec: C. F. Langlois, 1895); André Beaulieu, *Les éditions du règlement de l'Assemblée depuis 1793* (Québec: National Assembly of Québec, 1989).

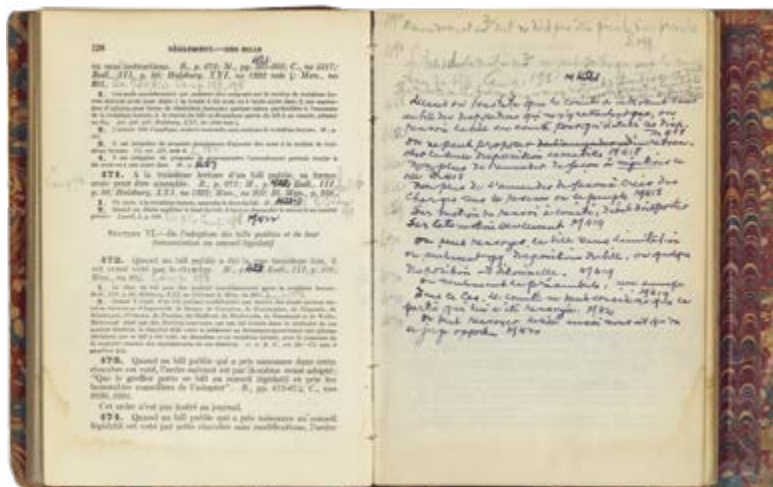
162 *Journals of the Legislative Assembly of the Province of Quebec*, February 8, 1912, p. 178; *Journals of the Legislative Assembly of the Province of Quebec*, November 26, 1912, p. 105.

163 Louis-Philippe Geoffrion’s text is true to both the French language and parliamentary and legal jargon. As André Beaulieu notes, each article was analyzed, unpacked and reformulated, so that each one would concern one idea only and, consequently, have only one corresponding action. Following in the tradition of Jonathan Saxton Campbell Würtele’s *Manual*, the annotated Standing Orders were based largely on the precedents laid by Luther Stearns Cushing, Thomas Erskine May, John George Bourinot and Arthur Beauchesne: Beaulieu, *Évolution de la procédure parlementaire depuis 1793*, pp. 11–12.

164 Bernard Bissonnette, *Revised rules and standing orders of the Legislative Assembly of Quebec: prepared in conformity with a resolution of the 19th June, 1940 and preceded by a foreword* (Québec: Legislative Assembly of Québec, 1941); Louis-Philippe Geoffrion, *Règlement annoté de l'Assemblée législative* (Québec: Legislative Assembly of Québec, 1941).

165 Massicotte, *Le Parlement du Québec de 1867 à aujourd’hui*, p. 38.

Commons of Canada on the 1st day of January, 1904” and, if necessary, according to the 1868 Standing Orders of the English Commons. It was updated five times before 1941, notably in 1939 when Members’ speaking time was limited for the first time, with speeches being reduced to one hour except in the cases of the Premier and the Leader of the Official Opposition.



Clerk of the Legislative Assembly Louis-Philippe Geoffrion (1875–1942) spearheaded the re-edition of the Standing Orders adopted in 1914 and 1941.

A completely re-edited version of the Standing Orders was ratified by the Assembly on May 8, 1941, and took effect after the session had been prorogued. The structure of the new edition resembled that of 1914, but the *Revised rules and standing orders of the Legislative Assembly of Quebec* now contained 812 articles and 89 appendices.¹⁶⁶ In the foreword, Speaker Bernard Bissonnette, former Speaker Télesphore-Damien Bouchard and Clerk Louis-Philippe Geoffrion described the new version of the Standing Orders as complete, even too complete, compared to those of other Canadian legislative bodies; however, they added, “full though [the Standing Orders] be, they are far from containing all the essential rules”. They explained that the purpose of the revision process was to correct the text of certain clauses so that they would be consistent with the usual practice, and to sanction by an express text unwritten rules and well-established usages to make the Standing Orders a code of parliamentary procedure as complete and as perfect as possible.

¹⁶⁶ Geoffrion, *Règlement annoté de l'Assemblée législative*.

The upper house had its own Standing Orders: the *Rules, Orders and Forms of Proceedings of the Legislative Council of the Province of Quebec* were adopted in 1867, with new editions appearing in 1868, 1870, 1873, 1885 and 1919.

1.5.3 PRACTICES, USAGES AND THE CONDUCT OF PROCEEDINGS (1867–1968)

During this period, the Parliament of Québec continued to observe the pomp and ceremony of 18th century British traditions. Essentially, the parliamentary “liturgy”¹⁶⁷ underwent little change from 1792 until the abolition of the Legislative Council in 1968.

The proceedings of the Assembly were divided into three broad categories: the Throne Speech, the budget speech and the detailed examination of estimates. The Assembly also examined and voted on bills throughout the legislative session.

The session began in an atmosphere of formal solemnity when the Lieutenant-Governor, wearing his traditional gold-embroidered costume and bicorne hat, arrived at the Parliament Building in a horse-drawn carriage with mounted escort.¹⁶⁸ In the Legislative Council Chamber, the Lieutenant-Governor read the Throne Speech in both official languages. The Speech, outlining the Government’s legislative program, was the work of the Premier and his closest collaborators.

Just before undertaking the debate on the address in reply to the Throne Speech, the Premier introduced the *pro forma* Bill 1 on the swearing in of Members. At the Legislative Council, Bill A on agriculture was introduced. This symbolic gesture of independence asserted the right of the lower house and the upper house to deliberate and legislate without regard to the causes of summons as expressed in the Throne Speech. The first reading of the *pro forma* bill, a parliamentary tradition dating from 1793 in Québec, served as a reminder that the executive power was subservient to the legislative power.

From 1792 to 1894, the address in reply to the Throne Speech took the form of a series of resolutions that constituted a paragraph-by-paragraph response to the Throne Speech. In 1895, the words of thanks to the Lieutenant-Governor were reduced to their simplest form: “We, Her Majesty’s faithful and loyal subjects, the Legislative Assembly of the Province of Quebec, assembled in the Provincial Legislature, thank Your Honour for the gracious speech which

167 Jean-Charles Bonenfant, “La réforme du travail parlementaire au Québec”, *L’Action*, February 11, 1967, p. 4.

168 After World War II, lieutenant-governors arrived at the Parliament Building by automobile and wore business attire.

Your Honour has been pleased to address to us at the opening of the present session.”¹⁶⁹ The debate on the address averaged two weeks, during which time the Government prepared or refined the legislative measures to be introduced in the course of the session.

Before mid-session, the Lieutenant-Governor commended the budget to the consideration of the Legislative Assembly. Once the House had resolved into an appropriations committee, the Treasurer (known as the Minister of Finance after 1951) read the budget speech, which outlined the economic priorities of the Government and summarized revenues and expenditures for the fiscal year just ended. This was followed by an estimate of revenues and expenditures for the fiscal year in progress.

After the budget had been adopted in a plenary session, a detailed examination of appropriations began. One by one, the amounts allocated to each government department were voted on.¹⁷⁰ The process ended when the Assembly, acting as the ways and means committee, adopted a resolution to withdraw from the Consolidated Revenue Fund the amounts needed to cover all the budget items for the coming fiscal year.¹⁷¹ An appropriations Act was then passed.

The steps in the passage of bills had remained largely unchanged since 1792: (1) the bill was introduced for the first reading; (2) if the Members deemed it necessary, the bill was examined by one of the Assembly’s standing committees;¹⁷² (3) on second reading, the bill was adopted in principle; (4) in a Committee of the Whole, the bill was examined section by section (under the Standing Orders, every bill had to be read twice before being amended or referred to any committee; most often, following a second reading, the bill would first be considered by a standing committee and, following that, examined in a Committee of the Whole); and (5) on third reading, the bill was generally adopted without debate. Unless the Assembly decided to depart from its Standing Orders, these steps had to take place at separate sittings; however, up until 1961, there were sometimes two or even three sittings a day.

169 The wording was altered slightly in 1912.

170 After 1966, the House assigned the budgets of the different government departments to various supply committees for examination.

171 Massicotte, *Le Parlement du Québec de 1867 à aujourd’hui*, p. 101. In some sessions, two resolutions were passed in the ways and means committee: the first to add appropriations for the current fiscal year, and the second on appropriations for the fiscal year ahead.

172 Geoffrion 1941, SO 536(2) and SO 554. In such cases, the committee’s report had to be tabled in the House before the bill could proceed to the next step. From 1867 to 1969, the number of standing committees varied between 8 and 15.

There are two types of bill: private and public. The first concern personal or local interests, while the second deal with matters of general interest and apply to all or a good part of the population.

Under the Standing Orders, proceedings on a private bill began with a petition. The petition was read to the Legislative Assembly before being referred to the committee on standing orders so that it could ensure that the petition met the formal requirements and that the bill was in conformity with the petition.

The procedure for passing a public bill that entailed any expenditure, the borrowing of public funds or the creation of a new tax also had its particularities. Resolutions authorizing an expenditure (any section or article of a statute involving an expense or borrowing) were examined and adopted in a separate Committee of the Whole.¹⁷³

Once a bill had been examined by the Legislative Assembly, it was sent to the Legislative Council. The procedure for passage of a bill was similar in the two Chambers, but the proceedings were generally more rapid in the Council.¹⁷⁴ If the bill was passed by the councillors, it came back to the Assembly, where the Members voted on any amendments the Council might have made. It should be noted that a bill could be examined by the Council before being examined by the Assembly. In the end, both Chambers had to pass identical versions of the bill before it could be given assent.

The Lieutenant-Governor had the power to assent to bills throughout the course of a parliamentary session, but most bills were ratified at the last sitting of the session, in the Legislative Council Chamber (the Red Room). The Clerk of the Legislative Council, placing his right hand above the bills stacked on the Table of the upper house, pronounced the following words: "In Her Majesty's name, His Honour the Lieutenant-Governor thanks Her loyal subjects, accepts their benevolence and assents to these bills."

173 Christian Blais, ed., *Histoire parlementaire du Québec, 1928-1962 : la crise, la guerre, le duplessisme, l'état providence* (Québec: Septentrion, 2015), pp. 12-13.

174 Damase Potvin, *Aux fenêtres du Parlement de Québec : histoire, traditions, coutumes, usages, procédures, souvenirs, anecdotes, commissions et autres organismes* (Québec: Éditions de la Tour de pierre, 1942), pp. 59-60.

It was also in the Red Room that the Lieutenant-Governor delivered the prorogation address, which marked the end of the session. The last word belonged to the Speaker of the Legislative Council: “It is His Honour the Lieutenant-Governor’s will and pleasure that the Provincial Legislature be prorogued *sine die*, and this provincial Legislative Council is accordingly prorogued *sine die*.”¹⁷⁵

1.6 THE NATIONAL ASSEMBLY OF QUÉBEC, 1968 TO THE PRESENT

Unlike in the preceding period, the Members now performed their duties full-time:¹⁷⁶ the Quiet Revolution and the birth of the welfare State brought about a pronounced increase in their workload. It had become apparent to the Members that [TRANSLATION] “Acts were increasingly numerous and complex, while the legislative process was too slow and unwieldy”; in short, existing parliamentary procedure was ill-adapted to the new political reality.¹⁷⁷

A parliamentary reform was undertaken in 1963, concluding with the 1973 Standing Orders, known as the “Lavoie Code”. It provided the Government with powerful tools for steering parliamentary proceedings. However, beginning in 1979, the pendulum swung back the other way with a new reform that aimed to increase the Assembly’s autonomy without impinging on the Executive’s ability to govern. This culminated in the 1985 Standing Orders.

1.6.1 ABOLITION OF THE LEGISLATIVE COUNCIL (1968) AND ADOPTION OF THE “LAVOIE CODE” (1973)

In 1963, the Legislative Assembly began to look at ways of modernizing its proceedings. The creation of the *Journal des débats* (Hansard) was a first step towards greater transparency that allowed the Legislature to share its intentions with the public: since January 14, 1964, the Assembly’s debates have been published verbatim. In February of that same year, a standing orders review committee, the Comité de refonte des règlements (CRR), was created.¹⁷⁸ This select committee was made up of seasoned parliamentarians along with

175 Until the 3rd Session of the 14th Legislature in 1919, the Lieutenant-Governor set the date for the start of following session at the time of prorogation. The Latin expression *sine die*, which means “without setting a date”, was used as of the 1919–1920 session.

176 Jean-Charles Bonenfant, “L’évolution du statut de l’homme politique canadien-français”, *Recherches sociographiques*, Vol. 7, Nos. 1–2 (1966), pp. 117–124, p. 118.

177 Magali Paquin, “Jean-Charles Bonenfant, artisan de la modernité parlementaire au Québec”, in Amélie Binette, Patrick Taillon and Guy Laforest, eds., *Jean-Charles Bonenfant et l’esprit des institutions* (Québec: Presses de l’Université Laval, 2018), p. 336.

178 Blais et al., *Québec : Quatre siècles d’une capitale*, pp. 523–524.

Jean-Charles Bonenfant, director of the National Assembly Library from 1952 to 1969 and professor of law at Université Laval. A new committee was formed in February 1967 and remained active until 1969.¹⁷⁹

On December 18, 1968, Bill 90 abolishing the Legislative Council was assented to, becoming effective on December 31. The explanatory notes state that “the Legislature of the Province of Québec will henceforth consist only of the Lieutenant Governor and one elective House to be called the National Assembly of the Province of Québec”.

A series of reforms followed the abolition of the Council. The ceremonial side of parliamentary life was pared down. The Speaker no longer donned the traditional robes, gloves and three-cornered hat. Parliamentary vocabulary was brought more into line with idiomatic French usage. “Orateur” (for “Speaker”) became “président” in French and President in English; “greffier” (for “Clerk”) became “secrétaire général” and Secretary General; “bill” became “projet de loi”; “comité permanent” (for “standing committee”) became “commission permanente”; “subsidy” (for “supply”) became “crédit” and so on. The speech the Lieutenant Governor formerly gave in the Legislative Council Chamber was now delivered in the National Assembly Chamber.

Québec’s legislative body was stripped of [TRANSLATION] “all its traditional British finery”,¹⁸⁰ and parliamentary protocol was reduced to its simplest expression. Québec’s Parliament now had a structure all its own, one better suited to the culture of the vast majority of its population.¹⁸¹ Of all the legislatures in Canada, Québec’s was the least formal.¹⁸² One exception is the Mace (which the CRR had recommended be abolished in 1967): although no longer mentioned in the Standing Orders, to this day the ceremonial baton remains on the Table out of respect for tradition.¹⁸³

179 Jean-Charles Bonenfant, “Réflexions sur la politique au Québec”, in *Le parlementarisme québécois*, 2nd ed. (Québec: Presses de l’Université du Québec, 1970), pp. 9–28; Jean-Charles Bonenfant, *Procès-verbaux du Comité institué pour étudier l’opportunité d’amender le règlement de l’Assemblée législative du 12 février au 22 juillet 1964*, Jean-Charles Bonenfant fonds, Université Laval, P120/4/1/5.

180 Paquin, “Jean-Charles Bonenfant, artisan de la modernité parlementaire au Québec”, p. 340.

181 Ibid., in reference to Jean-Charles Bonenfant, *Projet de travail pour le Comité chargé de la refonte des Règlements de l’Assemblée législative*, Jean-Charles Bonenfant fonds, Université Laval, P120/4/1/5, 1967.

182 Jean-Noël Lavoie, “Un nouveau règlement à l’Assemblée nationale du Québec”, *Bulletin de la Bibliothèque de la législature du Québec*, Vol. 5, Nos. 1–2 (1974), pp. 1–28, p. 8.

183 Ibid., p. 27.

As of 1969, other CRR recommendations were implemented on a temporary basis at the beginning of each session. Among the British practices to fall away were the Throne Speech in the upper house, the *pro forma* bill and the expression of thanks,¹⁸⁴ while the right to appeal the rulings of the Speaker was abolished in 1969.¹⁸⁵ In addition, the Order Paper now officially included headings for statements by ministers and for oral questions and answers.¹⁸⁶ Starting on February 27, 1969, acts were assented to at the Lieutenant Governor's office.

The reform of parliamentary institutions continued apace in 1970. The role of parliamentary committees was thoroughly reviewed. The standing committees created at the start of each session since 1867 had fallen into disuse, with the exception of the private bills committee and the public bills committee.¹⁸⁷ After 1970, the practice of examining certain bills in "elected" committees allowed more and more individuals and organizations to testify before the parliamentarians. Twenty-five committees were set up and named, for the most part, after the relevant government departments.¹⁸⁸

After ten years' work, the *Standing Orders of the National Assembly of Québec* were adopted on March 13, 1973.¹⁸⁹ The "Lavoie Code", as it was commonly called, had been first adopted on a trial basis on March 27, 1972. In his foreword, President Jean-Noël Lavoie stated that the aim of the new edition was to "make the Rules

184 From 1970 to 1972, sessions were opened in the National Assembly Chamber by the Lieutenant-Governor's inaugural address, but the Government's program was for the most part contained in the address delivered by the Premier in reply to the Throne Speech. This *modus operandi*, which lasted until the 3rd Session of the 29th Legislature (1972), allowed the Premier to be the first Member to speak. The address in reply to the Throne Speech disappeared definitively when the 1973 *Standing Orders of the National Assembly of Québec* took effect. The 1972 provisional Standing Orders stated that after the Lieutenant-Governor's message, the head of the Government would deliver the opening speech. However, under the 1973 Standing Orders, the Lieutenant-Governor's speech was to be followed by a debate on the inaugural message. Since no order of priority was given, this debate was initiated by an opposition Member. This was the case until December 23, 1976, when Standing Order 22 was amended so that, at the start of each session, the Members were to "hear the Lieutenant-Governor's opening address and the inaugural message, given on behalf of the government, by the Prime Minister" (the Premier).

185 JD, February 26, 1969, p. 9.

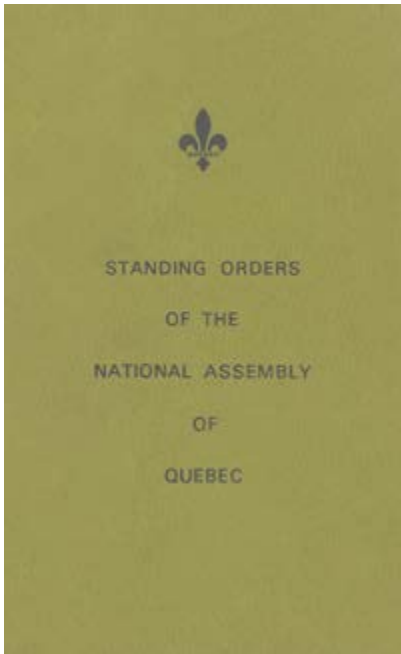
186 Beginning in 1963, oral questions could be asked with the consent of the Government.

187 The public accounts committee was inactive after 1912 and from 1922 to 1924. Nevertheless, it left its mark when Maurice Duplessis, then Leader of the Opposition, reconvened it in 1936 to examine the Government's use of appropriations voted by the Legislature.

188 JD, June 9, 1970, pp. 8-9.

189 JD, March 13, 1973, p. 4336.

relevant to a modern and efficient parliament where it is possible for the majority to see its legislation adopted, the Opposition to speak without restraint, public opinion to be heard and finally, every Member to exercise his role as legislator”.¹⁹⁰



After ten years of work, the new *Standing Orders of the National Assembly of Québec* were adopted in 1973, during the term of Jean-Noël Lavoie, President of the National Assembly from 1970 to 1976.

Partly undertaken to prune procedural rules as they then stood, the Lavoie Code reduced the number of Standing Orders to 179, divided into 15 chapters. It also limited speaking time during debates and made provision for standing committees (or the appropriate elected committees) to sit when the House was adjourned, including between sessions.¹⁹¹ Jean-Charles Bonenfant was one of the driving forces behind the new Standing Orders.¹⁹² He summarized the tone of the reform as follows: [TRANSLATION] “Criticism must be permitted, but the State must function.”¹⁹³

Under the presidency of Clément Richard in 1976, the Assembly applied Standing Order 32, which calls for each sitting to begin with a “moment of reflection”; this replaced the prayer, a custom that dated back to December 6, 1922. The Québec flag was positioned to the right of the President’s chair. Parliamentary debates were first televised in 1978, when the “Green Room” was painted a camera-friendly blue.

In 1977, the Ministère d’État à la réforme électorale et parlementaire (Ministry of State for electoral and parliamentary reform) was created, followed in April 1979 by the formation of a parliamentary reform committee. An interim report was tabled on June 20 of that year. The key findings revolved around the principle of popular sovereignty. Five objectives were defined: (1) reaffirmation of

190 *Standing Orders of the National Assembly of Québec* (Québec: National Assembly of Québec, 1973), p. II.

191 Since 1982, a provision on this subject can be found in section 13 of the *Act respecting the National Assembly*: “A committee or a subcommittee may sit even when the Assembly is not in session.”

192 Paquin, “Jean-Charles Bonenfant, artisan de la modernité parlementaire au Québec”, p. 336.

193 Jean-Charles Bonenfant, “Le vote des crédits”, *L’Action*, September 2, 1972, p. 7.

Parliament's sovereignty as power delegated by the people; (2) greater independence of the legislative power to counterbalance the executive power; (3) commitment to transparency in politics and strengthened public oversight; (4) enhanced appreciation and in-practice recognition of the Members' role; and (5) improved efficiency of the legislative system.¹⁹⁴

The Members and ministers were faced with a dilemma. While efficiency and performance argued in favour of a strong government—based on Cabinet solidarity and a parliamentary majority—conversely, oversight of the executive power remained a duty and necessity for all elected officials. Autonomy, initiative and oversight appeared to be the basic principles for striking a better balance in the division of powers. Enhancing appreciation of the Members' role was another topic of discussion.

1.6.2 THE ACT RESPECTING THE NATIONAL ASSEMBLY OF 1982 AND THE REFORM OF 1984

On December 18, 1982, the *Act respecting the National Assembly*¹⁹⁵ was assented to, replacing the *Legislature Act*.¹⁹⁶ The new Act granted power of derogation to the National Assembly, which increased the Assembly's autonomy and power of initiative in relation to the public administration.¹⁹⁷ It also established the Office of the National Assembly to manage and regulate various administrative aspects of the Assembly. The creation of the Office as an administrative board guaranteed the Assembly's independence from the *Conseil exécutif* (Cabinet), since it replaced the former Committee on internal management, which had been composed of the President and three ministers since 1876.¹⁹⁸

1982 was also marked by parliamentary reform. Some had criticized the “Lavoie Code”, claiming that it diminished the political importance of the Assembly by limiting the time for important debates, or even that the Code had, abetted by Government Members, reduced the Parliament to a rubber stamp. The overarching purpose of the new reform was to increase the Assembly's autonomy in relation to the executive power.

194 “Rapport d'étape du Comité sur la réforme parlementaire, présenté à monsieur Robert Burns, ministre d'État à la réforme électorale et parlementaire, le 20 juin 1979”, Denis Vaugeois, *Réforme parlementaire. Recommandations et hypothèses* (Québec: National Assembly of Québec, 1981), Appendix 10, pp. 2–3. The Comité sur la réforme parlementaire was composed of Roland Dussault, François Gendron, Richard Guay, Gilles Michaud and Adrien Ouellet.

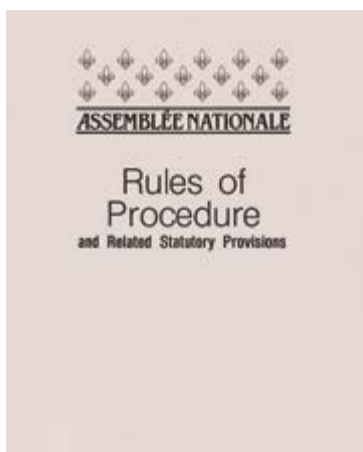
195 *Act respecting the National Assembly*, CQLR, c. A-23.1.

196 *Legislature Act*, CQLR, c. L-1 (repealed).

197 On June 17, 1980, in a preliminary bill the priority had been to allow the opposition to take part in the Assembly's collegial leadership. Letter addressed to René Lévesque by Denis Vaugeois (Québec, July 22, 1981), p. 3.

198 “Commission de régie interne”, *Encyclopédie du parlementarisme québécois* (Québec: National Assembly of Québec, July 17, 2014), online: <http://www.assnat.qc.ca/fr/patrimoine/lexique/commission-de-regie-interne.html>.

When Premier René Lévesque formed his Cabinet in 1981, he personally gave Denis Vaugeois, parliamentary assistant to the Minister responsible for Parliamentary Affairs, a mandate to study parliamentary reform.¹⁹⁹ Vaugeois tabled his report on January 28, 1982. The crux of the matter consisted in boosting the National Assembly's social and political influence. Vaugeois concluded that the Assembly could probably act most effectively as an oversight body.²⁰⁰ The bulk of the proposals involved restructuring parliamentary committees. In October 1982, the Government announced that a National Assembly subcommittee would be tasked with examining plans for parliamentary reform.²⁰¹



While Richard Guay was President, the National Assembly's *Standing Orders and other Rules of Procedure* were implemented on a trial basis in 1984 and made permanent in 1985.

An order of the Assembly made on June 22, 1983, and amended on April 17, 1984, established the Subcommittee on Parliamentary Reform which would meet to draft new Standing Orders 13 times between September 12, 1983, and March 1, 1984. On March 13, 1984, the National Assembly adopted the first version of the new Standing Orders on a trial basis.²⁰² The Subcommittee then held nine deliberative meetings, and the new rules finally became permanent on April 16, 1985. They consisted of six titles, 19 chapters and 319 sections.

This was, according to President Richard Guay, a major reform that enhanced the role of Parliament by giving Members new means of efficiently assuming their chief parliamentary functions. To better focus on the principle of the separation of the legislative and execu-

tive powers, the reform reinforced the oversight function of the Assembly with respect to both public spending and the actions of the Government and the administration.²⁰³

199 Russell Ducasse, "La mission de Denis Vaugeois : pour un meilleur gouvernement", *La Presse*, July 6, 1981, p. 7. Vaugeois was therefore able to complete a study that he had begun in 1976, and tabled in two versions: Denis Vaugeois, *Hypothèse de réforme parlementaire* (Québec: National Assembly of Québec, 1977), pp. 3 and 11.

200 Denis Vaugeois, *The National Assembly in evolution: For a greater balance among the political institutions of Quebec* (Québec: National Assembly of Québec, 1982), p. 47.

201 Louis Falardeau, "Bertrand propose de profondes modifications au fonctionnement de l'Assemblée nationale", *La Presse*, October 20, 1982, p. 8. The Vaugeois-French report was tabled soon after: Denis Vaugeois, *Parliamentary Control of Delegated Legislation: Report of the Study Committee on Parliamentary Control of Delegated Legislation* (Québec, National Assembly of Québec, 1983).

202 JD, March 13, 1984, p. 5098.

203 Richard Guay, ed., *Réforme parlementaire : projet du président de l'Assemblée nationale* (Québec: National Assembly of Québec, 1983).

Specifically, the operations of parliamentary committees were brought up to date. It was now possible for the Members to examine, on their own initiative, regulatory measures, financial commitments, the management of public bodies and any other matter of public interest. This major overhaul of the committee system made for more effective oversight of the executive power, the administration and public finances, and also gave to each committee a clear role and specific identity. In another innovative move, a parliamentary calendar with fixed periods for sittings was adopted.²⁰⁴ The main principles of the 1984 Standing Orders still govern the proceedings of the National Assembly to this day.

Since 1984, parliamentary reform has been formally recognized as an ongoing exercise. The standing Subcommittee on Parliamentary Reform was established according to this *modus operandi*. In 1986, a preliminary report on the objectives of the 1984 Standing Orders, that is, enhancement of the roles of the Members and of the Assembly, was presented to the Committee on the National Assembly.²⁰⁵ The report hailed the strides made in changing the role, structure, composition and mandate of parliamentary committees, although it did appear that [TRANSLATION] “the absence of open discussion on the matter of party lines and responsible government constitutes one of the weaknesses of the 1984 reform”.²⁰⁶

The Subcommittee on Parliamentary Reform met again on June 18, 1991, to address organizational matters. In 1994, an in-depth summary of the effects of the 1984 reform on parliamentary committees was prepared. It found that the committees had made little use of the power to initiate their own studies and had not met the requirement to hear from at least one public body per year.²⁰⁷

A new reform process, building on the 1984 improvements, was begun in 1996. Some changes concerning the schedule and organization of committees, provisionally adopted in 1997, became permanent in 1998. A new committee, the Committee on Public Administration, was also created. Its mission is to see that public funds are used effectively and efficiently by government departments and bodies.

204 In 1978, the Standing Orders were amended to include fixed dates of adjournment. Under this system, the Assembly could no longer sit from June 24 to September 7 or from December 22 to January 31. Apart from these periods, it could sit every day from Monday to Friday, from 10 a.m. until it decided to adjourn. Beginning in 1984, the Assembly's sittings were limited to three days a week, that is, from Tuesday afternoon to Thursday evening, but it could also decide to sit on Mondays: Louis Massicotte, “Le calendrier parlementaire québécois”, *Bulletin de la Bibliothèque de l'Assemblée nationale*, Vol. 13, No. 2 (1983), pp. 55–74.

205 Jean-François Duchaine, *La réforme parlementaire, deux ans après* (Québec: National Assembly of Québec, 1986).

206 *Ibid.*, p. vii.

207 *La réforme parlementaire 10 ans après : les impacts de la réforme de 1984 sur les commissions parlementaires* (Québec: Committee Secretariat, 1995).

After this, the Committee on the National Assembly itself, rather than the Subcommittee, devoted six sessions to examining a parliamentary reform proposal. The proposal, comprising 11 themes, was tabled on April 8, 1998, by President Jean-Pierre Charbonneau. A series of measures was put forward. Stressing that petitions were one of the only measures available to the public to address the Assembly directly, it suggested that certain requirements relating to the presentation of petitions be eliminated, and that the Government be required to respond to them.²⁰⁸ The proposal also recommended limiting motions to suspend the rules of procedure to the examination of only one bill at a time. The overall thrust of the reform was to ensure [TRANSLATION] “a better balance between government efficiency and parliamentary oversight of legislative measures proposed by the Government”.²⁰⁹

The following year, on March 2, 1999, the Assembly put to the test, for the first time, rules of procedure regarding the proposal's first theme, that is, the election of the President by secret ballot. The same day, an amendment to the *Act respecting the National Assembly* provided for the election of a third Vice-President to be chosen from among the Members forming the Official Opposition.

A study group on parliamentary committee work was given a mandate in December 1999.²¹⁰ Chaired by the Vice-President of the National Assembly, Claude Pinard, and by three standing committee Chairs—Monique Gagnon-Tremblay, Matthias Rioux and Sylvain Simard—the group conducted a critical examination of how to revitalize committee proceedings. The resulting Pinard Report underscored the headway made with regard to the number of orders of initiative and the scrutiny of bodies; however, it also lamented the fact that most committees lacked real autonomy in the governance of their proceedings, and it argued in favour of better parliamentary oversight. The Report also contained a proposal to reduce the number of ministers on committees, an idea that had already been put forward by the Committee Secretariat in 1995 and by Jean-François Duchaine when he was an adviser to the Government House Leader in 1986.

On December 6, 2001, the Assembly adopted further temporary rules concerning two of the themes contained in the 1998 reform proposal: the presentation of, and follow-up on, petitions, and the introduction of a new more restrictive exceptional procedure for the governing party. These temporary changes remained in effect until the end of the 36th Legislature.

208 Jean-Pierre Charbonneau, ed., *Réforme parlementaire présentée par le Président de l'Assemblée nationale* (Québec: National Assembly of Québec, 1998), theme 3, pp. 3–4.

209 Ibid., theme 7, p. 3.

210 *De la nécessité du contrôle parlementaire : document de réflexion : pour des commissions parlementaires stimulantes et performantes* (Québec: Committee Secretariat, 2000).

In his opening speech to the 37th Legislature on June 4, 2003, Premier Jean Charest entrusted Government House Leader Jacques P. Dupuis with the mandate to present a comprehensive parliamentary reform plan. On June 10, 2004, 140 proposals for change were tabled in the Assembly. They were structured around four objectives: increasing the participation of citizens in parliamentary life, enhancing the role played by the Members, modernizing the organization and proceedings of the National Assembly and redefining the relationship between the executive and legislative powers.²¹¹ The plan also addressed the relaxing of party discipline, the introduction of electronic voting, the appointment of an ethics commissioner (a position that would be created in 2010) and the exclusion of ministers from parliamentary committees during clause-by-clause consideration of bills. Echoing the Pinard Report, the Minister for the Reform of Democratic Institutions acknowledged that the changes that the 1984 Standing Orders had made to the committees 20 years earlier had not yielded the expected results.²¹²

At the next meeting, President Michel Bissonnet tabled a draft reform in the form of annotated Standing Orders.²¹³ These dovetailed with the 1998 reform plan and the Pinard Report. A number of proposals sought to grant [TRANSLATION] “greater autonomy and initiative to the Members in order to enable them to perform their roles as legislator and watchdog more freely, without constantly feeling limited by the constraints of the party line”. Other measures were intended to protect Members’ freedom of speech, and even increase it in certain cases. To streamline the legislative process, it was recommended that the number of ministers on committees be considerably reduced.²¹⁴

Between November 25, 2004, and May 17, 2006, the Subcommittee on Parliamentary Reform met seven times to examine these various proposals. At the meeting on November 24, 2004, it was agreed to form a technical committee tasked with supporting the Subcommittee in its reflections. Composed of the Secretary General of the National Assembly and representatives of parliamentary leaders and independent Members, the technical committee worked beyond the 37th Legislature.

211 *Parliamentary Reform: Proposals: Shine among the best* (Québec: Gouvernement du Québec, 2004).

212 *Ibid.*, pp. 7, 27 and 29.

213 *Réforme parlementaire : Document de travail* (Québec: National Assembly of Québec, 2004).

214 *Ibid.*, pp. 3, 4 and 15.

During the 38th Legislature, another draft reform was submitted by the new Government House Leader, Jean-Marc Fournier, in November 2007. Among other things, work-family balance was put forward as an additional argument in favour of changing the parliamentary calendar.²¹⁵ At the start of the 39th Legislature, the technical committee's proposals were submitted to the leaders and the independent Members. Little by little, a consensus began to emerge, and this resulted in Jacques P. Dupuis, back as Government House Leader, tabling another set of standing orders on April 21, 2009. It was adopted unanimously by the Assembly. This reform, similar in nature to that which preceded it, comprised four broad objectives: to favour the autonomy and initiative of the Members, to enable them to carry out their work more efficiently, to reinforce the democratic balance in parliamentary deliberations and to bring Parliament closer to the people.

1.6.3 PARLIAMENTARY PRACTICE TODAY

This edition of this book on parliamentary doctrine describes the new decisions made by the President and the committee Chairs since 2012. It explores events such as the election of a second minority government in 2012—the first having been elected in 2007—and the 2013 passage of the fixed-date elections bill, key moments in our parliamentary annals. It also examines changes in a different vein, such as the decision, in 2015, to put an end to applause during Oral Questions and Answers.

The National Assembly is an institution in step with its time; consequently, the reform of its parliamentary practices is part of a constantly evolving process.²¹⁶ It is healthy, in a democracy, for parliamentarians to take a critical look at their practices with a view to improving them.

It was with this in mind that Government House Leader Simon Jolin-Barrette tabled reform proposals in the form of a document entitled *Cahier de propositions*²¹⁷ on February 20, 2020. His proposals had four objectives: fostering enhanced collaboration, strengthening transparency and accountability, making Parliament more effective and more attentive, and modernizing the National Assembly.

215 Jean-Marc Fournier, ed., *Propositions du leader du gouvernement et ministre de la Réforme parlementaire* (Québec: Secrétariat à la réforme des institutions démocratiques et à l'accès à l'information, 2007).

216 Blais, *Aux sources du parlementarisme dans la Province de Québec, 1764-1791*, p. 392.

217 Simon Jolin-Barrette, ed., *Réforme parlementaire - Cahier de propositions* (Québec: Gouvernement du Québec, 2020).

On May 26, 2020, it was President François Paradis's turn to table a reform proposal entitled *Une Assemblée nationale dynamique, moderne et à l'écoute*.²¹⁸ Four main objectives once again guided the approach: establishing better oversight and accountability processes, promoting better organization and planning of parliamentary business, continuing to integrate technologies into parliamentary work and making more room for citizens in parliamentary work.

PARLIAMENT IN A PANDEMIC

As in society in general, the COVID-19 pandemic had major repercussions on parliamentary life in Québec. By mutual agreement, the Members adopted a special order²¹⁹ on Tuesday, March 17, 2020, to approve the summoning of the Assembly for an ordinary sitting that same day, beginning, exceptionally, at 9 a.m. The special order also stipulated that the Assembly take only the Orders of the Day provided for in the motion, which included the passage of five bills—among them the Supplementary Estimates for the fiscal year ending March 31, 2020—and the approval of the Government's budgetary policy. Then the Assembly adjourned its proceedings until April 21 in order to comply with public health directives and to ensure that the Members could be present in their constituencies.²²⁰ In the weeks that followed, the Premier had regular private discussions with the leaders of the parliamentary groups in opposition.

Given how the situation was evolving, on April 16 the leaders agreed to extend the adjournment until May 5. On May 4, the day before that deadline, another agreement was reached to push resumption of the National Assembly's proceedings back to mid-May. During this extension, the parliamentary groups in opposition and the independent Members agreed on a parliamentary framework that would allow the Government to be questioned about the health crisis: under the April 16 agreement, four sectorial committees met virtually, starting April 24. Under the May 4 agreement, parliamentary committee meetings continued virtually until May 22. In all, 14 accountability meetings were held virtually

218 François Paradis, ed., *Une Assemblée nationale dynamique, moderne et à l'écoute. Proposition de réforme parlementaire du président de l'Assemblée nationale* (Québec: National Assembly of Québec, 2020).

219 VP, March 17, 2020, pp. 1869–1875. See Chapter 16, Section 16.2, "Special Order of the Assembly".

220 There was a precedent in parliamentary history: on November 10, 1852, the Legislative Assembly of the Province of Canada adjourned proceedings until February 14, 1853, due to a cholera outbreak in the city of Québec.

during this period.²²¹ These meetings, which allowed the opposition Members in particular to have exchanges with various ministers about the COVID-19 pandemic, were televised and streamed live on the National Assembly website.

As society gradually resumed its activities, the Members returned to sit in the Parliament on May 13 in order to, among other things, officially approve the agreements of April 16 and May 4 by means of a special order²²² that took precedence over any incompatible provisions of the Standing Orders. Exceptionally, two consecutive Oral Question and Answer periods then followed that same day. At the end of the sitting, the Assembly adjourned until May 26, when proceedings resumed for a three-week period composed of one week of ordinary hours and two weeks of extended hours.²²³

For those three weeks, in accordance with the special order they had adopted, the parliamentarians examined and passed three private bills and a number of public bills, in addition to holding a debate on business standing in the name of Members in opposition, and an interpellation. The Assembly also completed the budget process for the 2020–2021 fiscal year by passing Bill 62, Appropriation Act No. 2, 2020–2021²²⁴ and Bill 63, Appropriation Act No. 3, 2020–2021,²²⁵ when all the preceding procedural steps relating to the bills were deemed to have been completed.²²⁶ The estimates for the Assembly were also considered in a Committee of the Whole.²²⁷

221 VP, May 26, 2020, pp. 1924–1926. During the virtual accountability meetings, only the Member chairing the committee and the committee’s administrative staff were physically present in the committee room.

222 VP, May 13, 2020, pp. 1882–1903.

223 See Chapter 6, Subsection 6.3.1, “Regular Sitzings”.

224 This bill provided for the adoption of a second quarter of credits for 2020–2021, a first interim supply bill—Bill 57, Appropriation Act No. 1, 2020–2021—having been passed on March 11, 2020, before parliamentary proceedings were adjourned due to the pandemic.

225 This was the annual appropriations bill.

226 Although the estimates of expenditure for 2020–2021 were considered to have been examined and passed, in order to allow the groups in opposition to question the Government about them, the standing committees were given the mandate to examine them, without being required to pass them; a total of 100 hours were allocated solely for exchanges between opposition Members and ministers. This examination took place in August 2020. (VP, September 15, 2020, pp. 2159–2160.)

227 VP, June 4, 2020, pp. 2039–2040.

The special order of May 13, 2020, set out certain provisions in order to comply with public health directives, such as the requirement to observe two metres of physical distancing. The Assembly therefore sat with a reduced number of Members: no more than 37 were permitted in the House.²²⁸ Votes by show of hands and by recorded division were replaced by a procedure for recorded divisions whereby the Leader or Deputy Leader, or a Member who was identified by either of them ahead of time, voted by proxy for all the members of his or her parliamentary group. In addition, at each stage of the legislative process for the bills indicated in the motion, the Government House Leader was authorized to vote by proxy on behalf of independent Members, according to their instructions.

Over the summer period, the parliamentary groups negotiated a new agreement that was ratified by the adoption of a special order upon the Assembly's resumption on September 15, 2020.²²⁹ Broadly speaking, the special order renewed the terms of the previous one with regard to the number of Members who could sit in the House at any one time and the procedure for recorded divisions. The procedure retained the possibility, at each stage of the legislative process for the bills indicated in the motion, for the Government House Leader to vote by proxy on behalf of independent Members, according to their instructions. The procedure was, however, amended to provide a mechanism to suspend proceedings if a question was put in the Assembly when a parliamentary group was not represented. A proxy voting procedure for the parliamentary group forming the Government and the parliamentary group forming the Official Opposition was also established for certain parliamentary committee meetings taking place in rooms that could not accommodate all members of the committee. It was also agreed that a committee would be allowed

228 In addition to the President, there were no more than 20 Members from the parliamentary group forming the Government, no more than 8 Members from the parliamentary group forming the Official Opposition, no more than 3 Members from the Second Opposition Group, no more than 3 Members from the Third Opposition Group and no more than 2 independent Members. During Question Period, this distribution was modified to allow 10 Members from the parliamentary group forming the Official Opposition, 4 Members from the Second Opposition Group and 4 Members from the Third Opposition Group to be present, with the number of Government Members reduced by as many as those added to the other groups. Several desks were removed from the Blue Room or moved to comply with physical distancing directives and Members no longer occupied the places usually assigned to them. This entailed identifying seats for each parliamentary group as well as for independent Members. Counting clerks and other employees, the number of people in the House was just over 40. No student pages were present. In addition, documents could be presented electronically only, and a disinfection protocol was followed every time the President or a Vice-President left or took the Chair, a Member changed desks or there was a rotation of clerks at the Table.

229 VP, September 15, 2020, pp. 2145–2150.

to hold any given meeting in two different committee rooms simultaneously, using the necessary technology. Lastly, special rules were established to raise want of quorum in the Chamber during debates on business standing in the name of Members in opposition.²³⁰

The special order of September 15, which applied until October 9, was again renewed by the adoption of a new special order on October 20, after a week of constituency work.²³¹ Several minor changes were made to the previous special order. For example, debates upon adjournment scheduled to be held on Thursdays at 6 p.m. were moved forward to 1 p.m. It was also noted that ministers were to participate in the Oral Questions and Answers period in two groups, one being present during Tuesday and Thursday sittings and the other during Wednesday sittings as well as Friday sittings during periods of extended hours of meeting. As far as parliamentary committees were concerned, if the room in which the committee was to meet was equipped with the technology required for that purpose, all witnesses were to be heard by video conference, unless the committee decided otherwise at the request of a witness. The special order applied for the remainder of the sessional period, which ended on December 11, 2020.

Time will tell what the Members of the National Assembly will retain from this new exercise. It is another example of the constant evolution of parliamentary reform in British-style parliaments, which have endured through the ages precisely because of their flexibility.

Québec's parliamentary system is the result of centuries of experience. Although under the French regime, syndics were elected to represent the interests of their constituents, the parliamentary formula was not part of the landscape, and the colonial administration did not share its law-making power with those it governed. This means that the history of our present parliament can be seen as dating from the establishment of British civil government in 1764. It can also be divided into three main periods.

230 Want of quorum could not be raised unless, in the case of a motion moved by the Official Opposition, fewer than 5 Members from that group were present in Chamber; in the case of a motion moved by the Second Opposition Group, fewer than 2 Members from that group were present in Chamber; in the case of a motion moved by the Third Opposition Group, fewer than 2 Members from that group were present in Chamber; and in the case of a motion moved by an independent Member, fewer than 2 opposition Members were present in Chamber.

231 VP, October 20, 2020, pp. 2439–2445.

Under the *ancien regime* from 1764 to 1841, parliamentary practice operated in a political context in which legislative and executive power were exercised in separate spheres. From 1792 onwards (and even more so at the turn of the 19th century), those two powers clashed when Members demanded privileges to counterbalance the royal prerogatives enjoyed by the agents of the colonial government. The era from the Union in 1841 to the abolition of Québec's Legislative Council in 1968 was one of responsible government and two houses, during which the soft separation between the legislative and executive powers caused control of parliamentary proceedings to gradually shift into the hands of the governing party. From 1968 to today, in a contemporary context in which the various sectors of State activity are increasingly vast and complex, and in which the modern world calls for decisions to be made quickly, the necessary evolution of parliamentary practice is part of a constant search for better balance between the Government's ability to perform efficiently and Members' oversight of its actions.

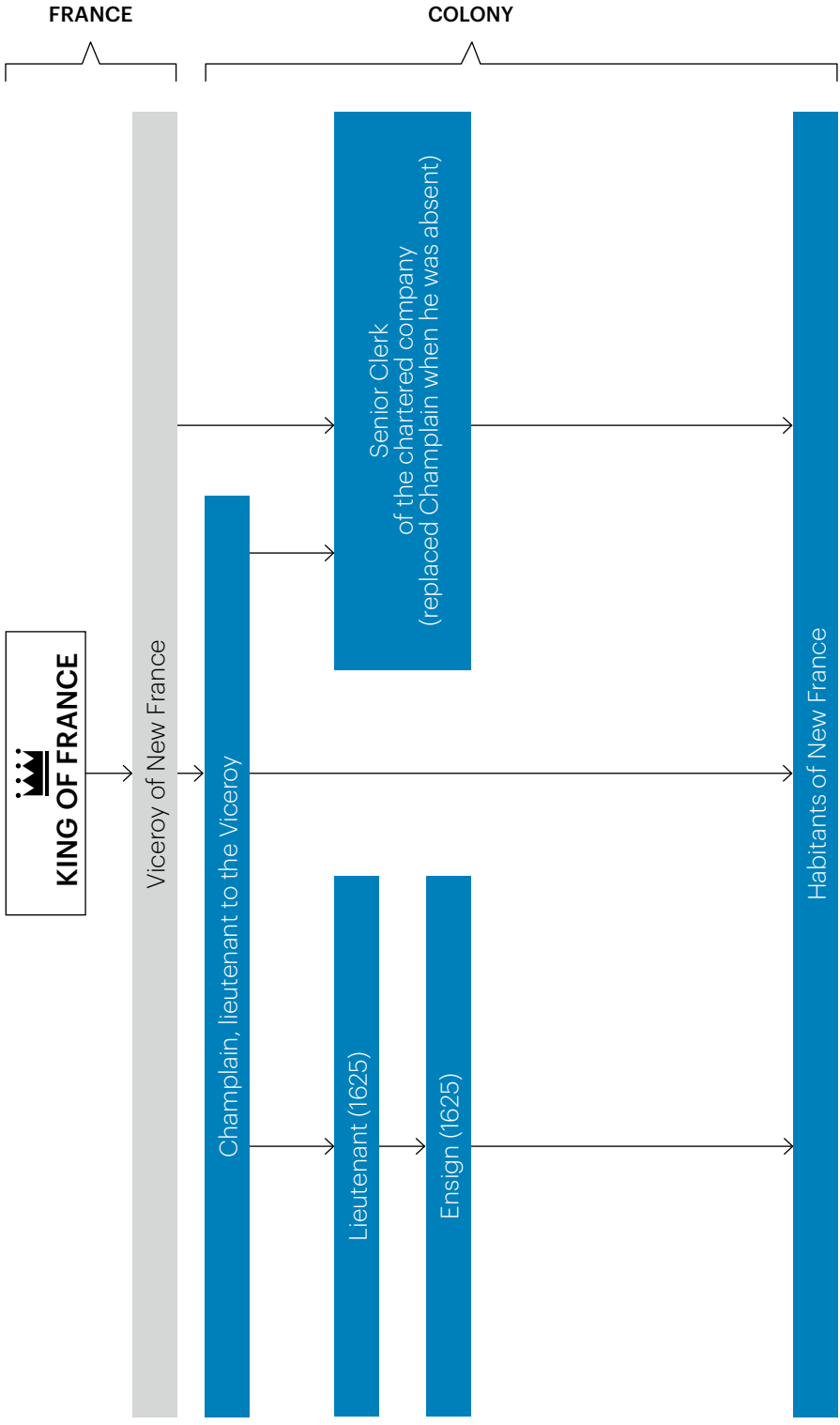
Throughout these three pivotal periods, the changes that took place were carried out within the same framework and according to the same conventions, always with a concern to maintain traditions dedicated to the free expression of democracy. This is what has ensured continuity in parliamentary practice through the ages.²³²

In Québec, parliamentarianism dates back to 1764, parliamentary democracy to 1792 and responsible government to 1841, but the system has been able to respond, adapt and evolve according to the political circumstances of the time. In a sense, the National Assembly today mirrors the Parliament Building itself: it is a modern institution evolving in an edifice that is over than a hundred years old.

232 Beaulieu, *Évolution de la procédure parlementaire depuis 1793*, p. 3.

APPENDIX I GOVERNANCE DIAGRAMS

POLITICAL POWER IN CANADA (1612–1627)



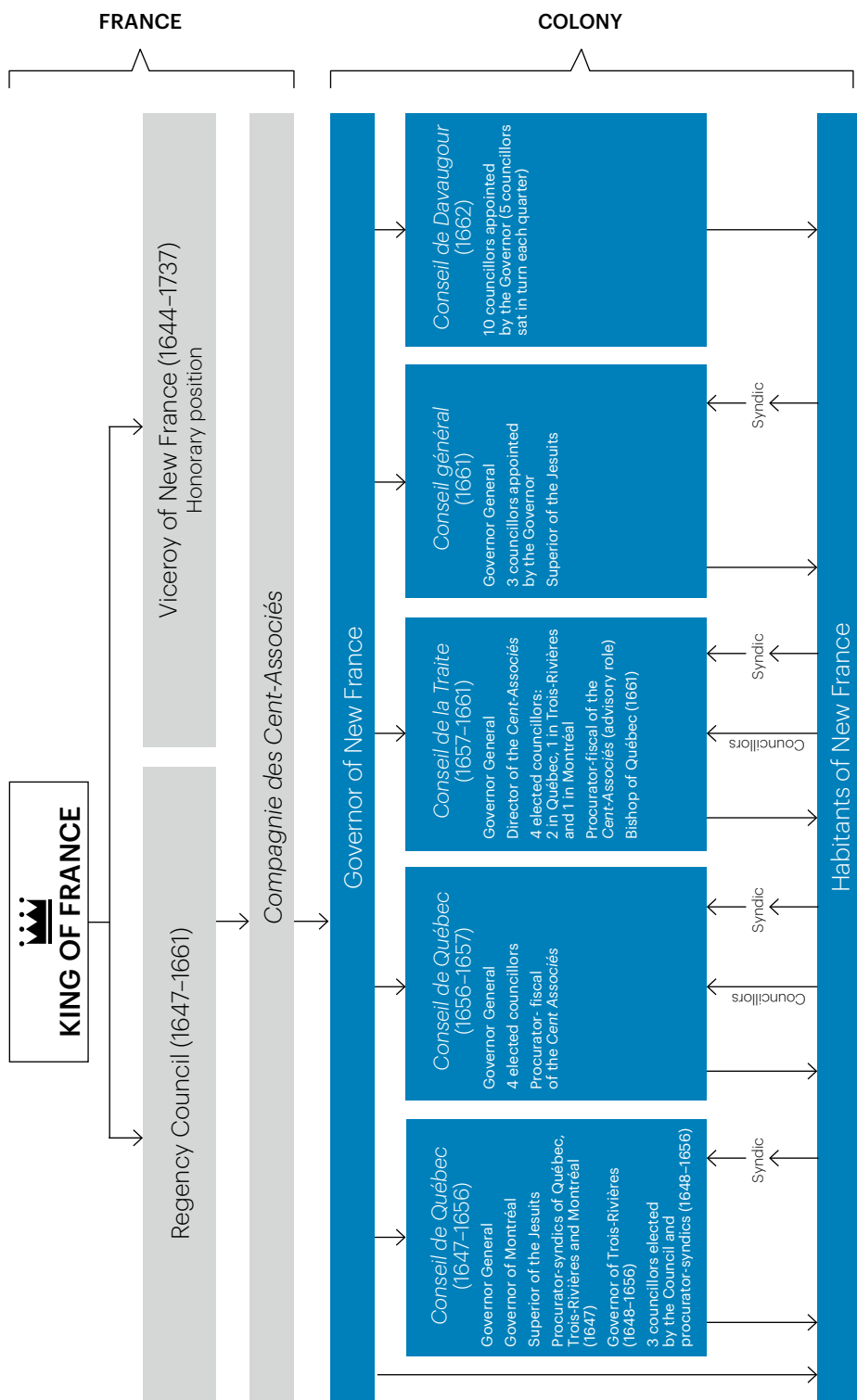
Produced by Christian Blais, historian at the National Assembly of Québec

POLITICAL POWER IN CANADA (1627–1647)



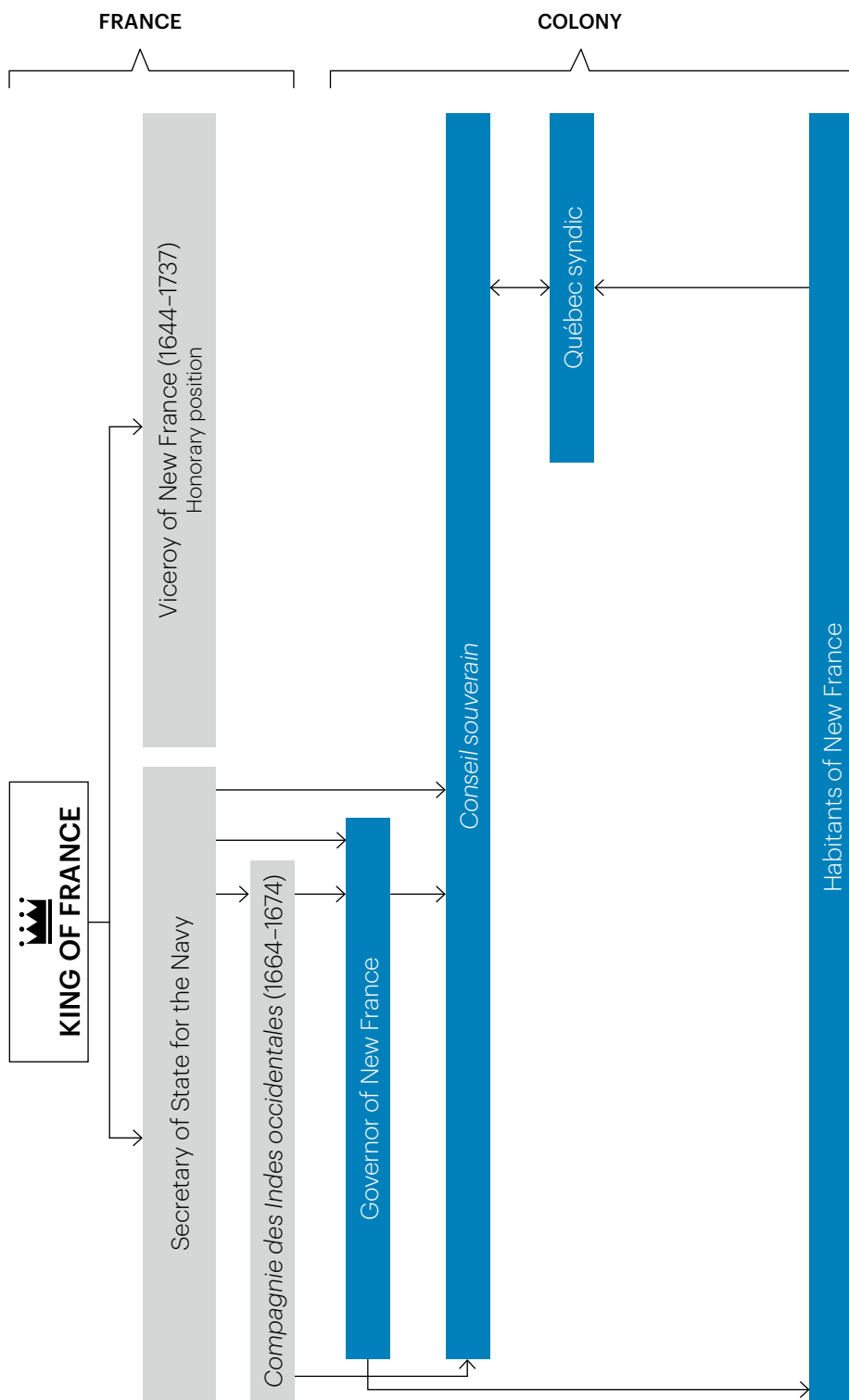
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POLITICAL POWER IN CANADA (1647-1662)



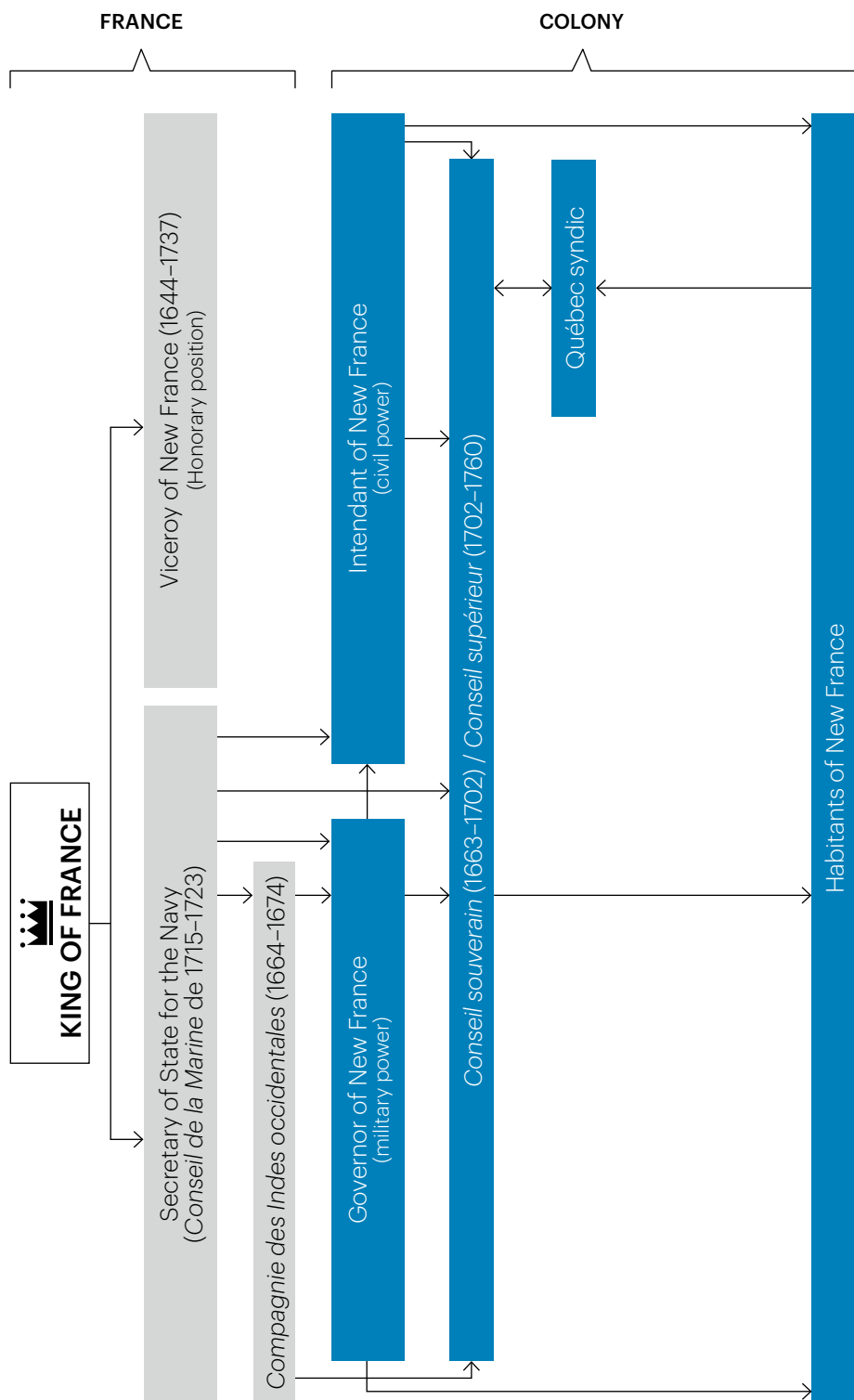
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POLITICAL POWER IN CANADA (1663-1665)



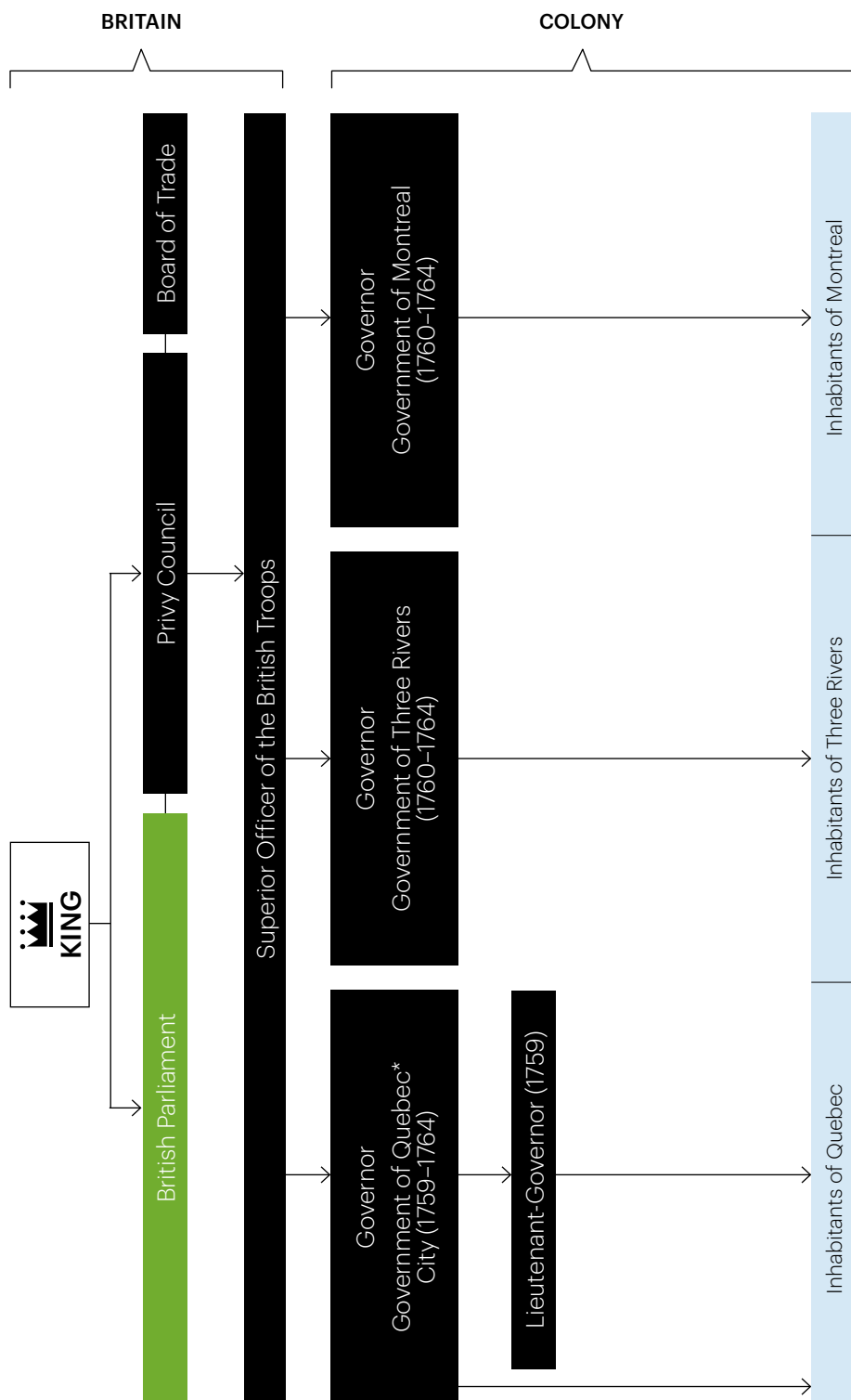
Produced by Christian Blais, historian at the National Assembly of Québec

POLITICAL POWER IN CANADA (1665–1760)



Produced by Christian Blais, historian at the National Assembly of Québec

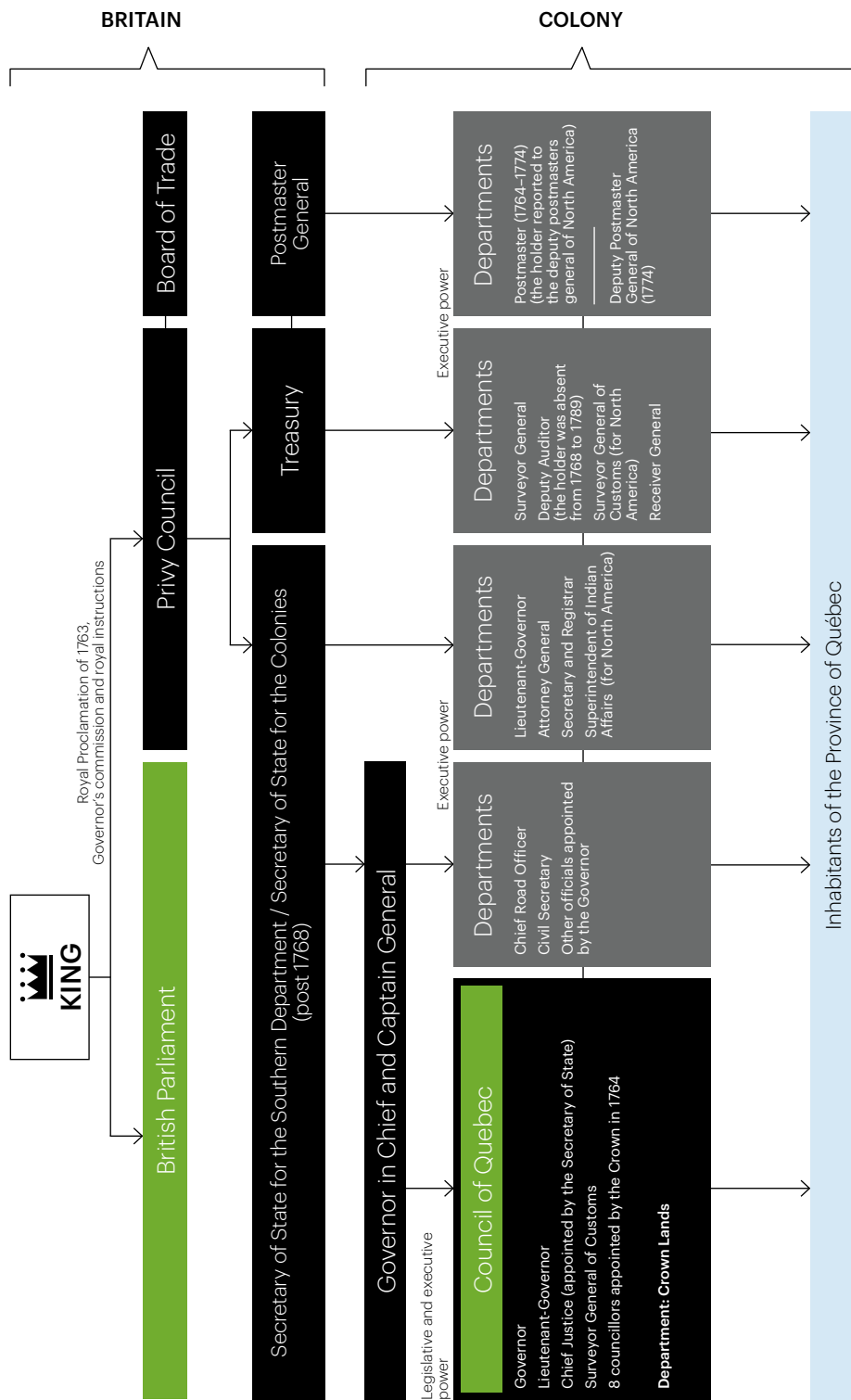
POLITICAL POWER IN CANADA (1759–1764)



Produced by Christian Blais, historian at the National Assembly of Québec

* Translator's note: An effort has been made to respect both the historical spelling of Québec used in the statutes and official designations of the time and the modern spelling of Québec as recommended by the Commission de toponymie du Québec.

POLITICAL POWER IN THE PROVINCE OF QUEBEC* (1764–1775)



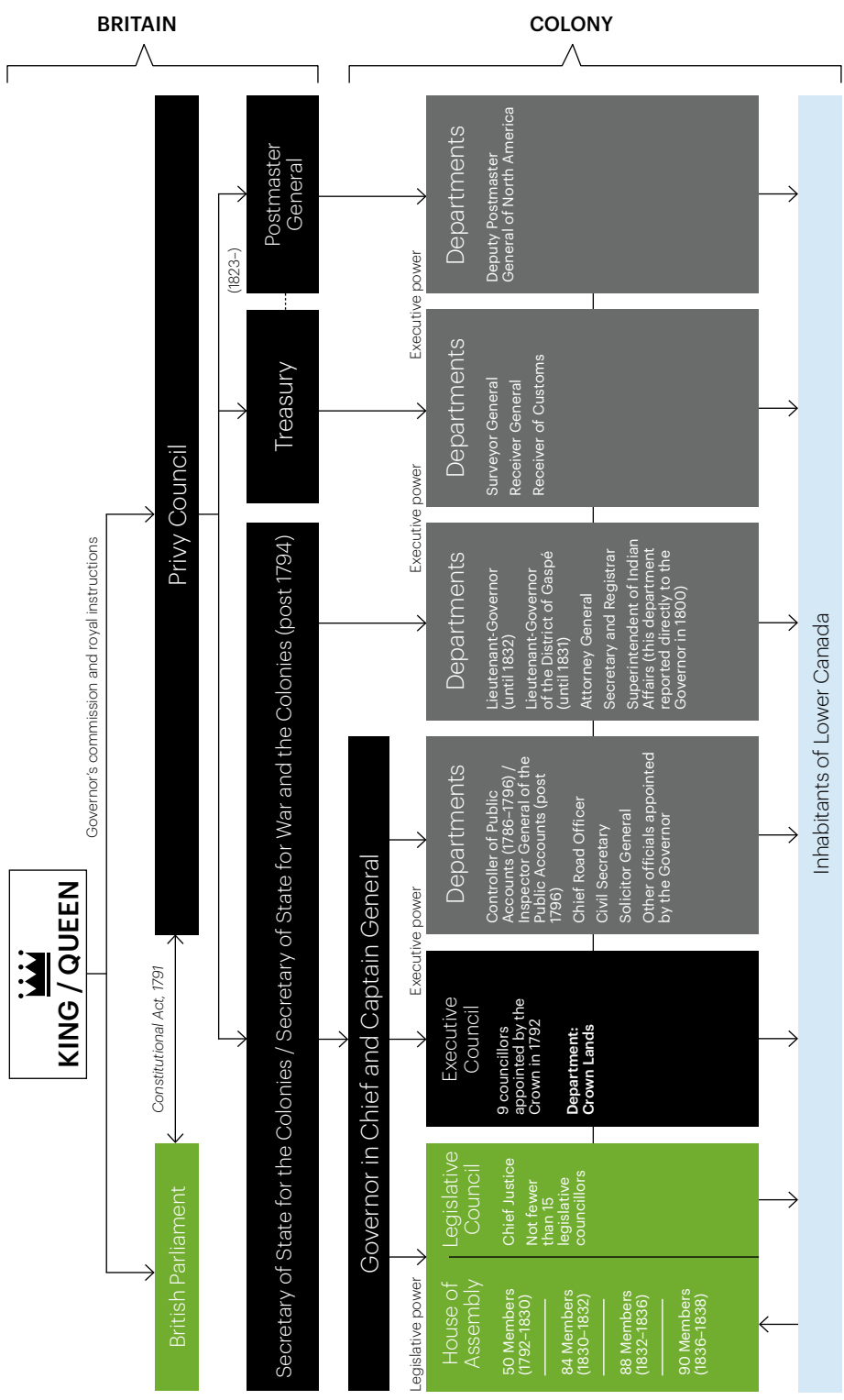
Produced by Christian Blais, historian at the National Assembly of Québec

* Translator's note: An effort has been made to respect both the historical spelling of Québec used in the statutes and official designations of the time and the modern spelling of Québec as recommended by the Commission de toponymie du Québec.

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*Translator's note: An effort has been made to respect both the historical spelling of Quebec used in the statutes and official designations of the time and the modern spelling of Quebec as recommended by the Commission de toponymie du Québec.

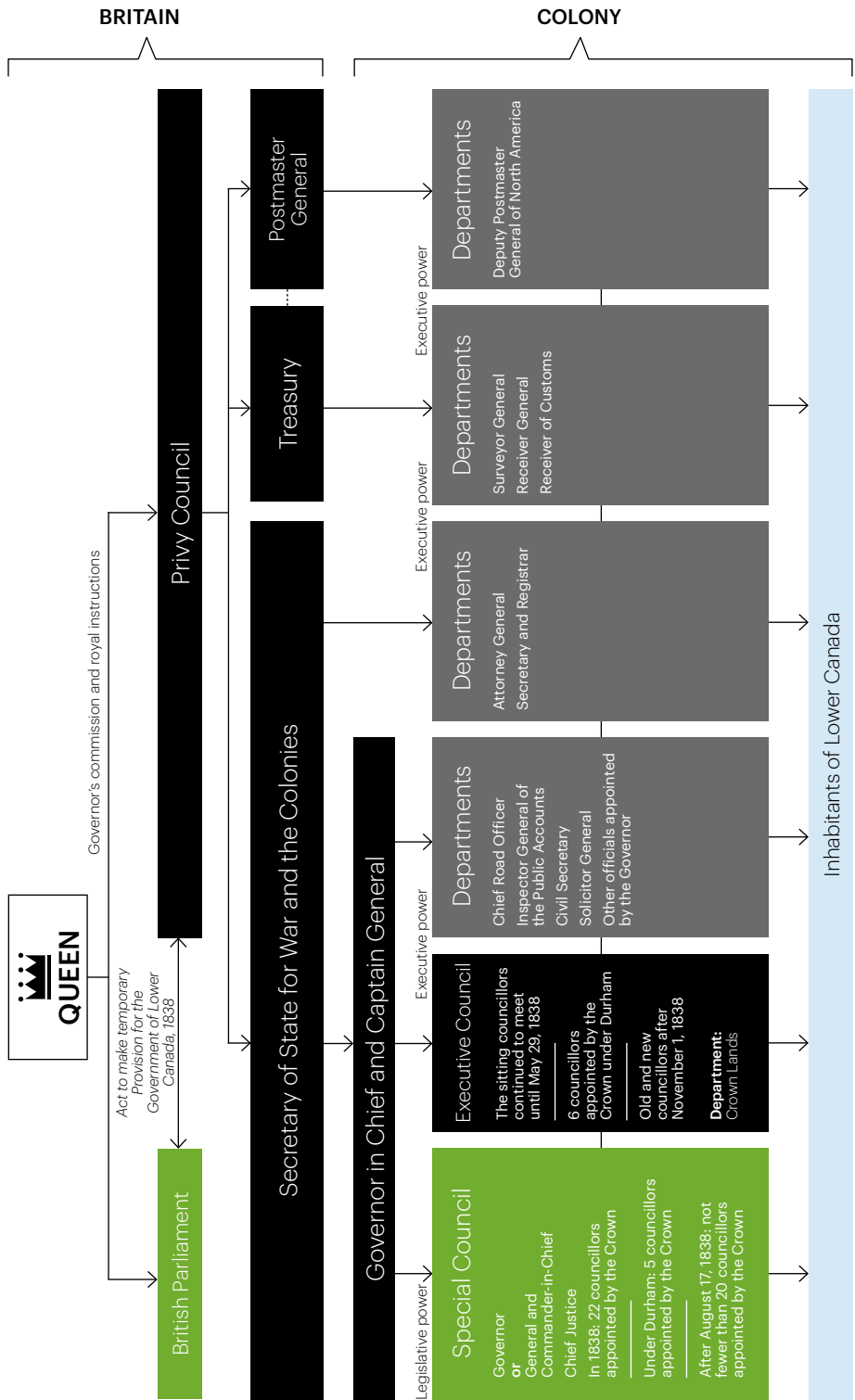
POLITICAL POWER IN LOWER CANADA (1792-1838)²³³



Produced by Christian Blais, historian at the National Assembly of Québec

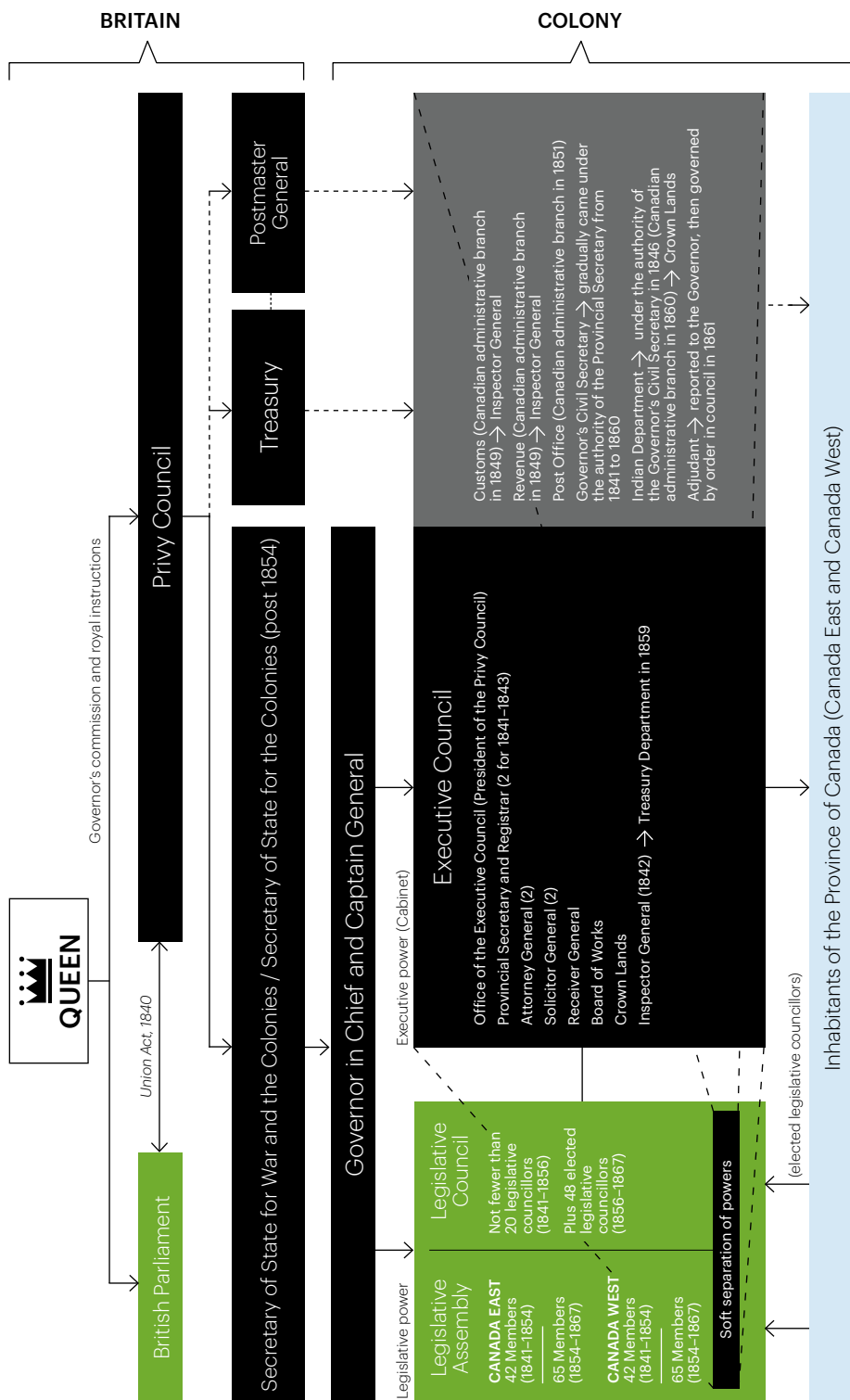
233 See Chapter 1, Appendix II, "Explanatory note for Diagram 9, 'Political Power in Lower Canada (1792-1838)'; and Diagram 11, 'Political Power in The Province Of Canada (1841-1867)'".

POLITICAL POWER IN LOWER CANADA (1838-1841)



Produced by Christian Blais, historian at the National Assembly of Québec

POLITICAL POWER IN THE PROVINCE OF CANADA (1841-1867)²³⁴



Produced by Christian Blais, historian at the National Assembly of Québec

234 See Chapter 1, Appendix II, "Explanatory note for diagram 9, 'Political Power in Lower Canada (1792-1838)', and Diagram 11, 'Political Power in the Province of Canada (1841-1867)'".

BRITAIN

KING / QUEEN

Governor's commission and royal instructions

British Parliament

BNA Act, 1867

Privy Council

Secretary of State for the Colonies

DOMINION

Governor in Chief and Captain General

Federal government

Legislative power

House of Commons

Number of Members:

- 181 (1867-1870)
- 185 (1870-1871)
- 191 (1871-1872)
- 191 (1871-1872)
- 200 (1872-1873)
- 206 (1873-1882)
- 211 (1882-1886)
- 215 (1886-1892)
- 213 (1892-1902)
- 214 (1902-1905)
- 221 (1905-1914)
- 234 (1914-1915)
- 235 (1915-1924)
- 245 (1924-1947)

Senate

Number of Senators:

- 72 (1867-1870)
- 74 (1870-1871)
- 77 (1871-1873)
- 81 (1873-1905)
- 89 (1905-1915)
- 96 (1915-1949)

Cabinet

- Prime Minister
- President of the Privy Council
- Indian Affairs
- Agriculture
- Customs
- Finance
- Interior
- Marine and Fisheries
- Militia and Defence
- Post Office
- Receiver General
- Inland Revenue / National Revenue
- Secretary of State for the Provinces (1867-1873)
- Secretary of State for Canada
- Public Works
- Minister of Justice and Attorney General of Canada (post 1873)
- Railways and Canals (post 1879)
- Trade and Commerce (post 1882)
- Mines (post 1907)
- Solicitor General of Canada (post 1915) etc.

Soft separation of powers

Inhabitants of Canada

Lieutenant-Governor of the Province of Québec

Provincial government

Legislative power

Legislative Assembly

Number of Members:

- 65 (1867-1890)
- 73 (1890-1897)
- 74 (1897-1912)
- 81 (1912-1923)
- 85 (1923-1931)

Legislative Council

24 legislative councillors

Executive Council

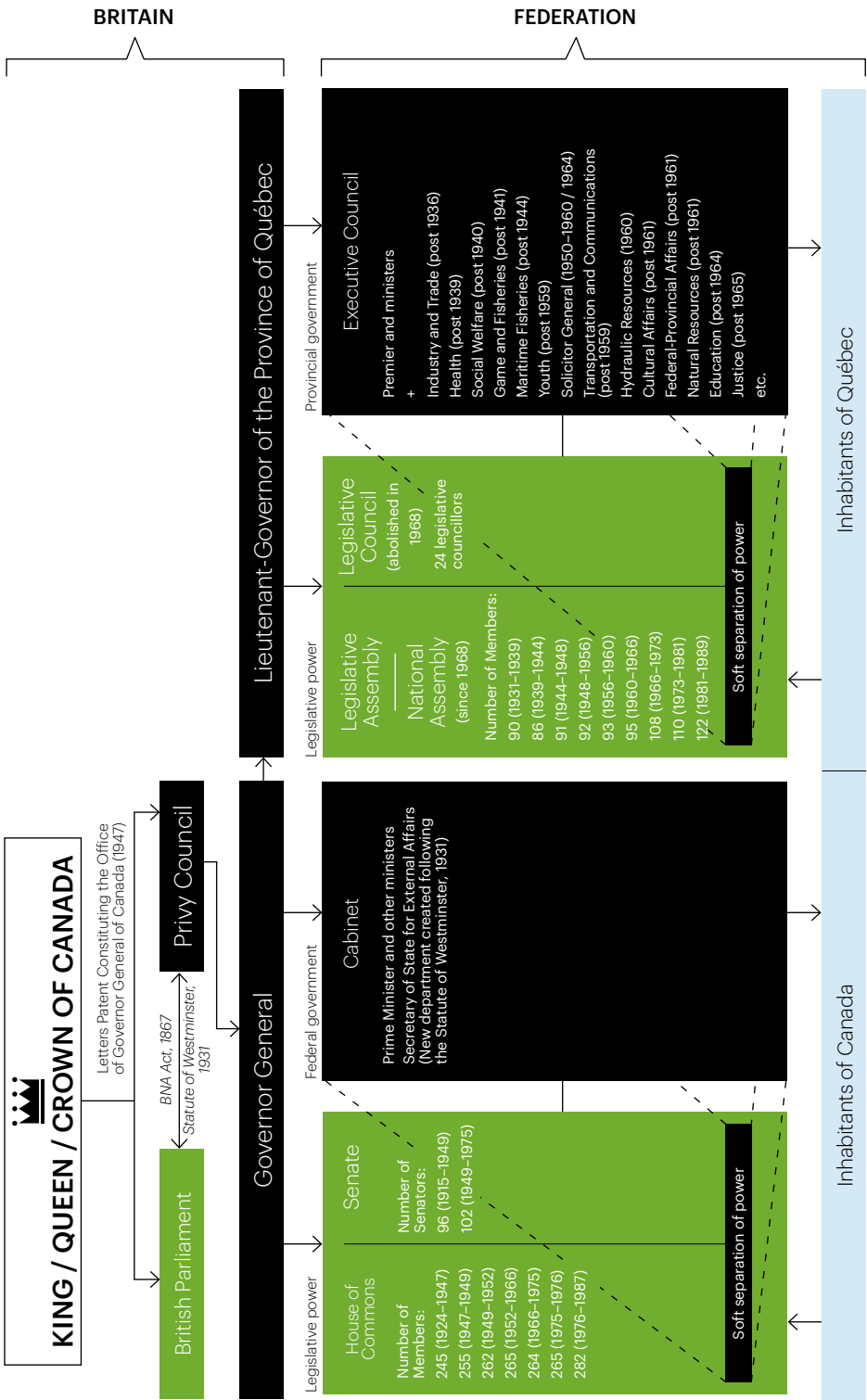
- Premier and President of the Executive Council
- Agriculture and Public Works
- Public Instruction (1867-1876)
- Attorney General
- Solicitor General (1867-1882 / 1887-1888)
- Crown Lands
- Treasury
- Railways (post 1881)
- Colonization and Mines (post 1897)
- Roads (post 1912)
- Municipal Affairs (post 1918)

Soft separation of powers

Inhabitants of Québec

Chapter 1

POLITICAL POWER IN CANADA AND QUÉBEC (1931–1982)



Produced by Christian Blais, historian at the National Assembly of Québec

The diagram illustrates the structure of the Canadian political system, showing the flow of power from the Crown of Canada through the Governor General to the federal government, and from the Lieutenant-Governor of the Province of Québec to the provincial government. It details the composition and membership of the Senate, House of Commons, Cabinet, and National Assembly of Québec, as well as the concept of 'soft separation of power'.

CROWN OF CANADA
 Letters Patent Constituting the Office of Governor General of Canada (1947)
Constitution Act, 1982

Governor General

Legislative power

House of Commons
 Number of Members:
 282 (1976–1987)
 295 (1987–1997)
 301 (1997–2004)
 308 (2004–2015)
 338 (since 2015)

Senate
 Number of Senators:
 104 (1975–1999)
 105 (since 1999)

Soft separation of power

Federal government

Cabinet
 Prime Minister and other ministers

Lieutenant-Governor of the Province of Québec

Legislative power

National Assembly of Québec
 Number of Members:
 122 (1981–1989)
 125 (since 1989)

Soft separation of power

Provincial government

Executive Council
 Premier and ministers

Inhabitants of Canada

Inhabitants of Québec

Chapter 1

APPENDIX II EXPLANATORY NOTE FOR DIAGRAM 9, “POLITICAL POWER IN LOWER CANADA (1792–1838)”, AND DIAGRAM 11, “POLITICAL POWER IN THE PROVINCE OF CANADA (1841–1867)”

The political changes that occurred between the constitutional systems of 1791 and 1840 are clear when we compare the diagram of political power in Lower Canada to that of the Province of Canada.

In Lower Canada, the Executive Council was not responsible for any administrative departments, except for the management of Crown lands. The main departments reported directly to the British Crown (Privy Council) and were run in the colony by high-ranking officials—the Attorney General, Provincial Secretary, Receiver General and Surveyor General—who were appointed “during pleasure”.²³⁵ Other civil administration officials were appointed by the Governor.

In the Province of Canada, from 1841 onwards the executive councillors headed departments as ministers, commissioners or secretaries. This means that the colony’s administration (internal affairs) became a local matter in United Canada. Although in 1841 certain departments, such as Customs, Revenue, the Post Office and the Indian Department, still reported to the British Crown (Secretary of State for War and the Colonies, the Treasury and the Postmaster General), from 1849 to 1861 responsibility for them was gradually transferred to the provincial executive. The British Treasury stepped back from the administration of Canadian affairs as protectionist measures began to be dropped in London, notably with the repeal of the *Navigations Acts* by the Westminster Parliament in 1849.²³⁶ It was not until the *Statute of Westminster* was passed in 1931 that the Dominion of Canada obtained its independence in matters of foreign policy (external affairs).

235 Royal instructions gave the Governor the power to dismiss these ministers, but “good and sufficient cause” was required to exercise it.

236 Jean-François Leblanc, “L’enjeu de la taxation et le débat démocratique dans la province du Canada, 1841-1856”, Master’s thesis (Québec: Université Laval, 2018), chapter 1.

Note that these diagrams of the legislative and executive powers do not show the third branch of the colonial administration: the judicial power. Nor do they set out the various local intermediaries between citizens and the central colonial administration (justices of the peace, parish priests, grand jurors, captains of the militia, assistant road inspectors, etc.). Elected municipal administrations were also added in 1833.

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- *Act for putting a legislative Interpretation upon certain terms used in Acts of Parliament, and for rendering it unnecessary to repeat certain provisions and expressions therein, and for ascertaining the date and commencement thereof, and for other purposes*, 12 Vict., 1849, c. 10.
- *Act for vacating the Seats of Members of the Assembly, in certain cases therein mentioned*, 4 William IV, 1834, c. 32.
- *Act further to secure the independence of Parliament*, 20 Vict., 1857, c. 22.
- *Act relating to the Speaker of the Legislative Council*, 45 Vict., 1882, c. 3.
- *Act respecting the Legislative power*, 49–50 Vict., 1886, c. 97.
- *Act respecting the National Assembly*, CQLR, c. A-23.1.
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■ CHAPTER 2

THE FOUNDATIONS OF PARLIAMENTARY PROCEDURE

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2

THE FOUNDATIONS OF PARLIAMENTARY PROCEDURE

Before undertaking an in-depth examination of parliamentary procedure, it is important to study its sources and underlying principles. An understanding of the foundations of parliamentary procedure can throw new light on the many rules that may appear to be a simple matter of form and that some might be tempted to equate with pointless ritual.

2.1 PRINCIPLES

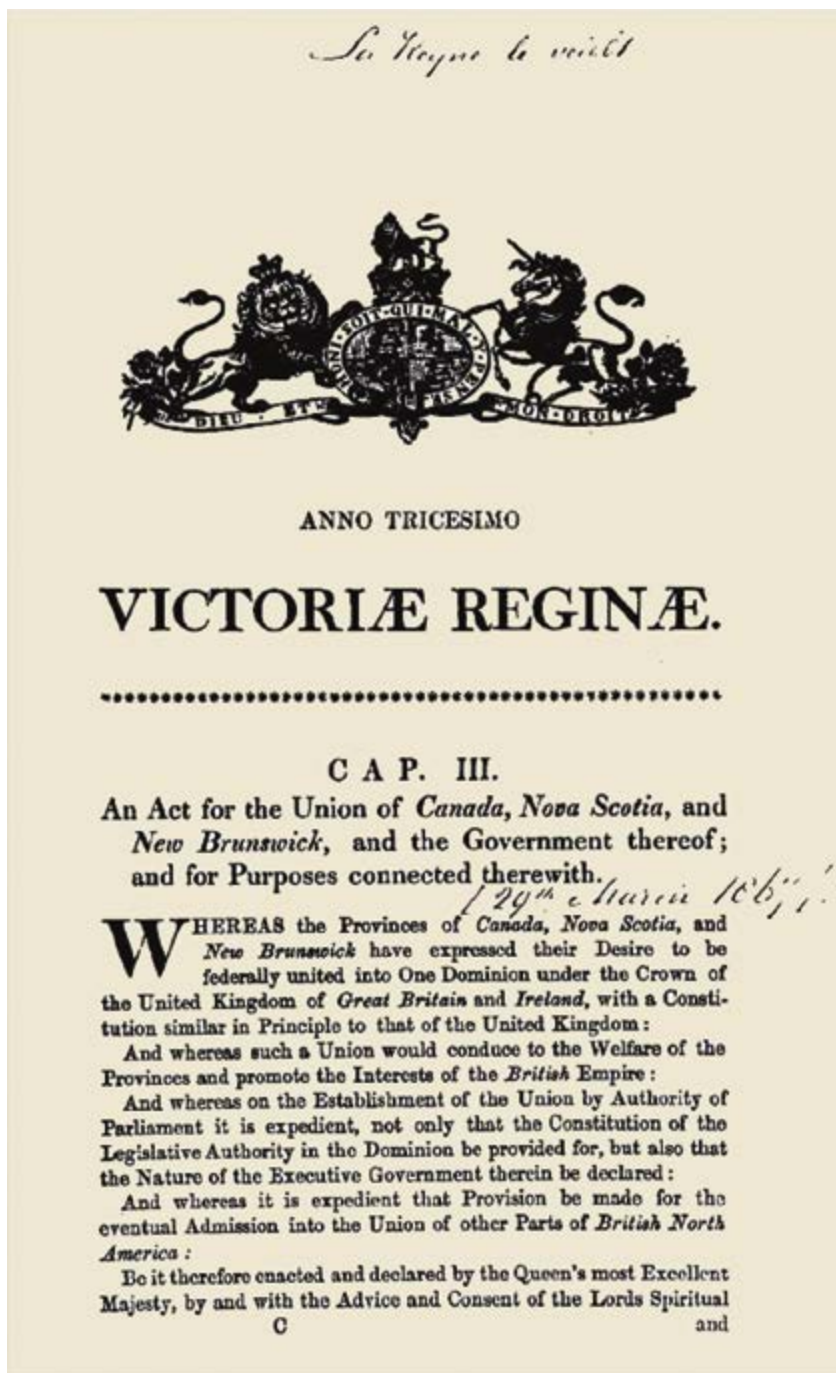
Since the *Constitutional Act, 1791*,¹ Québec has been governed by a deliberative assembly composed of representatives elected by the people. The preamble to the *Constitution Act, 1867*,² explicitly states that the Constitution of Canada is based on the same principles as that of the United Kingdom. As a result, Québec's system of government is deeply rooted in parliamentary tradition that goes back centuries. The institution and its rules of procedure have a long history, as is noted by Brun, Tremblay and Brouillet:

[TRANSLATION] The British system is the oldest of modern parliamentary systems. The fruit of history and traditions, it operates under rules that are in large part unwritten and therefore very malleable, extremely flexible . . . In the last analysis, the British parliamentary system is very simple: the Prime Minister and the other Cabinet members must first be elected to the House of Commons, they remain in office as long as they preserve the confidence of the House, and the House of Commons can be dissolved whenever the Prime Minister wishes.³

1 *Constitutional Act, 1791* (UK), 31 Geo. III, c. 31 (reprinted in RSC 1985, App. II, No. 3).

2 *Constitution Act, 1867* (*British North America Act, 1867*) (UK), 30 & 31 Vict., c. 3 (reprinted in RSC 1985, App. II, No. 5).

3 Henri Brun, Guy Tremblay and Eugénie Brouillet, *Droit constitutionnel*, 6th ed. (Cowansville: Éditions Yvon Blais, 2014), paras. VII.12–VII.16.



Preamble to the BNA Act (*Constitution Act, 1867*), dated March 29, 1867. An Act of the Imperial Parliament for the Union of Canada, Nova Scotia and New Brunswick.

The British parliamentary system is characterized by a “soft” separation of the branches of government, particularly the legislative and executive branches: both Parliament and the governing party participate in the legislative and executive functions, which is why constitutional mechanisms fostering or imposing cooperation between them are necessary.⁴ These include mechanisms for maintaining contact, exercising oversight and imposing constraints.⁵

Parliamentary law consists in the set of rules applicable to legislative assemblies and their Members, as well as to a government in its relations with the legislative assembly, and its purpose is to ensure *organized* cooperation between the two bodies. It is a branch of constitutional law that encompasses the functioning of legislative assemblies and not the organization of the State as a whole.

Although somewhat esoteric, parliamentary law is extremely important because it establishes the democratic balance that should be a fundamental characteristic of parliamentary debates. In Québec’s system, parliamentary law confirms the primordial role played by the Government in the exercise of legislative power, but it also recognizes the role of the Opposition, which must have the opportunity to state its point of view and contribute to debates. Indeed, the creation of parliamentary law is the exclusive jurisdiction of the Assembly and not of the Government. In theory, of course, a majority government in the Assembly can adopt whatever rules of parliamentary procedure it sees fit, but parliamentary law generally derives from a consensus of the Members of the Assembly.

The basic principles of parliamentary law may well explain, in part at least, why Québec’s parliamentary system has endured. These principles, which ensure the efficient and democratic functioning of an assembly, include the following:

... to protect a minority and restrain the improvidence or tyranny of a majority; to secure the transaction of public business in an orderly manner; to enable every member to express his opinions within the limits necessary to preserve decorum and prevent an unnecessary waste of time; to give abundant opportunity for the consideration of every measure, and to prevent any legislative action being taken upon sudden impulse.⁶

4 Ibid., para. VII.11.

5 Ibid., para. VII.37.

6 John George Bourinot and Thomas Barnard Flint, *Parliamentary Procedure and Practice*, 4th ed. (Toronto: Canada Law Book, 1916), pp. 200–201.

The rules of parliamentary procedure as a whole must reflect these principles and create a balance between them. Procedure is therefore at the service of noble ideals that ensure the highly democratic nature of the parliamentary institution. Even though some people may occasionally consider them superfluous, the fact remains that the rules of procedure are extremely important for parliamentarians and for the functioning of the institution.

2.2 SOURCES OF PROCEDURE

The constitutional parliamentary privileges of British-style legislative assemblies, such as Québec's, give an assembly exclusive power to govern its internal affairs without outside interference. It is this power that enables an assembly to adopt rules establishing the procedure under which it will function. While the Standing Orders contain the essential elements of the rules of parliamentary procedure, certain rules are drawn from other sources, including the Constitution, statutes, special orders, precedents, custom and doctrine. Parliamentary law also derives from unwritten rules that are "used, not to codify existing practice, but rather to trim and adjust historic traditions to modern needs".⁷

Parliamentary law may be considered an independent branch of constitutional law since the rules of procedure are interpreted and enforced by the National Assembly itself. The exclusive power of the Assembly to govern its internal affairs without outside interference means that the courts generally cannot intervene in its deliberations, even if it does not respect its own rules of procedure.⁸ The President⁹ of the National Assembly alone has jurisdiction in this area in Québec. Moreover, the President has the exclusive power to interpret the laws that determine parliamentary procedure.¹⁰ Rulings made by the President may not be challenged.¹¹

7 Arthur Beaudesne, Alistair Fraser, William Foster Dawson and John A Holtby, *Beaudesne's Rules and Forms of the House of Commons of Canada, with Annotations, Comments and Precedents*, 6th ed. (Toronto: Carswell, 1989), p. 6.

8 *Canada (House of Commons) v. Vaid*, 2005 SCC 30, at para. 34.

9 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

10 JD, June 2, 1998, p. 11564 (Jean-Pierre Charbonneau)/RDPP, No. 219/2; JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 13/3; JD, November 16, 2017, pp. 17996–18003 (Jacques Chagnon)/RDPP, No. 2/11.

11 SO 41, 2nd para.

Parliamentary law may be special, and the President of the National Assembly may have the exclusive power to interpret it, but the President must always bear in mind its position in the legal hierarchy. In this respect, parliamentary law does not differ greatly from the other branches of law that make up our legal system. Section 52 of the *Constitution Act, 1982*,¹² and Standing Orders 179 and 180 codify the sources of parliamentary procedure in the National Assembly and establish their ranking:

CONSTITUTION ACT, 1982

52. (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect . . .

STANDING ORDERS OF THE NATIONAL ASSEMBLY

179. Sources — The proceedings of the Assembly shall be conducted in accordance with:

- (1) the statutes;
- (2) these Standing Orders and the rules for the conduct of proceedings;
- (3) such other orders as the Assembly may from time to time make.

180. Usages and precedents — In deciding all questions of procedure not so provided for, resort shall be had to the usages and precedents of this Assembly.

2.2.1 THE CONSTITUTION

The Constitution is always the first source of parliamentary law, and the preamble to the *Constitution Act, 1867*, remains without a doubt the most fundamental constitutional provision. As noted earlier, it states that Canada's Constitution is similar in principle to the United Kingdom's and, therefore, that the Canadian parliamentary system is also based on that of the United Kingdom.

12 *Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), c. 11 (reprinted in RSC 1985, App. II, No. 44), s. 52(1).

That said, in 1993, the Supreme Court of Canada ruled that the inherent parliamentary privileges of Canadian legislative assemblies are also constitutional principles:

It has long been accepted that in order to perform their functions, legislative bodies require certain privileges relating to the conduct of their business. It has also long been accepted that these privileges must be held absolutely and constitutionally if they are to be effective; the legislative branch of our government must enjoy a certain autonomy which even the Crown and the courts cannot touch.¹³

Other aspects of parliamentary procedure are also governed by the *Constitution Act, 1867*, namely, the prescriptions concerning the royal recommendation of appropriations,¹⁴ royal assent,¹⁵ the oath of allegiance¹⁶ and the use of French and English in the debates and journals of the Assembly.¹⁷ In addition, the *Constitution Act, 1982*, sets out the maximum term of a legislature,¹⁸ and requires a legislature to sit at least once every 12 months.¹⁹

2.2.2 THE ACT RESPECTING THE NATIONAL ASSEMBLY AND OTHER STATUTES

The *Act respecting the National Assembly*²⁰ is undoubtedly the most important statute for Québec's parliamentary institution. It is pivotal to the operation and organization of the National Assembly and, since it deals with the functioning of an organ of the State of Québec, it is part of Québec's constitution.²¹ As a matter of fact, a number of the elements set out in the Act were initially provided for in the *Constitution Act, 1867*.

13 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)*, [1993] 1 SCR 319 at 379; *Canada (House of Commons) v. Vaid*, at para. 21.

14 *Constitution Act, 1867*, ss. 54 and 90.

15 *Ibid.*, s. 55.

16 *Ibid.*, s. 128.

17 *Ibid.*, s. 133.

18 *Constitution Act, 1982*, s. 4.

19 *Ibid.*, s. 5.

20 *Act respecting the National Assembly*, CQLR, c. A-23.1.

21 The other Acts comprising Québec's constitution include the *Charter of the French language*, CQLR, c. C-11, the *Charter of human rights and freedoms*, CQLR, c. C-12, the *Election Act*, CQLR, c. E-3.3, the *Executive Power Act*, CQLR, c. E-18, and the *Courts of Justice Act*, CQLR, c. T-16 (Henri Brun, *Les institutions démocratiques du Québec et du Canada*, (Montréal: Wilson & Lafleur ltée., 2013), pp. 28–29; Benoît Pelletier, *La modification constitutionnelle au Canada*, (Scarborough: Carswell, 1996), p. 122).

Since, “subject to section 41, the legislature of each province may exclusively make laws amending the constitution of the province”,²² the Québec legislature has the power to amend those constitutional provisions, and has done so through the *Act respecting the National Assembly*. In a matter concerning another province, the principles of which also apply to Québec, the Supreme Court of Canada stressed:

The constitution of Ontario, like that of the other provinces and that of the United Kingdom, but unlike that of many states, is not to be found in a comprehensive, written instrument called a constitution. It is partly contained in a variety of statutory provisions. Some of these provisions have been enacted by the Parliament at Westminster, such as ss. 58 to 70 and ss. 82 to 87 of the *Constitution Act, 1867*. Other provisions relating to the constitution of Ontario have been enacted by ordinary statutes of the Legislature of Ontario . . .²³

The provisions regarding the Assembly’s composition,²⁴ the President²⁵ and quorum²⁶ are some of the elements of Québec’s constitution that have been amended. The *Act respecting the National Assembly* contains provisions on the Assembly’s term and powers, its procedure and the laws it adopts, as well as various other provisions on the rights, privileges and immunities attached to Parliament and its Members. Essentially, the Act codifies the constitutional privileges that the Assembly and its Members already enjoyed as a matter of course.²⁷ In addition, the Act governs the administration of the Assembly and, to that end, establishes the Office of the National Assembly, which supervises and regulates administrative matters.

A number of other statutes set out requirements and rules of procedure to be observed in the Assembly and in parliamentary committees. When a statute establishes a procedural rule, that rule supersedes any other rules that have their source in the Standing Orders, the Rules for the Conduct of Proceedings, orders, precedents or usage of the Assembly. Unless otherwise provided by law,²⁸ a rule of procedure contained in a statute, which is an act of Parliament,

22 *Constitution Act, 1982*, s. 45. Section 45 reprises what was originally provided for in former head 1 of section 92 of the *Constitution Act, 1867*.

23 *Ontario (Attorney General) v. OPSEU*, [1987] 2 SCR 2, at para. 83.

24 *Act respecting the National Assembly*, s. 1.; *Constitution Act, 1867*, s. 80.

25 *Act respecting the National Assembly*, ss. 19–24.; *Constitution Act, 1867*, ss. 44–47 and 87.

26 *Act respecting the National Assembly*, s. 8; *Constitution Act, 1867*, ss. 48 and 87.

27 See Chapter 3, “Parliamentary Privilege”.

28 See, for example, the *Act respecting the Ministère des Relations internationales*, CQLR, c. M-25.1.1, s. 22.3.

cannot be set aside by unanimous consent or by the adoption of a special order of the National Assembly, as the Assembly is merely one component of Parliament.²⁹ The rules of parliamentary procedure found in the statutes deal mainly with the appointment and dismissal of certain public officers by the Assembly,³⁰ the assignment of special mandates to parliamentary committees,³¹ the tabling of certain documents³² and the procedure governing certain debates.³³

2.2.3 STANDING ORDERS AND RULES OF PROCEDURE

As mentioned previously, by virtue of their power to govern their own internal affairs free from outside interference, legislative assemblies can establish rules of procedure, and they also have exclusive power to interpret those rules. In Québec, this power is codified in section 9 of the *Act respecting the National Assembly*, which stipulates that the “rules of procedure of the Assembly are established by the Assembly, and it alone has authority to see that they are observed”.

In application of that power on March 13, 1984, the National Assembly adopted today’s *Standing Orders and other Rules of Procedure*, in replacement of the previous Standing Orders adopted in 1972.³⁴ The Standing Orders form the most comprehensive body of written rules the Assembly has ever adopted to govern its work and that of its committees. They set out the details of the legislative and budget processes, the manner in which sittings are conducted, the procedures governing debates and speaking time, and the mechanics of

29 *Act respecting the National Assembly*, s. 2; *Constitution Act, 1867*, s. 71. See also Chapter 16, “Exceptional Procedures”.

30 See Chapter 12, Subsection 12.3.4, “Required Majority”.

31 See Chapter 18, Subsection 18.1.3.4, “Mandates”.

32 SO 58. See also Chapter 9, Subsection 9.2.1.4.1, “Papers”, and “Documents dont la loi prescrit le dépôt” (“Papers required to be tabled”) in *Encyclopédie du parlementarisme québécois*, Québec, Assemblée nationale du Québec, August 5, 2014, online: <http://www.assnat.qc.ca/fr/patrimoine/lexique/documents-dont-la-loi-prescrit-le-depot.html>.

33 These include debates on a motion proposing that the Assembly approve or reject an international commitment (*Act respecting the Ministère des Relations internationales*, CQLR, c. M-25.1.1, s. 22.3) or that it approve, amend or reject the recommendations of the committee on the remuneration of judges and justices of the peace (*Courts of Justice Act*, CQLR, T-16, s. 246.44) or concerning the determination of a referendum question (*Referendum Act*, CQLR, c. C-64.1, ss. 8–9).

34 The Standing Orders underwent substantial amendment during the 2009 parliamentary reform. For more information on this, see Chapter 1: “The History of Québec’s Political and Parliamentary Institutions”.

parliamentary oversight. The Standing Orders and the Rules for the Conduct of Proceedings are permanent orders of the Assembly, and they remain in force despite the prorogation or dissolution of Parliament.³⁵

Since their adoption, the Assembly's rules of procedure have been amended to adapt to our changing society. The Committee on the National Assembly is responsible for drafting both the Standing Orders and the rules governing proceedings in the National Assembly and its committees. It then submits them to the Assembly for approval.³⁶ In some cases, the Members adopt minor amendments to the rules outside the formal process.³⁷

There are occasions when the Members initiate a process of reflection that can lead to major changes. In parliamentary language, this process is called "parliamentary reform". The Committee on the National Assembly is also responsible for studying parliamentary reform issues. In principle, it does so through a standing sub-committee.³⁸



35 Geoffrion 1941, SO 10, note 1 states: [TRANSLATION] "The effect of a resolution of the House ends with the closing of a session, unless the purpose of the resolution is to establish, repeal or amend the Standing Orders." This note reprises a practice common to British-tradition parliaments. On this, see, for example, Thomas Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 25th ed., Mark Hutton, David Natzler, Matthew Hamlyn, Colin Lee, Chloe Mawson, Crispin Poyser, Eve Samson and Kate Lawrence, eds., (London: LexisNexis Butterworths, 2019), at para. 8.6; Marc Bosc and André Gagnon, eds., *House of Commons Procedure and Practice*, 3rd ed. (Montréal: Éditions Yvon Blais, 2017), pp. 261-262; David R. Elder and p. E Fowler, eds., *House of Representatives Practice*, 7th ed. (Canberra: Department of the House of Representatives, 2018), pp. 227 and 334; Mary Harris, David Wilson, David Bagnall and Pavan Sharma, eds., *Parliamentary Practice in New Zealand*, 4th ed. (Auckland: Oratia Books, 2017), p. 12; Russell Grove, Mark Swinson and Stephanie Hesford, *New South Wales Legislative Assembly Practice, Procedure and Privilege* (Sydney: Parliament of New South Wales, 2007), pp. 2-3.

36 SO 116(1).

37 For example, the Assembly has in the past adopted amendments to the Standing Order concerning Oral Question Period and Hours of Meeting (VP, October 7, 2015, pp. 1489-1493).

38 SO 117.

Chapter 2

To maintain democratic balance during parliamentary debates, tradition dictates that amendments to the *Standing Orders and other Rules of Procedure* be adopted unanimously by the Members of the Assembly, although there have been exceptions.³⁹

PERMANENT AND TEMPORARY AMENDMENTS

The Assembly has the power to amend the Standing Orders from time to time. The amendments are permanent unless the Assembly states that they are to last a specific length of time.

Originally adopted on a temporary basis, the Standing Orders were renewed on June 20, 1984, but it was not until April 4, 1985, that the Assembly decided to make them permanent, which they became as of April 16, 1985. Subsequently, permanent amendments have been adopted on nine occasions.⁴⁰

Temporary amendments have been more frequent than permanent amendments, and they have concerned many different matters. For example, on December 6, 2001, the Assembly adopted temporary rules concerning petitions, exceptional procedures, extraordinary sittings and

39 The initial version of the current Standing Orders was adopted unanimously, both when it was adopted temporarily and when the Assembly adopted it permanently. This is also true of each of the permanent changes that have been made over time. All temporary amendments have also been adopted unanimously, except for one during the December 6, 2001, sitting. On that day, Mario Dumont, independent Member for Rivière-du-Loup, abstained from the vote on the adoption of temporary amendments to the Standing Orders concerning petitions, exceptional procedures, extraordinary sittings and the time frame for the passage of bills. Moreover, there was only one occasion when the 1972 Standing Orders (the “Lavoie Code”) were amended without the agreement of the Official Opposition. On July 31, 1974, when the Assembly was made up of 110 Members, 102 of whom belonged to the governing Quebec Liberal Party, the six Parti québécois Members forming the Official Opposition and the two independent Members voted against an amendment to Standing Order 144 concerning the recording of the debates of the Committee on Financial Commitments. The other occasions when amendments were not adopted unanimously were on March 21, 1974, when Fabien Roy (Beauce-Sud) and Camil Samson (Rouyn-Noranda) abstained on a sessional amendment to the Standing Orders regarding the right to speak of Members who do not belong to a recognized party; on March 25, 1976, when Fabien Roy (Beauce-Sud) and Jérôme Choquette (Outremont) voted against a motion for permanent amendments to the Standing Orders, the Member for Beauce-Sud justifying his decision by the fact that the representatives of political parties that were not recognized did not have the same speaking rights as representatives of other parties; on April 2, 1976, when the Member for Beauce-Sud again opposed a motion for a sessional amendment granting the leader of a recognized party in the preceding legislature the same amount of speaking time as was given the leaders of recognized parties other than the Premier and the Leader of the Official Opposition; and on June 21, 1977, when seven Members abstained from voting on a motion to extend Question Period from 30 to 45 minutes.

40 Permanent amendments were made on March 11, 1986; June 20 and November 21, 1991; December 1, 1994; October 21, 1998; April 15, 1999 (amendments deemed in force since March 2, 1999); April 21, 2009; October 4, 2011; and October 7, 2015.

the time frame for the passage of bills.⁴¹ In addition, in accordance with motions adopted on March 2, 1999, and June 5, 2002, temporary orders concerning the election of the President of the National Assembly by secret ballot were adopted on a trial basis.

Sometimes, temporary orders have been implemented for the duration of a legislature. For example, on May 24, 2007, the Assembly adopted temporary amendments to the Standing Orders and Rules of Procedure regarding committee membership and the quorum of the Assembly to be in force for the duration of the 38th Legislature.

On April 21, 2009, the Assembly adopted an order recognizing the Action démocratique du Québec as a parliamentary group for the duration of the 39th Legislature under the conditions set out in a document tabled the same day to stand in lieu of any incompatible provisions of the Standing Orders.⁴² In addition, on November 7, 2012, temporary amendments regarding the composition of standing committees and the want of quorum procedure were adopted for the duration of the 40th Legislature.

Temporary amendments were also adopted at the beginning of the 41st Legislature to give effect to the parliamentary component of the agreement on the conduct of the proceedings of the National Assembly and parliamentary committees, on parliamentary offices and on budgets for the duration of the 41st Legislature.⁴³ Lastly, at the beginning of the 42nd Legislature, the parties represented at the Assembly following the 2018 election unanimously adopted the agreement on the notion of parliamentary group, on the conduct of the proceedings of the National Assembly and parliamentary committees, and on budgets for the duration of the 42nd Legislature.⁴⁴ Subsequently, the Assembly adopted temporary amendments to the Standing Orders to give effect to the agreement, in particular, to provisions recognizing parliamentary group status for the Parti québécois and Québec solidaire.

2.2.4 SPECIAL ORDERS OF THE ASSEMBLY

For any number of reasons and as a temporary solution to a specific situation, the Assembly may adopt a motion establishing a procedure that differs from the one provided for in the Standing Orders. Once the motion has been carried, it becomes an order of the Assembly, in keeping with Standing Order 186. Such

41 The rules, which were to be in force “until 23 June 2002, notwithstanding the prorogation of the session”, were renewed on June 5, 2002, and once more on September 19, 2002, to remain in force “until 23 June 2003, notwithstanding the prorogation of the session”.

42 “Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature”, Sessional Paper No. 246-20090421, April 21, 2009, (VP, April 21, 2009, p. 214).

43 VP, June 2, 2014, p. 64 ff.

44 VP, November 29, 2018, p. 23 ff.

a special order has precedence over any other provision of the Standing Orders and departs implicitly from those provisions.⁴⁵ The order is generally valid for the time required to examine the matter for which it was adopted or for a determined period.⁴⁶

2.2.5 PRECEDENTS

Parliamentary precedents are another major source of procedure. In exercising the functions of office, the presiding officers of the Assembly and those of the parliamentary committees (the President and Vice-Presidents and the committee Chairs) must interpret the Standing Orders. As a result of the presiding officers' application of those provisions in a variety of situations, ambiguities and difficulties of interpretation may come to light. The points of order raised by Members force presiding officers to clarify the procedure to be followed. Moreover, the Standing Orders confer on the presiding officers the power to, upon becoming aware of any violation of the Standing Orders, immediately point it out.⁴⁷ The presiding officers also have decision-making authority concerning certain procedural aspects, and, over the years, have drawn up criteria to guide the exercise of this power.



Standing Order 41 calls for presiding officers to rule on points of order at the time they deem appropriate.⁴⁸ Reasons for the decision must be given. Depending on the circumstances, the President, for example, may make a ruling on the spot or take the point of order under advisement in order to study all aspects of the question and examine the precedents and doctrine. Such rulings “constitute precedents by which subsequent Speakers, Members, and officers are guided. Such precedents are collected and in course of time may be formulated as principles or rules of practice”.⁴⁹

45 Geoffrion 1941, SO 218; JD, March 3, 1999, pp. 22–23 (Jean-Pierre Charbonneau)/RDPP, No. 18/1; JD, May 15, 1996, pp. 1104–1105 (Jean-Pierre Charbonneau)/RDPP, No. 308/6. An agreement between the House leaders of parliamentary groups, however, is not an order and does not bind the Assembly (JD, June 30, 1972, pp. 1772–1773 (Jean-Noël Lavoie)/RDPP, no. 179(3)/1).

46 See Chapter 16, Section 16.2, “Special Order of the Assembly”.

47 SO 38.

48 JD, May 30, 1990, pp. 2719–2725 (Jean-Pierre Saintonge)/RDPP, No. 41/1; JD, May 30, 1989, p. 6116 (Jean-Pierre Saintonge)/RDPP, No. 233/1.

49 Beauchesne et al., *Beauchesne’s Rules and forms of the House of Commons of Canada*, p. 6.

However, the presiding officer always has the leeway and power to evaluate a situation and adapt precedents and tradition to new circumstances. In fact, “rarely are two points of order precisely the same. While previous rulings may be useful guidelines, they may well lack the precision and certainty which might be desired”.⁵⁰

Lastly, as mentioned previously, the presiding officer has exclusive power to interpret the rules of parliamentary law. That is why there is no appeal from or discussion of such rulings.⁵¹



2.2.6 USAGE, TRADITION AND PRACTICE

Usage, tradition and practice constitute another source of procedure. Québec’s parliamentary system has been forged over a period of more than two centuries. Its unwritten rules often explain the reasons for a particular procedure, and where the Standing Orders are silent, it is sometimes useful to refer to usage, tradition and practice.

This is partly why Members have felt morally bound to arrive at a degree of consensus in the Assembly before making legislative changes in a particular field. To draw an analogy with constitutional convention, the President has found that there is a “parliamentary convention” applying to the manner in which the *Election Act* is amended because of the strong sense of political necessity expressed by all political parties at the Assembly to achieve the broadest consensus possible in matters of electoral representation.⁵²

50 Ibid., p. 7.

51 SO 41, 2nd para. For further information on the office of the presiding officer, see Chapter 4, “The Office of President”.

52 JD, May 26, 2011, pp. 2137-2140 (Jacques Chagnon)/RDPP, No. 233/8. Regarding the definition of what a consensus is, President Chagnon said in the decision: “no precise or mathematical formula allows us to establish a set number of Members in advance and in future to meet this requirement. Several elements may influence the answer according to the context, starting with the composition of the Assembly”. Regarding the notion of “constitutional convention”; Brun, Tremblay and Brouillet define a constitutional convention as a rule established empirically, by agreement between people in power or politicians, which is not sanctioned by tribunals, but is applied and followed by the parties because of a sense of political necessity; they also write that the determining element of a constitutional convention is the agreement by which the actors feel bound (Brun et al., *Droit constitutionnel*, 6th ed., p. 43).

A practice developed by parliamentarians may be codified subsequently as a rule of parliamentary procedure.⁵³ Similarly, when the Standing Orders contain no provisions or are vague on a given point, it is possible to refer to the Assembly's former Standing Orders.⁵⁴ Prudence is called for here, however. The fact that a provision found in previous Standing Orders has been dropped does not mean that the subject is not covered in some other way or that the current Standing Orders are unclear.

While it is possible to turn now and then to previous Standing Orders to complement the rules of procedure currently in force, this should be done only as a last resort, when the present Standing Orders do not provide an answer to the question raised.⁵⁵ It is possible that the Assembly intended to drop the old rule.⁵⁶ The President of the Assembly may refer to the rules contained in former Standing Orders to interpret current Standing Orders when the latter fail to expand on a subject, but not when it is clear that the Assembly intentionally did away with certain provisions.⁵⁷ In fact, the President has determined that provisional rules do not constitute usage or precedents that could limit the scope of the procedure set out in the Standing Orders. That is why any recourse to a provision of former Standing Orders requires careful prior scrutiny with an eye to the circumstances.

The situation would doubtless be much simpler if the National Assembly had repealed its previous Standing Orders, as many other assemblies have done. The former Standing Orders are part of the history of the Assembly's rules of procedure; as such, they may—and must—be consulted by anyone endeavouring to throw light on current Standing Orders. For example, regarding a question regarding the rules governing clause-by-clause consideration, the President has in the past answered on the basis of principles established in former Standing Orders.⁵⁸

53 An example of this is the right to abstain from a vote (JD, November 20, 1990, p. 5172–5176 (Jean-Pierre Saintonge)/RDPP, No. 226/2).

54 On this, see in particular: JD, July 4, 1973, pp. 2148–2149 (Jean-Noël Lavoie)/RDPP, No. 2/1; JD, December 3, 1990, p. 5537 (Jean-Pierre Saintonge)/RDPP, No. 179 (1)/1; JD, April 12, 1976, pp. 594–595 (Jean-Noël Lavoie)/RDPP, No. 180/1; JD, March 28, 1984, pp. 5555–5557 (Richard Guay)/RDPP, No. 193/2; JD, June 4, 1999, p. 2258 (Michel Bissonnet)/RDPP, No. 244/6; JD, May 15, 2008, CFP-41 pp. 3–4 (Alain Paquet)/RDPP (Com. Vol.), No. 244/40.

55 JD, March 23, 1999, pp. 723–725 (Jean-Pierre Charbonneau)/RDPP, No. 308/7.

56 JD, March 23, 1994, pp. 110–111 (Jean-Pierre Saintonge)/RDPP, No. 48/1.

57 JD, December 15, 2003, pp. 2667–2669 (Michel Bissonnet)/RDPP, No. 180/2.

58 JD, June 4, 1999, p. 2258 (Michel Bissonnet)/RDPP, No. 244/6.

It is also possible to refer to the usage, tradition and practice of other legislative assemblies that function in the same way as the National Assembly. Prudence is once again imperative when importing rules of procedure or usage, but they may serve to inform reflection. For example, at the beginning of the 38th Legislature, when there was a minority government and two opposition groups, the President took into account certain considerations specific to Québec parliamentary law, but also drew inspiration from the practice of some Canadian legislative assemblies in which the Opposition was made up of more than one parliamentary group. This allowed him to allocate oral questions according to a criterion of proportionality based on the number of seats held by each opposition group.⁵⁹ On another occasion, the President referenced many documents from British-tradition parliaments around the world to determine the concrete application of the principle of the separation of powers between the legislative, executive and judicial branches of the State.⁶⁰ The President has also compared the rules governing the dress code to be complied with by Members during parliamentary proceedings with the rules followed in other parliaments,⁶¹ and has considered precedents from other legislative assemblies when ruling on matters of contempt of Parliament.⁶²

2.2.7 AUTHORITIES

Recognized works on parliamentary law and procedure can also be helpful. A handful of specialists who have compiled and commented on the origins and mechanics of parliamentary procedure, its traditions and its precedents are recognized as authorities in the specialized field of parliamentary procedure. Since Québec has the same parliamentary system as other jurisdictions with British-style assemblies, the President may examine the workings of those assemblies. It is nevertheless important to evaluate case by case the pertinence of any outside doctrine in interpreting a rule specific to the National Assembly of Québec.

59 JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/RDPP, No. 74/19.

60 JD, November 16, 2017, pp. 17996–18003 (Jacques Chagnon)/RDPP, No. 2/11.

61 JD, February 5, 2019, pp. 417–421 (François Paradis)/RDPP, No. 32/11

62 JD, March 25, 2015, pp. 4191–4192 (Jacques Chagnon)/RDPP, No. 67/68; JD, September 27, 2016, pp. 11956–11958 (François Gendron)/RDPP, No. 67/71; JD, December 8, 2016, pp. 13252–13258 (Jacques Chagnon)/RDPP, No. 67/72; JD, December 8, 2017, pp. 18461–18462 (Jacques Chagnon)/RDPP, No. 67/74; JD, June 12, 2018, pp. 22128–22130 (Jacques Chagnon)/RDPP, No. 67/77; JD, December 7, 2018, pp. 373–374 (François Paradis)/RDPP, No. 67/78.

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■ **CHAPTER 3**
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3

PARLIAMENTARY PRIVILEGE

Formulated at the dawn of the first constitutional and parliamentary systems, the principle of the separation of powers is still the cornerstone of modern democratic States.¹ It separates the legislative, executive and judicial branches of the State, and acts as a bulwark against arbitrariness and as protection against the abuse of power. As Montesquieu stated in his 1748 treatise, *The Spirit of Laws*:

There would be an end of every thing, were the same man, or the same body whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and that of judging the crimes or differences of individuals.²

This passage unequivocally shows how important this principle is to the proper functioning of our democratic institutions. To this day, the principle of the separation of powers remains the anchor of our democracy and our constitutional organization:

The separation of powers is “an essential feature of our constitution” (*Wells v. Newfoundland*, [1999] 3 S.C.R. 199, at para. 52; see also *Ontario v. Criminal Lawyers’ Association of Ontario*, 2013 SCC 43, [2013] 3 S.C.R. 3, at para. 27). It recognizes that each branch of government “will be unable to fulfill its role if it is unduly interfered with by the others” (*Criminal Lawyers’ Association*, at para. 29). It dictates that “the courts and Parliament strive to respect each other’s role in the conduct of public affairs”; as such, there is no doubt that

1 The concept of the separation of powers was developed by John Locke and the Baron de Montesquieu, among others. Locke published his *Two Treatises of Government* in the 17th century, and Montesquieu published *The Spirit of Laws* in the 18th century. See John Locke, *Two Treatises of Government* (London: Awnsham Churchill, 1690); Charles Louis de Secondat, Baron de Montesquieu, *The Spirit of Laws*, 3rd ed., trans. Thomas Nugent (London: J. Nourse and P. Vaillant, 1758).

2 Montesquieu, *The Spirit of Laws*, Book XI, Chapter VI, p. 216.

Parliament's legislative activities should "proceed unimpeded by any external body or institution, including the courts" (*Canada (House of Commons) v. Vaid*, 2005 SCC 30, [2005] 1 S.C.R. 667, at para. 20).³

This principle ensures that each of the institutions of the State can be effective in its exercise of the jurisdiction conferred upon it by the constitutional order. These institutions are vested with powers, rights and immunities designed to ensure their independence and autonomy and to protect them from interference by other bodies in their sphere of competence.

For instance, the courts rely on the constitutional principle of judicial independence to ensure that they can play their role. Judicial independence is justified by the nature of the courts' functions: "The role of our courts as resolver of disputes, interpreter of the law and defender of the Constitution requires that they be completely separate in authority and function from all other participants in the justice system."⁴ Similarly, the executive branch enjoys rights and immunities, based on the royal prerogative, which confer legal benefits, limit judicial review of certain government actions and protect the confidentiality of Cabinet discussions.⁵

As for legislative assemblies, their independence, autonomy and, more broadly, proper functioning are protected by parliamentary privilege. This constitutionally recognized entitlement is aimed at providing legislative assemblies with an area of absolute, exclusive jurisdiction protected from external interference in the conduct of their work and in their management. Moreover, as the Supreme Court has noted, "parliamentary privilege also plays an important role in our democratic tradition because it ensures that elected representatives have the freedom to vigorously debate laws and to hold the executive to account".⁶ This chapter will focus on this fundamental principle of parliamentary democracy, first to better define and understand it and then to provide some illustrations of it in the context of parliamentary proceedings. After a brief description of the nature and legal status of the various parliamentary privileges, we will review them and discuss in greater detail the procedure for raising a question of

3 *Mikisew Cree First Nation v. Canada (Governor General in Council)*, 2018 SCC 40, at para. 35.

4 *The Queen v. Beauregard*, [1986] 2 SCR 56, at para. 30. (The Court's emphasis.)

5 *Canada (Prime Minister) v. Khadr*, 2010 SCC 3, at para. 34–36; *Babcock v. Canada (Attorney General)*, 2002 SCC 57, at para. 18; Henri Brun, Guy Tremblay and Eugénie Brouillet, *Droit constitutionnel*, 6th ed. (Cowansville: Éditions Yvon Blais, 2014), pp. 743–750; Pierre Issalys and Denis Lemieux, *L'action gouvernementale : précis de droit des institutions administratives*, 4th ed. (Cowansville: Éditions Yvon Blais, 2020), pp. 1512–1544.

6 *Chagnon v. Syndicat de la fonction publique et parapublique du Québec*, 2018 SCC 39, at para.1.

privilege or contempt of Parliament. Lastly, we will examine specific cases where the conduct of Members of the Assembly or third parties is in question as well as other procedures concerning parliamentarians' conduct.

3.1 THE CONCEPT OF PARLIAMENTARY PRIVILEGE

Parliamentary privileges are restricted rights and benefits granted individually or collectively to members of a legislative assembly acting in that capacity. They are called "privileges" because they shield legislative assemblies from the application of general law in areas that are recognized as being within their exclusive jurisdiction. In this regard, the Supreme Court has stated that "parliamentary privilege does not create a gap in the general public law of Canada but is an important part of it, inherited from the Parliament at Westminster by virtue of the preamble to the *Constitution Act, 1867*".⁷ The privileges enjoyed by legislative assemblies ensure, among other things, that parliamentarians can speak freely and without fear of prosecution, but, more broadly, that they enjoy all the independence necessary to carry out their functions.

Legal doctrine and case law universally recognize the definition of parliamentary privilege proposed by Erskine May in his treatise on parliamentary law published by the United Kingdom House of Commons:⁸

Parliamentary privilege is the sum of certain rights enjoyed by each House collectively as a constituent part of the High Court of Parliament and by Members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Some privileges rest solely on the law and custom of Parliament, while others have been defined by statute.

Certain rights and immunities such as freedom from arrest or freedom of speech are exercised primarily by individual Members of each House. They exist in order to allow Members of each House to contribute effectively to the discharge of the functions of their House. Other rights and immunities, such as the power to punish for contempt and the power to regulate its own constitution, belong primarily to each House as a collective body, for the protection of its Members and the vindication of its own authority and dignity. Fundamentally,

7 *Canada (House of Commons) v. Vaid*, 2005 SCC 30, at para. 29(3).

8 Erskine May, whose name is attached to the doctrinal work *A Treatise on the Law, Privileges, Proceedings and Usage of Parliament* (republished periodically since its first version in 1844), was its first author and a Clerk of the United Kingdom House of Commons.

however, it is only as a means to the effective discharge of the collective functions of the House that the individual privileges are enjoyed by Members.⁹

Parliamentary privileges are the product of the historical evolution of the State and of a struggle for independence between the State's various components.¹⁰ The origins of parliamentary privileges go back to the first instances of the English Parliament, when there was considerable rivalry between the Crown and Parliament. The English Houses of Parliament had great difficulty getting the Crown to recognize and respect their privileges. On many occasions, the King violated the privileges that the Members of the Houses claimed were essential to their independence.¹¹

The first written legal foundation for parliamentary privilege in English law was laid in 1689. The recognition of freedom of speech in article 9 of the *Bill of Rights*¹² confirmed the independence of Parliament from the other branches of the State. It ensured that parliamentarians could not be arrested for what they said in parliamentary debate.

Today, the relationship between the executive and legislative branches has evolved, but parliaments must continue to enjoy certain rights and immunities to protect their freedom and independence¹³ and to ensure that they can carry out their role effectively. Thus, parliamentary privileges are still considered necessary for the discharge of the legislative and deliberative functions of a legislative assembly and for it to perform its task of holding the government to account for the way the country's business is conducted.¹⁴

9 Thomas Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 25th ed., Mark Hutton, David Natzler, Matthew Hamlyn, Colin Lee, Chloe Mawson, Crispin Poyser, Eve Samson and Kate Lawrence, eds. (London: LexisNexis Butterworths, 2019), at para 12.1. See also *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)*, [1993] 1 SCR 319 at 379; *Canada (House of Commons) v. Vaid*, at para. 29(2); Marc Bosc and André Gagnon, eds., *House of Commons Procedure and Practice*, 3rd ed. (Montréal: Éditions Yvon Blais, 2017), p. 58.

10 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 344.

11 One of the most prominent incidents that led to the recognition of freedom of speech occurred in 1629, when Charles I had Members of the House of Commons convicted of having made seditious statements during parliamentary proceedings. See *Erskine May's Treatise on the Law*, at paras. 12.3 and 12.4 ff. and *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 344-345.

12 *Bill of Rights* 1689 (UK), 1 William & Mary, sess. 2, c. 2.

13 Joint Committee on Parliamentary Privilege, *Parliamentary Privilege: Report of Session 2013-2014* (London: United Kingdom Parliament, June 18, 2013), p. 3.

14 *Canada (House of Commons) v. Vaid*, at para. 41.

The privileges of the National Assembly and its Members are based on those traditionally enjoyed by British-style parliamentary assemblies. However, the state of the law on parliamentary privilege is in fact derived from each State's constitutional practices, statutes and parliamentary practices, and from the legislative assemblies themselves, as we shall see later in this chapter. In addition, over the years, the courts have identified some principles to guide the recognition of privileges claimed by legislative assemblies.

3.2 THE LEGAL STATUS OF PARLIAMENTARY PRIVILEGES

One of the premises set out in the preamble to the *Constitution Act, 1867*¹⁵ is that the Constitution of Canada is based on the same principles as that of the United Kingdom.¹⁶ Because our system of parliamentary democracy is modelled on that of the United Kingdom, all legislative assemblies in Canada, including the National Assembly of Québec, therefore enjoy parliamentary privileges similar to those enjoyed by the United Kingdom's Houses of Parliament and their Members.

The Members of a legislative assembly require parliamentary privileges to perform their role independently. These privileges and immunities are recognized as absolute and constitutional to ensure that the principle of the separation of state powers is maintained and to thereby make it possible for each branch to carry out its functions effectively and without hindrance. Those principles shield democracy by ensuring that parliamentarians have very broad freedom of speech and action.¹⁷

It has long been accepted that, in order to perform their functions, legislative bodies require certain privileges relating to the conduct of their business. It has also long been accepted that these privileges must be held absolutely and constitutionally if they are to be effective; the legislative branch of our government must enjoy a certain autonomy which even the Crown and the courts cannot touch.¹⁸

Joseph Maingot, former Law Clerk and Parliamentary Counsel to the House of Commons of Canada, also recalls the essence of parliamentary privilege:

The legislative body needs this legal protection or immunity to perform its function and to defend and vindicate its authority and dignity. The

15 *Constitution Act, 1867*, (*British North America Act, 1867*) (UK), 30 & 31 Vict., c. 3, reprinted in RSC 1985, App. II, No. 5.

16 The preamble to the *Constitution Act, 1867* also helped to constitutionalize the principle of judicial independence. See *The Queen v. Bearegard*.

17 *R. c. Fontaine*, (1992) JE 448 (CQ) at 8.

18 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 379; *Canada (House of Commons) v. Vaid*, at para. 21.

Members of the legislative body enjoy these rights and immunities because the legislature cannot act or perform without the unimpeded use of the services of its Members.¹⁹

When dealing with a claim of parliamentary privilege, the role of the courts is different from the one they traditionally play: they may determine the existence of a privilege and define its scope, but they do not have the power to review how the legislative assembly exercises it:

It seems clear that, from an historical perspective, Canadian legislative bodies possess such inherent privileges as may be necessary to their proper functioning. These privileges are part of the fundamental law of our land, and hence are constitutional. The courts may determine if the privilege claimed is necessary to the capacity of the legislature to function, but have no power to review the rightness or wrongness of a particular decision made pursuant to the privilege.²⁰

Therefore, when asked to review an action or decision that is potentially subject to parliamentary privilege, the courts have limited authority. They may determine the existence and the scope of the claimed privilege, both of which are subject to examination in terms of “grounds of necessity”.²¹ Parliamentary privilege does not therefore shield parliamentarians from the application of general law in all respects, for only those privileges which affect a sphere of activity that is closely and directly connected with the fulfilment of a legislative assembly’s functions will meet the test of necessity.²²

Recognition of the existence of a parliamentary privilege on the basis of a test of necessity is nothing new. As early as 1839, in *Stockdale v. Hansard*, Chief Justice Denman stated that “if the necessity can be made out, no more need be said: it is the foundation of every privilege of Parliament, and justifies all that it requires”.²³

The courts of the United Kingdom recognized that, upon creation, a colonial legislative assembly immediately and inherently possessed the powers considered necessary for the fulfillment of its functions. However, those powers were not as extensive as those of the Imperial Houses of Parliament.²⁴ It was not until 1896, when it determined that provincial legislatures had the power to

19 J. p. Joseph Maingot, *Parliamentary Privilege in Canada*, 2nd ed. (Montréal: McGill-Queen’s University Press, 1997), p. 12.

20 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 384–85.

21 *Ibid.* at 343.

22 *Canada (House of Commons) v. Vaid*, at para. 46.

23 *Stockdale v. Hansard* (1839), 9 Ad & Ell, 112 ER 1112 at 1169.

24 Brun, et al. *Droit constitutionnel*, at para. V-1.215.

enact laws on matters of parliamentary privilege, that the Judicial Committee of the Privy Council recognized the right of Canada's provincial assemblies to enjoy the full benefits of all the British parliamentary privileges.²⁵

Canadian law on parliamentary privilege has of course evolved since the 19th century. In particular, the enshrinement of the *Canadian Charter of Rights and Freedoms*²⁶ (the "Canadian Charter") in the *Constitution Act, 1982*²⁷ has had an impact on the interpretation of concepts related to parliamentary privilege.²⁸

The advent of the Canadian Charter gave rise to disputes that led the courts to uphold the constitutional status of parliamentary privilege.²⁹ It was determined that one of the consequences of the preamble to the *Constitution Act, 1867* was that certain inherent privileges that had traditionally been considered necessary for the proper functioning of legislative bodies were incorporated into Canada's Constitution. Since the Constitution of the United Kingdom recognizes that the British Parliament has certain privileges, it follows that Canadian legislative bodies, which are modelled on the British parliamentary system, possess similar powers and immunities.³⁰ Consequently, given that these privileges have constitutional status, and based on the principle that no part of the Constitution can abrogate or attenuate any other part, the Canadian Charter cannot apply to decisions made by a legislative assembly pursuant to its parliamentary privileges.³¹ "In matters of privilege, it would lie within the exclusive competence of the legislative assembly itself to consider compliance with human rights and civil liberties."³² This does not mean that there is no recourse open to a person who feels aggrieved by a decision made in the exercise of a recognized privilege, but that the proper forum in which to challenge the exercise of the privilege is the Assembly itself, not the courts.³³

25 *Fielding v. Thomas (Nova Scotia)*, 1896 UKPC 33.

26 *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c. 11, reprinted in RSC 1985, App. II, No. 44.

27 *Constitution Act, 1982*.

28 *Canadian Charter of Rights and Freedoms*.

29 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)*; *Canada (House of Commons) v. Vaid*; *Chagnon v. Syndicat de la fonction publique et parapublique du Québec*.

30 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 375–377.

31 *Ibid.* at 390–393.

32 *Canada (House of Commons) v. Vaid*, at para. 30.

33 *Singh v. Quebec (Attorney General)*, 2018 QCCA 257 (application for leave to appeal to the Supreme Court dismissed, October 25, 2018, No. 38071), at para. 30.

Over time, various principles have also been identified to establish the scope and extent of parliamentary privilege and to elucidate the concept of necessity. First, it was recognized that “the inherent privileges of Canada’s legislative bodies . . . fall within the group of principles constitutionalized by virtue of the preamble”,³⁴ those privileges being “certain very moderate privileges which were necessary for the maintenance of order and discipline during the performance of their duties”.³⁵ The intrinsic privileges of Canadian legislative bodies “are a means to preserve their independence” by enabling the legislative branch and the Members “to proceed fearlessly and without interference in discharging their constitutional role, that is, enacting legislation and acting as a check on executive power”.³⁶ The Assembly’s exclusive jurisdiction is recognized in this respect.

It is also recognized that the test of necessity must be applied to determine whether there is an inherent privilege, in other words, a privilege that has constitutional status:

The test of necessity is not applied as a standard for judging the content of a claimed privilege, but for the purpose of determining the necessary sphere of exclusive or absolute “parliamentary” or “legislative” jurisdiction. If a matter falls within this necessary sphere of matters without which the dignity and efficiency of the House cannot be upheld, courts will not inquire into questions concerning such privilege. All such questions will instead fall to the exclusive jurisdiction of the legislative body.³⁷

Necessity is the historical foundation of every parliamentary privilege,³⁸ and “parliamentary privilege is defined by the degree of autonomy necessary for Parliament to be able to perform its constitutional functions”.³⁹ The courts must give considerable deference to a legislative assembly’s view of the scope of autonomy it considers necessary to perform its functions.⁴⁰ In order to fall within parliamentary privilege, a matter must be “so closely and directly connected with the fulfilment by the assembly or its members of their functions as a legislative and deliberative body, including the assembly’s work in holding the

34 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 377.

35 Robert MacGregor Dawson and Norman Ward, *The Government of Canada*, 5th ed. (Toronto: University of Toronto Press, 1970), p. 338; cited in *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 377.

36 *Chagnon v. Syndicat de la fonction publique et parapublique du Québec*, at para. 23.

37 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 383.

38 *Canada (House of Commons) v. Vaid*.

39 *Ibid.*, at para. 41.

40 *Ibid.*, at para. 40.

government to account, that outside interference would undermine the level of autonomy required to enable the assembly and its members to do their work with dignity and efficiency”.⁴¹ The test of necessity is related to the purposes underlying parliamentary privilege: “The sphere of immunity that is sought must be necessary for the legislative body to have sufficient independence from the other branches of government in order to perform its constitutional functions.”⁴²

“Proof of necessity may rest in part in ‘shewing that it has been long exercised and acquiesced in’.”⁴³ The fact that a privilege has been maintained for hundreds of years is also “evidence that it is generally regarded as essential to the proper functioning of a legislature patterned on the British model”.⁴⁴

Necessity must be demonstrated with respect to a *category* of privilege, not to the appropriateness of its exercise.⁴⁵

Proof of necessity is required only to establish the existence and scope of a *category* of privilege. Once the category (or sphere of activity) is established, it is for Parliament, not the courts, to determine whether in a particular case the exercise of the privilege is necessary or appropriate. In other words, within categories of privilege, Parliament is the judge of the occasion and manner of its exercise, and such exercise is not reviewable by the courts: “Each specific instance of the exercise of a privilege need not be shown to be necessary.”⁴⁶

According to this, “while the courts may determine whether the privilege claimed is necessary to the capacity of the legislature to function, they have no power to review the rightness or wrongness of a particular decision made pursuant to privilege”.⁴⁷ The test “is what ‘the dignity and efficiency of the House’ require”.⁴⁸ Finally, an assembly’s exclusive jurisdiction encompasses “not only certain claimed privileges, but also the power to determine, adjudicate upon and apply those privileges”⁴⁹ as well as to determine how and when they should be exercised.⁵⁰

41 Ibid., at para. 46.

42 *Chagnon v. Syndicat de la fonction publique et parapublique du Québec*, at para. 42.

43 *Canada (House of Commons) v. Vaid*, at para. 29(8).

44 Ibid., at para. 29(6).

45 Ibid., at para. 40.

46 Ibid., at para. 29(9). (The Court’s emphasis.)

47 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 384(i) and (j).

48 *Canada (House of Commons) v. Vaid*, at para. 29(7).

49 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 384.

50 *Canada (House of Commons) v. Vaid*, at para. 29(9). See also J. p. Joseph Maingot, *Parliamentary Immunity in Canada* (Toronto: LexisNexis Canada, 2016), p. 15.

3.3 THE PRIVILEGES

In parliamentary law, although authors usually agree on the existence of parliamentary privileges, the vocabulary used to designate and classify them varies considerably. What they are called is less important to examine than their scope, which is generally more consistent from one legislative assembly to the next.

However, while some privileges are primarily considered as individual in nature, others are collective. Individual privileges are attached to individual Members of an assembly to enable them to carry out their duties without hindrance. Collective privileges are attached to legislative assemblies as entities formed by the aggregate of all their Members. Such privileges are granted to assemblies to preserve their autonomy and ensure the proper functioning of their proceedings. Whether individual or collective, the purpose of all privileges is ultimately to enable legislative assemblies to perform their constitutional legislative and deliberative functions, including oversight of government action.

For the purposes of this chapter, we will use the designation and classification developed by Joseph Maingot. According to Maingot, Members of a legislative assembly are generally afforded the following individual privileges: “freedom of speech, freedom from arrest in civil process, exemption from jury service, and the privilege relating to Members summoned as witnesses”.⁵¹ In this chapter, we will discuss these privileges in detail, as well as the immunity associated with the publication or dissemination of a report or official account of proceedings, activities that derive from the freedom of speech privilege.

According to Maingot, the collective privileges attributed to Members of a legislative assembly generally consist in “the power to punish for contempt (or its penal jurisdiction); the right to regulate its own constitution; the right to regulate its own internal affairs free from interference, which includes the right to discipline its own Members; the right to institute inquiries and call for witnesses (persons, papers and records); and the right to settle its own code of procedure”.⁵²

In Québec, the importance of collective privileges for the functioning of the institution is recognized in the preamble to the *Act respecting the National Assembly*,⁵³ which forcefully states the *raison d’être* of the privileges granted to legislative assemblies: “it is befitting, therefore, that the perdurance, the sovereignty and the independence of the National Assembly be affirmed, and that its proceedings be protected against all interference”.

51 Maingot, *Parliamentary Privilege in Canada*, p. 15.

52 Ibid.

53 *Act respecting the National Assembly*, CQLR, c. A-23.1.

For the purposes of our analysis, we will focus on three of the collective privileges: an assembly's power to protect its proceedings against interference, the power to conduct an inquiry, to summon and compel the appearance of witnesses and to produce papers, and the power to punish breach of parliamentary privilege. The latter is discussed in greater detail in Subsection 3.4.1.

3.3.1 FREEDOM OF SPEECH



The freedom of speech privilege enables Members to perform their duties in the House independently and without hindrance. According to Beauchesne, the “privilege of freedom of speech is both the least questioned and the most fundamental right of the Member of Parliament on the floor of the House and in committee”.⁵⁴ The United Kingdom Parliament’s Joint Committee on Parliamentary Privilege called it the cornerstone of parliamentary democracy.⁵⁵ As the Justices of the Supreme Court have also noted, the “need for freedom of speech is so obvious as to be self-explanatory”.⁵⁶

54 Arthur Beauchesne, Alistair Fraser, William Foster Dawson and John A. Holtby, *Beauchesne’s Rules and Forms of the House of Commons of Canada, with Annotations, Comments and Precedents*, 6th ed. (Toronto: Carswell, 1991), p. 23.

55 Joint Committee on Parliamentary Privilege, *Report and Proceedings of the Committee: First Report of Session 1998–99* (London: UK Parliament, April 9, 1999), at para. 36.

56 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 385.

Recognition of this privilege, which guarantees elected officials the freedom to express themselves as they wish and to debate on anything they want, is historically derived from article 9 of the English *Bill of Rights* of 1689, which states that “the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament”.⁵⁷ In *Re: Resolution to amend the Constitution*, the Supreme Court of Canada stated that article 9 of the *Bill of Rights* is “undoubtedly in force as part of the law of Canada”.⁵⁸ However, its application was qualified a few years later:

The wording of the preamble [to the *Constitution Act, 1867*] should not be understood to refer to a specific article of the English *Bill of Rights*. This is not to say that that [sic] principles underlying art. 9 of the English *Bill of Rights* of 1689 do not form part of our law and inform our understanding of the appropriate relationship between the courts and legislative bodies in Canada.⁵⁹

It follows that article 9 of the English *Bill of Rights* does not expressly apply to Canada, but that the principles underlying that article form part of Canadian law by virtue of the preamble to the *Constitution Act, 1867*, which provides, notably, that Canada’s Constitution is “similar in Principle to that of the United Kingdom”.

Today, parliamentarians’ freedom of speech privilege protects them “from any civil or criminal liability in any court or tribunal for anything said in the course of proceedings in Parliament”.⁶⁰ Because of this privilege, the courts cannot interfere with what has been said in a parliamentary assembly: “The Court has no power to inquire into what statements were made in Parliament, why they were made, who made them, what was the motive for making them or anything about them.”⁶¹

By the early 20th century, the absolute nature of the freedom of speech privilege was already established in Québec:

[TRANSLATION] A Member of Parliament must not be hindered or impeded in any way with regard to the right to speak openly and freely on any question that may be discussed in Parliament. No fear

57 *Bill of Rights* 1689, art. 9.

58 *Re: Resolution to Amend the Constitution*, [1981] 1 SCR 753 at 785.

59 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 374.

60 Standing Committee on Rules, Procedures and the Rights of Parliament, *A Matter of Privilege: A Discussion Paper on Canadian Parliamentary Privilege in the 21st Century* (Ottawa: Senate of Canada, 2015) at 40, online: http://publications.gc.ca/collections/collection_2015/sen/yc29-0/YC29-0-412-7-eng.pdf.

61 *Roman Corp. Ltd. v. Hudson’s Bay Oil & Gas Co. Ltd.*, [1971] OJ 1534 (OHCJ), at para. 13.

or apprehension must restrict this privilege which, according to the authorities, forms an essential part of the Constitution that governs us.⁶²

Freedom of speech also protects motions passed by the National Assembly since they state opinions expressed collectively by its Members, and this has been recognized by the courts.⁶³ As noted by the United Kingdom's Joint Committee on Parliamentary Privilege, "freedom of speech is the privilege of the House as a whole and not of the individual Member in his own right, although an individual Member can assert and rely on it".⁶⁴

It is quite logical that a motion be protected in this manner because, as provided in article 9 of the *Bill of Rights*, the protection of parliamentary privilege extends to proceedings that are included in the concept of "proceedings in Parliament".⁶⁵ Erskine May defines this concept as follows:

The primary meaning of proceedings, as a technical parliamentary term, which it had at least as early as the seventeenth century, is some formal action, usually a decision, taken by the House in its collective capacity. While business which involves actions and decisions of the House are clearly proceedings, debate is an intrinsic part of that process which is recognised by its inclusion in the formulation of Article IX. An individual Member takes part in a proceeding usually by speech, but also by various recognised forms of formal action, such as voting, giving notice of a motion, or presenting a petition or report from a committee, most of such actions being time-saving substitutes for speaking. Officers of the House take part in its proceedings principally by carrying out its orders, general or particular. Members of the public also may take part in the proceedings of a House, for example by giving evidence before it or one of its committees, or by securing the presentation of a petition.⁶⁶

62 *Club de la garnison de Québec v. Lavergne*, [1918] 27 KB 37 at 40 and 41. In the same vein, *R. c. Fontaine* states: [TRANSLATION] "Freedom of speech and of expression is essential to the legislator. It is the very foundation of debate. Not permitting Members to express themselves freely in all matters directly related to the House would be tantamount to depriving them of their chief tool for performing their work."

63 *Michaud v. Bissonnette*, 2006 QCCA 775, at paras. 48–49.

64 Joint Committee on Parliamentary Privilege, *Report and Proceedings of the Committee: First Report of Session 1998–99*, at para. 68.

65 *Canada (House of Commons) v. Vaid*, at para. 43.

66 *Erskine May's Treatise on the Law*, at para 13.12.

The United Kingdom's Joint Committee on Parliamentary Privilege also provided a list of elements that should be included in the concept of "proceedings in Parliament" and which would therefore benefit from the protection of parliamentary privilege:

(1) For the purposes of article 9 of the Bill of Rights 1689 "proceedings in Parliament" means all words spoken and acts done in the course of, or for the purposes of, or necessarily incidental to, transacting the business of either House of Parliament or of a committee.

(2) Without limiting (1), this includes:

(a) the giving of evidence before a House or a committee or an officer appointed by a House to receive such evidence,

(b) the presentation or submission of a document to a House or a committee or an officer appointed by a House to receive it, once the document is accepted,

(c) the preparation of a document for the purposes of transacting the business of a House or a committee, provided any drafts, notes, advice or the like are not circulated more widely than is reasonable for the purposes of preparation,

(d) the formulation, making or publication of a document by a House or a committee,

(e) the maintenance of any register of the interests of the members of a House and any other register of interests prescribed by resolution of a House.

(3) A "committee" means a committee appointed by either House or a joint committee appointed by both Houses of Parliament and includes a sub-committee.

(4) A document includes any disc, tape or device in which data are embodied so as to be capable of being reproduced therefrom.⁶⁷

The concept of "proceedings in Parliament" may therefore encompass various elements, including documents related to parliamentary deliberations,⁶⁸ and this is consistent with the Québec courts' stance on access to information, since they have upheld the importance of the notion of confidentiality surrounding the

67 Joint Committee on Parliamentary Privilege, *Report and Proceedings of the Committee: First Report of Session 1998–99*, at para. 129.

68 Standing Committee on Parliamentary Privilege and Ethics, *Parliamentary Privilege and Seizure of Documents by ICAC No. 2* (Sydney: Parliament of New South Wales, March 31, 2004), pp. 7–8; Lynn Lovelock and John Evans, *New South Wales Legislative Council Practice* (Annandale: Federation Press, 2008), pp. 68–69.

documents used by Members in performing their duties.⁶⁹ Thus, doctrine and case law recognize that the parliamentary privilege that historically derives from article 9 of the *Bill of Rights* is not limited to Members' speech but is quite broad in scope.

The following provisions of the *Act respecting the National Assembly* also illustrate the broad scope of the freedom of speech enjoyed by Members of the National Assembly:

43. Every Member is vested with full independence for the carrying out of his duties.

44. No Member may be prosecuted, arrested or imprisoned by reason of anything said or done or any document tabled by him in the carrying out of his parliamentary duties in the Assembly or in any committee or subcommittee.

The freedom of speech privilege is unique because it protects not only Members, but also any person who takes part in parliamentary proceedings, for instance, those who testify before a parliamentary committee. As a result, nothing they say before such a committee can be used as evidence against them in court.⁷⁰ This protection aims at ensuring that witnesses can fully and freely express themselves before the Assembly and its committees, without fearing that their statements might be used against them, so that Members can have all the information they need to examine a given matter.

For instance, because of parliamentary privilege, it is forbidden to cross-examine a witness using evidence obtained during parliamentary proceedings. This protection is justified by the test of necessity in three different ways: "to encourage witnesses to speak openly before the parliamentary committee, to allow the committee to perform its investigative function and, in a more secondary way, to avoid contradictory findings of fact."⁷¹

Similarly, a court recently blocked the cross-examination of two witnesses on statements they had made before a parliamentary committee. The decision was based on the idea that witnesses appearing before parliamentary committees must not be held accountable later on in court for their testimony because the independence of parliamentary proceedings must be upheld.⁷²

69 *Macdonell v. Quebec (Commission d'accès à l'information)*, 2002 SCC 71, at para. 15; *Act respecting Access to documents held by public bodies and the Protection of personal information*, CQLR, c. A-2.1, s. 34.

70 Maingot, *Parliamentary Immunity in Canada*, pp. 36 and 92.

71 *Gagliano v. Canada (Attorney General)*, 2005 FC 576, at para. 72.

72 *Alternative Capital Group Inc. c. Côté*, 2020 QCCS 2494, at paras. 109 and 112.

However, in 1987, a very restrictive interpretation was given to the immunity granted to persons testifying before the Assembly.⁷³ It was argued that section 53 of the *Act respecting the National Assembly*, which provides that people's testimony before the Assembly may not be held against them unless they are being prosecuted for perjury, applies only to the words of a witness who has taken an oath, as may be required by the Assembly under section 52 of that Act. Under this interpretation, persons who testify before the Assembly without being required to take an oath would not enjoy the immunity provided by section 53.⁷⁴

This decision seems inconsistent with the case law on the scope of parliamentary privilege.⁷⁵ The immunity enjoyed by persons testifying before the Assembly derives from the context of such testimony, i.e. parliamentary proceedings, and is necessary for the Assembly to obtain all the information it requires to carry out its functions. The oath is not a source of protection: on the contrary, it requires that the person tell the truth or face prosecution for perjury, which is a considerable departure from the protection afforded by the freedom of speech privilege.⁷⁶

The sections of the *Act respecting the National Assembly* that deal with the oath can be construed in this sense. First, section 51 provides that the Assembly may summon any person to appear before it,⁷⁷ and section 52 provides that the President⁷⁸ may require that person to make an oath.⁷⁹ Second, section 53 states that when people testify before the Assembly, their testimony may not be held against them unless they are being prosecuted for perjury.⁸⁰ The sequence of these sections suggests that the protection applies to any person who testifies before the Assembly, except where a witness who has made an oath is being prosecuted for perjury.

73 *Turgeon c. Théberge*, [1987] RRA 120 (QCCS).

74 *Ibid.*

75 *Gagliano v. Canada (Attorney General)*; *Canada (Deputy Commissioner, Royal Canadian Mounted Police) v. Canada (Commissioner, Royal Canadian Mounted Police)*, 2007 FC 564; *Lavigne v. Ontario (Attorney General)*, 2008 CanLII 89825 (ONSC); *Duffy v. Canada (Senate)*, 2020 ONCA 536 (application for leave to appeal to the Supreme Court dismissed, February 11, 2021, No. 39361).

76 Maingot, *Parliamentary Immunity in Canada*, p. 92.

77 *Act respecting the National Assembly*, s. 51.

78 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies. In this book, "President" is sometimes used in the sense of "presiding officer" and can refer to the officer who takes the Chair during a sitting of the Assembly (the President or a Vice-President) or a committee meeting (a committee Chair).

79 *Ibid.*, s. 52.

80 *Ibid.*, s. 53.

It is relevant to note that giving false testimony contravenes section 55 of the *Act respecting the National Assembly* and, as such, breaches the rights of the Assembly. This will be discussed in greater detail in a later section.

In the end, however important it may be, the privilege of freedom of speech is not without limits: it protects Members only with regard to remarks made in the course of parliamentary proceedings, and it is circumscribed by the rules of parliamentary debate.

3.3.1.1 THE FIRST LIMITATION: THE CONTEXT OF PARLIAMENTARY PROCEEDINGS

In order for a Member's remarks to be protected by freedom of speech, they must have been made in the course of parliamentary proceedings:

The purpose of the privilege is to protect freedom of speech and debate in Parliament but not, surely, to allow individual members to say what they will outside the walls of the House, to persons who are not members or even spectators of the proceedings inside . . .⁸¹

The elements that form part of the deliberations of Parliament, and therefore enjoy the privilege of freedom of speech, have been described in detail by the President⁸² of the Assembly:

[TRANSLATION] The protection covers parliamentary proceedings, as the term is commonly understood, as well as decisions made by the legislative assembly. Individual Members generally participate in debates and decisions by taking the floor and speaking, but other forms of expression and action are also available to them. For example, they can vote, make a motion, file a petition or table a committee report. As is the case for taking the floor, such actions allow them to take part in parliamentary proceedings and are therefore protected.⁸³

81 *R. v. Ouellet (Re Ouellet (No. 1))*, [1976] CS 503, (1976) 67 DLR (3) 73 at 87; Maingot, *Parliamentary Privilege in Canada*, p. 93. To the same effect, see *Church of Scientology of California v. Johnson-Smith*, [1972] 1 QB 522 at 525: "It is plain that a Member could not be cross-examined as to why he had said something or why he has formed a view in Parliament and therefore it is not a subject for comment by counsel. If, as in the present case, a Member of Parliament is sued for defamation for what he had said outside Parliament then the inquiry in court must be limited to what had been said outside Parliament. Therefore if he repeats verbatim what he had said in Parliament he could still only be sued for what he had said outside Parliament."

82 Note: The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

83 JD, May 29, 2019, p. 2958 (François Paradis)/RDPP, No. 67/79.

When asked to decide whether written questions were also protected by freedom of speech, the President of the Assembly replied as follows:

Although, to date, the courts have never ruled on the specific case of written questions placed on the *Order Paper and Notices*, the Chair considers it would be difficult to conceive of them not being protected by the privilege of freedom of speech. These questions are part of the procedures provided for in the Standing Orders and made available to Members in the exercise of their deliberative and government oversight functions.⁸⁴

This approach is not unique to the National Assembly. For example, in the United Kingdom, it has been established that the privilege of freedom of speech may extend to written proceedings, such as motions, amendments, written questions and documents tabled in the House.⁸⁵

If the privilege of freedom of speech protects only parliamentary proceedings, it follows that it does not protect Members with regard to all aspects of their duties:

A Member of Parliament is clearly fulfilling his functions as a Member when he visits with or receives his constituents, opens fund drives, presides at local meetings or carries out any number of other tasks, but to pass from that proposition to the statement that all these activities are proceedings in Parliament is a step that I am not prepared to take. Indeed, it has been held that a provincial Premier who addresses a meeting of party supporters does not even enjoy a qualified privilege.⁸⁶

As an illustration of this limitation, it has already been determined that newsletters mailed by Members of Parliament to their constituents are not covered by the privilege.⁸⁷

84 Ibid.; VP, May 29, 2019, p. 736.

85 *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, at para. 13.12; *Foreign And Commonwealth Office v. Warsama & Anor*, 2020 EWCA Civ 142, at paras. 59–70.

86 *R. v. Ouellet (Re Ouellet (No. 1))* at 89; *Ouellet v. R. Re Ouellet (No. 2)*, [1976] CA 788, 72 DLR (3d) 95 at 100. Similarly, according to *Re Clark et al. and Attorney-General of Canada*, 1977 CanLII 1084 (ONSC) at 56: “The concept of ‘proceedings in Parliament’ cannot be extended beyond all logical limits. I am not satisfied that the privilege enables the Member to release the information to his constituents. The concept of ‘proceedings in Parliament’ has not been extended to cover the informing function of a Member.”

87 *Pankiw v. Canada (Human Rights Commission)*, 2006 FC 1544, at paras. 113–114; *Pankiw v. Canada (Human Rights Commission)*, [2007] 4 FCA 386, at para. 2.

The privilege of freedom of speech does not protect Members with regard to the aspects of their duties that go beyond parliamentary deliberations, which means that “no parliamentary privilege attaches to the repetition outside Parliament of statements previously made in the course of a parliamentary debate. That is to say, such statements form no part of ‘proceedings in Parliament’, nor do they form part of ‘debates’ in Parliament”.⁸⁸ However, this has been the subject of some disagreement in the courts in recent decades. In one case, it was argued that a telegram was merely an extension of what was said during parliamentary proceedings and that, therefore, the statements it contained were covered by parliamentary privilege.⁸⁹ A few years later, it was determined that a statement made to a journalist that was unrelated to a statement in the House could not enjoy the immunity afforded by the freedom of speech privilege.⁹⁰

More recently, in the United Kingdom, it has been established that statements repeated outside Parliament should continue to enjoy the protection of parliamentary privilege under two conditions. First, it must be possible to construe the Member’s repetition of what was said in Parliament as a reasonable action in pursuit of a public interest. Second, there must be so close a nexus between the occasions on which the Member speaks, first in Parliament and then outside of it, that the prospect of the obligation to speak on the second occasion is reasonably foreseeable at the time of the first, and the purpose of the speech on both occasions is the same or very closely related.⁹¹ In the case in question, the repetition before an investigatory tribunal of remarks initially made before a Commons select committee was considered to be in the public interest and reasonably foreseeable. Moreover, the witness’s state of mind was considered to have been the same on both occasions.⁹² As a result, the repetition of the statements was recognized as being protected by parliamentary privilege.⁹³

In view of the above, caution should always be exercised when repeating statements outside the framework of the parliamentary deliberations in which they were made.

88 Maingot, *Parliamentary Privilege in Canada*, p. 105; Maingot, *Parliamentary Immunity in Canada*, p. 93.

89 *Roman Corp. Ltd. v. Hudson’s Bay Oil & Gas Co. Ltd.*; aff’d *Roman Corp. v. Hudson’s Bay Oil & Gas Co.*, [1971] 1 OR 444 (ONCA); aff’d *Roman Corp. v. Hudson’s Bay Oil & Gas Co.*, [1973] SCR 820.

90 *Re Ouellet* (No. 1) at 89.

91 *Makudi v. Baron Triesman of Tottenham*, 2014 EWCA Civ 179, at para. 25.

92 *Ibid.*, at para. 30.

93 *Ibid.*, at para. 31.

3.3.1.2 THE SECOND LIMITATION: THE RULES OF PARLIAMENTARY DEBATE

While it is generally accepted that the privilege of freedom of speech is absolute, it can be circumscribed by the rules of parliamentary debate. The only restrictions on what can be said in parliamentary debate are the rules adopted to that effect by the Members themselves. For example, Members of the National Assembly must respect Standing Order 35, which concerns unparliamentary language and prohibited words, or they will be called to order by the President. Likewise, Members cannot invoke the privilege of freedom of speech to escape the disciplinary power of the Assembly. The privilege of freedom of speech may therefore be limited by the rules of parliamentary debate, despite the constitutional status of this privilege, since those rules are adopted by the Assembly by virtue of another parliamentary privilege, that of regulating its internal affairs without external interference (see Subsection 3.3.4). This has been clarified by the courts as follows:

It follows that it is up to the parliamentary assembly, the Quebec National Assembly in this case, to establish, whether generally or occasionally, the equilibrium between the various categories of parliamentary privilege that is exclusively its own, which may include choosing to restrict its scope from time to time. Indeed, if the privilege of control over its debates is to be meaningful, the Assembly must be able to govern and sometimes even limit the freedom of speech of its members: this regulation is an integral part of the privilege with which the Assembly has been constitutionally endowed, without which its work would be hindered or even prevented.⁹⁴

This means that the only appropriate remedy for an alleged violation of a Member's right to free speech is to raise a question of privilege in the House.⁹⁵ Moreover, although one of the President's main roles is to enforce the Standing Orders, that duty must be discharged with circumspection when the interpretation of a procedural rule could limit the privilege of freedom of speech. In this regard, a Speaker of the House of Commons had this to say about the application of the *sub judice* rule⁹⁶:

The freedom of speech accorded to Members of Parliament is a fundamental right without which they would be hampered in the performance of their duties . . . The Speaker should interfere with

94 *Quebec (Attorney General) v. Confédération des syndicats nationaux (CSN)*, unofficial English translation of *Québec (Procureur général) c. Confédération des syndicats nationaux (CSN)* 2011 QCCA 1247, at para. 23.

95 *Mclver v. Alberta (Ethics Commissioner)*, 2018 ABQB 240, at para. 60.

96 For more on the *sub judice* rule, see Chapter 11, "Order and Decorum".

that freedom of speech only in exceptional cases where it is clear that to do otherwise could be harmful to specific individuals.⁹⁷

In other words, when acting within the framework of parliamentary proceedings, Members may be restricted in their freedom of speech only by the rules of parliamentary law.⁹⁸ In the past, the President of the National Assembly was asked to rule on whether the privilege of freedom of speech would allow a Member, during an intervention in the Assembly, to disclose nominal personal information, regardless of the form of the disclosure—in a speech, a quotation from a document or a document tabled or shown. The President was therefore asked to decide whether, under parliamentary law, there was a particular restriction on the exercise of the privilege of freedom of speech when uttering words, tabling documents or accomplishing an act that could violate the privacy of individuals and the protection of personal information. Considering that there are no rules in Québec parliamentary law expressly governing privacy, the President declared that nothing permitted allowed him to restrict Members' privilege of freedom of speech:

[TRANSLATION] Important though it may be . . . the individual's right to privacy must, legally, coexist with other fundamental principles that govern the functioning of a democratic State. One of these is . . . the privilege of freedom of speech . . . It is a constitutional right that, in the proceedings of the Assembly and its committees, is practically absolute, subject to the procedural rules that the Assembly imposes on itself . . .

The *Act respecting the National Assembly* and the Standing Orders contain no provision directly related to the respect of privacy and the protection of personal information. Of course, this right is protected by the Québec *Charter of human rights and freedoms* and various other laws, but . . . these statutes cannot legally have precedence over the constitutional privilege of freedom of speech that parliamentarians enjoy.

Failing rules of parliamentary procedure dealing expressly with privacy, one might justifiably wonder whether the President should take the initiative in this matter . . . Even if, I am sure, some people would consider it advisable, I have no choice but to note that the President is not authorized to play such a role. In fact,

97 Canada, *House of Commons Debates* (January 27, 1986), p. 10194 (Speaker John William Bosley), cited in Beauchesne et al., *Beauchesne's Rules & Forms of the House of Commons of Canada*, p. 161. See also *R. v. Vermette*, [1982] QCCS 1006; aff'd *R. v. Vermette*, [1984] QC CA 466; rev'd *R. v. Vermette*, [1988] 1 SCR 985.

98 *Mclver v. Alberta (Ethics Commissioner)*, at para. 60.

it is understood that the presiding officer of a legislative assembly may not interpret the law, aside from legislative provisions that concern parliamentary procedure.⁹⁹

All of this highlights the scope and importance of the privilege of freedom of speech, which comes with the obligation, on the part of the Members, to exercise their privilege with care, since significant consequences may ensue for the individuals affected, who are deprived of any general law remedy that would allow them to claim redress. The President has stated in this regard that each Member must assume responsibility for the substance of anything they say in the Assembly. The office of elected representative and the important privilege of freedom of speech attached to that office carry a heavy responsibility.¹⁰⁰

3.3.2 FREEDOM FROM ARREST IN CIVIL CASES, EXEMPTION FROM JURY DUTY AND EXEMPTION FROM APPEARING AS A WITNESS

The National Assembly has a pre-eminent claim on its Members' presence, which is the basis for the privileges of freedom from arrest in civil cases, exemption from jury duty and exemption from appearing as a witness.¹⁰¹ Section 45 of the *Act respecting the National Assembly*, which concerns freedom from arrest in civil cases, nevertheless does set limits:

45. No Member may be bound to appear to answer a charge of contempt of court nor arrested or held for contempt of court while the Assembly or a committee or subcommittee in whose work he is taking part is sitting, or during the two preceding or two following days.

First of all, freedom from arrest applies only in civil actions. It cannot be invoked to protect a Member accused of a criminal or penal¹⁰² offence or of contempt of court in a criminal case. As Brun, Tremblay and Brouillet point out: [TRANSLATION] "Members of a legislative assembly enjoy no immunity (from

99 JD, November 13, 1997, pp. 8433-8435 (Jean-Pierre Charbonneau)/RDPP, No. 66/2. The President decided that there was no rule limiting the privilege of freedom of speech in the case under study, but he issued the following warning: [TRANSLATION] "This being the case, although from a legal point of view Members enjoy considerable immunity in the performance of their parliamentary duties, they should always remember the fundamental democratic principles governing our society. Therefore, I formally request that all Members, when they give a speech, table a document or accomplish an act in the course of parliamentary debates, consider the fundamental rights of all of the citizens of Québec. The legal power of the President is rather limited in this regard. I am therefore requesting the collaboration of all Members to ensure that the way in which they express themselves in this Assembly reflects an elevated moral code."

100 JD, October 29, 2009, pp. 3696-3697 (Yvon Vallières)/RDPP, No. 67/57.

101 Maingot, *Parliamentary Immunity in Canada*, p. 136.

102 JD, November 16, 2017, pp. 17996-18003 (Jacques Chagnon)/RDPP, No. 2/11.

arrest, prosecution or being subpoenaed) with regard to penal or criminal offences they may commit.”¹⁰³ Moreover, a Member’s immunity is limited in time, which is linked to the sitting days of the Assembly or of a committee in which the Member participates.

Section 46 of the *Act respecting the National Assembly*, which sets out that Members may be exempted from appearing as witnesses, provides for similar limitations:

46. A Member is exempt from appearing as a witness in court or before any body or person empowered to summon witnesses while the Assembly or a committee or subcommittee in whose work he is taking part is sitting, and during the two preceding and two following days.

The exemption from appearing as a witness cannot be invoked when a Member is a party to a dispute: [TRANSLATION] “The Member’s privilege of being exempted from appearing as a witness during a parliamentary session must be distinguished from the privilege sought by the appellant, which is to be exempted from the holding of the civil trial in which he is himself the defendant. That privilege does not exist.”¹⁰⁴

Section 47 of the *Act respecting the National Assembly* also grants the President of the Assembly the power to exempt a member of the Assembly’s staff from appearing as a witness if that staff member’s presence is necessary for the proper functioning of the Assembly and its services.

The privilege of exemption from jury duty is not codified in the *Act respecting the National Assembly*, but rather in the *Jurors Act*,¹⁰⁵ which disqualifies members of the Conseil exécutif and of the National Assembly from serving as jurors. Section 5 of that Act also provides that members of the Assembly’s staff may be exempted from serving as jurors. This means that, in the case of parliamentarians, there is a ground of disqualification, but in the case of Assembly staff, there is a ground of exemption, which it is up to the individual to invoke.¹⁰⁶

The exemption from attending as a witness is a privilege that has constitutional status.¹⁰⁷ In fact, despite the courts’ silence, it is not unreasonable to maintain that freedom from arrest in civil cases and the exemption from jury duty could

¹⁰³ Brun et al., *Droit constitutionnel*, at para. V-1.190.

¹⁰⁴ *Arthur c. Gillet*, 2007 QCCA 470, at para. 11. See also *Kent c. Wrzesnewskyj*, 2018 QCCQ 15.

¹⁰⁵ *Jurors Act*, CQLR, c. J-2, s. 4(c).

¹⁰⁶ *Ibid.*, s. 5(a.1).

¹⁰⁷ *Canada (House of Commons) v. Vaid* at 689.

also be classified as inherent privileges. These privileges are akin to those of freedom of speech and exemption from attending as a witness and, like them, are justified by the prior claim of the House to the service of its Members.¹⁰⁸

3.3.3 FREEDOM FROM ARREST FOR THE PUBLICATION OR DISSEMINATION OF A REPORT OR AN OFFICIAL ACCOUNT OF PROCEEDINGS

Freedom from arrest for the publication or dissemination of a report or an official account of proceedings has its origins in *Stockdale v. Hansard*,¹⁰⁹ a case dating from 1830 that determined the common law in the matter. It involved an action for libel against the publishers of the British House of Commons. They had published, by order of the House, a report qualifying a book of physiology and anatomy as disgusting and as indecent and obscene in the extreme. The book's publisher sued the House of Commons' publishers for libel. The House of Commons' publishers pleaded in their defense that they had published the report by order of the House and thus under the protection of parliamentary privilege.

The court found that, despite the order of the House, the protection afforded by parliamentary privilege did not extend to the publication of a report. In its reasons, the court added that it is the prerogative of Parliament to grant such a privilege through the passage of a law and that an order to publish adopted by the House of Commons alone could not alter the law.¹¹⁰

The British Parliament responded to the court ruling by passing the *Parliamentary Papers Act* of 1840,¹¹¹ which protected the publication of papers, reports, votes and proceedings. In 1870 in Québec, a law was also passed to this effect, namely the *Act to uphold the authority and dignity of the Houses of the Quebec Legislature and the independence of the members thereof, and to protect persons publishing parliamentary papers*.¹¹²

108 Maingot, *Parliamentary Privilege in Canada*, p. 158.

109 *Stockdale v. Hansard*.

110 "The supremacy of Parliament, the foundation on which the claim is made to rest, appears to me completely to overturn it, because the House of Commons is not the Parliament, but only a coordinate and component part of the Parliament. That sovereign power can make and unmake the laws; but the concurrence of the three legislative estates is necessary; the resolution of any one of them cannot alter the law, or place any one beyond its control. The proposition is therefore wholly untenable, and abhorrent to the first principles of the Constitution of England." Ibid. at 1153-1154.

111 *Parliamentary Papers Act* (1840, 3 & 4 Victoria, c. 9 (UK)).

112 *Act to uphold the authority and dignity of the Houses of the Quebec Legislature and the independence of the members thereof, and to protect persons publishing parliamentary papers*, 1870, 33 Vict., c. 5. A version of this Act was first passed in 1869 (1869, 32 Vict., c. 4), but it was disallowed by the federal government (Maingot, *Parliamentary Privilege in Canada*, p. 209).

Today, Parliament's intent to provide similar protection is expressed in the *Act respecting the National Assembly*:

48. No person may be prosecuted for publishing or distributing an unedited report or official summary of the debates of the Assembly or of a committee or subcommittee, or for distributing, unedited, such debates or any document that has been submitted to them.

49. No person may be found guilty for publishing or distributing an abstract of the debates of the Assembly or of a committee or subcommittee, of a report or of an official summary of the debates, or of a document that has been submitted to them, or for giving an account of them, unless it is proved that he acted with malicious intent.

It should be noted that the immunity under discussion here is not afforded to Members alone but to everyone, provided the conditions of sections 48 and 49 are met. Moreover, nowhere does the Act specify that the document concerned must have been published by order or under the authority of the Assembly. A person who takes the initiative to publish the documents in question can therefore claim protection under those sections.

3.3.4 THE RIGHT TO REGULATE INTERNAL AFFAIRS FREE FROM EXTERNAL INTERFERENCE

The right to regulate internal affairs free from external interference is a privilege of particular importance, and several other powers, rights and immunities recognized as belonging to legislative assemblies derive from it. These include the right to enforce discipline on Members, the right to deliberate and to examine witnesses behind closed doors, the right to control the publication of debates, the right to administer the laws relating to internal procedure, the right to administer the assembly's own affairs in the House and to manage certain members of its personnel, the right to establish its own code of procedure and the right to send for persons in custody.¹¹³ Some of these privileges will be described in greater detail in the next subsections.

The National Assembly's privilege to regulate its internal affairs free from external interference is codified in part in sections 9 and 42 of the *Act respecting the National Assembly*, which provide, respectively, that "the rules of procedure of the Assembly are established by the Assembly, and it alone has authority to see that they are observed" and that "the Assembly has the power to protect its proceedings against all interference".

¹¹³ Maingot, *Parliamentary Immunity in Canada*, pp. 166–167.

The main effect of this privilege is to give a legislative assembly the exclusive power to govern almost all that happens within its walls, and to do so free from any judicial intervention. The following passage summarizes the relationship between the courts and legislative assemblies:

It is well known that in the past there have been dangerous strains between the law courts and Parliament—dangerous because each institution has its own particular role to play in our constitution, and because collision between the two institutions is likely to impair their power to vouchsafe those constitutional rights for which citizens depend on them. So for many years Parliament and the courts have each been astute to respect the sphere of action and the privileges of the other—Parliament, for example, by its *sub judice* rule, the courts by taking care to exclude evidence which might amount to infringement of parliamentary privilege.¹¹⁴

Similarly, the Supreme Court stated:

Our democratic government consists of several branches: the Crown, as represented by the Governor General and the provincial counterparts of that office; the legislative body; the executive; and the courts. It is fundamental to the working of government as a whole that all these parts play their proper role. It is equally fundamental that no one of them overstep its bounds, that each show proper deference for the legitimate sphere of activity of the other.¹¹⁵

Although it has been established that “the courts may determine if the privilege claimed is necessary to the capacity of the legislature to function”,¹¹⁶ they “have no power to review the rightness or wrongness of a particular decision made pursuant to the privilege”.¹¹⁷ Their ability to intervene in the internal affairs of legislative assemblies is circumscribed by specific rules.¹¹⁸

As mentioned earlier, legislative assemblies’ right to govern their internal affairs free from external interference gives rise to several other privileges, rights and immunities. In the following subsections, we will discuss some of these directly, but also some of the issues that arise from the application of this privilege.

114 *Canada (Auditor General) v. Canada (Minister of Energy, Mines and Resources)*, [1989] 2 SCR 49 at 88. See *British Railways Board v. Pickin*, [1974] AC 765 (HL), [1974] UKHL 1 at 799.

115 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 389.

116 *Ibid.* at 384.

117 *Ibid.* at 385.

118 See Section 3.2, “The Legal Status of Parliamentary Privileges”.

3.3.4.1 THE PRIVILEGE TO EXCLUDE STRANGERS FROM THE NATIONAL ASSEMBLY AND ITS PRECINCTS

It is on the basis of the parliamentary privilege of legislative assemblies to conduct their internal affairs without external interference that Canadian legislative assemblies have the privilege to exclude strangers from their precincts.¹¹⁹ It has been established that legislative assemblies are not accessible by right and that strangers can be expelled from any part of an assembly:

In Canada, this Court has ruled that legislative assemblies are not open to the public as of right: see *Payson v. Hubert* (1904), 34 SCR. 400. In that case it was recognized that access to the chamber of the Nova Scotia House of Assembly was strictly a matter of privilege which could be withdrawn at any time as a matter of decorum.¹²⁰

The notion of parliamentary precinct is related to the buildings, premises and surroundings that are under the control and protection of the President of the National Assembly and are occupied by Members and Assembly personnel for parliamentary purposes.¹²¹ The precinct of the National Assembly of Québec has been recognized as covering the following four buildings in particular: the Parliament Building, the Pamphile-Le May Building, the André-Laurendeau Building and the Jean-Antoine-Panet Building.¹²²

The right of a legislative assembly to exclude strangers from its precincts—and as a consequence, the right to control access to those precincts—has been considered a constitutional right necessary for the assembly's efficient functioning.¹²³ This power is justified by “ancient usage that any member could require the exclusion of any person from the gallery at any time, without debate or reason. This power has now been referred to the Speaker, who alone has the power, whenever he or she sees fit, to order the withdrawal of strangers from any part of the House.”¹²⁴

119 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)*.

120 *Ibid.* at 386.

121 *Act respecting the National Assembly*, s. 116; Maingot, *Parliamentary Immunity in Canada*, p. 149.

122 *Charrette c. Vallières*, 2010 QCCS 4424, at para. 56. It should be noted that this definition does not include Members' riding offices.

123 *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* at 374–375. In this regard, the Supreme Court stated: “It is reasonable and correct to find that the House of Assembly of Nova Scotia has the constitutional power to exclude strangers from its chamber on the basis of the preamble to the Constitution, historical tradition, and the pragmatic principle that the legislatures must be presumed to possess such constitutional powers as are necessary for their proper functioning.”

124 *Ibid.* at 386.



The Press Gallery in the National Assembly Chamber.

This privilege has since been exercised on a few occasions. For example, the decision to deny accreditation to certain journalists for admission to the press gallery of a parliamentary assembly was not subject to judicial review because of the absolute nature of the assembly's privilege to exclude strangers.¹²⁵ It has also been recognized that the same privilege protects the decision to require the surrender of kirpans as a condition for being allowed into National Assembly buildings.¹²⁶ A legislative assembly's decisions to exclude or eject strangers have thus been recognized as being immune from all forms of external review.¹²⁷

Lastly, considering the importance of preserving the ability of the Assembly and its Members to carry out their duties, the President of the Assembly is also responsible for seeing that good access to the Assembly and its parliamentary precincts is protected, for example by ensuring that access corridors to the Assembly are maintained during demonstrations.¹²⁸

125 *Gauthier v. Canada (Speaker of the House of Commons)*, 1994 CanLII 7401 (ONSC); *Charrette v. Vallières*.

126 *Singh v. Québec (Attorney General)*.

127 *Chagnon v. Syndicat de la fonction publique et parapublique du Québec*, at para. 54.

128 *Chagnon c. Fédération des travailleuses et travailleurs du Québec (FTQ)*, 2015 QCCS 6383; *British Columbia (Legislative Assembly) v. John Doe*, 2020 BCSC 301.

3.3.4.2 EXCLUSIVE CONTROL OVER THE ASSEMBLY'S PROCEDURE AND DEBATES

Because of the privilege to regulate its internal affairs free from external interference, a legislative assembly has exclusive control over its internal procedure. This means that the courts cannot intervene in its proceedings, which is why they refrained from reviewing the constitutionality of a provision in the *Standing Orders of the National Assembly* that temporarily suspended the ability to present a petition in the Assembly.¹²⁹

Moreover, a legislative assembly's exclusive control over its own proceedings applies even if the assembly does not comply with its own rules of procedure. Only the President of the National Assembly has jurisdiction in this area. The President even has the exclusive power to apply and interpret the laws that establish parliamentary procedure. By the end of the 19th century, the English courts had made it clear that legislative assemblies had exclusive power over their internal proceedings:

Whatever may be the reasons of the House of Commons for their conduct, it would be impossible for us to do justice without hearing and considering those reasons; but it would be equally impossible for the House, with any regard for its own dignity and independence, to suffer its reasons to be laid before us for that purpose, or to accept our interpretation of the law in preference to its own. It seems to follow that the House of Commons has the exclusive power of interpreting the statute, so far as the regulation of its own proceedings within its own walls is concerned; and that, even if that interpretation should be erroneous, this Court has no power to interfere with it directly or indirectly.¹³⁰

This principle has been recognized and incorporated into our law:

How Houses of Parliament proceed, how a provincial legislative assembly proceeds is in either case a matter of self-definition, subject to any overriding constitutional or self-imposed statutory or indoor prescription. It is unnecessary here to embark on any historical review of the "court" aspect of Parliament and the immunity of its procedures from judicial review. Courts come into the picture when legislation is enacted and not before (unless references are made to them for their opinion on a bill or a proposed enactment). It would be incompatible with the self-regulating—"inherent" is as

129 *Québec (Procureur général) c. Confédération des syndicats nationaux (CSN)*. See also *Michaud v. Bissonnette*, at paras. 52–62.

130 *Bradlaugh v. Gossett*, [1884] 12 QBD 271 at 280–281.

apt a word—authority of Houses of Parliament to deny their capacity to pass any kind of resolution. Reference may appropriately be made to art. 9 of the *Bill of Rights* of 1689, undoubtedly in force as part of the law of Canada, which provides that “Proceedings in Parliament ought not to be impeached or questioned in any Court or Place out of Parliament”.¹³¹

Following the same logic, it has also been recognized that the courts cannot intervene to verify whether a legislative assembly complied with procedure during the passage of a bill:

All that a Court of Justice can do is to look to the Parliamentary roll: if from that it should appear that a bill has passed both Houses and received the Royal assent, no Court of Justice can inquire into the mode in which it was introduced into Parliament, nor into what was done previous to its introduction, or what passed in Parliament during its progress in its various stages through both Houses.¹³²

More recently, it has been clarified that the principles of the separation of powers, parliamentary sovereignty and parliamentary privilege do not permit the courts to apply the doctrine of the duty to consult First Nations during the law-making process,¹³³ as this would lead to “significant judicial incursion into the workings of the legislature”.¹³⁴

An Assembly’s right to regulate its internal affairs free from external interference not only prevents court intervention in the legislative process, but also precludes a priori intervention by the courts in the legislative process in order to stand in the way of the Government or a Member attempting to introduce a bill in the Assembly.

The formulation and introduction of a bill are part of the legislative process with which the courts will not meddle. So too is the purely procedural requirement in s. 54 of the *Constitution Act, 1867*. That is not to say that this requirement is unnecessary; it must be complied with to create fiscal legislation. But it is not the place of the courts to interpose further procedural requirements in the legislative process.¹³⁵

131 *Re: Resolution to Amend the Constitution* at 785.

132 *Edinburgh & Dalkeith Railway Company v. Wauchope*, 1842 UKHL J12 at 725. See also *Drewery et al. v. Century City Developments Ltd. et al. (No. 1)*, 1974 CanLII 535, (ONSC) at 514; *Authorson v. Canada (Attorney General)*, 2003 SCC 39, at para. 37.

133 *Mikisew Cree First Nation v. Canada (Governor General in Council)*, at paras. 32–38.

134 *Ibid.*, at para. 38.

135 *Reference Re Canada Assistance Plan (B.C.)*, [1991] 2 SCR 525 at 559.

In another case, unwilling to interfere in the procedure of the National Assembly, the court refused to issue an interlocutory injunction to prevent a corporation from introducing a private bill and lobbying for its passage. It ruled that if the court were to issue such an injunction, it would violate the right of the legislative assembly to adopt or reject the bills laid before it.¹³⁶

In 1995, the court also denied an application by a resident of Québec who was seeking a series of declaratory judgments and injunctions against the Québec government, which was taking steps to hold a referendum on the sovereignty of Québec.¹³⁷ The court concluded as follows:

[TRANSLATION] The court cannot, of course, paralyze the functioning of the National Assembly [with a series of injunctions], or prohibit it from debating the issue. That would be an infringement of parliamentary privileges. Moreover, it is preferable that the public discussion be held with full knowledge of the facts.¹³⁸

By virtue of its power to establish its own code of procedure and given that it has sole jurisdiction to enforce that code, subject to a preponderant constitutional provision, such as section 133 of the *Constitution Act, 1867*, a legislative assembly has the exclusive power to determine the conditions under which it will or will not consider a matter.¹³⁹ When it believes that the procedural requirements are met, an assembly must decide, freely and without interference, whether it will take up the matter and in what manner. This principle embodies, among other things, the separation of the legislative and judicial branches, and reinforces the independence and autonomy of legislative assemblies.

136 *Rail & Water Terminal of Montreal Ltd. v. Cie de gestion de Matane Inc.*, [1976] CS 102 at 104. See also *Bilston Corp. v. Wolverhampton Corp.*, [1942] 1 LR Ch. 391; *Berthiaume v. Du Tremblay*, [1955] Que. PR 328. In the latter case, an interim injunction was granted to prevent the introduction of a private bill in the Québec legislature. Justice Bora Laskin strongly criticized this decision in an article published in *The Canadian Bar Review* (Vol. XXXIII, 1955). In addition, in *Rediffusion (Hong Kong) Limited v. Hong Kong (Attorney General)*, 1970 UKPC 12, the Judicial Committee of the Privy Council refused to issue an injunction to prevent the Hong Kong Legislative Council from passing a statute that was *ultra vires*.

137 *Bertrand c. Bégin*, [1995] R.J.Q. 2500 (QCCS).

138 *Ibid.* at 2515. (Translation: *Bertrand v. Quebec (Procureur General)*, 1995 CanLII 11036 at 77.)

139 *Michaud v. Bissonnette*, at paras. 52–62.

In conclusion, the inclusion of a right or duty in a statute does not preclude the Assembly's exclusive jurisdiction over its implementation. For example, section 21 of the *Charter of human rights and freedoms*,¹⁴⁰ which recognizes the right to petition, does not give the courts the power to impose a sanction in relation to that right. Only the Assembly has the jurisdiction to examine such a matter.¹⁴¹

3.3.4.3 THE ASSEMBLY'S POWER TO DISCIPLINE ITS MEMBERS

A legislative assembly's power to discipline its Members is one of the categories of parliamentary privileges that is recognized by doctrine and the courts.¹⁴² The privilege to conduct internal affairs free from external interference means that legislative assemblies alone have the constitutional power to discipline their Members.

For example, doctrine and case law have established that it is a proper exercise of parliamentary privilege to expel Members found to be unfit to sit.¹⁴³ It has also been determined that it is within the privilege of the Senate to discipline its own members, and so the Senate may decide to suspend a senator and to take other action with respect to the senator's compensation and benefits. The courts have no jurisdiction over such decisions.¹⁴⁴

In addition, it is important to note that, in the National Assembly, the presiding officers alone are vested with disciplinary power. Standing Orders 42 and 43, which provide for the withdrawal of the right to speak, the order to withdraw and expulsion, are manifestations of the Assembly's power to discipline its own Members, and that power is wielded by the President.¹⁴⁵

In recent years, some of the prerogatives that flow from an assembly's power to discipline its own Members seem to have been delegated to commissioners responsible for enforcing the ethical rules applicable to elected officials.¹⁴⁶ These commissioners, who are independent third parties appointed by legislative assemblies, are mandated to ensure that elected officials comply with, among other things, the legislative provisions applicable to them with respect to

140 *Charter of human rights and freedoms* (CQLR, c. C-12).

141 *Michaud v. Bissonnette*, at para. 61; Brun et al., *Droit constitutionnel*, pp. 327 and 981. For further information on the rules on petitions, see Chapter 8, "Petitions".

142 *Canada (House of Commons) v. Vaid*, at para. 29(10).

143 *Harvey v. New Brunswick (Attorney General)*, [1996] 2 SCR 876 at 76.

144 *Duffy v. Canada (Senate)*, at para. 43.

145 For more details on the disciplinary rules in force in the Assembly, see Chapter 11, "Order and Decorum".

146 *Mclver v. Alberta (Ethics Commissioner)*; JD, October 9, 2014, pp. 2172-2174 (Jacques Chagnon)/RDPP, No. 62/10.

conflicts of interest and incompatibility of posts or offices. In Québec, the rules relating to these matters used to be included in the *Act respecting the National Assembly*.¹⁴⁷ Since 2010, however, they have been incorporated into the *Code of ethics and conduct of the Members of the National Assembly*,¹⁴⁸ which provides that the Ethics Commissioner is responsible for the application of the Code.¹⁴⁹ Some ethics commissioners, including Québec's, also have the power to investigate elected officials who may have breached rules of ethics. However, in accordance with parliamentary privileges, these commissioners do not have the power to sanction elected officials directly; only an assembly can apply the sanctions a commissioner has recommended. In Québec, if the Ethics Commissioner's report recommends a sanction, the Members must then vote on the report. A sanction provided for in the report will be applied if the Assembly adopts the report by the vote of two thirds of its Members.¹⁵⁰

3.3.4.4 GOVERNANCE OF INTERNAL AFFAIRS

Some decisions made by the bodies responsible for governing the internal affairs of legislative assemblies are part of the assemblies' exercise of the privilege to govern their internal affairs without outside interference. These bodies, generally called "offices" or "boards", are established to deal with administrative and financial matters affecting the legislative assembly and its precincts, services and personnel, as well as Members and their staff.¹⁵¹

In Québec, the Office of the National Assembly is established under sections 86 and following of the *Act respecting the National Assembly*. It is chaired by the President of the National Assembly and composed of nine other Members.¹⁵² The Office has managerial and regulatory functions as well as other roles that the Assembly may assign to it.¹⁵³ For example, the Office makes decisions relating to the administrative management of the Assembly,¹⁵⁴ approves the

147 *Act respecting the National Assembly*, ss. 57–73.

148 *Code of ethics and conduct of the Members of the National Assembly* (CQLR, c. C-23.1), ss. 10–26 and 43–49.

149 *Ibid.*, s. 62.

150 *Ibid.*, s. 104. Sanctions that may be recommended by the Ethics Commissioner include a reprimand, a penalty, reimbursement of unlawful profit, the suspension of the Member's right to sit in the National Assembly, the loss of the Member's seat or the loss of the Member's position as Cabinet minister. See sections 99 to 104 of the Code. See also Chapter 19, Subsection 19.6.3.5, "The Ethics Commissioner".

151 *Act respecting the National Assembly*, ss. 86 ff; *Parliament of Canada Act* (RSC, 1985, c. P-1), ss. 50 ff; *Legislative Assembly and Executive Council Act* (SNWT 1999, c. 22), ss. 36 ff.

152 *Act respecting the National Assembly*, s. 87.

153 *Ibid.*, s. 100.

154 *Ibid.*, ss. 110 ff.

Assembly's budget estimates¹⁵⁵ and prescribes, among other things, rules governing the expenditures and allowances granted to Members and House officers to carry out their parliamentary functions.¹⁵⁶

When an assembly exercises its internal management power, its decisions are not subject to review. For example, parliamentary privilege prevents the courts from reviewing a legislative assembly's internal management body's decision to withhold the payment of allowances from Members who have misrepresented their place of residence.

Decisions that the Board makes about MLAs allowances and benefits are truly internal to the legislature, and it is necessary that those decisions be privileged and free from review by the courts. It is necessary that the legislature, through the Board, be able to make its own decisions about benefits and allowances of its members without outside interference. How members are compensated, and what allowances they receive to enable them to do their work as MLAs, are the types of internal matters over which the legislature must have complete control and be free from outside interference, as an independent branch of government.¹⁵⁷

Decisions of the Office of the National Assembly regarding the allowances and benefits to which a Member is entitled fall within the category of a legislative assembly's privilege to govern its internal affairs without external interference.¹⁵⁸ A court cannot therefore review a decision of the Office of the National Assembly concerning an application made by a former Member to be compensated for a pecuniary penalty.

In the end, "the House's exclusive right to oversee and decide matters pursuant to internal rules governing the use made of funds and resources provided to Members of the House for the purpose of allowing them to perform their parliamentary functions—comes within the established category relating to internal affairs".¹⁵⁹

3.3.4.5 APPLICATION OF STATUTES TO THE ASSEMBLY

Since it has been established that the parliamentary privileges that assemblies require in order to function have constitutional status, they override any law passed by Parliament. This is why the laws of Québec apply to the National

155 Ibid., s. 125.

156 Ibid., ss. 102 ff.

157 *Villeneuve v. Legislative Assembly et al.*, 2008 NWTSC 41, at para. 34.

158 *Filion c. Chagnon*, 2016 QCCS 6146, at para. 26.

159 *Canada (Board of Internal Economy) v. Boulgerice*, 2019 FCA 33 (application for leave to appeal to the Supreme Court denied, 18 July 2019, No. 38586), at para 94.

Assembly subject to its parliamentary privileges. In this regard, even though the *Act respecting Access to documents held by public bodies and the Protection of personal information* expressly applies to the National Assembly, the Court of Québec found that the Act could not oblige the Assembly to grant access to parliamentary documents, even if those documents were held by one of the Assembly's administrative divisions.¹⁶⁰ As the documents in question were related to the proceedings of Parliament, and as such proceedings are covered by the Assembly's privilege to regulate its internal affairs without external interference, it went without saying, legally speaking, that the constitutional privilege prevailed over the Act.

Invoking parliamentary privilege to counter the application of a law to purely administrative matters in the Assembly would appear to be a riskier business. If the Assembly decided to invoke its privilege to that end, it would be called before the courts to prove that the administrative matter in question falls within its parliamentary privilege.

To spare the Assembly from constantly having to prove the existence of a privilege, the legislator decided to grant the Office of the National Assembly major powers of derogation. Section 110 of the *Act respecting the National Assembly* provides that, subject to the provisions of the Act, the Assembly will continue to be run in accordance with the statutes, regulations and rules that apply to it. However, the same section states that the Office of the National Assembly may, by regulation, derogate from those statutes, regulations and rules by specifying the provisions in question and those that will apply instead.

In sum, the statutes in general, as well as the rules of civil and criminal law, apply to Members¹⁶¹ and to the Assembly, unless they conflict with a parliamentary privilege, or the Office of the National Assembly derogates from them by regulation.

3.3.4.6 SEARCH WARRANTS, SERVICE OF PROCESS AND ARREST

In the course of executing certain orders, the police and legal officers may have to interact with the National Assembly and its Members. For example, they may have the duty to execute a search warrant, serve process or arrest a Member. However, owing to the rights and privileges enjoyed by the Assembly and its Members, parliamentary law provides that specific rules must be complied with in carrying out these duties.

Police leading an investigation may need to enter the precincts of the Assembly to interrogate Members, members of their staff or Assembly personnel, to execute search warrants or to arrest someone. Although parliamentary privilege does not generally prevent the application of criminal or penal law within the

¹⁶⁰ Québec (*Assemblée nationale*) c. Bayle, 1998 CanLII 11079 (CQ).

¹⁶¹ Brun et al., *Droit constitutionnel*, at para. V-1.225.

Assembly's precincts, the police do not have access to the Assembly automatically since police intervention could hinder the Assembly's functioning and, as a result, breach its privilege to govern its internal affairs without external interference. This means that the police may not enter the precincts¹⁶² of the Assembly without having first obtained the President's authorization,¹⁶³ regardless of the nature of the intervention.¹⁶⁴

A recent directive from the Chair stated that the President must cooperate in due administration of justice, to the extent that it is in accordance with parliamentary privileges and does not prevent or hinder the proper functioning of the Assembly and the performance of Members' duties.¹⁶⁵ Before authorizing the police to execute a search warrant within the precincts, the President, as guardian of the privileges of the Assembly and of its Members, must ensure that the warrant respects the criteria of content and form established by law, jurisprudence and parliamentary practice. As a general rule, the President will authorize the police to enter the precincts to conduct a search when these principles are respected.

The directive also established that if documents and material belonging to a Member for the purpose of doing parliamentary work were seized, they would not necessarily be useable as evidence in a trial.¹⁶⁶

Under the privilege of freedom of speech and the tenet of the Assembly's exclusive jurisdiction over its own affairs, certain documents seized or information to which electronic materials seized give access may be covered by parliamentary privilege.

For that reason, as in cases involving seizing documents located inside a law firm or in the possession of someone else with a confidentiality privilege, if a police investigation concerns a Member's documents or material, a special procedure must be followed . . .

Once documents or material belonging to a Member are seized, they must be sealed, to avoid violating the Member's privileges. Then, a protocol must be implemented so that documents covered by privilege can be separated from those that are not: only the latter may be used by police authorities.¹⁶⁷

162 For the definition of the parliamentary precincts, see Subsection 3.3.4.1, "The Privilege to Exclude Strangers from the National Assembly and its Precincts".

163 JD, November 16, 2017, pp. 17996-18003 (Jacques Chagnon)/RDPP, No. 2/11.

164 Bosc et al., eds., *House of Commons Procedure and Practice*, pp. 122-123.

165 JD, November 16, 2017, pp. 17996-18003 (Jacques Chagnon)/RDPP, No. 2/11; VP, November 16, 2017, pp. 3973-3983.

166 Ibid.

167 Ibid.; VP, November 16, 2017, p. 3979.

Parliamentary privilege can therefore protect content that is related to parliamentary proceedings.¹⁶⁸

Furthermore, given that the President controls access to the parliamentary precinct, no process may be served in the National Assembly precincts without the President's authorization.¹⁶⁹

Certain principles have also been established with regard to the arrest of a Member. As we have seen, Members are not above the general law and do not enjoy any immunity if they commit criminal or penal offences. They may be arrested by the police. However, certain safeguards must be respected when the police make such an arrest. It cannot be taken lightly. As the President of the Assembly has explained:

There is a certain custom in other legislative assemblies that the House must be notified when one of its Members is arrested and faces penal or criminal charges. The reasons for this practice are easy to understand. It is normal that when a legislative assembly is sitting, it be notified of the arrest and detention of one of its Members. This requirement is justified by the Assembly's paramount right to the presence of its Members.¹⁷⁰

This is why the President of the Assembly should be systematically informed if a Member is arrested by the police, especially if this prevents the Member from participating in parliamentary proceedings.

168 Gerard Carney, *Members of Parliament: Law and Ethics* (St. Leonards: Prospect Media, 2000), p. 210; J. R. Odgers, *Odgers' Australian Senate Practice*, 14th ed., Harry Evans and Rosemary Laing, eds. (Canberra: Department of the Senate, 2016), p. 56; L. Lovelock et al., *New South Wales Legislative Council Practice*, p. 69; David G. McGee, *Parliamentary Practice in New Zealand*, 3rd ed. (Wellington: Dunmore Publishing, 2005), p. 622; Standing Committee on Parliamentary Privilege and Ethics, *Parliamentary Privilege and Seizure of Documents by ICAC* No. 2, pp. 7–8.

169 Joint Committee on Parliamentary Privilege, *Report and Proceedings of the Committee: First Report of Session 1998–99*, at para. 334; Mary Harris, David Wilson, David Bagnall and Pavan Sharma, eds., *Parliamentary Practice in New Zealand*, 4th ed. (Auckland: Oratia Books, 2017), pp. 759 and 774–775. With regard to civil matters, note that the *Code of Civil Procedure* has incorporated this principle in article 115, which provides that “notification of a pleading cannot be made . . . to a Member of the National Assembly in the chamber or a room where the Assembly or a committee sits”. See the *Code of Civil Procedure*, CQLR, c. C-25.01, a. 115.

170 JD, November 16, 2017, pp. 17996–18003 (Jacques Chagnon)/RDPP, No. 2/11; VP, November 16, 2017, p. 3975. See Maingot, *Parliamentary Immunity in Canada*, p. 142; *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, at para. 14.3; David R. Elder and Peter E. Fowler, eds., *House of Representatives Practice*, 7th ed. (Canberra: Department of the House of Representatives, 2018), p. 750; Harris et al, *Parliamentary Practice in New Zealand*, p. 756.

Given the special rights and privileges of the Assembly and its Members, and the role of the President as the person responsible for upholding those rights and privileges, special care must be taken by the police and the courts when they are called upon to carry out a procedure with respect to a Member or concerning the National Assembly. They must act with greater circumspection because of the safeguards available to the Members and the institution, and they must take into consideration that their intervention should in no way be perceived as an attempt to interfere with the performance of a parliamentarian's functions. Strict, rigorous measures must be put in place and complied with to protect the public's confidence in its institutions.

3.3.5 THE POWER TO CONDUCT INQUIRIES, CALL WITNESSES AND DEMAND PAPERS

Provincial legislative assemblies have a recognized power to conduct inquiries, call witnesses and demand papers. This allows them to inquire into all matters within their constitutional jurisdiction. The reason they have the constitutional power to call witnesses and compel them to produce documents is because that power is necessary for their proper functioning. It guarantees that, for the purposes of their proceedings, legislative assemblies can access all the information they need to conduct informed debates on any given subject. This is why they even have the power to call federal public servants to testify as part of an inquiry, so long as the matter is in an area of provincial jurisdiction.¹⁷¹

This privilege is codified in section 51 of the *Act respecting the National Assembly*, which provides that the "Assembly or a committee may summon and compel the appearance before it of any person, either to answer questions put to him or to produce such papers and things as it may deem necessary for its acts, inquiries or proceedings". The Assembly has not exercised this power for a long time because the framework of legislative proceedings does not lend itself to hearing witnesses.¹⁷² Parliamentary committees, however, are called on regularly to gather testimony from persons and organizations, both during consultations and in the context of mandated reporting requirements and inquiries.

171 *Canada (Attorney General) v. MacPhee*, 2003 PESCTD 6.

172 On October 30, 1922, the Assembly summoned journalist John H. Roberts of *The Axe* to appear before the House on November 2. In an article dated October 27, he had allegedly insinuated that two Members of the Assembly were involved in the murder of Blanche Garneau and that the authorities were therefore delaying the investigation of the crime. Following his testimony, he was sentenced by the House to one year in detention.

Witnesses are usually willing, but the Assembly and its committees may, in the exercise of their power to compel under section 51 of the *Act respecting the National Assembly*, summon a witness.¹⁷³ To do so, the Assembly or a committee must carry a motion to call a person to appear.

Such a motion becomes an order of the Assembly or committee. Once the motion is carried, a summons is served on the person concerned, specifying the date, time and location of the hearing and listing any documents the person must produce or bring. The person is required to attend the hearing.¹⁷⁴ Similarly, to require the production of a document, a motion in the form of an order for the production of a document must be carried by the Assembly or one of its committees.¹⁷⁵ The documents referred to in the order must be submitted within the required time. Refusing to do so may result in being charged with contempt of Parliament.¹⁷⁶

The power to compel can be exercised with regard to any person, including a Member of Parliament or a former minister.¹⁷⁷ However, if a Member is summoned by a committee mandated by Parliament to conduct oversight, the committee must adhere to its mandate without calling the Member's conduct into question.¹⁷⁸ A presiding officer has also established that the power to compel must be exercised with caution in relation to judicial institutions due to the strict separation between the legislative and judicial branches of government that flows from our constitutional law:

[TRANSLATION] Since judicial independence and parliamentary privilege are constitutional principles of the same nature, they must coexist. Courts of justice refrain from intervening in legislative assemblies' workings and do not interfere in their deliberations. Assemblies must also take care to respect the independence of judicial bodies and entities exercising similar functions, such as commissions of inquiry, which must have the independence required to carry out their mandates fully. This is a matter of the fundamental

173 JD, October 4, 2011, pp. 2745–2747 (Jacques Chagnon)/RDPP, No. 67/61.

174 Minutes, April 17, 2013, CTE p. 3 (Fatima Houda-Pepin)/RDPP (Com. Vol.), No. 170/6.

175 JD, May 31, 2016, pp. 11243–11245 (François Ouimet)/RDPP, No. 170/2.

176 JD, November 23, 2010, pp. 8426–8428 (Yvon Vallières)/RDPP, No. 67/59.

177 JD, April 24, 2013, p. 2696 (Jacques Chagnon)/RDPP, No. 146/1; Minutes, April 17, 2013, CTE p. 3 (Fatima Houda-Pepin)/RDPP (Com. Vol.), No. 170/6.

178 JD, April 24, 2013, p. 2696 (Jacques Chagnon)/RDPP, No. 146/1.

principle of separation of state powers, according to which the independence of each power must be respected.¹⁷⁹

Refusing to comply with an order of the Assembly or a committee, or presenting a false document to either of them with the intent to mislead, constitutes a breach of the Assembly's privileges, and therefore contempt of Parliament, under section 55 of the *Act respecting the National Assembly*. When the head of a public body failed to appear before a committee that had formally summoned him to appear, the President considered that to be contempt of Parliament even though the individual in question had expressed his intention to appear on a date other than the one chosen by the committee:

[TRANSLATION] All are duty-bound to lend their full cooperation to a parliamentary committee in carrying out its mandate. Like the judicial branch of the State, the legislative branch—Parliament—is entitled to respect so that it may perform its role effectively, and an order to appear before the Assembly should be taken just as seriously as a summons to appear before a court of law. That is why Parliament is endowed, like courts of law, with the power to compel witnesses to attend, and to punish contempt.¹⁸⁰

Given the primacy of parliamentary privilege, a committee's power to conduct an inquiry takes precedence over "ordinary" law.¹⁸¹ The National Assembly's jurisprudence has therefore recognized that the *Act respecting Access to documents held by public bodies and the Protection of personal information* does not limit the application of parliamentary privileges, including the power to order the production of documents.¹⁸² When a parliamentary committee, by means of an order to produce documents, asks a witness to

179 Minutes, February 25, 2016, CI p. 2 (Guy Ouellette)/RDPP (Com. Vol.), No. 149/3. In the case in question, two motions had been submitted to the Committee on Institutions proposing that it initiate an order to hear the two commissioners of the Commission of Inquiry on the Awarding and Management of Public Contracts in the Construction Industry so that they could provide explanations, in particular on the points of disagreement in their report. On the subject of commissions of inquiry established under the *Act respecting public inquiry commissions*, the Committee Chair's ruling specified as follows: [TRANSLATION] "Thus, although commissions are created by the executive branch, they remain independent in the way they play their role, deliberate and draw conclusions. Consequently, while the Assembly can hold the executive branch accountable, its powers with regard to the Commission are no greater than those of that branch."

180 JD, October 4, 2011, pp. 2745–2747 (Jacques Chagnon)/RDPP, No. 67/61. The President ruled that even though the Chairman of the board did not seem to have intentionally shirked his obligation to appear, that fact could not change the ruling, and the point of privilege was in order.

181 Minutes, May 29, 2013, CTE pp. 3–5 (Fatima Houda-Pepin)/RDPP (Com. Vol.), No. 170/7.

182 JD, May 31, 2016, pp. 11243–11245 (François Ouimet)/RDPP, No. 170/2; JD, November 23, 2017, pp. 18145–18146 (François Ouimet)/RDPP, No. 170/3.

hand over documents to the Assembly, a witness with reservations about the nature of the information being sought cannot unilaterally decide not to comply. It is the Members' privilege to determine what they need in order to perform their government oversight function. Members may also determine whether it is necessary to take measures to protect certain information potentially contained in the documents.¹⁸³

Even an oath of secrecy taken by a witness in the course of official duties cannot restrict a committee's power to conduct inquiries and summon witnesses.¹⁸⁴ In such a case, however, it is possible for the committee to hear the witness in camera.

In general, all witnesses have the same rights and obligations, regardless of whether they appear voluntarily or are summoned to appear at committee proceedings.¹⁸⁵ However, individuals who are summoned to appear under section 51 of the *Act respecting the National Assembly* may be compelled to answer the questions put to them, which is not the case for people who are invited to appear, regardless of whether they have taken the oath.¹⁸⁶ All witnesses who appear before a parliamentary committee may be questioned by any committee member. In a report submitted to the President of the Assembly, Justice Albert Mayrand, a former jurisconsult of the National Assembly, specified that all Members who sit on a committee have a duty to ensure that witnesses provide all the information in their possession that would help enlighten the legislator.¹⁸⁷ For the purpose of obtaining all required information, parliamentarians also enjoy great freedom when it comes to the questions they can ask a witness since there are no clear-cut rules governing the interrogation: there is a distinction between examination in a parliamentary committee and examination in a court of law.¹⁸⁸ Also, witnesses may not object on their own initiative to questions addressed to them; the making of such objections is reserved for the Members taking part in committee proceedings.

183 JD, May 31, 2016, pp. 11243–11245 (François Ouimet)/RDPP, No. 170/2; JD, November 23, 2017, pp. 18145–18146 (François Ouimet)/RDPP, No. 170/3.

184 Minutes, May 29, 2013, CTE pp. 3–5 (Fatima Houda-Pepin)/RDPP (Com. Vol.), No. 170/7.

185 Derek Vincent Lee and T. Grant Wagman, *The Power of Parliamentary Houses to Send for Persons, Papers & Records: a Sourcebook on the Law and Precedent of Parliamentary Subpoena Powers for Canadian and Other Houses* (Toronto: University of Toronto Press, 1999), p. 53.

186 JD, May 19, 2009, CFP-17 p. 61 (Alain Paquet)/RDPP (Com. Vol.), No. 170/5.

187 Albert Mayrand, *Les témoins devant les commissions ou sous-commissions de l'Assemblée nationale* (Québec City: National Assembly of Québec, February 1989), p. 53.

188 Unlike in examination in a court of law, Members are not subject to the hearsay rule, to the prohibition against leading questions or to the rules of natural justice, but they can draw on them.

Lastly, a witness who wishes to have a lawyer present at a hearing must obtain permission from the committee. It will then be up to the committee to determine the lawyer's role, but generally it is limited to that of adviser: the witness is required to answer questions, not the lawyer, and the latter may speak only with the permission of the committee.¹⁸⁹

3.4 CONTEMPT AND BREACH OF PRIVILEGE

3.4.1 THE POWER TO PUNISH FOR CONTEMPT

Like other British-style legislative assemblies, the National Assembly has the power to punish for contempt to ensure that its parliamentary privileges are respected.

In addition to the right to punish a breach of its privileges or those of its Members, the Assembly has the right to punish acts or omissions that, while not necessarily breaches of recognized parliamentary privilege, nevertheless hinder the Assembly's work or threaten its authority or dignity. As contempt of Parliament can take a multitude of forms, it is difficult to provide a precise definition or an exhaustive list of the acts and omissions that could be concerned. In fact, it is the Assembly that decides whether the substance of an act or an omission constitutes contempt of Parliament. Erskine May summarizes the nature of contempt as follows:

Generally speaking, any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results, may be treated as a contempt even though there is no precedent of the offence. It is therefore impossible to list every act which might be considered to amount to a contempt, as Parliamentary privilege is a "living concept".¹⁹⁰

The President has taken inspiration from doctrine to define contempt of Parliament as any act or omission that hinders the work of the National Assembly of Québec or undermines its authority or dignity.¹⁹¹

While it would be impossible to draw up an exhaustive list of all the acts or omissions that would constitute contempt of Parliament, the Assembly, in accordance with its power to legislate in the area of parliamentary privilege, has

189 Minutes, May 29, 2013, CTE pp. 3–5 (Fatima Houda-Pepin)/RDPP (Com. Vol.), No. 170/7.

190 *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, at para. 15.2.

191 JD, November 28, 2001, pp. 3986–3987 (Jean-Pierre Charbonneau)/RDPP, No. 67/48.

codified, in section 55 of the *Act respecting the National Assembly*, a list of situations that could constitute a breach of the Assembly's rights, in other words, a list of behaviours or acts that could constitute contempt of Parliament:

55. No person may breach the privileges of the Assembly. The following acts, in particular, constitute breaches of the privileges of the Assembly:

1. refusing to comply with an order of the Assembly, a committee or a subcommittee;
2. giving false or incomplete testimony before the Assembly, a committee or a subcommittee;
3. presenting a false document to the Assembly, a committee or a subcommittee with intent to deceive;
4. forging, falsifying or altering, with intent to deceive, any document of the Assembly, a committee or a subcommittee or any document tabled or presented before it;
5. creating a disturbance liable to disrupt the course of parliamentary proceedings;
6. using or threatening to use force or using undue pressure to have a sitting cancelled or suspended;
7. assaulting, interfering with, bullying or threatening Members of the Assembly in the carrying out of their parliamentary duties or members of the personnel of the Assembly in the carrying out of their parliamentary duties;
8. defaming a Member of the Assembly or using abusive language about him;
9. bribing or attempting to bribe a Member of the Assembly or a member of the personnel of the Assembly;
10. attempting to influence the vote, opinion, judgment or action of a Member by means of deceit, threats or undue pressure;
11. suborning or attempting to suborn or threatening a person in regard to any evidence to be given by him before the Assembly, a committee or a subcommittee;
12. instituting an action with malicious intent against a Member;
13. performing an act contrary to the parliamentary immunity conferred on a Member.

In addition, section 56 of the Act states that it is also a breach of the privileges of the Assembly for a peace officer or any other person to refuse to assist a person responsible for carrying out a warrant of the Assembly, a committee or a subcommittee.

Other specific situations have been recognized as constituting contempt of Parliament or breach of the Assembly's privileges: threatening or putting undue pressure on a Member; taking advantage of legislative provisions that have not been adopted; making a bill public before it is introduced in the Assembly; failing, in the case of a department or public body, to table its annual report in the Assembly; misleading the Assembly; giving false or incomplete testimony or filing a false document; and refusing to comply with an order of the Assembly, a committee or a subcommittee. In the following subsections, after we have seen the procedure for raising points of privilege or contempt, we will look more closely at these situations and the parliamentary jurisprudence that has dealt with them.

3.4.2 THE PROCEDURE FOR RAISING POINTS OF PRIVILEGE OR CONTEMPT

Before looking more specifically at situations that have been considered *prima facie* breaches of privileges of the Assembly or contempt of Parliament, we need to consider how they may be brought to the attention of the President and the Assembly.

Standing Order 66 states that any breach of the rights or privileges of the Assembly or of its Members may be reported to the former. Under Standing Order 67, the matter raised must relate to the privileges acquired by custom or conferred by statute upon the Assembly or its Members.

A Member, through a procedure commonly called a point or question of privilege, may draw the Assembly's attention to an alleged breach.¹⁹² The same procedure is used for contempt. Under Standing Order 69, a Member may rise on a point of privilege immediately after the alleged breach. The words "suddenly arising" have been interpreted by the President as referring to an event that happens on the spot in the House,¹⁹³ that is, within the precincts of the Assembly. Otherwise, a Member must follow the procedure set out in the second paragraph of Standing Order 69, that is, notify the President in writing, no later than one hour before Routine Proceedings, of the intention to rise on a point of privilege or a contempt.

¹⁹² See also Chapter 9, Subsection 9.2.1.6.1, "Breach of Privilege or Contempt".

¹⁹³ JD, June 10, 2003, p. 162 (Michel Bissonnet)/RDPP, No. 69/4; Maingot, *Parliamentary Immunity in Canada*, p. 201; Geoffrion 1941, SO 198. Furthermore, the President referred in the ruling to an exception to the rule according to which a question of privilege must be raised immediately after the fact: the Finance Minister's budget speech. Customarily, no point of privilege may be raised during the speech, but the presiding officer may allow one immediately afterwards, that is, after the finance critic for each opposition group has spoken, as long as the question is based on a matter that has just arisen in the House (JD, June 12, 2003, pp. 330–331 (Michel Bissonnet)/RDPP, No. 271/3; JD, June 12, 2003, p. 333 (Michel Bissonnet)/RDPP, No. 271/4).

The President has stressed that, given the importance of the procedure and its possible consequences, Members must be rigorous, paying attention to both form and content, when handing in a notice under the second paragraph of Standing Order 69.¹⁹⁴ The notice must be sufficiently specific to allow the President to make an informed decision. It is not enough for a Member to simply raise facts for a question of privilege to be ruled admissible. There must also be sufficient support for those facts to allow the President to decide whether they constitute a breach of privilege or contempt.¹⁹⁵ The President has also warned the Members that those who hand in notices that do not clearly state the facts that could constitute contempt of Parliament will be asked to prepare new notices in accordance with the Standing Orders.¹⁹⁶

A question of privilege may be raised only in the Assembly and not in committee, as only the Assembly, not its committees, has the power to punish contempt.¹⁹⁷ A Member who witnesses a breach in committee must raise the point of privilege by following the procedure set out in Standing Order 69.¹⁹⁸

When rising on a point of privilege, a Member must draw the President's attention to a breach of a recognized privilege or to an act or omission that may constitute contempt.¹⁹⁹ It could be one of the situations contemplated in section 55 of the *Act respecting the National Assembly*,²⁰⁰ but that list is not exhaustive, so the situation could also be one of the same nature but not specifically referred to in that section.

A Member's privilege applies only to the role of Member:

Parliamentary privilege is concerned with the special rights of Members, not in their capacity as ministers or as party leaders, whips, or parliamentary secretaries, but strictly in their capacity as Members in their parliamentary work. Therefore, allegations of misjudgement, or mismanagement, or maladministration on the part of a minister in the performance of his ministerial duties do not come within the

194 JD, June 10, 1998, pp. 11815–11817 (Jean-Pierre Charbonneau)/RDPP, No. 67/38.

195 JD, June 15, 2001, pp. 2381–2382 (Jean-Pierre Charbonneau)/RDPP, No. 67/47.

196 JD, May 26, 1998, pp. 11329–11330 (Jean-Pierre Charbonneau)/RDPP, No. 67/37.

197 Joint Committee on Parliamentary Privilege, *Parliamentary Privilege: Report of Session 2013–2014*, at para. 48.

198 JD, February 13, 1986, p. CBA-160 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 66/1.

199 In a ruling made in October 1999, the President noted that when a Member alleges a breach of privilege, it is essential that the privilege concerned be clearly identified. However, the President did not reject the point of privilege on this basis but, given the facts submitted, made an assumption as to which privileges the Member wished to invoke (JD, October 20, 1999, pp. 3027–3028 (Jean-Pierre Charbonneau)/RDPP, No. 67/40).

200 Ibid.

purview of parliamentary privilege. And neither does an allegation that a minister permitted a budget leak constitute a matter of privilege.²⁰¹

With regard to parliamentary privilege, a Member's parliamentary work includes acting as legislator and performing oversight of governmental activity, but not acting as an intermediary between citizens and the State.

In closing, it is important to note that when it comes to raising a question of privilege, several similar expressions may be used. Breach of the privileges of the Assembly refers more specifically to the actions listed in section 55 of the *Act respecting the National Assembly*. The notion of contempt of Parliament is, as we saw earlier, broader, with countless examples. It is not codifiable since new forms of obstruction are constantly emerging.²⁰² The notion of breach of privilege is also a more general concept that concerns violations of the rights and privileges of the Assembly and its Members.²⁰³ These different concepts are often used synonymously, considered in the same manner and dealt with in the same way by the President.

3.4.3 PRIMA FACIE BREACH OF PRIVILEGE

When a question of privilege or contempt is raised, "it is the House alone that decides whether a breach of privilege or a contempt has occurred, for only the House has the power to commit or punish for contempt".²⁰⁴ However, before the matter is submitted to the House, it must be brought to the attention of the

201 Maingot, *Parliamentary Privilege in Canada*, p. 234; Maingot, *Parliamentary Immunity in Canada*, p. 207. However, on September 18, 1995, the President of the National Assembly ruled *prima facie* admissible a point of privilege raised by the Minister of Justice pursuant to paragraph 8 of section 55 of the *Act respecting the National Assembly*. The Minister claimed that he had been defamed by two Members from the Official Opposition who had allegedly said in a press conference that the Minister had made a "gift" to the Minister of Tourism by withdrawing the charges against her (JD, September 18, 1995, pp. 5009–5010 (Roger Bertrand)). See also JD, June 12, 2003, pp. 330–331 (Michel Bissonnet)/RDPP, No. 271/3).

202 Maingot, *Parliamentary Privilege in Canada*, p. 235; Maingot, *Parliamentary Immunity in Canada*, p. 207.

203 *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, at para. 15.1.

204 Maingot, *Parliamentary Privilege in Canada*, p. 221; Maingot, *Parliamentary Immunity in Canada*, p. 204.

President, who verifies whether the alleged facts enable a *prima facie* (first sight) conclusion to be drawn that there was a breach of a right or privilege.²⁰⁵ In this regard, Maingot writes:

A *prima facie* case of privilege in the parliamentary sense is one where the evidence on its face as outlined by the Member is sufficiently strong for the House to be asked to debate the matter and to send it to a committee to investigate whether the privileges of the House have been breached or a contempt has occurred and report to the House.²⁰⁶

However, it is not enough that a Member simply invoke the facts for a question of privilege to be *prima facie* admissible: when a question of privilege is submitted, the President's ruling must be based both on the facts and on the rules of parliamentary law.²⁰⁷ In order to make such a ruling, the President must conduct a preliminary analysis and determine whether the facts are serious enough to send the matter to the Committee on the National Assembly, which will then conduct a more thorough investigation of the matter. In short, the President cannot always make a ruling uniquely on the facts invoked by the Member raising a point of privilege.²⁰⁸ Of course, under subparagraph 6 of Standing Order 35, the President must take all Members at their word, but the facts must be supported by sufficient proof to allow the conclusion that there may be a breach of privilege or contempt.²⁰⁹ The evidence submitted in support of a question of privilege must be complete and consider all available elements.²¹⁰

205 JD, December 20, 1989, pp. 934–937 (Jean-Pierre Saintonge)/RDPP, No. 67/15; JD, May 30, 1990, pp. 2740–2741 (Jean-Pierre Saintonge)/RDPP, No. 67/17; JD, October 20, 1999, pp. 3027–3028 (Jean-Pierre Charbonneau)/RDPP, No. 67/40; JD, October 4, 2011, pp. 2745–2747 (Jacques Chagnon)/RDPP, No. 67/61; JD, September 26, 2013, pp. 4600–4601 (Jacques Chagnon)/RDPP, No. 67/63; JD, March 19, 2015, pp. 4065–4071 (Jacques Chagnon)/RDPP, No. 67/67; JD, May 5, 2015, pp. 5873–5874 (Jacques Chagnon)/RDPP, No. 67/69; JD, April 12, 2018, pp. 21178–21180 (Jacques Chagnon)/RDPP, No. 67/75; JD, May 10, 2018, pp. 21604–21606 (Jacques Chagnon)/RDPP, No. 67/76.

206 Maingot, *Parliamentary Privilege in Canada*, p. 221; Maingot, *Parliamentary Immunity in Canada*, p. 202.

207 JD, October 20, 1999, pp. 3027–3028 (Jean-Pierre Charbonneau)/RDPP, No. 67/40.

208 JD, December 19, 1986, pp. 5845–5846 and 5886–5887 (Pierre Lorrain)/RDPP, No. 67/11; JD, December 7, 2000, p. 8564 (Jean-Pierre Charbonneau)/RDPP, No. 67/45.

209 JD, November 26, 1992, pp. 3892–3894 (Jean-Pierre Saintonge)/RDPP, No. 67/27; JD, March 31, 1994, pp. 302–306 (Jean-Pierre Saintonge)/RDPP, No. 67/32; JD, October 20, 1999, pp. 3027–3028 (Jean-Pierre Charbonneau)/RDPP, No. 67/40; JD, June 15, 2001, pp. 2381–2382 (Jean-Pierre Charbonneau)/RDPP, No. 67/47.

210 JD, December 8, 2016, pp. 13252–13258 (Jacques Chagnon)/RDPP, No. 67/72.

Therefore, when a Member reports a breach of privilege under the second paragraph of Standing Order 69, the notice must clearly identify the perpetrator and be sufficiently precise to enable the President to make an informed decision.²¹¹

In some situations, the treatment of evidence submitted in support of a question of privilege involves additional caution. For example, in a case where the evidence consisted of documents submitted in a lawsuit that was before the courts, the President ruled that, in accordance with the principle of the separation of powers, examination of the evidence should be limited to what was necessary to rule on the questions raised and should avoid, as much as possible, broaching the core of the suit in a way that could be prejudicial to one of the parties.²¹² On another occasion, the President also determined that when a third party is concerned by a question of privilege, it is necessary to consider all available evidence to render a decision that is balanced and respectful of all.²¹³

In a way, the President is responsible for ensuring that the question of privilege is serious, in order to avoid regularly transforming the Committee on the National Assembly into a tribunal of inquiry into facts that analysis by the President shows to be, at first blush, not well founded.²¹⁴ This aspect of the President's role is particularly important in the National Assembly, since if a question of privilege concerning one of the Members is declared in order, the Committee on the National Assembly may be convened automatically to investigate the matter.²¹⁵ In most other legislative assemblies, a motion is required to send the matter to committee. That said, with respect to interpreting the law, the role of the President is usually limited to the rules of parliamentary law contained in an Act. If an argument against a question of privilege is based on a specific aspect of the law in a specialized area, it is up to the Member making the point to provide the necessary details in support of the argument so that the President can judge the *prima facie* admissibility of the question.²¹⁶

211 JD, June 15, 2001, pp. 2381-2382 (Jean-Pierre Charbonneau)/RDPP, No. 67/47.

212 JD, November 14, 2019, pp. 5377-5381 (François Paradis)/RDPP, No. 67/81.

213 JD, December 8, 2016, pp. 13252-13258 (Jacques Chagnon)/RDPP, No. 67/72.

214 JD, December 6, 2019, pp. 6031-6033 (François Paradis)/RDPP, No. 67/83. In the decision, the President mentioned that the facts in question did not seem serious enough to convene the Committee on the National Assembly for an inquiry.

215 In order for the Committee on the National Assembly to be convened, the Member's oral intervention or written notice to the President raising the question of privilege must indicate the Member's intention to move a motion in accordance with Standing Orders 70 and 317 or 324.

216 JD, May 5, 2015, pp. 5873-5874 (Jacques Chagnon)/RDPP, No. 67/69.

When a Member raises a question of privilege, either immediately after the fact or through a notice, the President has no specific time limit for determining whether there is a *prima facie* breach of a privilege of either the Assembly or one of its Members. In other words, the President may take as much time as necessary to deliberate. Although a question of privilege is not a point of order per se, in the past the President has invoked Standing Order 41, which enables the President to rule on points of order whenever it is expedient to do so, to justify the time spent deliberating on a question of privilege.²¹⁷

In parliamentary law, it is recognized that the President may require the House leaders to provide further information on a question of right or privilege. This step is not mandatory, but if the President sees fit to give parliamentarians an opportunity to speak before taking the matter under advisement, the facts then brought to the President's attention may be considered in the decision.²¹⁸

This means that if the notice of intent to rise on a question of privilege sent under the second paragraph of Standing Order 69 appears to the President to be sufficiently clear, then there is no obligation to hear any arguments, but the President may choose to do so if the declared facts seem to lack precision. The President may also wish to give the Members an opportunity to express their views on the matter.²¹⁹ It used to be that no copies of the notice or documents submitted were distributed, unless the President decided otherwise.²²⁰ However, in recent years, on occasions when arguments from the House leaders were allowed, the President frequently allowed the distribution of these documents so that the House leaders could make an informed case.

It is to be noted that the President has ruled inadmissible a question of privilege that raised facts that a Member had already raised in a previous notice.²²¹

Lastly, it has been established that the resignation of a Member or minister who is the subject of a question of privilege does not cause the question to lapse.²²² Despite the change in status of the person concerned, the Assembly remains competent because it is the only forum empowered to deal with the question and, in any case, a question of privilege may concern third parties who are not Members of the Assembly.

217 JD, May 30, 1990, pp. 2719–2725 (Jean-Pierre Saintonge)/RDPP, No. 41/1. In the ruling, the President reminded the Members that there were precedents for a President to decide when to deliver a ruling.

218 JD, November 7, 2017, pp. 17792–17797 (François Gendron)/RDPP, No. 67/73.

219 JD, June 11, 1990, pp. 3018–3022 (Jean-Pierre Saintonge)/RDPP, No. 41/2; JD, June 11, 1990, pp. 3018–3022 (Jean-Pierre Saintonge)/RDPP, No. 69/1.

220 JD, October 27, 2009, pp. 3616–3620 (Yvon Vallières)/RDPP, No. 69/5.

221 JD, October 26, 1999, p. 3126 (Jean-Pierre Charbonneau)/RDPP, No. 67/41.

222 JD, September 27, 2016, pp. 11956–11958 (François Gendron)/RDPP, No. 67/71.

3.4.4 THE MAIN QUESTIONS OF PRIVILEGE

Over the years, questions of privilege have brought a number of situations to the President's attention.

3.4.4.1 THREATENING OR EXERTING UNDUE PRESSURE ON A MEMBER

Paragraph 7 of section 55 of the *Act respecting the National Assembly* provides that threatening Members with regard to the carrying out of their parliamentary duties constitutes a breach of the privileges of the Assembly. Under paragraph 10 of section 55, attempting to influencing the vote, opinion, judgment or action of a Member by means of deceit, threats or undue pressure also constitutes a breach of the privileges of the Assembly.

There have been several occasions when the President of the Assembly has allowed questions involving a breach of privilege under paragraph 7 or 10 of section 55 of the *Act respecting the National Assembly*. Most of the cases had to do with the way a minister or Member had behaved or spoken to another Member. In one case, the President ruled that there was a *prima facie* breach of the Assembly's privileges when a minister informed the lawyer of an organization interested in the passage of a private bill that it would be blocked if the Member from the Official Opposition sponsoring it did not consent to the passage of another bill introduced by the minister.²²³ The President based the ruling on the fact that a Member must not be hindered in the performance of the duties of parliamentary office and that any threat made to influence a Member's vote or behaviour constitutes a breach of the Assembly's privileges. In another case, the President ruled that a *prima facie* breach of the Assembly's privileges was constituted by a minister's declaration to a Member that if she criticized him, it meant that she did not want roads to be repaired in her riding.²²⁴

The President also ruled on two occasions that intimidating words and actions directed at a Member constitute a *prima facie* question of privilege. In one case, a minister threatened a Member that she would "pay" for comments made during a debate.²²⁵ In another case, one Member addressed another Member in a threatening tone, telling her to [TRANSLATION] "keep off his turf" and placing his hand firmly on her forearm.²²⁶ In his ruling, the President made it clear that conflicting views can be heard in parliamentary debates and that exchanges can be heated, but that they should never be engaged in at the expense of the

223 JD, December 19, 1986, pp. 5845, 5846 and 5886–5887 (Pierre Lorrain)/RDPP, No. 67/11.

224 JD, October 30, 1991, pp. 10237–10238 (Jean-Pierre Saintonge)/RDPP, No. 67/22.

225 JD, December 7, 2000, p. 8564 (Jean-Pierre Charbonneau)/RDPP, No. 67/45. In this case, the remark in question was allegedly made by the minister when leaving the Assembly after adjournment. The President was not a witness to the event but ruled that in such a situation there was no option but to accept the word of the Member who had served a notice of breach of a right or privilege; otherwise, no question of that nature could be *prima facie* admissible.

226 JD, June 13, 2014, pp. 1541–1542 (Jacques Chagnon)/RDPP, No. 67/64.

basic respect that Members owe each other.²²⁷ The President also reminded the House that, according to the *Code of ethics and conduct of the Members of the National Assembly*, “the conduct of Members must be characterized by benevolence, integrity, adaptability, wisdom, honesty, sincerity and justice”.²²⁸

On two occasions, actions of this nature by people other than Members have also given rise to questions of privilege. Once, the President ruled that sending a formal notice to a Member to prevent him from speaking about a certain matter before the Assembly constituted a *prima facie* breach of the Assembly’s privileges.²²⁹ According to the President, in addition to being a breach of the Member’s privilege of freedom of speech, the action constituted an attempt to influence the Member’s vote, opinion, judgment or action through threats or undue pressure, contrary to the provisions of paragraph 10 of section 55 of the *Act respecting the National Assembly*. On the second occasion, the President ruled that ransacking a Member’s constituency office and threatening to do so again if he were to vote in favour of a bill also constituted a *prima facie* violation of the privileges of the Assembly.²³⁰

However, the President refused to allow a question of privilege against an independent Member who had sent a letter to a minister stating that he would withdraw a legal challenge to a law if the minister agreed to amend it.²³¹ In another case, the President declared out of order a question of privilege against the Minister of Revenue, whose staff had purportedly consulted a Member’s tax file. The President stated that there was no proof that the tax information had been used to interfere with Members in their performance of the functions of office.²³² Lastly, in another decision,²³³ the President refused to allow a question of privilege against a minister accused of seeking reprisals against an organization. The minister had allegedly said that the organization had better be prudent and see to it that the money received from his department was well spent. The President

227 Ibid.

228 Ibid.; *Code of ethics and conduct of the Members of the National Assembly*, s. 6, 2nd para.

229 JD, April 23, 1991, pp. 7535–7536 (Jean-Pierre Saintonge)/RDPP, No. 67/21.

230 JD, December 1, 1993, pp. 8990–8991 (Jean-Pierre Saintonge). In this case, the individual who committed the acts was subsequently prosecuted under the *Criminal Code*. In accordance with the *sub judice* rule codified in Standing Order 35(3), the debate on the motion to raise the question of the conduct of a third party that had been placed on the Order Paper following the ruling on the admissibility of that question of privilege was suspended by the President until a final judgment was rendered in the case (JD, December 7, 1993, p. 9251).

231 JD, June 2, 1992, pp. 1438–1439 and 1492–1493 (Jean-Pierre Saintonge)/RDPP, No. 67/25. In the ruling, the President added, however, that even though the Member had not violated paragraph 7 or 10 of section 55 of the *Act respecting the National Assembly*, it was discourteous and inappropriate to set legal recourse against parliamentary initiative in an endeavour to have a bill or law amended.

232 JD, October 20, 1999, pp. 3027–3028 (Jean-Pierre Charbonneau)/RDPP, No. 67/40.

233 JD, December 16, 2004, p. 6878 (Michel Bissonnet)/RDPP, No. 67/53.

noted that, in the past, whenever it was concluded that paragraph 10 of section 55 of the *Act respecting the National Assembly* had been contravened, it was because an action had been taken that was knowingly and directly aimed at dissuading a Member from exercising the functions of office.²³⁴

In a nutshell, when called on to assess the admissibility of a notice of a breach of a right or privilege under paragraph 7 or 10 of section 55 of the *Act respecting the National Assembly*, the President must take into account all the facts that can help determine, *prima facie*, whether the words and actions in question are intended to threaten a Member in the performance of the Member's duties and, in so doing, interfere with the Member's independence. In addition, precedent has determined that when a situation involves elements that the President could not witness, the word of the Member who claims to have been threatened must be accepted.²³⁵

3.4.4.2 INVOKING UNADOPTED LEGISLATIVE PROVISIONS

The President of the National Assembly has repeatedly asserted that invoking unadopted legislative provisions may constitute contempt of Parliament. This type of contempt occurs when advertisements or communication of information suggest that a bill still under consideration has immediate force of law or when provisions still being examined are used as a basis for taking actions that would result from the implementation of the bill.²³⁶

Regarding advertising and public communication of information by various government departments and public bodies, the President of the Assembly has in the past said that [TRANSLATION] "there is nothing reprehensible per se in the Government's or the administration's desire to communicate with the public. In fact, it is incumbent on the Government to inform citizens of governmental policies and programs, for this is one of its responsibilities".²³⁷ In another ruling, the President specified:

²³⁴ Ibid.

²³⁵ JD, December 19, 1986, pp. 5845–5846 and 5886–5887 (Pierre Lorrain)/RDPP, No. 67/11; JD, December 7, 2000, p. 8564 (Jean-Pierre Charbonneau)/RDPP, No. 67/45; JD, June 13, 2014, pp. 1541–1542 (Jacques Chagnon)/RDPP, No. 67/64; JD, May 10, 2018, pp. 21604–21606 (Jacques Chagnon)/RDPP, No. 67/76.

²³⁶ That is to say, the actions in question result from the application of the provisions of the bill under consideration and not from an already existing rule.

²³⁷ JD, December 14, 1990, pp. 6410–6412 (Jean-Pierre Saintonge)/RDPP, No. 67/19; JD, December 18, 1997, pp. 9672–9674 (Jean-Pierre Charbonneau)/RDPP, No. 67/36; JD, November 6, 2003, p. 1321 (Michel Bissonnet)/RDPP, No. 67/50. In the ruling, the President did not reproach the minister for having referred to legislative measures that had not yet been adopted, but rather for having made elements of a bill public before the Assembly itself had been informed of them.

[TRANSLATION] The established authorities are fully entitled, in our political system, to make public the decisions and choices they make in their areas of jurisdiction. The decisions announced could subsequently take the form of legislative provisions and in such a case the Members would have to decide whether to support the government initiative in question.²³⁸

However, the President has stressed that such advertising and communication of information must evince respect and deference with regard to the National Assembly and its Members.²³⁹ The public must not be left with the impression that a proposed measure is tantamount to a *fait accompli* and that Parliament has no role to play in examining and passing such a measure.²⁴⁰

Advertising and communication of information have no bearing on the legislative process. [TRANSLATION] "At no point is the legislator required to consider the acts of the public administration in determining the content of its laws. It is up to the administration to adapt to the consequences flowing from a law, and not up to the legislative body to base its conduct on that of the administration."²⁴¹ Members are always free to amend bills or, ultimately, free not to pass them²⁴² since, as the President has stated, they are the only ones to have received a mandate from the people to legislate.²⁴³

Despite the Government's responsibility to inform the public, parliamentary jurisprudence has established that advertising and communication of information on measures contained in bills still under consideration by the Assembly must

avoid giving the impression that the role of Parliament and its Members is merely cosmetic or that a measure introduced will necessarily be adopted at a given time. Further, advertising or communication of information must not imply that a bill has force of law, that it is a *fait accompli* or that Parliament has no role to play. Advertising or communication of information must include an explicit reference to the legislative process and properly acknowledge the role of the

238 JD, June 12, 1996, pp. 2093–2094 (Jean-Pierre Charbonneau). In a ruling made on March 13, 1997, the Honourable Gilbert Parent, Speaker of the House of Commons of Canada, referred to this passage from the ruling made by Jean-Pierre Charbonneau, President of the National Assembly of Québec, on June 12, 1996.

239 JD, June 11, 2013, pp. 3993–3995 (Jacques Chagnon)/RDPP, No. 67/62.

240 Ibid.

241 JD, December 12, 1989, pp. 543–545 (Jean-Pierre Saintonge)/RDPP, No. 67/13; JD, December 18, 1997, pp. 9672–9674 (Jean-Pierre Charbonneau)/RDPP, No. 67/36; JD, May 26, 1998, pp. 11329–11330 (Jean-Pierre Charbonneau)/RDPP, No. 67/37; JD, October 16, 2002, pp. 7128 and 7129 (Louise Harel)/RDPP, No. 67/49.

242 JD, March 19, 2015, pp. 4065–4071 (Jacques Chagnon)/RDPP, No. 67/67.

243 JD, June 11, 2013, pp. 3993–3995 (Jacques Chagnon)/RDPP, No. 67/62.

Assembly and its Members in the consideration and passage of bills. It must clearly state that the measures in question will be implemented “subject to passage of the bill by the National Assembly”.²⁴⁴

As a general rule, government departments and bodies must be careful when issuing press releases about matters that may be brought before the House. In a case in which an advertisement was placed in a local newspaper indicating that a bill had been passed when in fact it was still under consideration, the President took into consideration the prompt publication of an erratum note to rectify the inaccurate information in the initial publication.²⁴⁵

When deciding whether a minister acted upon a provision of a bill still under consideration by the Assembly, the President must in fact determine whether the minister acted on a rule contained in a bill rather than in virtue of an existing rule or power. In other words, the President must assess whether the actions in question could have been done independently of the bill under consideration.²⁴⁶

244 VP, March 19, 1999, p. 853; JD, March 19, 2015, pp. 4065–4071 (Jacques Chagnon)/RDPP, No. 67/67. On the content of such advertising and communication of information, see also JD, December 14, 1990, pp. 6410–6412 (Jean-Pierre Saintonge)/RDPP, No. 67/19; JD, May 19, 1992, pp. 1101 and 1131–1132 (Jean-Pierre Saintonge)/RDPP, No. 67/24; JD, May 26, 1994, pp. 1426–1428 (Jean-Pierre Saintonge)/RDPP, No. 67/33; JD, December 14, 1994, pp. 642–643 (Roger Bertrand)/RDPP, No. 67/34; JD, December 18, 1997, pp. 9672–9674 (Jean-Pierre Charbonneau)/RDPP, No. 67/36; JD, May 3, 2000, pp. 5701–5702 (Jean-Pierre Charbonneau)/RDPP, No. 67/44; JD, November 26, 2004, pp. 5950 (Michel Bissonnet)/RDPP, No. 67/52; JD, June 11, 2013, pp. 3993–3995 (Jacques Chagnon)/RDPP, No. 67/62; JD, March 19, 2015, pp. 4065–4071 (Jacques Chagnon)/RDPP, No. 67/67; JD, November 14, 2019, pp. 5377–5381 (François Paradis)/RDPP, No. 67/81.

245 JD, December 6, 2019, pp. 6031–6033 (François Paradis)/RDPP, No. 67/83.

246 For example, there have been cases when the President has ruled that ministers did not rely on bills not yet passed to set up state-owned corporations since their incorporation was not under a bill still under consideration, but rather under Part III of the *Companies Act* (JD, April 25, 1990, pp. 1842–1846 (Jean-Pierre Saintonge)/RDPP, No. 67/16; JD, May 26, 1998, pp. 11329–11330 (Jean-Pierre Charbonneau)/RDPP, No. 67/37. See also JD, October 16, 2002, pp. 7128–7129 (Louise Harel)/RDPP, No. 67/49. Similarly, the acquisition of goods and services by a state-owned enterprise was not considered *prima facie* contempt of Parliament even though it was done with a view to the eventual application of the bill under consideration. According to the President, the enterprise had not been authorized to contract the sums of money by legislative provisions yet to be passed by the Assembly, but rather by its own general mandate (JD, May 26, 1994, pp. 1426–1428 (Jean-Pierre Saintonge)/RDPP, No. 67/33). The President has also ruled that a minister did not rely on legislation before the House to approve a municipal loan by-law, since the by-law was approved in accordance with existing provisions of the *Municipal Code* (JD, December 8, 1999, pp. 4182–4183 and 4187–4189 (Jean-Pierre Charbonneau)/RDPP, No. 67/42). In a similar ruling, the President considered that the Government did not invoke legislation yet to be passed when it made an order in council suspending the obligation of taxi permit holders to pay annual fees to the taxi owners’ league for their agglomeration, since an existing law permitted the making of such an order in council (JD, April 5, 2001, pp. 787–788 (Jean-Pierre Charbonneau)). Lastly, in another similar ruling, the President considered that the increase in daycare fees charged by school boards did not stem from provisions of a bill under consideration, but rather from budgetary rules already established by the Government (JD, May 5, 2015, pp. 5873–5874 (Jacques Chagnon)/RDPP, No. 67/69).

In short, the advertising and communication of information on bills still under consideration in the Assembly do not constitute *prima facie* contempt of Parliament, unless it is suggested that the bill already has force of law²⁴⁷ or that its passage is merely a formality.²⁴⁸

For this reason, the President of the Assembly ruled that the fact that the Régie de l'assurance maladie du Québec issued a press release addressed to dentists and dental surgeons informing them of immediate changes to the province's health insurance plan, thus taking for granted the passage of a bill currently before the Assembly, constituted at first glance contempt of Parliament.²⁴⁹

On another occasion, advertising and communication of information by school boards suggesting that kindergarten programs for 4-year-olds, provided for in a bill under consideration, were already in place and would be offered starting the following fall were considered to constitute *prima facie* contempt of Parliament.²⁵⁰

In another case, a government department had issued communications about new local governance and the establishment of transition committees, as well as the actual establishment of those same transition committees and collective dismissals from regional conferences of elected officers. The links between the communications and a bill under consideration were considered by the President to be sufficiently compelling to lead to a *prima facie* finding of contempt of Parliament.²⁵¹

These are the few instances, among the many cases that have been brought to the President's attention in the National Assembly, when such questions have been found admissible.²⁵²

247 JD, December 18, 1997, pp. 9672–9674 (Jean-Pierre Charbonneau)/RDPP, No. 67/36.

248 JD, March 19, 2015, pp. 4065–4071 (Jacques Chagnon)/RDPP, No. 67/67.

249 JD, May 19, 1992, pp. 1101 and 1131–1132 (Jean-Pierre Saintonge)/RDPP, No. 67/24.

250 JD, June 11, 2013, pp. 3993–3995 (Jacques Chagnon)/RDPP, No. 67/62.

251 JD, March 19, 2015, pp. 4065–4071 (Jacques Chagnon)/RDPP, No. 67/67.

252 JD, December 14, 1990, pp. 6410–6412 (Jean-Pierre Saintonge)/RDPP, No. 67/19; JD, May 19, 1992, pp. 1101 and 1131–1132 (Jean-Pierre Saintonge)/RDPP, No. 67/24; JD, May 26, 1994, pp. 1426–1428 (Jean-Pierre Saintonge)/RDPP, No. 67/33; JD, December 18, 1997, pp. 9672–9674 (Jean-Pierre Charbonneau)/RDPP, No. 67/36; JD, May 3, 2000, pp. 5701–5702 (Jean-Pierre Charbonneau)/RDPP, No. 67/44; JD, October 16, 2002, p. 7128–7129 (Louise Harel)/RDPP, No. 67/49; JD, November 26, 2004, p. 5950 (Michel Bissonnet)/RDPP, No. 67/52; JD, November 14, 2007, pp. 2008–2010 (Michel Bissonnet)/RDPP, No. 67/56; JD, May 5, 2015, pp. 5873–5874 (Jacques Chagnon)/RDPP, No. 67/69; JD, November 14, 2019, pp. 5377–5381 (François Paradis)/RDPP, No. 67/81; JD, December 6, 2019, pp. 6031–6033 (François Paradis)/RDPP, No. 67/83; See also JD, June 12, 1996, pp. 2093 and 2094 (Jean-Pierre Charbonneau); JD, April 5, 2001, pp. 787–788 (Jean-Pierre Charbonneau).

In short, even if the President comes to the conclusion that a public body has invoked legislation still before the House, that would not necessarily open the door to a question of privilege against a minister if the link between the public body's action and the minister's responsibility was too tenuous to conclude that the minister was in contempt of Parliament.²⁵³

3.4.4.3 MAKING A BILL PUBLIC BEFORE IT IS TABLED IN THE HOUSE

Making the content of a bill public before it has been introduced in the Assembly may also constitute contempt of Parliament, since parliamentarians must be the first to receive the text of a bill that they will have to consider.²⁵⁴ Over the years, a number of questions of privilege have been addressed to the President on this ground. They have usually arisen in relation to press releases issued by a minister's office, newspaper articles or ministers' technical briefing sessions that have referred to measures in a bill.

In parliamentary jurisprudence, there are no grounds for contempt when a press release or article refers to the general purpose of a bill that has not yet been introduced.²⁵⁵

[TRANSLATION] Generally speaking, the President has admitted that a press release may be issued to inform the public of the general thrust of a bill that is to be tabled in the Assembly. Parliamentary jurisprudence has also admitted the possibility of informing the public of government policies and programs, even if the policies or programs are to be part of a bill introduced in the Assembly.

Lastly, the President has agreed that the general thrust of a bill and its various draft versions may be the subject of consultation and discussion before the bill is tabled . . . This does not mean that the text of a bill may be made public before the bill is introduced . . . The parliamentarians must be the first to take cognizance of the text of the bill on which they will be called upon to vote.²⁵⁶

253 JD, October 16, 2002, pp. 7128–7129 (Louise Harel)/RDPP, No. 67/49.

254 JD, November 15, 2006, pp. 3324–3325 (Michel Bissonnet)/RDPP, No. 67/55.

255 JD, November 6, 2003, p. 1321 (Michel Bissonnet)/RDPP, No. 67/50; JD, October 25, 2005, p. 9667 (Michel Bissonnet)/RDPP, No. 67/54.

256 JD, November 15, 2006, pp. 3324–3325 (Michel Bissonnet)/RDPP, No. 67/55.

So far, the President has considered that there are grounds for contempt of Parliament only if the text of a bill is made public before its introduction.²⁵⁷ In a case that the President deemed *prima facie* admissible, entire copies of a bill marked “under embargo” were distributed to journalists during a technical briefing session prior to the bill’s introduction in the House.²⁵⁸

In a 2007 ruling, the President called the Members to order after finding that, although there was nothing to support the claim that the text of a bill had been made public, a number of the measures contained in the bill coincided with information in a press release:

[TRANSLATION] The current state of the Assembly’s jurisprudence is such that only the disclosure of the actual text of a bill could constitute contempt of Parliament. Elsewhere in Canada, the jurisprudence is much stricter regarding the communication of information on the content of a bill before its introduction. The President does not intend to reverse the jurisprudence at this time but would prefer to begin by alerting all Members to the situation and calling on them to act with prudence. All must keep in mind the role of the parliamentary institution and its Members when the time comes to make known the contents of a bill they wish to table in the Assembly.

This applies in particular to ministers, who present most of the bills debated in the House. I hope that everyone hears this appeal from the Chair and understands its purpose. If not, the President could be obliged to strengthen the jurisprudence.²⁵⁹

Parliamentary jurisprudence has determined that a ruling on whether a point of privilege is in order has no bearing on the Assembly’s ability to take a bill under consideration.²⁶⁰ It is up to the Assembly alone to decide whether to do so.

Although questions of privilege relating to making the content of a bill public prior to its introduction are overwhelmingly related to government bills, such a question could be raised in respect of all types of bills.²⁶¹

257 Ibid.; JD, November 14, 2007, pp. 2008–2010 (Michel Bissonnet)/RDPP, No. 67/56; JD, June 12, 2018, pp. 22128–22130 (Jacques Chagnon)/RDPP, No. 67/77; JD, December 6, 2019, pp. 6031–6033 (François Paradis)/RDPP, No. 67/83.

258 JD, June 12, 2018, pp. 22128–22130 (Jacques Chagnon)/RDPP, No. 67/77.

259 JD, November 14, 2007, pp. 2008–2010 (Michel Bissonnet)/RDPP, No. 67/56.

260 Ibid.; JD, June 13, 2014, pp. 1542–1544 (Jacques Chagnon)/RDPP, No. 67/65.

261 *House of Commons Debates*, 43rd Parliament, 1st Session, Vol. 149, No. 28, March 10, 2020, pp. 1891–1982.

Lastly, the President has determined that, out of deference for parliamentarians' important duties, certain information, in addition to bills, must be disclosed to them first. In some rulings, the President has specified that this principle applies to reports to be tabled in the Assembly.²⁶² Moreover, the President's directives have made it clear that the opening speech of the session,²⁶³ written questions to be entered on the Order Paper²⁶⁴ and statements by ministers²⁶⁵ must be disclosed to Members before anyone else.

3.4.4.4 FAILURE TO TABLE AN ANNUAL REPORT OR DOCUMENT IN THE NATIONAL ASSEMBLY

Another case on which the President has had to rule in regard to contempt of Parliament concerns the legal obligation of government departments and public bodies to table reports and papers in the National Assembly.²⁶⁶ The President has ruled that failure to comply with this legal obligation constitutes *prima facie* contempt of Parliament.

On a few occasions, the President has ruled questions of privilege in order when departments or agencies have failed to lay a mandatory report before the National Assembly. On one occasion, the President accepted that it was a breach of privilege or contempt for 21 government departments and agencies to fail to table in the Assembly the reports provided for in their constituting Acts.²⁶⁷ In two other cases also ruled admissible by the President, a minister and an officer of the National Assembly failed to table reports required by law.²⁶⁸ On both occasions, the President recalled that providing the information

262 JD, December 4, 2020, pp. 10236–10237 (François Paradis)/RDPP, No. 67/85; JD, December 10, 2020, pp. 10406–10408 (François Paradis)/RDPP, No. 67/86. This includes final reports to be tabled by parliamentary committees and reports that must be tabled in the Assembly under an Act. In this regard, a specific legislative provision may provide that a report to be tabled in the Assembly may be made public in certain circumstances (for example, section 104 of the *Professional Code* (CQLR, c. C-26)). However, this is an exception to the general principle that, when the law requires that a document be tabled, the Members must be the first to see it.

263 JD, November 14, 2012, p. 356 (Jacques Chagnon)/RDPP, No. 45/2; JD, December 7, 2018, pp. 373–374 (François Paradis)/RDPP, No. 67/78.

264 JD, October 21, 2015, pp. 7300–7301 (Jacques Chagnon)/RDPP, No. 313/3.

265 JD, March 28, 2019, pp. 1832–1833 (François Paradis)/RDPP, No. 55/5.

266 “The President shall lay upon the Table, at the opening of every session, a list of the papers that are required in pursuance of any statute to be tabled in the Assembly.” (SO 58).

267 JD, March 11, 1993, pp. 5292–5294 (Jean-Pierre Saintonge)/RDPP, No. 67/28.

268 JD, February 12, 2015, pp. 3537–3538 (Jacques Chagnon)/RDPP, No. 67/66; JD, December 5, 2019, pp. 5938–5939 (François Paradis)/RDPP, No. 67/82.

contained in the reports is important for Members to be able to perform their parliamentary functions and that failure to table the reports could impede the carrying out of their duties.²⁶⁹

3.4.4.5 MISLEADING THE ASSEMBLY

Misleading the Assembly is another form of contempt that has been recognized by the National Assembly. However, a Member wishing to raise a question of privilege on the grounds that another Member has misled the House can do so only in certain specific situations. The President has ruled that the presumption in Standing Order 35(6) that Members must be taken at their word can be overturned only if a Member acknowledges having deliberately misled the Assembly, thereby admitting to being in contempt of Parliament.²⁷⁰

In a ruling, a Vice-President explained the need for this constraint as follows:

[TRANSLATION] This rule, which may seem restrictive, can be explained as follows: a legislative assembly is a political forum for debate in which, by definition, different positions on major societal issues are defended that may conflict with each other. The deliberations are often characterised by divergent or even irreconcilable points of view. To allow for constructive debate, it is therefore imperative to assume that Members tell the truth. The President reminds us regularly that a Member cannot be alleged to have lied to the Assembly.²⁷¹

When the President is seized with such a question of privilege concerning a Member, two key elements must be ascertained: intent to mislead the House and an admission of having done so knowingly. In the absence of such an admission, the President can take inspiration from the criterion of whether there are two contradictory statements made by the same Member about the same

269 JD, March 11, 1993, pp. 5292–5294 (Jean-Pierre Saintonge)/RDPP, No. 67/28; JD, February 12, 2015, pp. 3537–3538 (Jacques Chagnon)/RDPP, No. 67/66; JD, December 5, 2019, pp. 5938–5939 (François Paradis)/RDPP, No. 67/82.

270 JD, June 12, 2003, p. 333 (Michel Bissonnet)/RDPP, No. 271/4. See also JD, June 7, 1983, pp. 1925–1930 (Richard Guay)/RDPP, No. 67/7; JD, October 18, 1988, pp. 2530–2532 and 2568–2570 (Pierre Lorrain)/RDPP, No. 67/12; JD, November 25, 1997, pp. 8686–8687 (Jean-Pierre Charbonneau)/RDPP, No. 67/35; JD, March 25, 2015, pp. 4191–4192 (Jacques Chagnon)/RDPP, No. 67/68; JD, June 9, 2016, pp. 11623–11624 (Jacques Chagnon)/RDPP, No. 67/70; JD, November 7, 2017, pp. 17792–17797 (François Gendron)/RDPP, No. 67/73. This is in reference to the rule established in the Profumo case in the British House of Commons (Parliament of the United Kingdom, *House of Commons Hansard*, June 20, 1963, Vol. 679, p. 246, column 655). The motion carried by the House in that context contained the following: “That Mr. John Profumo, in making a personal statement to this House on the 22nd day of March, 1963, which contained words which he later admitted not to be true, was guilty of a grave contempt of this House.”

271 JD, September 27, 2016, pp. 11956–11958 (François Gendron)/RDPP, No. 67/71.

facts in the context of parliamentary debates.²⁷² The presumption that Members must be taken at their word does not apply to third parties. The intent to mislead the Assembly is all that can be considered. Nevertheless, as mentioned in parliamentary jurisprudence, the intent to deceive or mislead must be clear and, for example, distinguished from poorly prepared or inept testimony.²⁷³

In recent years, several questions of privilege on this ground have been raised in the National Assembly.²⁷⁴ None of them have been deemed *prima facie* admissible by the President.

In a case that occurred in 2011, a Member from the Official Opposition claimed that a former minister had committed contempt of Parliament in statements she had made, while still a minister, about the dismantling of a refinery. It was alleged that her statements implied that a dismantling permit would not be issued until the parliamentary committee to which the matter had been referred for examination had tabled its report. It was also alleged that a permit had been issued by the minister over the summer, even though the parliamentary committee had not yet tabled its report.

The President considered that, unless the former minister admitted to having misled the House or to having given contradictory versions of the same facts, the President had no authority to inquire into the rationale for the decision to issue a dismantling permit before the tabling of the committee report. Such an

272 JD, November 7, 2017, pp. 17792–17797 (François Gendron)/RDPP, No. 67/73; JD, September 28, 2011, pp. 2626–2628 (Jacques Chagnon)/RDPP, No. 67/60; JD, March 25, 2015, pp. 4191–4192 (Jacques Chagnon)/RDPP, No. 67/68; JD, September 27, 2016, pp. 11956–11958 (François Gendron)/RDPP, No. 67/71. See also *House of Commons Debates*, 37th Parliament, 1st Session, Vol. 137, No. 137, February 1, 2002, pp. 8581–8582; *House of Commons Debates*, 40th Parliament, 3rd Session, Vol. 145, No. 142, March 9, 2011, pp. 8842–8843; *House of Commons Debates*, 41st Parliament, 2nd Session, Vol. 147, No. 55, March 3, 2014, pp. 3430–3431.

273 JD, December 8, 2016, pp. 13252–13258 (Jacques Chagnon)/RDPP, No. 67/72.

274 JD, June 7, 1983, pp. 1925–1930 (Richard Guay)/RDPP, No. 67/7; JD, May 28, 1986, pp. 1868–1874 (Pierre Lorrain)/RDPP, No. 67/10; JD, October 18, 1988, pp. 2530–2532 and 2568–2570 (Pierre Lorrain)/RDPP, No. 67/12; JD, November 25, 1997, pp. 8686–8687 (Jean-Pierre Charbonneau)/RDPP, No. 67/35; JD, September 28, 2011, pp. 2626–2628 (Jacques Chagnon)/RDPP, No. 67/60; JD, March 25, 2015, pp. 4191–4192 (Jacques Chagnon)/RDPP, No. 67/68; JD, June 9, 2016, pp. 11623–11624 (Jacques Chagnon)/RDPP, No. 67/70; JD, September 27, 2016, pp. 11956–11958 (François Gendron)/RDPP, No. 67/71; JD, December 8, 2016, pp. 13252–13258 (Jacques Chagnon)/RDPP, No. 67/72; JD, November 7, 2017, pp. 17792–17797 (François Gendron)/RDPP, No. 67/73.

inquiry was the Government's prerogative, not the President's. There were therefore no grounds on which the former minister could be accused *prima facie* of contempt of Parliament.²⁷⁵

3.4.4.6 GIVING FALSE OR INCOMPLETE TESTIMONY OR TABLING FALSE DOCUMENTS

Another way of misleading the House is to give false or incomplete testimony or submit a false document to the House or its committees.²⁷⁶ The *Act respecting the National Assembly* makes specific reference to these matters, which constitute breaches of the privileges of the Assembly. In recent years, a body of specific jurisprudence has developed in the National Assembly regarding these two matters.²⁷⁷

Paragraph 3 of section 55 of the *Act respecting the National Assembly* provides that "presenting a false document to the Assembly, a committee or a subcommittee with intent to deceive" constitutes a breach of the Assembly's privileges. In such cases, the President must ascertain two elements.²⁷⁸ First, a false document must have been submitted to the Assembly or its committees. Second, parliamentary jurisprudence has linked the phrase "with intent to deceive" in this paragraph to the notion of knowingly misleading the House. This means that to find that there has been a breach of the Assembly's privileges, it is important to prove that the act was done intentionally to deceive the Assembly.²⁷⁹

275 JD, September 28, 2011, pp. 2626–2628 (Jacques Chagnon)/RDPP, No. 67/60. The facts submitted were examined from two angles: misleading the Assembly and depreciating it. The President explained that the latter angle should be analyzed from the perspective of an offence against the Assembly's authority or dignity. In this respect, he did not find that there had been *prima facie* contempt of Parliament, as it was for the Government to decide to issue the permit. The executive branch is bound by the legislative branch only if a law or an order adopted by the Assembly expressly states as much. The then minister was therefore under no obligation to wait until the committee had submitted its report to issue the permit to dismantle the refinery. That said, while it is the Government's prerogative to make decisions within its jurisdiction as regards government administration, the President expressed the hope that ministers who say a decision is contingent on the outcome of a committee's proceedings will not subsequently act as if the committee's role were incidental. According to the President, the minister had, of her own accord, said that she would wait for the committee's report before going ahead with anything. This had created a legitimate expectation, among the Members, that no decisions would be made before the committee had submitted its report and that the committee's findings would be taken into account in the decision-making process.

276 In this regard, the jurisprudence has clarified that paragraphs 2 and 3 of section 55 of the *Act respecting the National Assembly* transpose the notion of "deliberately misleading" into Québec parliamentary law: JD, December 8, 2016, pp. 13252–13258 (Jacques Chagnon)/RDPP, No. 67/72.

277 A 2016 ruling clarified the principles regarding these forms of contempt. See *ibid.*

278 *Ibid.*

279 JD, June 9, 2016, pp. 11623–11624 (Jacques Chagnon)/RDPP, No. 67/70.

For the breach of privileges referred to in paragraph 3 of section 55 of the *Act respecting the National Assembly* to occur, it must be possible to establish a wrongful intention.

Parliamentary jurisprudence has also established that paragraph 3 of section 55 cannot be invoked against a document merely because it is incomplete.²⁸⁰

Paragraph 2 of section 55 of the *Act respecting the National Assembly* provides that “giving false or incomplete testimony before the Assembly, a committee or a subcommittee” constitutes a breach of the privileges of the Assembly. The Assembly and its committees must be able to count on the full cooperation of those who take part in their proceedings. Witnesses therefore have the obligation to tell the truth and to give complete versions of the facts.²⁸¹

Again, the President must find two elements in such cases. First, it must be possible to prove that the testimony is false: “compelling evidence must show that the witness did, in fact, give false or incomplete testimony”.²⁸² Second, jurisprudence has established that it is essential to ascertain fraudulent intent, or intent to deceive or to hinder parliamentary proceedings. Although paragraph 2 of section 55 does not expressly contain the words “with intent to deceive”, the President has made it clear that

... it is important to differentiate between an error made in good faith and inaccurate testimony resulting from deliberately failing to provide information before a committee or the House. For the Chair to declare a point of privilege receivable on the basis of section 55(2), the Chair must, at the very least, be able to clearly deduce the witness’s fraudulent intent from the facts submitted. In other words, more is needed than an unprepared or poorly prepared testimony, since false or incomplete testimony involves an underlying intent that must be shown.²⁸³

To date in the Assembly, only one question of privilege has been declared *prima facie* admissible on this basis.²⁸⁴ The evidence submitted in support of the question of privilege raised compelling doubt as to the veracity of the testimony given before the committee and suspicions as to the witness’s intent to withhold

280 JD, March 31, 1994, pp. 302–306 (Jean-Pierre Saintonge)/RDPP, No. 67/32. See also JD, December 8, 2016, pp. 13252–13258 (Jacques Chagnon)/RDPP, No. 67/72.

281 JD, September 26, 2013, pp. 4600–4601 (Jacques Chagnon)/RDPP, No. 67/63.

282 VP, December 8, 2016, p. 2950; JD, December 8, 2016, pp. 13252–13258 (Jacques Chagnon)/RDPP, No. 67/72.

283 VP, December 8, 2016, p. 2951; JD, December 8, 2016, pp. 13252–13258 (Jacques Chagnon)/RDPP, No. 67/72. See also JD, December 8, 2017, pp. 18461–18462 (Jacques Chagnon)/RDPP, No. 67/74.

284 JD, September 26, 2013, pp. 4600–4601 (Jacques Chagnon)/RDPP, No. 67/63.

information from parliamentarians. The witness denied being informed of a matter that was before the committee, but copies of emails sent to the committee the day after his hearing showed the contrary.

Paragraph 2 of section 55 of the Act is intended to ensure respect for the authority and dignity of the Assembly, and it is applicable to any testimony given before the Assembly and its committees, whether or not the witness has been subpoenaed.²⁸⁵ In this regard, the President said that “regardless of the manner in which persons are called upon to give testimony before a committee, the fact remains that when they take part in parliamentary proceedings, they have the duty to fully cooperate and tell the truth”.²⁸⁶

Lastly, paragraph 4 of section 55 of the *Act respecting the National Assembly* also concerns situations involving the falsification of documents. It specifically addresses cases when a document produced by the Assembly or one of its committees or subcommittees, or a document tabled or presented before them, is forged, falsified or altered with the intent to deceive.

The terms “forging”, “falsifying” and “altering” in the paragraph have been interpreted by the President to mean either counterfeiting or fabricating something to the detriment of the person who, alone, had the right to produce or reproduce it or presenting a document or thing that is not in its original state.²⁸⁷

Thus, the documents referred to in paragraph 4 must have been altered following their production or their tabling, and this must have been done with the intent to deceive.

3.4.4.7 REFUSING TO COMPLY WITH AN ORDER OF THE ASSEMBLY, A COMMITTEE OR A SUBCOMMITTEE

On a few occasions, the President of the Assembly has also examined questions of privilege with reference to paragraph 1 of section 55 of the *Act respecting the National Assembly*, under which refusing to comply with an order of the Assembly, a committee or a subcommittee breaches the rights of the Assembly. In order to rule on the matter, the President must first determine whether the motion adopted by the Assembly or committee is an order or resolution within the meaning of Standing Order 186.²⁸⁸

A motion that becomes an order creates an obligation to act, to do something. Through its orders, the Assembly governs its committees, its Members, its public servants, the conduct of its own proceedings and the actions of any officer of

285 Ibid.

286 Ibid.; VP, September 26, 2013, p. 988.

287 JD, March 31, 1994, pp. 302–306 (Jean-Pierre Saintonge)/RDPP, No. 67/32.

288 On this subject, see also Chapter 12, Section 12.1, “Motions”.

the National Assembly. However, the Assembly can make orders only within the ambit of its prerogatives and its authority.²⁸⁹ In Québec parliamentary law, the executive branch cannot be required to follow up on a motion adopted by the legislative branch; it is bound only by express legislation.²⁹⁰ Parliamentary jurisprudence has clarified the origin of these rules:

These principles are entirely in keeping with the notion of the separation of state powers which confers distinct and specific roles to the executive and legislative powers. The latter plays a fundamental role when it comes to controlling the executive power's actions through various parliamentary means. The legislative power may also impose obligations upon the executive power through the legislation that it passes. Furthermore, the legislative power disposes of important powers that arise from the parliamentary privileges enjoyed by British-style parliamentary assemblies to allow it to fully exercise its role. Among these powers is the right to call for persons, papers or records, and this, with respect to any person, including ministers.

However, when it comes to governance, the executive power makes its own decisions, and the Assembly cannot act in its place as administrator of the State any more than it can give orders to it.²⁹¹

This is why a motion directing the Government or a minister to do something imposes a constraint that is of a strictly political or moral nature: it is therefore a resolution.²⁹² The President has ruled on several occasions that the Government's or a minister's failure to follow up on a motion adopted by the Assembly could not constitute contempt of Parliament.²⁹³

289 JD, June 11, 1990, pp. 3022-3023 (Jean-Pierre Saintonge)/RDPP, No. 67/18; JD, June 2, 2010, pp. 7004-7005 (Yvon Vallières)/RDPP, No. 67/58; JD, February 13, 2013, pp. 1707-1708 (Jacques Chagnon)/RDPP, No. 186/5.

290 JD, June 29, 1973, pp. 1947-1948 (Jean-Noël Lavoie)/RDPP, No. 67/2; JD, June 11, 1990, pp. 3022-3023 (Jean-Pierre Saintonge)/RDPP, No. 67/18; JD, June 2, 2010, pp. 7004-7005 (Yvon Vallières)/RDPP, No. 67/58; JD, February 13, 2013, pp. 1707-1708 (Jacques Chagnon)/RDPP, No. 186/5.

291 Ibid.; VP, February 13, 2013, p. 273.

292 JD, June 11, 1990, pp. 3022-3023 (Jean-Pierre Saintonge)/RDPP, No. 67/18; JD, June 2, 2010, pp. 7004-7005 (Yvon Vallières)/RDPP, No. 67/58; JD, February 13, 2013, pp. 1707-1708 (Jacques Chagnon)/RDPP, No. 186/5.

293 JD, June 29, 1973, pp. 1947-1948 (Jean-Noël Lavoie)/RDPP, No. 67/2; JD, June 11, 1990, pp. 3022-3023 (Jean-Pierre Saintonge)/RDPP, No. 67/18; JD, June 2, 2010, pp. 7004-7005 (Yvon Vallières)/RDPP, No. 67/58.

There is, however, an exception to this principle: an order to produce documents, which consists in a motion requiring the Government or a body to provide the Assembly or one of its committees with certain specified documents.²⁹⁴ The President has ruled that such orders are binding on both the Government and government departments and bodies:

[TRANSLATION] The right to order the production of documents is one of the Assembly's most indisputable constitutional privileges. It is a recognized privilege of British-style legislative assemblies which allows them to efficiently discharge their government oversight role. In other words, a legislative assembly has the right to demand the production of any document it considers necessary for the performance of its functions.²⁹⁵

The President has been seized on a few occasions with questions of privilege relating to orders of the Assembly or its committees.²⁹⁶

In one of the cases, the Minister of Health and Social Services was accused of having refused to obey an order of the Assembly requiring a committee to hold a general consultation on the report on the assessment of the prescription drug insurance plan. The Minister had arranged for the consultation to be held instead on a document containing possible solutions proposed by the Government. It was alleged that the Minister was circumventing the committee's mandate. The President ruled the question of privilege out of order. The order adopted by the Assembly was intended for a committee, which could in no way avoid complying with it. The purpose of the document made public by the Minister was to set out the solutions contemplated by the Government. As in the past, the President pointed out that there was nothing wrong with the Government communicating with the public. On the contrary, it was the Government's responsibility to inform the people of government policies and programs. And it was the committee Chair's responsibility to determine the relevance of making the Minister's document the subject of discussion during committee hearings.²⁹⁷

294 See also Subsection 3.3.5, "The Power to Conduct Inquiries, Call Witnesses and Demand Papers".

295 JD, November 23, 2010, pp. 8426–8428 (Yvon Vallières)/RDPP, No. 67/59.

296 June 29, 1973, pp. 1947–1948 (Jean-Noël Lavoie)/RDPP, No. 67/2; JD, June 11, 1990, pp. 3022–3023 (Jean-Pierre Saintonge)/RDPP, No. 67/18; JD, March 14, 2000, pp. 4499–4501 (Jean-Pierre Charbonneau)/RDPP, No. 67/43; JD, June 2, 2010, pp. 7004–7005 (Yvon Vallières)/RDPP, No. 67/58; JD, November 23, 2010, pp. 8426–8428 (Yvon Vallières)/RDPP, No. 67/59; JD, October 4, 2011, pp. 2745–2747 (Jacques Chagnon)/RDPP, No. 67/61.

297 JD, March 14, 2000, pp. 4499–4501 (Jean-Pierre Charbonneau)/RDPP, No. 67/43.



Certified copy of the motion of the National Assembly dated September 29, 2010, ordering Hydro-Québec to provide information on all contracts granted from 2000 to 2010.

A few years later, the President made a ruling concerning an order requiring a state-owned enterprise to produce documents. The enterprise was accused of contempt of Parliament because it had allegedly refused to obey an order demanding that it “transmit to the Assembly as expeditiously as possible the information relating to all contracts granted from 2000 to 2010”.

To determine whether the enterprise had committed *prima facie* contempt of Parliament, the President had to take two elements into consideration: the Assembly’s intent when asking that the documents be released “as expeditiously as possible”²⁹⁸ and the enterprise’s intent to follow up on the Assembly’s order. As the order did not set a specific time limit, the President felt obliged to determine whether enough time had elapsed to allow the state-owned enterprise to comply with it.

298 JD, November 23, 2010, pp. 8426–8428 (Yvon Vallières)/RDPP, No. 67/59. The President’s analysis of the jurisprudence established by the courts revealed that “as expeditiously as possible” conveys the idea of time limits that vary according to the circumstances, even though it also implies the intent that a thing be done immediately.

After noting that six weeks had passed between the time the order was made and the time notice of a breach of privilege was received, the President expressed concern that the enterprise had waited until a point of privilege was raised before indicating that it intended to follow up on the order and that, even at that point, the enterprise seemed to want to reserve the right not to release certain items of information “because of trade or security issues”. The order made by the Assembly was clear and the enterprise had no choice but to obey it by releasing all the information requested. The President added that it is the Assembly’s prerogative to decide which documents it wishes to have at its disposal. The Assembly’s privileges in that respect are constitutional privileges and can in no way be restricted.²⁹⁹ In conclusion, even though the facts adduced led the President to believe, at first glance, that there was contempt of Parliament, the President gave the enterprise nine days to produce the documents, failing which the contempt procedure would follow its course. The President acknowledged, however, that the concerns raised by the enterprise, especially as to trade and security issues, were legitimate. The President therefore invited the enterprise to identify the information it considered to be of strategic importance when it released the documents. The President would then be able to consult with the House leaders and determine to what extent the Assembly would take the enterprise’s concerns into consideration.³⁰⁰

In another ruling handed down in 2011, the President of the Assembly recognized that the failure by the chair of the board of directors of a public body to appear before a parliamentary committee despite his obligation to do so clearly constituted, at first blush, a breach of paragraph 1 of section 55 of the *Act respecting the National Assembly*. When the members of the board of directors of that body refused to appear before the parliamentary committee despite its clearly expressed wish to hear them, the steering committee of the parliamentary committee decided to subpoena them. The board chair then informed the parliamentary committee that he would be out of the country on the date specified in the subpoena and suggested that the hearing date be moved ahead

299 Ibid.

300 Over a period of approximately one year, a number of documents were transmitted by the state-owned enterprise as ordered by the Assembly. On two occasions, the President tabled binders containing documents that did not include strategic or confidential information (JD, March 30, 2011, p. 1246; JD, June 10, 2011, p. 2403). Following receipt of these documents and after consultation with the parliamentary groups and independent Members, the President ultimately determined that the question of privilege was closed (JD, November 8, 2011, p. 3174).

a few days. After discussing the matter, the steering committee decided to maintain the subpoena without changing the date of the hearing. In his decision, the President stated that the parliamentary committee had clearly acted within the scope of its constitutional power to summon witnesses to appear before it. He explained that, under paragraph 1 of section 55 of the *Act respecting the National Assembly*, refusing to comply with an order of a parliamentary committee constitutes a breach of the Assembly's privileges. He said he felt he would be failing in his duty as President if he disallowed the question of privilege, despite the fact that the board chair had expressed his intention to appear before the parliamentary committee on a different date. The President acknowledged that the board chair did not seem to want to evade his obligation, but felt this could not change his ruling since, at that stage, the President's role was limited to determining whether the facts raised were sufficiently compelling to constitute contempt of Parliament.³⁰¹ The President pointed out that the participation of the heads and administrators of public bodies was essential to Assembly and committee proceedings. Such officers therefore must refrain from doing anything that might undermine the proper conduct of those proceedings. They must keep in mind at all times that the Assembly has the power to hold them to account and that they themselves are accountable. Overseeing the activities of the Government and the public administration is one of the most important roles played by elected representatives in modern parliaments. The President concluded by saying that he hoped the ruling would serve as a warning to any person who might consider disobeying an order to appear before a parliamentary committee.³⁰²

3.5 IMPUGNING THE CONDUCT OF A MEMBER OR A THIRD PARTY

Standing Orders 315 and following provide the procedure for a Member of the Assembly to impugn the conduct of another Member or of a third party.

The President of the Assembly has ruled that impugning the conduct of a Member otherwise than through the procedure provided for that purpose may itself constitute contempt of Parliament.³⁰³ This fundamental rule is warranted

301 JD, October 4, 2011, pp. 2745–2747 (Jacques Chagnon)/RDPP, No. 67/61. Although the President acknowledged that there had been, at first glance, contempt of Parliament, no further action was taken since the Member who raised the question of privilege did not mention, in his notice, that he intended to move a motion asking the Assembly to vote on the board chair's conduct. The latter was heard the same day by the committee.

302 Ibid. See also Chapter 19, Section 19.5, "Consultations".

303 JD, October 29, 2009, pp. 3696–3697 (Yvon Vallières)/RDPP, No. 67/57.

by the fact that Members may not use their privilege of freedom of speech in the Assembly to attack the conduct of other Members (SO 35(5)). While the parliamentary privilege of freedom of speech enjoys constitutional status and is almost boundless, it is nonetheless limited by the rules of parliamentary debate, including those set out in Standing Orders 35(5) and 315.

The President has further explained that, to impugn another Member's conduct, a Member must explicitly disparage that Member's work or behaviour.³⁰⁴ Not every criticism of a Member directly provides grounds for a question of privilege.

However, criticism aimed at the President or at any other presiding officer is another matter. According to parliamentary jurisprudence, no Member may criticize the behaviour or actions of a presiding officer without incurring a sanction for breach of privilege.³⁰⁵ No Member may make negative comments about a presiding officer's work, even indirectly, during a debate or other proceedings of the House, except in a substantive motion.³⁰⁶

Standing Orders 324 and following provide for a specific procedure to be followed in the case of the conduct of a non-Member. This procedure must, however, be preceded by a question of privilege (SO 324), which must have been found *prima facie* admissible by the President.

The following subsections will deal in greater detail with the different stages of these procedures. We will begin by looking at the procedure for impugning the conduct of a Member of the Assembly, and then that for impugning the conduct of a third party.

3.5.1 IMPUGNING A MEMBER'S CONDUCT

According to Standing Order 315, the conduct of Members acting in their official capacity can be called into question only by means of a motion. This rule is linked to the fact that a Member may not use the privilege of freedom of speech within the Assembly to attack the conduct of a colleague (SO 35(5)). Such a motion gives rise to a debate allowing Members to express themselves on the question. A Member may use such a motion to complain that another Member

304 Ibid. The President cited examples to clarify the point, saying that a Member cannot, in the course of debate, fault another Member for holding or having held an incompatible office, having been in a conflict of interest or having breached the privileges of the Assembly or of one of its Members, or explicitly question anything done by a Member in the exercise of his or her parliamentary functions.

305 JD, June 13, 2001, pp. 2216–2217 (Jean-Pierre Charbonneau)/RDPP, No. 67/46.

306 See Chapter 4, Subsection 4.1.3, "Questioning the Conduct of a Presiding Officer".

has breached the privileges of the Assembly or of one of its Members (SO 316(2)), or to call into question any other action carried out in the course of a Member's parliamentary functions (SO 316(3)).³⁰⁷

A Member wishing to complain that another Member has breached the privileges of the Assembly or of one of its Members, must first raise a question of privilege (SO 317) and then state the intent to move a motion under Standing Order 315, either at the time the point of privilege is raised or in a written notice sent to the President (SO 70 and 317). If the President rules that the point of privilege is *prima facie* in order, the Member who raised it may then place the motion impugning the conduct of the other Member on the Order Paper.

Under Standing Order 318, the motion must contain an explicit but temperate statement of the complaint and lay out the facts on which it is based. The motion must also conclude with a request that the Assembly rule on the alleged offence by voting on the report that the Committee on the National Assembly will automatically be called upon to draw up. The motion may not be amended or divided.

If more than one breach of privilege or act of contempt is raised at the same time, one motion is necessary for each, but the same event cannot give rise to more than one motion.³⁰⁸ A specific motion for each case is justified because, once made, a motion cannot be amended or divided, and there could be different conclusions for each of the questions raised. Since it is up to the National Assembly to determine the appropriate sanctions, taking into consideration any recommendations made by the Committee on the National Assembly, motions may not propose a penalty (SO 321 and 326).³⁰⁹

Once a motion is placed on the Order Paper, it becomes a priority according to the order of precedence set out in Standing Order 87. Under Standing Order 319, only the mover of the motion and the Member concerned may speak before the Assembly, for 20 minutes each. This debate does not lead to any decision by the Assembly, as the President then convenes the Committee on the National

307 It should be noted that Standing Order 316(1), under which a Member could complain to the Assembly that some other Member held or had held incompatible offices or had been in a conflict of interest, was struck out when the *Code of ethics and conduct of the Members of the National Assembly* came into force. Since then, it has been possible for a Member to file a complaint to this effect about another Member with the Ethics Commissioner. See Subsection 3.6.2, "Complaints for Violations of the *Code of Ethics and Conduct of the Members of the National Assembly*".

308 JD, March 18, 1993, pp. 5480–5481 (Jean-Pierre Saintonge)/RDPP, No. 316(2)/2. In this case, 21 separate motions were entered on the *Order Paper and Notices*.

309 Ibid.

Assembly to investigate the matter. In addition to the conclusions its report may contain, the Committee may also make recommendations (SO 319). In short, the President must convene the Committee on the National Assembly following the two permitted interventions, if there be any, without giving the Assembly occasion to debate the motion calling the Member's conduct into question.³¹⁰

Under Standing Order 320, the Assembly must rule on the Committee's report within 15 days after it is tabled. It may not modify the report's conclusions. Standing Order 321 states that if the complaint is founded, the Assembly may decide to sanction the Member, taking into consideration any recommendations made in the report. A Member who violates section 55 of the *Act respecting the National Assembly* may be subject to the following sanctions: a reprimand; a penalty; the reimbursement of any unlawful profit; the reimbursement of the indemnities, allowances or other sums received as a Member while the offence continued; a temporary suspension without remuneration; and loss of their seat (ANA s. 134). It is the Assembly that determines and may impose, where appropriate, the applicable penalty or penalties. Section 137 of the Act states that the Assembly is fully competent to judge these offences and to apply the prescribed penalties.

If the Committee instead declares the complaint unfounded, the Member who made it may in return be found guilty of breach of the privileges of the Assembly or of one of its Members. Section 85 of the *Act respecting the National Assembly* provides that the bringing of a complaint before the Assembly by a Member against another Member without a serious reason constitutes a breach of the privileges of the Assembly. When ruling on the Committee's report, the Assembly may impose the penalty it deems appropriate on a Member who has moved an unfounded motion (SO 322).

A Member who wishes to impugn something another Member has done in the course of parliamentary duties that is not a breach of the privileges of the Assembly or of its Members must do so by means of a motion (SO 316(3)). The Assembly may dispose of the matter without convening the Committee on the National Assembly. This type of motion may not be amended or divided (SO 323).

310 Since the current Standing Orders came into force in 1984, and despite the fact that several motions have been entered on the Order Paper under Standing Order 315, the Committee on the National Assembly has held only one inquiry into the conduct of a Member. On December 19, 1986, the President allowed a question of privilege from a Member from the Official Opposition who accused a minister of having exerted undue pressure to influence the Member's vote, opinion, judgment or actions. From March 31 to April 30, 1987, the Committee devoted a total of 15 public sittings to this inquiry, which culminated in the adoption, in a deliberative meeting on May 5, 1987, of a report declaring the Official Opposition Member's accusation unfounded. The Committee severely reprimanded the Member.

Past precedents have made it clear that the conduct of a presiding officer may be called into question only by a want of confidence motion, and not by a question of privilege followed by a motion.³¹¹ This situation is covered by Standing Orders 316(3) and 323. In a ruling delivered on March 14, 1995, the President of the National Assembly explained how an act by a presiding officer is called into question:

[TRANSLATION] In the case before us, an act by a presiding officer may not be called into question through a question of privilege followed by a motion. Rather, a substantive motion, known to specialists in the field as a motion of no confidence or a want of confidence motion, is required. All Parliaments styled on the British model accept this interpretation. I have also found a number of Canadian rulings in this regard, and our Standing Orders contain clear provisions for initiating this procedure, particularly Standing Orders 315, 316(3) and 323.³¹²

Moreover, according to parliamentary jurisprudence, not only is it impossible to call the conduct of the presiding officer into question without a substantive motion but doing so could constitute a breach of the Assembly's privileges.³¹³ By registering such a motion against a presiding officer, Members also put their conduct on the line if the accusation turns out to be unfounded.³¹⁴

3.5.2 IMPUGNING A THIRD PARTY'S CONDUCT

When a third party, that is, a person who is not a Member, may have breached the privileges of the Assembly or of one of its Members, the first step is for a Member to raise a question of privilege with the President (SO 324). The Member must state the intent to move a motion under Standing Order 324, either at the time the point of privilege is raised or in a written notice sent to the President (SO 70 and 324). If the President rules that the point of privilege is *prima facie* in order, the Member who has raised it may then place the motion impugning the conduct of the third party on the Order

311 In Québec, such a motion was moved on March 20, 1974, and then debated and defeated. On two occasions, once in 1973 and again in 1976, the conduct of a Vice-President of the National Assembly was the subject of a want of confidence motion. Several other precedents that occurred elsewhere than in the National Assembly of Québec are listed in the following article: Maurice Champagne, "Censure Motions Against Speakers of Legislative Assemblies", *Canadian Parliamentary Review*, Vol. 9, No. 4 (1986-1987), pp. 12-13. A number of want of confidence motions have also been presented against the Speaker in Australia. See Elder et al., *House of Representatives Practice*, 7th ed., pp. 198-200.

312 JD, March 14, 1995, pp. 1382-1383 (Roger Bertrand)/RDPP, No. 316(3)/5. See also JD, June 15, 2001, pp. 2381-2382 (Jean-Pierre Charbonneau)/RDPP, No. 67/47.

313 JD, June 13, 2001, pp. 2216-2217 (Jean-Pierre Charbonneau)/RDPP, No. 67/46.

314 JD, June 12, 2001, pp. 2125-2128 (Jean-Pierre Charbonneau)/RDPP, No. 3/2.

Paper.³¹⁵ Standing Order 325 provides that before disposing of the motion, the Assembly may first convene the Committee on the National Assembly for an inquiry into the matter. Unlike in a case concerning the conduct of a Member, which is automatically subject to an inquiry by the Committee on the National Assembly, the inquiry is optional in the case of the conduct of a non-Member. For an inquiry to be held, a motion must therefore be moved during the debate. If no such motion is moved, the Assembly can vote directly on the motion concerning the conduct of a third party (SO 325). However, in a private ruling in 1993, the President stated that a third party whose conduct is in question should be given the same right to be heard as a Member in the same circumstances.³¹⁶

In general, the rules pertaining to inquiries into the conduct of a Member also apply to inquiries into the conduct of a third party (SO 327).

Under Standing Order 326, if the complaint is found to be substantiated, the person whose conduct is criticized is subject to the penalty determined by the Assembly, which takes into account any recommendations of the Committee on the National Assembly.

Lastly, section 133 of the *Act respecting the National Assembly* provides that a non-Member who breaches the privileges of the Assembly is guilty of an offence and liable to a maximum fine of \$10,000.

3.6 OTHER PROCEDURES CONCERNING MEMBERS' CONDUCT

3.6.1 PERSONAL EXPLANATIONS

Members may also defend their rights through a procedure referred to as a personal explanation. Standing Order 71 provides that Members may, by leave of the President, explain themselves on a fact that, while not giving rise to a question of privilege, concerns them personally as Members; for example, Members may raise an inaccuracy in the minutes of one of their speeches, deny accusations made against them in a publication or clear up any misunderstanding concerning remarks they have made.

315 On May 15, 2018, a motion was entered on the Order Paper by a Member questioning the conduct of the ad hoc Ethics Commissioner under Standing Orders 324 to 327. The next day, at the end of his intervention in the debate on this motion in the Assembly, the Member who had entered the motion on the Order Paper moved a new motion to mandate the Committee on the National Assembly to investigate the allegations against the ad hoc Commissioner. This motion was carried, and the Committee's steering committee carried out its mandate by in turn mandating the jurisconsult to examine a specific piece of evidence. On June 7, 2018, the Committee's report was tabled in the Assembly. In its report, the Committee found that the allegations against the ad hoc Commissioner were not proven and recommended that the Member publicly apologize. The Committee's report was subsequently debated in the House and the matter was concluded with its adoption by the Assembly on June 13, 2018. On this case, see also JD, May 10, 2018, pp. 21604-21606 (Jacques Chagnon)/RDPP, No. 67/76.

316 JD, March 18, 1993, pp. 5480-5481 (Jean-Pierre Saintonge)/RDPP, No. 316(2)/2.

Members who wish to explain themselves must submit to the President, at least one hour before Routine Proceedings, a notice briefly setting forth the substance of their intervention (SO 71(2)). The President renders a decision on the admissibility of the explanation in Routine Proceedings during the period known as "Complaints of Breach of Privilege or Contempt and Personal Explanations" (SO 53(4)). The Member's explanations must be concise and framed so as to avoid provoking debate (SO 71, para. 2).

A Member may be tempted to use a personal explanation instead of a question of privilege because the procedure is not as cumbersome, but the President has established admissibility criteria over the years to ensure that personal explanations serve the ends for which they are intended. They cannot be invoked in every circumstance. The criteria are as follows: a personal explanation must relate directly to the person invoking it as a Member of the National Assembly; in the notice given to the President, the Member must demonstrate the personal character of the matter to be invoked; the matter must be at first blush without controversy; the intervention must be devoid of argumentation or framed in such a way as to arouse debate and must relate or be analogous to one of the examples set out in Standing Order 71.³¹⁷

The President has also ruled that a personal explanation may not be used to rehash old debates. Members may not use Standing Order 71 to nuance, correct, clarify or tone down words that, in the heat of debate in the Assembly, did not rigorously conform to their perception of reality.³¹⁸ In addition, to demonstrate the personal nature of the matter, Members who invoke a personal explanation must raise facts directly related to themselves.³¹⁹ The facts in question must be linked to the Member's parliamentary duties and concern the Member as a Member.³²⁰ This means that, as is the case with questions of privilege, ministers may not use personal explanations to justify their ministerial activities.³²¹

317 JD, April 16, 1985, pp. 2991-2994 (Richard Guay)/RDPP, No. 71/4.

318 JD, April 3, 1984, pp. 5632-5635 (Richard Guay)/RDPP, No. 71/1. See also JD, March 16, 2005, pp. 7134-7135 (Michel Bissonnet)/RDPP, No. 71/10.

319 JD, June 5, 1991, pp. 8886-8887 (Jean-Pierre Saintonge)/RDPP, No. 71/6. In this ruling, the President declared the personal explanation inadmissible, stating that the Member had tried to relate certain statements in a newspaper to himself and that, while the Member associated certain newspaper articles with things he had done in the course of his duties, the association was too indirect to constitute a personal fact. Other Members of the Assembly could feel targeted by the same articles.

320 JD, May 1, 1996, p. 573 (Jean-Pierre Charbonneau)/RDPP, No. 71/7. In this ruling, the President declared the personal explanation inadmissible because the facts mentioned in the article concerned the Member as a member of a professional corporation and had no relation to the duties of parliamentary office.

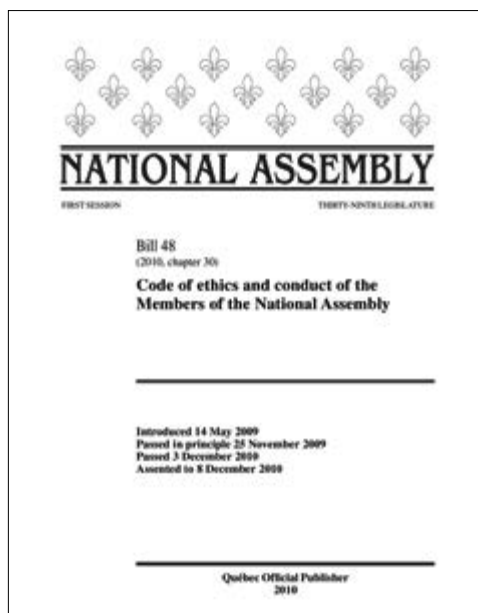
321 JD, June 4, 2014, pp. 463-464 (Jacques Chagnon)/RDPP, No. 71/12. See also Maingot, *Parliamentary Immunity in Canada*, p. 207.

Members may also not rise for a personal explanation if the reason is simply that they consider the remarks another Member made during a sitting to be insulting or offensive, even if those remarks have been reported in a newspaper. In such a case, the President has ruled that the Member must instead immediately invoke Standing Order 35.³²²

If allowed to rise, the Member must stick to the essence of the matter and limit their speech to explaining or rectifying the facts. The Member's speech must not contain any argumentation.³²³

Lastly, the procedure set out in Standing Order 71 must not be mistaken for that in Standing Order 212, which allows Members to give an explanation when they are of the opinion that their speech has been misquoted or misunderstood.³²⁴

3.6.2 COMPLAINTS FOR VIOLATIONS OF THE CODE OF ETHICS AND CONDUCT OF THE MEMBERS OF THE NATIONAL ASSEMBLY



On December 3, 2010, the National Assembly passed the *Code of ethics and conduct of the Members of the National Assembly*. The Code was assented to on December 8, 2010, and it has been fully in force since January 1, 2012. The Ethics Commissioner appointed under the Code is a third party who is independent of the Assembly and responsible for applying the Code and for receiving and handling complaints about alleged breaches. The National Assembly has delegated certain of its prerogatives, deriving from its privilege to discipline its own members, to the Commissioner.³²⁵

322 JD, April 25, 2002, pp. 5668–5669 (Louise Harel)/RDPP, No. 71/9; JD, April 18, 2012, p. 5751 (Jacques Chagnon)/RDPP, No. 71/11; JD, June 4, 2014, pp. 463–464 (Jacques Chagnon)/RDPP, No. 71/12. See also JD, December 9, 1996, p. 4001 (Jean-Pierre Charbonneau).

323 JD, April 16, 1985, pp. 2991–2994 (Richard Guay)/RDPP, No. 71/4.

324 JD, March 16, 2005, pp. 7134–7135 (Michel Bissonnet)/RDPP, No. 71/10.

325 JD, October 9, 2014, pp. 2172–2174 (Jacques Chagnon)/RDPP, No. 62/10. Despite this delegation of powers, the Assembly still has the final say concerning the privilege of disciplining its Members, since reports containing a recommendation for a sanction against a Member must be voted on in the Assembly before the sanction can take effect (Code, ss. 99–104). See also Subsection 3.3.4.3, “The Assembly’s Power to Discipline its Members”.

The Code begins by listing the values and ethical principles that must guide the Members of the National Assembly in the exercise of their office. It goes on to enact provisions concerning incompatible offices, conflicts of interest, remuneration, gifts and benefits, attendance, and the use of state property and services. In addition, there are rules, including post-term rules, applicable only to former Cabinet ministers.

The Code requires Members and Cabinet members to file statements disclosing their private interests, and also provides for the appointment of a jurisconsult,³²⁶ which was previously provided for in the *Act respecting the National Assembly*.³²⁷

In response to a request in writing from a Member on any matter respecting the Member's obligations under the Code, the Ethics Commissioner provides the Member with a written advisory opinion containing reasons and any recommendations the Commissioner considers appropriate (Code, s. 87). The Commissioner's opinions are confidential. In addition, the Commissioner may publish guidelines for the Members regarding the application of the Code (Code, s. 89).

A Member who has reasonable grounds for believing that another Member has violated a provision of the Code may request that the Ethics Commissioner conduct an inquiry into the matter. The request must be made in writing and set out the reasonable grounds for the belief that the Code has been breached. The Ethics Commissioner sends a copy of the request to the Member named in it (Code, s. 91).

326 Under the defunct sections of the *Act respecting the National Assembly*, Members could write to the jurisconsult to request a written and substantiated opinion on whether a particular situation was in conformity with the provisions on incompatible offices and conflicts of interest (ANA, s. 74). An act or omission by a Member was not counted as an offence if the Member had previously sent a request to the jurisconsult for an opinion and the opinion concluded that the act or omission did not contravene the provisions on incompatible offices or conflicts of interest, provided the request gave an accurate and full account of the facts (ANA, s. 81). Since the entry into force of the Code, such opinions are given by the Ethics Commissioner (Code, ss. 87–88). Members can also request advisory opinions on ethics and professional conduct from the jurisconsult appointed by the Office of the National Assembly (Code, s. 108). The jurisconsult's opinions are not, however, binding on the Ethics Commissioner. When about to begin or complete a verification or inquiry into a Member's conduct, the Ethics Commissioner notifies the jurisconsult confidentially. The jurisconsult cannot then advise the Member concerned until the verification or inquiry process is completed (Code, s. 110).

327 Sections 57 to 84 of the *Act respecting the National Assembly*, relating to incompatible offices, conflicts of interest and the jurisconsult of the National Assembly, were repealed when the Code came into force.

If, after verification, the Ethics Commissioner is of the opinion that there are no grounds for a request for an inquiry, the Commissioner terminates the inquiry process and records that fact in a report on the matter (Code, s. 95). The Commissioner has the discretion to conduct verifications to determine whether the complaint was made in bad faith or with intent to harm, whether or not the Member named in the request asks that this be done (Code, s. 97). If the finding is that the request was made in bad faith or with intent to harm, the Commissioner's report may recommend one or more of the sanctions provided for in section 99 of the Code (Code, s. 100).

The Ethics Commissioner may also take the initiative and, after giving the Member concerned reasonable written notice, conduct an inquiry to determine whether the Member has violated the Code (Code, s. 92).

Whether the inquiry was initiated because of a complaint or on the Ethics Commissioner's initiative, once it is completed, the Commissioner, without delay, submits a report stating the findings and recommendations to the President of the National Assembly, the Member under inquiry and the leader of the authorized party to which the Member belongs (Code, s. 98, 1st para.). However, if the inquiry was conducted on the Commissioner's own initiative, no report is required (Code, s. 98, 2nd para.).

If the finding is that a Member has violated the Code, the Ethics Commissioner states so in the report and, according to the circumstances, may recommend that no sanction or one or more sanctions provided for in section 99 of the Code be imposed. These range from a reprimand to the Member's loss of a seat in the National Assembly or position as a Cabinet minister.

The President lays the report before the National Assembly within the next three days or, if the Assembly is not sitting, within three days of resumption (Code, s. 98, 3rd para.). Within five sitting days after the report is laid before the National Assembly, the person concerned may, if still a Member, reply to the report in the House by making a statement during Routine Proceedings, at the time set aside for complaints of breach of privilege or contempt and personal explanations. The statement cannot last more than 20 minutes (Code, s. 102, 1st para.). This five-day period is for the benefit of the person who is the subject of the report. Any person wishing to waive this right of reply may notify the President before the end of the period, which then ceases to run. Next, the Assembly proceeds to vote at the sitting following the one at which the President notified the Assembly of the receipt of the Member's notice.³²⁸

328 For example, see JD, December 8, 2020, p. 10258.

If the person concerned is not a Member, then, within five sitting days after the report is laid before the National Assembly, that person may address a written notice to the President asking to be heard. The President convenes the appropriate committee without delay to hear the person's statement without debate, which must not exceed 20 minutes. The committee's report is then laid before the National Assembly (Code, s. 102, 2nd para.).

If the report recommends the imposition of sanctions, the National Assembly votes on it during Deferred Divisions at the sitting following the reply or the tabling of the committee report or, if no reply was made or committee report tabled, on the expiry of the five-day time limit set in section 102 of the Code.³²⁹ No debate or amendments to the report are admissible (Code, s. 103). Any sanction recommended in the Commissioner's report is applicable on the adoption of the report by the vote of two-thirds of the Members of the National Assembly (Code, s. 104), and the National Assembly is fully competent to apply the sanction or sanctions (Code, s. 105).

329 See Chapter 19, Subsection 19.6.3.5, "The Ethics Commissioner".

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4

THE OFFICE OF PRESIDENT



The President's Chair in the National Assembly Chamber.

The first official act of the National Assembly at the first sitting of a new legislature—that is, the first sitting after a general election—is the election of a President¹ and three Vice-Presidents from among the Members (ANA, s. 19). Until the President is elected, the Assembly cannot take up any other business, nor can it carry on business if the office of President falls vacant, even if three Vice-Presidents are in place (ANA, s. 22; SO 5, 2nd para.), all of which illustrates the importance of the President in parliamentary life. The President embodies the powers, duties and dignity of the National Assembly.

The status of the President reflects the importance of the functions associated with the office.² The President, as the officer responsible for seeing that the rights and privileges of the Assembly and its Members are upheld, is in a manner of speaking, the guardian of the democratic rights of the citizens represented in the

1 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies. In this book, “President” is sometimes used in the sense of “presiding officer” and can refer to any officer who takes the Chair during a sitting of the Assembly or a committee meeting.

2 The President of the Assembly ranks third in the order of precedence for public ceremonies held by the Government of Québec, after the Lieutenant Governor (first) and the Premier (second) (*Ordre de préséance des autorités convoquées individuellement dans les cérémonies publiques organisées par le gouvernement du Québec*, Order in Council 1123-2019, November 13, 2019).

Assembly. The President must ensure that Members are free to perform their parliamentary duties without any outside interference and that the Assembly's rules of procedure are observed in such a way as to maintain democratic balance in parliamentary proceedings. In short, the holder of the office must make sure that all the representatives of the people, whatever their political affiliation, have a voice in the Assembly. Moreover, the President is the only person empowered to make a binding ruling on the rights and privileges of the Members.

Two essential conditions must be met for the President to have the credibility required to exercise the functions of the office: legitimacy and impartiality. Legitimacy is ensured by the fact that the President is first and foremost a Member of the Assembly, has therefore had to go through the election process in order to sit in the House and is fully conscious of the very special nature of parliamentary life. Legitimacy also derives from the fact that the President is elected by the other Members of the National Assembly. It is to reinforce this legitimacy that the National Assembly has decided to elect its President by secret ballot.

While the President's legitimacy stems primarily from the rules that govern the selection process, the President's impartiality is determined essentially by the attitude adopted in the exercise of the functions of office. Of course, the rules of parliamentary procedure state that the President does not belong to any parliamentary group, does not participate in any of the Assembly's debates and votes only to break a tie, but it is the manner in which the holder of the office oversees the proceedings and follows those rules that determines whether both the appearance of impartiality and actual impartiality are maintained.

4.1 THE PRESIDENT'S STATUS

4.1.1 ELECTING THE PRESIDENT

At the first sitting of a new legislature, the Assembly must elect a President and three Vice-Presidents (ANA, s. 19; SO 5 and 9). This step precedes the Lieutenant Governor's address and the Premier's opening speech (SO 45).³ The election of the Vice-Presidents will be dealt with in detail in Subsection 4.1.1.2.

3 See Chapter 6, "Legislatures, Sessions and Sittings".

ELECTING THE SPEAKER OF THE LEGISLATIVE ASSEMBLY, 1867 TO 1968

When the first session of a new legislature began or if the Speaker of the Assembly no longer held office after prorogation, the Speaker of the Legislative Council welcomed the parliamentarians with these words:

*Honourable Gentlemen of the Legislative Council,
Gentlemen of the Legislative Assembly.*

His Honour the Lieutenant Governor does not see fit to declare the causes of his summoning the present Legislature of the Province of Quebec, until a Speaker of the Legislative Assembly shall have been chosen according to law, but when such choice shall have been made, His Honour will declare the causes of his calling this Legislature.

The Members then returned to the Legislative Assembly Chamber, where one of them was elected to the office of Speaker by his peers. In keeping with British tradition, the reluctant new Speaker had to be dragged to the Chair by two fellow Members. This ritual was a reminder of a time in history when the role of Speaker was a delicate one, fraught with consequences: between 1399 and 1535, seven Speakers of England's House of Commons were beheaded on the King's orders.

In the opening words of his acceptance speech, the new Speaker declared: "I am sensible of my unfitness for the position". He then asked for the understanding and support of all the Members of the lower house so that he might carry out his duties with fairness and impartiality. He went on to say, "I hope the House will sustain me in vindicating our rights and privileges, in maintaining our Rules and Orders, and in securing the freedom of debate according to our established usages."

Having returned to the Legislative Council Chamber, the Speaker of the Assembly then addressed the Lieutenant Governor in almost identical terms as those of Jean-Antoine Panet in 1792:

May it please Your Honour:

The Legislative Assembly have elected me their Speaker, though I feel little able to fulfil the important duties thus assigned to me. If in the performance of these duties, I should at any time fall into error, I pray that the fault be imputed to me and not to the Legislative Assembly, whose servant I am and who, through me, the better to enable them to discharge their duty to their King and Country, humbly claim all their undoubted rights and privileges; especially that they may have, freedom of speech in their debates, access to Your Honour's person at all seasonable times, and that their proceedings may receive from Your Honour the most favourable interpretation.

To which the Speaker of the Legislative Council replied that the Lieutenant Governor recognized the newly elected Speaker of the Chamber of the Legislative Assembly and confirmed him in that role. The Speaker of the Legislative Council continued: "I am commanded to assure you that the Legislative Assembly will have ready access to His Honour upon all reasonable occasions and that their proceedings as well as your words and actions, will constantly receive from him the most favorable construction."

In Québec, this London-born legacy was kept alive until the Legislative Council was abolished in 1968.

An election may also be held at another point during a legislature if the office of President or of a Vice-President becomes vacant. In the case of the office of President, the Assembly must act with due diligence to fill the position since no business can be carried out until a new President has been chosen (ANA, s. 22; SO 5, 2nd para.). The Assembly is fully constituted only once a President has been elected. It is only then that the Mace—the symbol of the Assembly's authority—is placed on the Table at the centre of the Chamber.

Choosing a President is an extremely important step for a deliberative assembly, for it must elect a President before it can begin to deliberate. Once elected, the President has the duty to see that the rights and privileges of all parliamentarians are respected. Parliamentarians must therefore be able to choose the candidate who will best represent them. That candidate, in turn, must possess the legitimacy required to carry out the duties of the office. Since the President is now elected by secret ballot, Members may vote freely and with confidentiality for the candidate of their choice.

MOVING TOWARD THE SECRET BALLOT

Under the former standing rules governing the election of a President, any Member could present a motion without notice nominating another Member as President. Each name was submitted under a separate motion, which could not be amended.

If only one Member was nominated, that Member was proclaimed elected. If more than one name was put forward, the various motions were debated simultaneously and voted on in the order in which they had been made until one of them was carried, thereby causing all the other motions to lapse. In the case of a tie vote, the motion was declared defeated. From 1972 on, however, a motion by the Premier was always the first to be put to the vote (1972–1984 Standing Orders, SO 9(3)).

Under this voting method, the right of any Member to nominate a colleague as President was in fact a right in name only, since the Premier's motion was generally the only one considered. In practice, the choice of President was usually the result of an agreement between the leaders of the parties

represented in the Assembly, ratified by a vote in the Assembly on a motion by the Premier. This explains why the President was always elected from the party in power, even though there was no strict rule to that effect.

In April 1998, the President of the Assembly proposed an amendment to the rules of procedure in order to introduce a vote by secret ballot for the election of the President. After being tested twice, the procedure was written into temporary rules that were in force from June 5, 2002, until the end of the 36th Legislature on March 12, 2003.

The National Assembly elected its President by secret ballot for the first time on March 2, 1999, during the first sitting of the **36th Legislature**. On that occasion, the Members of the National Assembly unanimously agreed to set aside 1985 Standing Orders 7 and 8 in order to elect Jean-Pierre Charbonneau, Member for Borduas, as President under the rules contained in a document entitled Standing Orders and Rules of Procedure respecting the Election of the President of the National Assembly by Secret Ballot. Then the same scenario played out again on March 12, 2002, when Charbonneau resigned upon being appointed Minister, and the office became vacant. As a result, Louise Harel, Member for Hochelaga-Maisonneuve, became the first woman to sit in the President's Chair. In both cases, the Assembly later ratified the procedure by a special order since it could not do so beforehand, the Assembly being unable to carry on any business before the President was elected.

At the opening of the **37th Legislature** on June 3, 2003, the Members of the National Assembly gathered to elect a President by secret ballot for the third time. However, the President was not elected by secret ballot that day for lack of unanimous consent to set aside the rules in force. As the Assembly had neither elected a President nor a First, Second or Third Vice-President from among its Members at the start of the first sitting after the general election, that meeting was not considered a sitting of the Assembly (ANA, s. 19, 1st para.). As mentioned above, the Assembly cannot take up any business until it has elected a President, which explains why there is no mention of what happened on June 3, 2003, in the Assembly's Votes and Proceedings. The Assembly adjourned until the following day, June 4, 2003, when the first true sitting of the 37th Legislature was held and during which the Assembly elected its new President, Michel Bissonnet, Member for Jeanne-Mance, according to the usual procedure set out in the Standing Orders.

The rules for electing a President by secret ballot were also used at the opening of the **38th Legislature**. Since the incumbent President was the only candidate, he was proclaimed elected on May 8, 2007, under those rules, which were then ratified by the Assembly. Following his resignation on July 14, 2008, a new President was elected by secret ballot upon the resumption of proceedings on October 21 of that year. The Quebec Liberal Party then formed a minority government, which made it

possible for a candidate from the Second Opposition Group, François Gendron, Member for Abitibi-Ouest, to win out over the governing party's candidate. However, on November 5 of that year, the National Assembly was dissolved, and a general election was called.

On January 13, 2009, the Assembly met in an extraordinary sitting and proceeded to elect a President for the **39th Legislature**. Since only one candidate, Yvon Vallières, Member for Richmond, was in the running, he was proclaimed elected in accordance with the secret ballot rules the National Assembly adopted unanimously on that occasion. On April 21, 2009, following a major parliamentary reform, the National Assembly made the rules used to elect its President on January 13 permanent. Since then, the Members have elected the President by secret ballot. The first election of a President under the new permanent rules took place on April 5, 2011, following Mr. Vallières's resignation. Jacques Chagnon, Member for Westmount–Saint-Louis, then acceded to the office of President.

4.1.1.1 ELECTING A PRESIDENT BY SECRET BALLOT

Under the permanent rules now in force, an entire sitting of the Assembly is devoted exclusively to the election of the President and, if necessary, the Vice-Presidents (SO 5.1, 1st para.). Once the election is over, the Government House Leader moves adjournment; the motion cannot be debated (SO 5.1, 3rd para.). However, if there are three consecutive tie votes, the election is resumed at the next sitting, at which time the same rules, except incompatible provisions, apply (SO 8.10).

Until a President is elected, it falls on the Secretary General⁴ to call the Assembly to order. The Secretary General then gives the floor to the Premier, who in turn asks the Secretary General to conduct the election of a President in accordance with the Standing Orders.⁵

While before 1984, the officer presiding over the election was the Secretary General of the National Assembly,⁶ the election is now presided over by the longest-serving Member of the National Assembly who is not a candidate for the office of President, a minister, a leader of a parliamentary group or a member of the Committee on the National Assembly (SO 6). If two or more Members meet those criteria, the most senior in age takes the Chair (SO 6). The officer presiding over the election has all the powers vested in the President of the National Assembly, including the power to suspend proceedings at any time (SO 6.1), and is also entitled to vote during the election (SO 6.2).

4 The Secretary General of the National Assembly is the counterpart to the Clerk of the House in other British-style legislative assemblies.

5 See "The Lieutenant Governor's authorization to elect a President" in Subsection 6.2.2, "Opening a Session".

6 Geoffrion 1941, SO 11, note 2 (note in French only); 1972–1984 Standing Orders, SO 8.

THE LONGEST-SERVING MEMBER AND OFFICER PRESIDING OVER THE ELECTION

In the **36th Legislature**, during the election by secret ballot held on March 12, 2002, the longest-serving Member of the Assembly was François Gendron, Member for Abitibi-Ouest. He had presided over the election held on March 2, 1999, but had since become Minister of Natural Resources. The second longest-serving Member, Yvon Vallières, Member for Richmond, was Chair of the Committee on Planning and the Public Domain and, as such, sat on the Committee on the National Assembly. The next two longest-serving Members had the same number of years of service. Therefore, the older of the two, Robert Middlemiss, Member for Pontiac, presided over the election of the President.

The next election by secret ballot, held on May 8, 2007, at the beginning of the **38th Legislature**, was presided over by the longest-serving Member, Mr. Gendron. In the following election, on October 21, 2008, the two longest-serving Members, Mr. Gendron and Mr. Vallières, were both candidates for the position of President. The next longest-serving Member, Pierre Paradis, Member for Brome-Missisquoi, chaired a parliamentary committee and therefore sat on the Committee on the National Assembly. As a result, the election was presided over by the fourth longest-serving Member of the Assembly, Henri-François Gautrin, Member for Verdun.

At the opening of the **39th Legislature**, since the longest-serving Member, Mr. Gendron, continued to sit as President until a new President was elected, the election was presided over by Mr. Paradis. During the Second Session, given that Mr. Gendron was a candidate for the office of President, the outgoing President, Mr. Vallières, was absent and Mr. Paradis was a member of the Committee on the National Assembly, Mr. Gautrin presided over the election of the new President on April 5, 2011.

At the beginning of the **40th Legislature**, Mr. Paradis presided over the election of the President since the longest-serving Member, Mr. Gendron, was a minister.

At the beginning of the **41st Legislature**, the duty of presiding over the election fell to Mr. Gendron, who, at that time, held no office preventing him from taking on that role.

Lastly, at the opening of the **42nd Legislature**, because the longest-serving Member was Premier François Legault, it was Lise Thériault, Member for Anjou–Louis-Riel who presided over the election of a new President; she was the first woman to do so.

A Member who wishes to stand for the office of President must file a written declaration of candidacy with the office of the Secretary General by noon on the day preceding the sitting at which the election is to take place. Ministers and leaders of parliamentary groups are not eligible (SO 7). Once the nomination period has ended, the Secretary General prepares a list of the candidates in alphabetical order (SO 7.1) and sends it to the Members by 4 p.m. the same day (RCP 0.1).

If only one Member runs for the office of President (as was the case during the elections held on October 30, 2012, May 20, 2014, and November 27, 2018), that Member is elected by acclamation and the presiding officer announces the fact to the Assembly (SO 8).

If there is more than one candidate, the Secretary General sees that a copy of the list of candidates is placed on the Members' desks before the beginning of the sitting during which the election will be held and in each of the voting booths (RCP 0.2). Before each ballot, the presiding officer reads the names on the list out loud, specifying whether any candidate has withdrawn (RCP 0.3).

The Members must all be in their assigned seats for the casting of ballots. The Premier, the Leader of the Official Opposition and the other parliamentary group leaders are called on to vote, one by one. The other Members are then called two at a time, one from the east side and one from the west side of the Chamber, in the same order as for a recorded division. The presiding officer is the last to cast a ballot (RCP 0.5). Members vote in the booth installed on the side of the Chamber on which they sit, place the ballot paper in the ballot box on the Table and return to their seat (SO 8.3; RCP 0.6). The ballot paper lists the candidates' first and last names in alphabetical order, along with their ridings. Each Member uses the pencil received along with the ballot paper from the Secretary General or the Secretary General's representative to mark the appropriate circle on the ballot (SO 8.4).

THE BALLOT BOX AND VOTING BOOTH USED DURING THE ELECTION OF THE PRESIDENT



In order to ensure the legitimacy of the election process, the Secretary General counts the ballots outside the Chamber, in the presence of the Ethics Commissioner or, if the latter is unable to act, the jurisconsult.⁷ No one is allowed to reveal the number of votes received by any of the candidates. Once the President is elected, the Secretary General destroys the ballots and any record of the number of votes received by the candidates (SO 8.5).

As soon as the sitting resumes, the Secretary General informs the presiding officer whether anyone has received the requisite number of votes (RCP 0.7). The candidate who obtains the majority of the votes validly cast is declared elected (SO 8.1).⁸

If no candidate receives the requisite number of votes, a second ballot is taken (SO 8.7). To that end, the Secretary General must prepare another list of candidates excluding the candidate or candidates who received the lowest number of votes and those who received five or fewer votes, as long as this does not eliminate all the candidates or prevent the election of a President (SO 8.8). No candidate is excluded if everyone received the same number of votes (SO 8.9).

If there is a tie vote in two consecutive ballots, the presiding officer suspends the proceedings for 60 minutes before the next ballot (SO 8.9). If the third ballot also results in a tie, the presiding officer adjourns the Assembly and the election is resumed at the next sitting, at which time the same rules, except incompatible provisions, apply (SO 8.10).

Members who wish to withdraw their candidacy before a ballot may do so either orally before the Assembly or by written notice sent to the Secretary General (SO 8.11).

Once the President has been chosen, the Assembly can proceed to elect the Vice-Presidents.

7 The jurisconsult is a person, other than a Member, appointed by the Office of the National Assembly by a unanimous vote of its Members to provide advisory opinions on ethics and professional conduct to any Member who requests it (*Code of ethics and conduct of the Members of the National Assembly*, CQLR, c. C-23.1, s. 108).

8 Under the temporary rules in force from June 5, 2002, until the end of the 36th Legislature, to be declared elected, a candidate had to win at least the number of votes equal to the majority of the Members of the National Assembly (2002-2003 Temporary Standing Orders, SO 8.3). Since there are 125 Members of the National Assembly, 63 votes were required to obtain the majority if the election was held by secret ballot at the beginning of a legislature. This provision was not included in the permanent rules adopted on April 21, 2009.

THE OATH OF THE PRESIDENT: AN EMERGING PARLIAMENTARY TRADITION?

As previously mentioned, during the Second Session of the 39th Legislature, Jacques Chagnon, Member for Westmount–St-Louis, was elected President after Yvon Vallières had resigned. He was then re-elected President by acclamation during the next two legislatures. At the beginning of the **40th Legislature**, in a minority government context, Mr. Chagnon, who came from the parliamentary group forming the Official Opposition, wished to formally reiterate his commitment to carrying out the duties of President with neutrality and impartiality. Therefore, after having delivered his acceptance speech, he took a special oath as President of the Assembly,⁹ a practice observed in many assemblies around the world.¹⁰ Mr. Chagnon then briefly sat at the Secretary General's place at the Clerk's Table to sign a document containing the text of the oath he had just read, before returning to the Chair. Upon his re-election to the office of President at the beginning of the **41st Legislature**, Mr. Chagnon again took the same oath and signed a similar document.¹¹

At the beginning of the **42nd Legislature**, when François Paradis, Member for Lévis, was elected to the office of President, he decided to take the oath as well.¹² It remains to be seen whether this practice will continue in coming years and turn into a new parliamentary tradition.

THE PRESIDENT'S OATH

CONSIDERING the role played by the National Assembly within our democratic institutions and the values that it embodies;

CONSIDERING that its autonomy must be maintained so that it may carry out its duties without outside interference;

CONSIDERING the high and legitimate expectations of Members and citizens with regard to our parliamentary deliberations;

CONSIDERING that our parliamentary law stems from a long-standing tradition that must be carried forward and continue to evolve in keeping with its guiding principles;

CONSIDERING that which is symbolized by the office of President and the importance attached to its duty of impartiality;

CONSIDERING the confidence that is placed in the person entrusted with the role of President of the Assembly;

9 JD, October 30, 2012, p. 5.

10 George Bergougous, *Presiding Officers of National Parliamentary Assemblies* (Geneva: Inter-Parliamentary Union, 1997), pp. 27–29.

11 JD, May 20, 2014, p. 5.

12 JD, November 27, 2018, p. 4.

I, (first name and last name), do solemnly declare that I will carry out the duties of President of the National Assembly of Québec with dignity and impartiality, and that I will uphold the respect and defence of the rights and privileges of the Assembly and of each of its Members so that they may exercise their duties freely and without outside interference;

Likewise, I will act as the guardian of the democratic rights of the citizens represented at the Assembly and, as such, I will, consistently and to the best of my ability, seek to maintain the best balance during parliamentary deliberations, in pursuance of the principles of our parliamentary law;

Lastly, I pledge to perform the duties of my office conscientiously and to be fair to everyone.

4.1.1.2 ELECTING THE VICE-PRESIDENTS

Three Vice-Presidents elected by the Assembly help the President carry out the parliamentary and, in the case of the First and Second Vice-Presidents, administrative duties of office (ANA, ss. 96 and 117). Although the President is now elected by secret ballot, the process to elect the three Vice-Presidents has barely changed from what it once was for the President.

In the past, a Speaker of the Assembly who was absent or unable to act would be replaced by the Chairman of committees as Deputy Speaker. That title was later changed to Vice-President during the 1968 reforms which, among other things, brought parliamentary vocabulary more into line with French usage.¹³ The election of a Second Vice-President was introduced by the 1973 Standing Orders.¹⁴ A Third Vice-President was elected for the first time at the first sitting of the 36th Legislature, on March 2, 1999. At the same time, a hierarchy was introduced among the Vice-Presidents. The *Act respecting the National Assembly*¹⁵ and the Standing Orders now expressly state that there is a First, a Second and a Third Vice-President. The First and Second Vice-Presidents are elected from the parliamentary group that forms the Government, while the Third Vice-President is elected from the parliamentary group that forms the Official Opposition (ANA, s. 19, 2nd para.; SO 9, 2nd para.). Before the first election of a Third Vice-President, the two Vice-Presidents always belonged to the parliamentary group forming the Government, although there was no rule to that effect. There have been discussions on the possibility of having a Fourth

13 See Chapter 1, Subsection 1.6.1, "Abolition of the Legislative Council (1968) and the "Lavoie Code" (1973)". See also "L'origine de la fonction de vice-président" in Gaston Deschênes, *Le Parlement de Québec : histoire, anecdotes et légendes* (Sainte-Foy, Éditions MultiMondes, 2005), p. 86.

14 1972-1984 Standing Orders, SO 12.

15 *Act respecting the National Assembly*, CQLR, c. A-23.1.

Vice-President elected from the second opposition group, when there is one, however these discussions have not yet led to any formal amendment to the Standing Orders.¹⁶

It is the President of the National Assembly, rather than the longest-serving Member, who presides over the election of the three Vice-Presidents (SO 9, 1st para.). Any Member may, without notice, nominate another Member to serve as First, Second or Third Vice-President. Each nomination is the subject of a separate motion that may not be amended (SO 9.1).

If only one Member is nominated for any of the offices of Vice-President, that Member is elected by acclamation. If more than one Member is nominated, all the motions are debated at the same time (SO 9.2). However, even though the Standing Orders provide for the possibility of a debate on the motions, in practice, once the Premier or the Leader of the Official Opposition has moved a motion, the President asks if there are any other motions and, if not, immediately calls for a vote on the motion without debate. If a debate is held, speaking times are those set out in Standing Order 209 for a substantive motion, that is, one hour for the mover of the motion and the leaders of the parliamentary groups or their representatives, and 20 minutes for other Members.

The motions are put to the vote in the order in which they were made until one is carried. A motion by the Premier is always put to the vote first for the election of the First and Second Vice-Presidents. A motion by the Leader of the Official Opposition is put to the vote first for the election of the Third Vice-President. If there is a tie, the motion is declared defeated (SO 9.2, 2nd para.).

4.1.1.3 THE PRESIDENT'S TERM OF OFFICE

Under section 6 of the *Act respecting the National Assembly* and section 129 of the *Election Act*,¹⁷ the maximum duration of a legislature is four years, with a few exceptions.¹⁸ A legislature ends when the Lieutenant Governor proclaims the dissolution of the Assembly at the request of the Premier (ANA, s. 5 and s. 6, 4th para.; *Election Act*, s. 129, 3rd para.). However, section 24 of the *Act respecting the National Assembly* provides that the terms of the President and Vice-Presidents outlast the term of the Assembly. Under that section, the President and Vice-Presidents remain in office until they are replaced or re-elected by the new Assembly. When the Assembly is dissolved, they continue performing the functions of the Office of the National Assembly (ANA, s. 94). The dissolution of the Assembly does not put an end to their terms of office.

16 *Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature*, Sessional Paper No. 246-20090421, April 21, 2009, (VP, April 21, 2009, p. 214), p. 2.

17 *Election Act*, CQLR, c. E-3.3.

18 See Chapter 6, "Legislatures, Sessions and Sittings".

However, death, resignation or another cause may do so, creating a vacancy in the office of President or Vice-President. A Cabinet appointment, for example, must necessarily result in the resignation of the President or Vice-President concerned. This is because the office of President or Vice-President is incompatible with ministerial responsibilities (SO 7, 2nd para.).¹⁹ This is self-evident given that the President embodies the Assembly's independence from the Government.²⁰

If the President is absent, unable to act or so requests, one of the Vice-Presidents may exercise the President's parliamentary duties (ANA, s. 20; SO 10). However, neither the *Act respecting the National Assembly* nor the Standing Orders specify which Vice-President is to replace the President in the Chamber, despite the hierarchy among the Vice-Presidents. The choice is therefore left to the President's discretion.

If the President and the Vice-Presidents are all absent or unable to act, the Secretary General informs the Assembly, which then designates a Member to temporarily take on the President's parliamentary duties (ANA, s. 21; SO 11). The process used to designate a temporary President is the same as that used to elect the Vice-Presidents, except that it is the longest-serving Member of the Assembly who presides over the proceedings (SO 11, 3rd para.). However, such a situation has never occurred.

If the office of President becomes vacant, a Vice-President may not step into the President's shoes to carry out the parliamentary duties attached to that office, since the Assembly cannot carry on any business until it has elected a President (ANA, s. 22; SO 5, 2nd para.).²¹

19 George Bergougnous, *Presiding Officers of National Parliamentary Assemblies*, p. 31. There have been a few occasions when Presidents have had to step down because they have been appointed to Cabinet: on November 6, 1980, Clément Richard resigned as President of the National Assembly when he was appointed Minister of Communications (JD, November 6, 1980, pp. 17–21); on January 29, 1996, Roger Bertrand resigned as President when he was appointed Minister of Revenue (JD, March 12, 1996, p. 6013); and on January 30, 2002, Jean-Pierre Charbonneau resigned as President when he became Minister for Canadian Intergovernmental Affairs, Minister responsible for Electoral Reform and Minister responsible for Parliamentary Reform (JD, March 12, 2002, p. 4849).

20 Henri Brun, Guy Tremblay and Eugénie Brouillet, *Droit constitutionnel*, 6th ed. (Cowansville: Éditions Yvon Blais, 2014), p. 337.

21 On October 17, 2008, during the 12th Summit of La Francophonie, the President of the French Republic, Nicolas Sarkozy, delivered a speech to the Members of the Assembly and other distinguished guests in the National Assembly Chamber, a first for a French President. However, the President of the Assembly, Michel Bissonnet, had resigned on July 14 of that year while the Assembly was adjourned for the summer, and the Assembly—because the proceedings were to resume only on the third Tuesday of October, that is, on the 21st of that month according to the schedule in force at that time—had not filled the vacancy of the office of President and could therefore not hold an official sitting. As a result, the ceremony was handled as a Members' meeting with no Votes and Proceedings being issued since it was not an official sitting of the Assembly. A "Special Edition" of the *Journal des débats* was nevertheless published.

In administrative matters, however, the *Act respecting the National Assembly* does take the Vice-Presidents' hierarchy into consideration (ANA, ss. 96 and 117). The Act states that, if the President is absent or so requests, the Vice-President designated by the President takes over. Only the First or Second Vice-President may act in this capacity. If the President is unable to act or if the position is vacant, the First Vice-President replaces the President until the President returns or the vacancy is filled.

In the case of a vacancy, a new President must be elected before the Assembly can resume its deliberations. However, the situation is different where administrative matters are concerned. If a vacancy occurs while the Assembly is not sitting, the Assembly cannot elect a new President, but Assembly continues to be managed. The *Act respecting the National Assembly* therefore allows the First Vice-President to perform the administrative duties of the President in such a case. If the First Vice-President is or becomes unable to act, or if the position of First Vice-President is also vacant or becomes vacant, the Second Vice-President steps in (ANA, ss. 96 and 117).

4.1.2 THE PRESIDING OFFICER'S IMPARTIALITY

Impartiality is an essential characteristic of presiding officers. Generally speaking, they are bound by a duty to exercise reserve and must behave in such a manner as to ensure that they have the parliamentarians' confidence when presiding over debates of the National Assembly.²²

Given the neutrality required for the duties of the office, the Member who is the President does not belong to any parliamentary group, does not participate in deliberations and does not vote, except to break a tie (*Constitution Act, 1867*, ss. 49 and 87; SO 3-4).²³

The President does not take part in Assembly debates and therefore may not, in principle, move motions. There have been instances, however, where the President has entered a debate, intervened at the end of a debate²⁴ or moved

22 JD, November 9, 2006, p. 3240 (Diane Leblanc)/RDPP, No. 235/3.

23 Arthur Beauchesne, Alistair Fraser, William Foster Dawson and John A. Holtby, *Beauchesne's Rules and Forms of the House of Commons of Canada*, 6th ed. (Toronto: Carswell, 1989), p. 51; Thomas Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 24th ed., Mark Hutton, David Natzler, Matthew Hamlyn, Colin Lee, Chloe Mawson, Crispin Poyser, Eve Samson and Kate Lawrence, eds. (London: LexisNexis Butterworths, 2019), online: <https://erskinemay.parliament.uk>, para. 4.23; David R. Elder and p. E. Fowler, eds., *House of Representatives Practice*, 7th ed. (Canberra: Department of the House of Representatives, 2018), p. 167.

24 On March 19, 1997, following the adoption of a motion deploring disparaging statements made against elected officials and candidates to public office at all levels during a television show, President Jean-Pierre Charbonneau spoke on the matter (JD, March 19, 1997, p. 5328), and, on May 27, 1999, after the adoption of a motion underlining the 150th anniversary of the Barreau du Québec, he also, exceptionally, gave a speech (JD, May 27, 1999, pp. 1875-1876).

a motion with the unanimous consent of the Assembly.²⁵ The President has in particular spoken a number of times during debates on special events the entire Assembly wished to acknowledge, such as significant events related to parliamentary history,²⁶ tragedies,²⁷ the death of current²⁸ or former²⁹ Members, withdrawals from political life³⁰ and subjects under the President's responsibility.³¹ It is to be noted that, in all British-style parliaments, the President (or Speaker) may make statements to the Assembly at any time.³²

It is a basic right of all Quebecers to ask a Member to table a petition in the Assembly.³³ The President is the one who decides whether a petition meets the conditions for presentation in the House (SO 63.1; RCP 42 and 43) and is

25 With the unanimous consent of the Assembly, President Jean-Pierre Charbonneau moved, and participated in the debate on, a motion concerning "the intolerance demonstrated with regard to David Levine following his appointment as Director General of the new Ottawa hospital" (VP, May 21, 1998, p. 2052/JD, May 21, 1998, p. 5328). Again with the unanimous consent of the Assembly, President Charbonneau moved that the National Assembly mark the 20th anniversary of the broadcasting of debates, an initiative under the President's responsibility (JD, October 21, 1998, p. 12318).

26 President Jacques Chagnon participated in the debate on a motion underlining Member for Abitibi-Ouest François Gendron's 40-year parliamentary career (JD, November 15, 2016, p. 12777).

27 President Jean-Pierre Charbonneau spoke during a debate on a motion on the human drama experienced by the displaced populations of Zaire (JD, November 14, 1996, p. 3155). President Charbonneau also spoke to a motion on the tragic Egypt Air Boeing 767 accident (JD, November 2, 1999, p. 3262). President Jacques Chagnon participated in a debate on a motion on the victims of the shooting at the Centre culturel islamique de Québec (JD, February 7, 2017, p. 13512).

28 President Jean-Pierre Saintonge spoke to a motion to honour the memory of Member for Bonaventure Gérard D. Levesque (JD, November 18, 1993, p. 8762).

29 At the June 2, 2015 sitting, President Jacques Chagnon spoke to a motion to honour the memory of former Premier Jacques Parizeau, who had died the day before (JD, June 2, 2015, p. 6490).

30 President Jean-Pierre Charbonneau spoke to a motion that the Assembly pay tribute to Daniel Johnson, who had just resigned as a Member of the National Assembly (JD, May 12, 1998, pp. 11024-11025). He also moved that the National Assembly mark the retirement from politics of 11 Members and spoke during the debate on that motion (JD, October 21, 1998, pp. 12312-12313).

31 On June 16, 2000, during a debate on a motion by the Premier for the appointment of the Chair of the Commission de l'accès à l'information, the issue of the remuneration of Members of the National Assembly was raised by the Premier and the Leader of the Official Opposition. President Jean-Pierre Charbonneau then spoke in favour of recognizing the Members' full worth (JD, June 16, 2000, p. 7109).

32 JD, May 15, 1984, p. 6037 (Richard Guay)/RDPP, No. 2/5; Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 25th ed., para. 19.21; Elder et al., *House of Representatives Practice*, 7th ed., pp. 180-181. For example, after a Member was arrested (but not charged) by the Unité permanente anti-corruption (UPAC), President Jacques Chagnon made a statement on October 31, 2017, in which he recalled the importance of parliamentarians enjoying full freedom to do their work with complete peace of mind (JD, October 31, 2017, p. 17690 (Jacques Chagnon)).

33 "Every person has a right of petition to the National Assembly for the redress of grievances". *Charter of human rights and freedoms*, CQLR, c. C-12, s. 21. See Chapter 8, "Petitions".

consequently the only Member who may not table a petition.³⁴ When constituents in the President's riding want a petition tabled, the President may ask another Member to do so.³⁵

Given the impartiality that must be demonstrated, the President votes only to break a tie (*Constitution Act, 1867*, ss. 49 and 87; SO 4). In such cases, the President may do so according to conscience, without any further explanation. For the sake of impartiality, however, usage dictates that the President should vote to maintain the status quo or in such a way as to give the Assembly another opportunity to express its opinion on the matter. Customarily, the President gives the rationale for that vote. Those reasons are included in the Votes and Proceedings for that sitting day.³⁶

There is, however, an exception to the principle of the President's casting vote in Standing Order 9.2, which, as seen above, expressly mentions that in the event of an equal number of votes during the election of a Vice-President, the motion will be declared defeated (SO 9.2).

THE PRESIDENT'S CASTING VOTE

Since 1867, the President of the National Assembly has exercised a casting vote 26 times, of which only three were in the 20th century: in 1908, 1933 and 1976. Thirteen of these votes were cast by the same President from 1878 to 1882, at a time when both parties held almost the same number of seats in the Assembly. From June 10, 1985, to September 28, 1985, a similar situation prevailed, the governing party having only a one-seat majority. However, the President was not required to use his casting vote. The last time the President's casting vote was exercised was on May 2, 1976, on a motion by an opposition Member to change the composition of a parliamentary committee. However, it was

34 JD, June 15, 1982, pp. 4840–4842 (Claude Vaillancourt)/RDPP, No. 62/1.

35 According to custom, if no Member is available to present a petition meeting the requirements, it may be presented by a Vice-President. See JD, August 30, 2001, CAN-3 p. 10; JD, October 24, 2001, CAN-5 pp. 20–21. For example, at the September 20, 2016 sitting, Vice-President François Gendron tabled a petition on behalf of Member for Arthabaska Sylvie Roy, who had died while in office on July 31, 2016 (JD, September 20, 2016, pp. 11776–11777).

36 Geoffrion 1941, SO 312; Beauchesne et al., *Beauchesne's Rules and Forms of the House of Commons of Canada*, p. 97; Thomas Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 25th ed. para. 20.89. In Québec, the requirement to enter the reasons in the *Votes and Proceedings* of the Assembly was not included in the Standing Orders in force from 1972 to 1984, and is not in the current Standing Orders either. Moreover, when that requirement was in force, it was not always followed. The deciding votes cast by the Speaker in 1900 and 1908, in particular, involved reasons that were not recorded in the minutes.

a Vice-President who exercised the President's casting vote in favour of the motion.³⁷ The President of the Assembly has therefore never exercised a casting vote under the Standing Orders in force since 1984.

More flexible rules of conduct apply to the Vice-Presidents, who are allowed to introduce bills,³⁸ move motions,³⁹ table petitions,⁴⁰ take part in debates and vote in the Assembly and in parliamentary committee, except in the standing Subcommittee on Parliamentary Reform (SO 117(2)). Vice-Presidents often use their right to speak during the period devoted to statements by Members. Furthermore, they are usually present during Question Period, although they rarely take the floor.⁴¹

Unlike the President, the Vice-Presidents have their own desks in the Assembly, from which they can participate in the proceedings when they are not chairing them.⁴² On some occasions, it may be customary to allow a Vice-President

37 Maurice Champagne, *Vote prépondérant du président à l'Assemblée nationale (1867-1984)* (Québec: National Assembly of Québec, 1985).

38 Since the Fondation Jean-Charles-Bonenfant is a creation of the National Assembly, any bill amending its enacting statute is usually introduced by one of the Vice-Presidents. The same applies with regard to the National Assembly's Cercle des ex-parlementaires. There have also been instances when a Vice-President has introduced a bill in the Assembly. On June 19, 1986, Jean-Pierre Saintonge, Vice-President and Member for La Prairie, introduced a private bill in the Assembly, Bill 245, *An Act respecting certain immovables of the cadastre of the parish of Laprairie de La Madeleine* (JD, June 19, 1986, p. 3232). On November 20, 2002, François Beaulne, Vice-President and Member for Marguerite-D'Youville, introduced Bill 394, *An Act to proclaim Tartan Day* (JD, November 20, 2002, p. 7670); on November 21, 2002, Michel Bissonnet, Vice-President and Member for Jeanne-Mance, introduced Bill 221, *An Act to amend the status of the Société de secours mutuels des citoyens de Casacalenda* (JD, November 21, 2002, p. 7727); on December 16, 2004, William Cusano, Vice-President and Member for Viau, introduced Bill 197, *An Act to facilitate organ donation* (JD, December 16, 2004, p. 6874); and on May 12, 2010, Jacques Chagnon, Vice-President and Member for Westmount-Saint-Louis, introduced Private Bill 222, *An Act respecting Club Lac Brûlé Inc.* (JD, May 12, 2010, p. 6647).

39 Standing Order 129 explicitly provides for a Vice-President making a motion in order to fill a vacancy or make a permanent substitution on a committee.

40 They may do so not only on behalf of another Member or when there is no Member to present a petition (see note 33 in this chapter), but also on their own initiative. For example, at the September 22, 2015 sitting, Maryse Gaudreault, Vice-President and Member for Hull, tabled an electronic petition on eliminating the microbeads used in cosmetic products (JD, September 22, 2015, p. 6931).

41 On October 30, 2001, Michel Bissonnet, Third Vice-President and Member for Jeanne-Mance, addressed a question to the Minister of State for Municipal Affairs and Greater Montréal on the voting process for the municipal elections that would be held the following Sunday (JD, October 30, 2001, pp. 3046-3047).

42 At the opening of the penultimate sitting day of the 41st Legislature, on Thursday, June 14, 2018, after the moment of reflection, President Jacques Chagnon invited François Gendron, Third Vice-President and Member for Abitibi-Ouest, to preside over the proceedings for the last time before retiring from his political career (JD, June 14, 2018, p. 22244). The President then ceded the Chair and sat at Mr. Gendron's desk on the side of the Official Opposition.

some leeway to make brief comments. However, this licence must not be seen as an opportunity to give a speech from the President's Chair. For example, the President has in the past indicated that Vice-Presidents wishing to take part in a debate in the Assembly should do so from their own seats, within the general rules applicable to the ongoing debate. The manner in which they participate must preserve their impartiality and neutrality.⁴³

Despite the more flexible rules, Vice-Presidents must nonetheless demonstrate political sensitivity when intervening or voting on a specific question, bearing in mind the need to retain their credibility if they are to chair the debates of the Assembly. In June 2001, after the impartiality of two of their number was called into question, the Vice-Presidents agreed on certain rules to guide them in their political activities in order to compensate for the lack of a firm framework within which to play their role. They decided to refrain from participating in the proceedings of the Assembly and its parliamentary committees, especially when a controversial topic was being discussed. They also resolved to vote only when the Assembly was unanimous or during the final vote on a question.⁴⁴ A Vice-President who nevertheless takes a position on a question being debated in the National Assembly must not chair the debates on that question, although this does not prevent the Vice-President from chairing the proceedings when another question on the same subject is being debated. In all circumstances, Vice-Presidents must demonstrate prudence and exercise reserve in their interventions.⁴⁵

43 JD, December 4, 2018, pp. 155–156 (François Paradis)/RDPP, No. 3/3.

44 On June 1, 2007, in a minority government situation during the 38th Legislature, the three Vice-Presidents voted on a motion by the Minister of Finance proposing that the Assembly approve the Government's budgetary policy. The two Vice-Presidents from the group forming the Government voted in favour of the motion, while the Vice-President from the group forming the Official Opposition voted against it. The motion was adopted by a vote of 46 in favour and 44 against (JD, June 1, 2007, pp. 1110–1111). It is also not uncommon for Vice-Presidents to take part in votes on persons appointed by the Assembly, such as the Secretary General (JD, October 22, 2019, p. 4745), the Ethics Commissioner (JD, May 18, 2017, p. 16364), the Lobbyists Commissioner (JD, June 11, 2010, p. 7227), the Anti-Corruption Commissioner (JD, October 8, 2019, p. 4521), the Chief Electoral Officer (JD, June 11, 2015, p. 6700), the Public Protector (JD, June 9, 2011, p. 2370) and the Auditor General (JD, February 26, 2015, pp. 3904–3905), and those appointed to hold certain other offices, such as the members of the Commission des droits de la personne et des droits de la jeunesse (JD, December 7, 2017, pp. 18408–18409).

45 JD, June 6, 2001, pp. 1969–1971 (Jean-Pierre Charbonneau)/RDPP, No. 3/1; JD, June 12, 2001, pp. 2125–2128 (Jean-Pierre Charbonneau)/RDPP, No. 3/2; JD, December 4, 2018, pp. 155–156 (François Paradis)/RDPP, No. 3/3.

Prudence is also required during political activities outside the Assembly, although Vice-Presidents may participate in party activities and caucus meetings.⁴⁶ The practice has not been uniform in Québec, for example, some Vice-Presidents have exercised reserve by not attending their caucus meetings.⁴⁷ Parliamentary law does not preclude Vice-Presidents from expressing their opinions. Since Vice-Presidents are first and foremost elected representatives of the people, they may take a public stance on issues that later become the subject of debate in the National Assembly. Preventing Vice-Presidents from ever chairing a debate on a subject on which they once took a stance would be tantamount to setting a rule that would preclude anyone from ever presiding over sittings of the National Assembly.⁴⁸ Vice-Presidents must, however, behave in such a way as to retain the confidence of the Members of the Assembly.⁴⁹

4.1.3 QUESTIONING THE CONDUCT OF A PRESIDING OFFICER

Parliamentarians' trust in the impartiality of the President and Vice-Presidents is essential to the Assembly's smooth operation. The President and Vice-Presidents must be above reproach in their conduct and their actions. Their work may not be criticized, even indirectly, during Assembly sittings, except by means of a substantive motion.⁵⁰ A Member who questions the conduct of a President or Vice-President other than by a substantive motion may be sanctioned for breach of privilege.⁵¹

46 JD, June 6, 2001, pp. 1969–1971 (Jean-Pierre Charbonneau)/RDPP, No. 3/1.

47 In 1977, at the request of President Clément Richard, Vice-Presidents Jean-Guy Cardinal and Louise Cuerrier agreed to stay away from caucus meetings and meetings of party organizers for the duration of their mandate (*Montréal-Matin*, January 11, 1977, p. 11; *Le Soleil*, January 11, 1977, p. A5). However, they were apparently absent from caucus meetings for only a few months. In 2018, at the beginning of the 42nd Legislature, Vice-President Marc Picard also announced that he intended to stop attending his parliamentary group's caucus meetings (JD, November 30, 2018, p. 137).

48 JD, June 12, 2001, pp. 2125–2128 (Jean-Pierre Charbonneau)/RDPP, No. 3/2.

49 JD, June 6, 2001, pp. 1969–1971 (Jean-Pierre Charbonneau)/RDPP, No. 3/1.

50 JD, June 13, 2001, pp. 2216–2217 (Jean-Pierre Charbonneau)/RDPP, No. 67/46. See also Chapter 3, "Parliamentary Privilege".

51 Beauchesne et al., *Beauchesne's Rules and Forms of the House of Commons of Canada*, p. 51; Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 25th ed., para. 4.23.

A President or Vice-President's conduct cannot be called into question by simply raising a point of privilege followed by a motion: to do so requires a substantive motion, which specialists often call a "motion of censure".⁵² Under Standing Orders 35(5) and 315, a motion is required to call into question a Member's conduct in the performance of parliamentary duties, which is why the President ruled in 2001 that points of order concerning the impartiality or neutrality of the presiding officer would no longer be accepted. A Member who wants to call into question the conduct of a presiding officer is required to make a substantive motion⁵³ and, in doing so, runs the risk of being imposed a penalty in turn if the accusations prove to be unfounded (SO 322).⁵⁴

Precedents have established that a motion against the conduct of the presiding officers in general is out of order because the concept of presiding officer encompasses the President and the Vice-Presidents and, under SO 315, an accusation cannot be extended to include more than one Member.⁵⁵

When the Assembly debates a motion calling the conduct of a specific presiding officer into question, the presiding officer concerned may nevertheless take the Chair.⁵⁶ It is up to the officer to evaluate whether, politically speaking, it is wise to do so.

52 JD, March 14, 1995, pp. 1382–1383 (Roger Bertrand)/*RDPP*, No. 316(3)/5; JD, June 15, 2001, pp. 2381–2382 (Jean-Pierre Charbonneau)/*RDPP*, No. 67/47. In the latter case, a Member of the Official Opposition raised a question of privilege against the President of the Assembly because of actions committed by a peace officer providing security at the National Assembly. The Member considered the President responsible for the breach of privilege since the peace officer worked under the President's administrative authority. The President declared the question of privilege out of order because a President's conduct cannot be called into question except upon a substantive motion provided for in Standing Orders 315, 316(3) and 323. He did not rule on whether a President could be held personally responsible for an act committed by someone under his authority, but stated that, should a motion be made criticizing the conduct of the President because of action taken by a person under his authority, it would be up to the Assembly to decide, following a debate on the motion, whether he should be held responsible.

53 In this regard, see the letter sent by Yvon Vallières to all Members informing them of the reasons for his resignation as President. He explained that he could not accept that his impartiality and neutrality be called into question and that he be constantly subjected to inappropriate interpellations and remarks, and he pointed out that the President's rulings cannot take into account potential threats to trust in the person making the ruling (JD, April 5, 2011, p. 1357).

54 JD, June 12, 2001, pp. 2125–2128 (Jean-Pierre Charbonneau)/*RDPP*, No. 3/2.

55 JD, March 14, 1995, pp. 1382–1383 (Roger Bertrand)/*RDPP*, No. 316(3)/5.

56 Geoffrion 1941, SO 17, note 2 (note in French only).

4.2 THE PRESIDENT'S ROLES

The President of the National Assembly has three main roles: presiding over the sittings of the Assembly in keeping with the rules of procedure governing parliamentary debate, directing the administrative services of the Assembly that support the Members in their parliamentary duties, and representing the Assembly, particularly in its relations with other parliaments (SO 1).

4.2.1 CHAIRING SITTINGS OF THE ASSEMBLY

The President is, first and foremost, the moderator of the Assembly's debates, the custodian of its procedures.⁵⁷ The President's functions are essentially those of a chairperson, although they do not include control over the agenda; with few exceptions, it is the Government, acting through its House Leader, that determines the business to be debated in the Assembly (SO 96). To maintain impartiality, the President does not participate in debates or vote, except to exercise a casting vote (*Constitution Act, 1867*, ss. 49 and 87; SO 4).

The President acts as an arbiter of proceedings, mediation being one of the many responsibilities assumed in that role, for the strict application of the Standing Orders in all circumstances is more likely to result in chaos than in order.⁵⁸

Generally, the President's role as arbiter is to maintain a balance between the two fundamental principles that guide parliamentary business: the need to enable the governing majority to conduct public affairs in an orderly manner and the need to protect the right of the minority to voice its opinion.⁵⁹

So that this role can be played fully, the Assembly has entrusted the President with various functions set out mainly in Standing Order 2. Under that Standing Order, in addition to exercising the powers conferred on the office by statute, the President calls to order, suspends and adjourns the sittings of the Assembly; preserves order and decorum by exercising all the powers necessary to that end; enforces the Standing Orders; proposes motions, puts them to a vote and declares the results; convenes and presides over meetings with the House leaders of the parliamentary groups; organizes the limited debates; chooses the place in which the Assembly shall meet when it cannot meet in the Parliament Building; and exercises the other powers required to perform the duties of the office and to protect the privileges of the Assembly and its Members.

57 Jean-Charles Bonenfant, "Le président de la Chambre basse", *L'Action-Québec*, February 7, 1972, p. 9.

58 Philip Laundry, "Le rôle du président", *Compte rendu : 2^e Colloque parlementaire du Commonwealth* (Ottawa, 1990), p. 17.

59 Geoffrion 1941, SO 3, note 2 (in French only).

A general overview of the main powers vested in the President follows, although most of the President's duties are dealt with in detail in the various chapters of this book.

4.2.1.1 CALLING TO ORDER, SUSPENDING AND ADJOURNING SITTINGS OF THE ASSEMBLY

The President is empowered to call to order, suspend and adjourn the sittings of the Assembly (SO 2(1)). The Assembly is called to order once a quorum has been established (SO 30).⁶⁰ This is the only instance where the President takes the initiative in determining whether there is a quorum. From then on, a quorum is presumed to exist until its absence is pointed out by a Member or becomes apparent on a vote.⁶¹ Since the Assembly may not sit or validly exercise its powers without a quorum, the President must establish that there is a quorum at the beginning of a sitting and may not call the sitting to order until a quorum has been reached. If a quorum is not established within a reasonable time, the President takes the Chair to announce that there is want of quorum and immediately suspends or adjourns the sitting.⁶² The same procedure applies if the absence of quorum is noted during a sitting. The President is included when calculating the quorum (ANA, s. 8).

The President must suspend or adjourn the Assembly at the times specified in Standing Orders 20 and 21, which determine the Assembly's sitting schedule. However, when a vote is taking place, the President cannot suspend or adjourn the sitting until the result has been declared (SO 103, 2nd para.).⁶³ In addition, the President may finish reading a ruling even if the time has come to suspend or adjourn the sitting.⁶⁴

60 See Chapter 11, Section 11.1, "Opening of a Sitting and Verification of Quorum".

61 1972–1984 Standing Orders, SO 28(2).

62 1972–1984 Standing Orders, SO 28(3).

63 For example, at 1:00 p.m. during Business Having Precedence on the Wednesday, April 4, 2012 sitting, the Vice-President presiding over the sitting continued the proceedings and the voting on motions stating a grievance until the Assembly had voted on the Minister of Finance's motion that the Assembly approve the Government's budgetary policy. Then, at 1:14 p.m., the sitting was suspended until 3:00 p.m. (JD, April 4, 2012, pp. 5634–5637). Similarly, at 1:00 p.m. during the Thursday, October 5, 2017 sitting, the Assembly continued voting on amendments presented during the stage for considering the report tabled by the committee that had carried out clause-by-clause consideration of Bill 62, *An Act to foster adherence to State religious neutrality and, in particular, to provide a framework for religious accommodation requests in certain bodies*, until the Assembly had voted on the report. The Vice-President presiding over the sitting then suspended the proceedings until 3:00 p.m. (JD, October 5, 2017, pp. 17402–17405).

64 JD, December 8, 1999, pp. 4186–4187 (Jean-Pierre Charbonneau)/RDPP, No. 41/3. In Québec, this is commonly called "l'heure du président" (literally, the Speaker's hour). The question remains as to whether there are any other circumstances in which the President would have the power to delay the suspension or adjournment of a sitting.

Standing Order 44 states that a sitting may also be suspended or adjourned on the President's initiative. This is an absolute power that constitutes one of the main means the President has for maintaining order and decorum.⁶⁵ This right may be exercised at any time the President deems it necessary for the proper functioning of the Assembly,⁶⁶ including during a vote⁶⁷ or during the period for oral questions and answers.⁶⁸ Since Standing Order 44 is in the section of the Standing Orders dealing with order and decorum, questions may arise as to the President's authority to suspend a sitting for reasons that have nothing to do with order and decorum.⁶⁹

4.2.1.2 PRESERVING ORDER AND DECORUM

Preserving order and decorum in the Assembly is without a doubt one of the most difficult of the President's functions. The President's authority in this respect admits of no exception. Indeed, Standing Order 2(2) is the codification of a basic principle of parliamentary law according to which the Assembly entrusts the President with the preservation of order and decorum, and with the discretionary powers necessary to carry out that delicate task.⁷⁰ As mentioned in Subsection 4.2.1.1, the President's power to suspend or adjourn a sitting is one of the means by which order and decorum are enforced.⁷¹

Order and decorum are essential for the proper functioning of the Assembly and, therefore, for the exercise by parliamentarians of their important constitutional privilege of freedom of speech. Consequently, one of the President's key roles is to see that conditions conducive to the efficient operation of the Assembly are always in place.⁷²

65 JD, May 20, 1998, pp. 11230–11231 (Raymond Brouillet)/RDPP, No. 44/1.

66 JD, October 31, 2006, p. 2987 (William Cusano).

67 JD, May 20, 1998, pp. 11230–11231 (Raymond Brouillet)/RDPP, No. 44/1.

68 JD, February 25, 2015, p. 3837 (Jacques Chagnon); JD, February 25, 2016, pp. 8754–8755 (Jacques Chagnon).

69 Only the President has the power to suspend a sitting since the Standing Orders do not provide for a motion to suspend the proceedings of the Assembly (JD, November 14, 1972, pp. 2491–2492 (Jean-Noël Lavoie)/RDPP, No. 100/1). See Chapter 9, Subsection 9.3.1, "Suspension of a Sitting".

70 JD, May 20, 1998, pp. 11230–11231 (Raymond Brouillet)/RDPP, No. 44/1.

71 See Chapter 11, "Order and Decorum".

72 JD, May 20, 1998, pp. 11230–11231 (Raymond Brouillet)/RDPP, No. 44/1.

It comes as no surprise, then, that the Standing Orders contain specific rules dealing with the conduct of Members and the general public and with the language used on the floor of the Assembly. If a Member breaches order or decorum, the President may wield discretionary powers ranging from taking away the Member's right to speak to ordering the Member to withdraw or even expelling the Member from the Assembly Chamber. Order and decorum will be discussed in greater detail in Chapter 11.

4.2.1.3 ENFORCING THE STANDING ORDERS

As arbiter of proceedings, the President must settle any questions of procedure that arise. Upon becoming aware of any violation of the Standing Orders, the President has the duty, but also the discretion, to immediately call attention to it (SO 38).⁷³ A Member may rise at any time to point out a breach of a Standing Order (SO 39) or to raise a point of order when another Member is speaking (SO 36) or during a vote (SO 227).

The President's jurisdiction does not extend to remarks made outside the Chamber,⁷⁴ or generally to questions of law, except for legal provisions dealing with parliamentary procedure.⁷⁵ It is not the President's place to determine whether a Member has broken the law outside the Assembly, since that decision falls within the jurisdiction of the courts.⁷⁶ Similarly, the President may not rule on questions concerning the *Act respecting Access to documents held*

73 Offences under the *Act respecting the National Assembly* are, in contrast, dealt with expressly in that Act, which subjects them to a complaint procedure (JD, March 28, 1984, pp. 5542–5543 (Richard Guay)/RDPP, No. 38/1).

74 For example, remarks made during press conferences and included in press releases (JD, October 29, 2013, pp. 5211 (Carole Poirier)/RDPP, No. 35(6)/7) or remarks made during press scrums and reported in newspapers (JD, October 20, 2015, pp. 7267–7268 (François Gendron)/RDPP, No. 35(6)/8).

75 The President may have to consult a statute or a bill to settle certain questions, for example to decide whether a bill introduced by a Member has a financial impact, or whether a motion to divide or a question of privilege is in order. The President may also be called upon to consult legislation to decide whether there has been *prima facie* contempt of Parliament (JD, April 25, 1990, pp. 1842–1846 (Jean-Pierre Saintonge)/RDPP, No. 67/16; JD, May 26, 1998, pp. 11329–11330 (Jean-Pierre Charbonneau)/RDPP, No. 67/37; JD, December 8, 1999, pp. 4182–4183 and 4187–4189 (Jean-Pierre Charbonneau)/RDPP, No. 67/42; JD, March 19, 2015, pp. 4065–4071 (Jacques Chagnon)/RDPP, No. 67/67; JD, May 5, 2015, pp. 5873–5874 (Jacques Chagnon)/RDPP, No. 67/69). The same is true for committee Chairs, who may not interpret any aspect of law that is not related to the rules of parliamentary procedure (JD, May 15, 1984, p. 6037 (Richard Guay)/RDPP, No. 2/5).

76 JD, June 10, 1998, pp. 11815–11817 (Jean-Pierre Charbonneau)/RDPP, No. 67/38.

by public bodies and the Protection of personal information,⁷⁷ as oversight of the carrying out of that Act is the purview of the Commission d'accès à l'information.⁷⁸ Nor may the President rule on the constitutionality or legality of measures provided for in a bill tabled in the National Assembly, or act in such matters in place of the courts. The President's role also does not extend to other matters within the jurisdiction of the Assembly itself, such as deciding whether there has actually been a breach of a privilege of a Member or of the Assembly.

The President does not have jurisdiction over points of order raised in committee, since it has been clearly established that it is the committee Chair who has full power to preside over such proceedings.⁷⁹ In fact, the President of the Assembly must not interfere in any way in the work of a committee,⁸⁰ for the committee Chair has practically the same powers in running the committee as the President has in directing parliamentary debate.⁸¹ However, in the case of guidelines affecting all committees, the President has in the past made rulings that concern committee work, such as with respect to the allocation of speaking time.⁸²

77 Act respecting Access to documents held by public bodies and the Protection of personal information, CQLR, c. A-2.1.

78 JD, November 29, 2011, p. 3487 (Jacques Chagnon)/RDPP, No. 214/9.

79 JD, December 3, 1975, p. 2343 (Jean-Noël Lavoie)/RDPP, No. 2/4.

80 JD, December 19, 1973, pp. 704-708 (Jean-Noël Lavoie)/RDPP, No. 2/3; JD, December 3, 1975, p. 2343 (Jean-Noël Lavoie)/RDPP, No. 2/4; JD, April 16, 1986, pp. 940-943 (Pierre Lorrain)/RDPP, No. 2/6; JD, December 6, 1995, pp. 5472-5473 (Roger Bertrand)/RDPP, No. 2/9; JD, October 20, 2015, pp. 7267-7268 (François Gendron)/RDPP, No. 35(6)/8.

81 JD, July 4, 1973, pp. 2148-2149 (Jean-Noël Lavoie)/RDPP, No. 2/1; JD, December 18, 1973, pp. 572-575 (Jean-Noël Lavoie)/RDPP, No. 2/2; JD, December 3, 1975, p. 2343 (Jean-Noël Lavoie)/RDPP, No. 2/4; JD, April 16, 1986, pp. 940-943 (Pierre Lorrain)/RDPP, No. 2/6; JD, May 6, 1986, p. 1247 (Pierre Lorrain)/RDPP, No. 2/7; JD, March 26, 1987, pp. 6402-6403 (Pierre Lorrain)/RDPP, No. 2/8; JD, December 6, 1995, pp. 5472-5473 (Roger Bertrand)/RDPP, No. 2/9; JD, November 12, 2003, pp. 1441-1443 (Christos Sirros)/RDPP, No. 2/10; JD, October 20, 2015, pp. 7267-7268 (François Gendron)/RDPP, No. 35(6)/8; JD, June 14, 2018, p. 22274 (François Gendron)/RDPP, No. 64.3/1.

82 JD, June 8, 2007, pp. 1187-1200 (Michel Bissonnet)/RDPP, No. 285/1; JD, April 3, 2012, pp. 5575-5576 (Jacques Chagnon)/RDPP, No. 285/2; JD, May 7, 2013, pp. 3023-3025 (Jacques Chagnon)/RDPP, No. 132/1.

The President rules on points of order, determines a suitable moment for doing so, and gives reasons for each ruling (SO 41).⁸³ The President may also decide to submit the matter to the Assembly, but only if it is a matter that raises serious doubt in the President's mind or that the President considers the parliamentarians themselves should decide. Such a situation has arisen only once since the 1984 Standing Orders were adopted,⁸⁴ but under Standing Order 70 of the Geoffrion Standing Orders,⁸⁵ from which current Standing Order 41 is derived, the Assembly was occasionally called upon to make such rulings.⁸⁶

83 JD, May 30, 1990, pp. 2719–2725 (Jean-Pierre Saintonge)/RDPP, No. 41/1; JD, April 24, 1990, pp. 1789–1790 (Jean-Pierre Saintonge)/RDPP, No. 244/1.

84 At the beginning of the 40th Legislature, the Chief Government Whip asked the President to rule on the presence of the Canadian flag in the Legislative Council Chamber. Specifically, the Chief Government Whip asked the President to remove the Canadian flag from that Chamber during all parliamentary proceedings. Subsequently, in a letter to the President, the Chief Opposition Whip urged the President to keep the Canadian flag in the Chamber. The President ruled that it was up to the parliamentarians themselves to decide whether to remove the Canadian flag from the Chamber during parliamentary proceedings (JD, November 21, 2012, p. 1124 (Jacques Chagnon)/RDPP, No. 41/4). Pursuant to Standing Order 41, the President therefore submitted the question to the Assembly by way of a motion (“THAT the Canadian flag be removed from the Legislative Council Chamber at all times during parliamentary proceedings”) on which the Members voted during the Deferred Divisions period of the December 4, 2012 sitting. The Members responded negatively to the question in a vote that was split as follows: Yeas, 53; Nays, 65; no abstentions (JD, December 4, 2012, pp. 1494–1495).

85 The wording of that Standing Order was as follows:

70. The Speaker shall decide questions of order or of procedure, but only when they actually arise. He may reserve his decision. He may even, in doubtful cases, either ask for instructions from the house, or let it decide, or suggest that it may dispense with the rules.

86 The precedents are as follows: a motion proposing the withdrawal of Bill 99, *An Act to abolish the Legislative Council*, gave rise to the question of whether the abolition of the Legislative Council was a royal prerogative (JD, February 28, 1967, pp. 1608–1609 (Rémi Paul)); a motion during the debate on the inaugural speech criticized the provincial government for requesting the implementation of the *War Measures Act* but, since those measures could have been invoked by the federal government without the request of the province, the President expressed doubt as to the jurisdiction of the provincial government (JD, March 19, 1971, p. 427 (Jean-Noël Lavoie)); a motion proposing that a bill under consideration be sent to the Committee on the Constitution, with instructions to hear the interested parties and report to the House within three months, used the words “with instructions to hear the interested parties”, which gave the President cause for concern since they seemed out of order under Standing Order 558. In this case, although called upon to decide, the House did not, the mover having chosen to rephrase the motion (JD, November 4, 1969, pp. 3551–3552 (Gérard Lebel)).

A ruling by the President or the Assembly may not be discussed (SO 41).⁸⁷ Rulings may be made either in public or in private, although a private ruling is an exceptional procedure to which the President has resorted only seven times since 1984.⁸⁸

Rulings by the President are almost always made public during a sitting of the Assembly. They follow points of order raised at the sitting during which an irregularity is alleged to have arisen.⁸⁹ Points of order cannot be raised in the Assembly on a hypothetical question of procedure,⁹⁰ although the President did once turn to the exceptional procedure of a private ruling to deal with a hypothetical question on an extremely important point—whether the budget speech could be given before the examination of the estimates was

87 Before 1969, the President's rulings could be appealed before the Chamber (Geoffrion 1941, SO 71). According to some, the abolition of this practice has considerably enhanced the prestige of the office because Presidents can now assess situations on their own merits without fear that an overly partisan majority will overturn a ruling that is well-grounded in law ("L'évolution de la fonction de président" in Deschênes, *Le Parlement de Québec: histoire, anecdotes et légendes*, p. 85).

88 Private rulings have been made on the following subjects: a hypothetical question on the budget speech (JD, April 24, 1986, pp. 1013–1014 (Pierre Lorrain)/RDPP, No. 34/5); the deadline for sending in notices to be entered on the *Order Paper and Notices* (JD, December 22, 1988, p. 4619 (Pierre Lorrain)/RDPP, No. 188/1); the procedure for withdrawing a motion or a bill entered on the *Order Paper and Notices* (JD, November 26, 1992, p. 3851 (Jean-Pierre Saintonge)/RDPP, No. 195/3); mechanisms for dealing with priority motions tabled under Title VI of the Standing Orders (JD, March 18, 1993, pp. 5840–5841 (Jean-Pierre Saintonge)/RDPP, No. 316(2)/2); the procedure for a recorded division in Committee of the Whole (JD, April 19, 2000, p. 5657 (Jean-Pierre Charbonneau)); the impact of the Assembly having five independent Members on the allocation of main questions during Question Period and the allocation of business standing in the name of Members of the Opposition (JD, October 15, 2002, pp. 7077–7078 (Louise Harel)/RDPP, Nos. 74/14 and 97.2/1); the maximum number of words in a petition, including the statement of facts and the intervention requested (JD, November 23, 2005, pp. 10389–10390 (Michel Bissonnet)/RDPP, No. 63.1/2).

89 Edwin Gordon Blackmore, *The decisions of Evelyn Danison, Speaker of the House of Commons (April 30, 1857–February 8, 1872) and of Henry Bouverie William Brand, Speaker of the House of Commons (February 9, 1872–February 25, 1884) on points of order, rules of debate, and the general practice of the House* (Adelaide: House of Commons of South Australia, 1892), p. 295: "Mr. Speaker declines to answer questions on a point of order not now arising . . . It is not the duty of Mr. Speaker to answer any questions but those which arise immediately out of the business of the House. A question must be on a point of order now arising."

90 JD, March 19, 1985, pp. 2484–2485 (Richard Guay)/RDPP, No. 34/3; JD, April 24, 1986, pp. 1013–1014 (Pierre Lorrain)/RDPP, No. 34/5.

completed.⁹¹ According to doctrine, a private ruling may also serve to rule in advance on a point of order⁹² or to clarify points of parliamentary practice and procedure.⁹³

A private ruling that is of general interest or that could serve as a precedent may be made public by tabling it in the Assembly. This is left to the President's discretion.⁹⁴

Members may ask the President only questions on the business or procedure of the Assembly (SO 34). These questions must concern the deliberations of the Assembly and not its administrative management.⁹⁵

91 JD, April 24, 1986, pp. 1013–1014 (Pierre Lorrain)/RDPP, No. 34/5; JD, April 30, 1986, pp. 1035–1036 (Pierre Lorrain)/RDPP, No. 34/6.

92 Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 25th ed., para. 4.25: "The Speaker also rules on points of order submitted by Members on questions either as they arise or in anticipation, but generally refuses to rule on a hypothetical question . . . The Speaker will also advise Members of all parties when consulted privately upon any action which they propose to take in the House or upon any questions of order which are likely to arise in its proceedings. Such private rulings of the Speaker generally settle the questions at issue, but they may, if necessary, be supplemented by rulings given from the Chair."; Elder et al., eds., *House of Representatives Practice*, p. 193: "The Speaker may also make private rulings, that is, when not in the Chair. Such rulings may not be related to the actual proceedings in the House. This may occur for instance when a Member seeks the Speaker's guidance on a point of procedure relating to future proceedings in the House. Private rulings in effect serve to clarify points of practice and procedure and have the same authority as rulings from the Chair and may be supplemented by rulings from the Chair."

93 JD, December 22, 1988, p. 4619 (Pierre Lorrain)/RDPP, No. 188/1; JD, November 26, 1992, p. 3851 (Jean-Pierre Saintonge)/RDPP, No. 195/3; JD, March 18, 1993, pp. 5480–5481 (Jean-Pierre Saintonge)/RDPP, No. 316(2)/2.

94 JD, April 30, 1986, pp. 1035–1036 (Pierre Lorrain)/RDPP, No. 34/6. On this point, see Thomas Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 20th ed., Gordon, ed., p. 214: "But sometimes rulings are given privately on matters before they are brought before the House; and, when such a ruling has the effect of bringing a proposal into order or of excluding it finally as out of order, there has until recently been no opportunity for it to be delivered publicly in the House. On 5 November 1981, however, the Speaker announced that, in future, when he gave a private ruling which in his judgment was of general interest or could serve as a precedent for the future, the substance of the ruling would be published in the Official Report immediately before replies to written questions. Both public and private rulings which contain points of importance, particularly new points, are collected in the course of each session by the Clerk of the House and printed from time to time for official use."

95 JD, December 6, 1984, p. 1437 (Richard Guay)/RDPP, No. 34/2.

4.2.1.4 PROTECTING THE PRIVILEGES OF THE ASSEMBLY AND ITS MEMBERS

As seen in Chapter 3, the President is the guardian of the rights and privileges of the Assembly and its Members. When a Member challenges an interpretation of the Standing Orders by raising a point of order, the President has full power to rule on the matter. However, when a Member raises a breach of a right or privilege, it must be brought to the President's attention either immediately after the alleged breach or in writing one hour before Routine Proceedings. The President's role is to decide whether the question of privilege is in order. To this end, the President must determine whether the facts the Member raises constitute *prima facie* a breach of a right or privilege of the Assembly or of one of its Members. The President does not rule on the substance of the question. That is a matter for the Assembly to decide.⁹⁶

When the President takes under advisement a question of privilege relating to a bill, the legislative process continues to move forward.⁹⁷ The President is not empowered to interrupt the legislative functions of the House since the Assembly is sovereign in that area.⁹⁸ Consequently, if a question of privilege is raised with respect to a bill, this cannot have the effect of preventing the Assembly from considering and assessing the bill's contents,⁹⁹ even if the President rules that the question of privilege is in order. A ruling on the admissibility of a question of privilege is not a ruling on the substance of the question, which is a matter for the Assembly itself.¹⁰⁰

As protector of the privileges of the Assembly and its Members, the President may be a party to proceedings before the courts.

96 See Chapter 3, "Parliamentary Privilege" and Chapter 9, "The Conduct of a Sitting".

97 JD, December 8, 1999, p. 4188 (Jean-Pierre Charbonneau)/RDPP, No. 147/1.

98 JD, April 24, 1990, pp. 1789–1790 (Jean-Pierre Saintonge)/RDPP, No. 244/1.

99 JD, November 14, 2007, pp. 2008–2010 (Michel Bissonnet)/RDPP, No. 67/56. In this case, a minister was accused of being in contempt of Parliament for having made the content of two bills public before they were introduced in the House and for having availed herself of legislative provisions that had not yet been adopted. After taking the question under advisement, the President requested the minister to postpone the introduction of the bills. Later, on ruling on the question, the President explained that he had made the request so that the Members could be informed of the ruling before deciding whether to allow the bills to be introduced. See also: JD, March 19, 2015, pp. 4065–4071 (Jacques Chagnon)/RDPP, No. 67/67.

100 JD, December 8, 1999, p. 4188 (Jean-Pierre Charbonneau)/RDPP, No. 147/1; JD, November 14, 2007, pp. 2008–2010 (Michel Bissonnet)/RDPP, No. 67/56; JD, June 12, 2014, p. 1487 (Jacques Chagnon); JD, June 13, 2014, pp. 1542–1544 (Jacques Chagnon)/RDPP, No. 67/65.

4.2.1.5 EXERCISING OTHER PARLIAMENTARY DUTIES

When presiding over the sittings of the Assembly, the President decides which Members will have the floor, recognizing the first person seen to rise in the Assembly and request the right to speak (SO 33). Parliamentary tradition has established rules that guide the President in determining the speaking order when more than one Member rises to speak to a motion.¹⁰¹

The President also rules on the admissibility of motions (SO 193), calls them, puts them to a vote and announces the result (SO 2(4)). The President convenes and presides over meetings of the House leaders of the parliamentary groups and organizes limited debates (SO 2(5), 2(6), 98, 210, 253, 257.8 and 285).¹⁰² In addition, the President decides where the Assembly will meet when it is unable to sit in the Parliament Building (SO 2(7)) and, generally speaking, exercises all other powers required to carry out the duties of the office of President (SO 2(8)).

In practice, the President does not normally preside over the Assembly for the entire sitting. In order to have time for the other duties of office relating to administering and representing the Assembly, the President usually chairs only a portion of the Routine Proceedings period. Generally, the Statements by Members period at the beginning of each sitting is chaired by a Vice-President. Once that is completed, the Vice-President suspends the proceedings until the President's Parade ceremony, when the President proceeds into the Chamber. Routine Proceedings then resume, including Question Period, which is without a doubt one of the most difficult periods to chair since it often gives rise to lively exchanges on the burning political issues of the day. During Question Period, the President must pay particular attention to order and decorum and to the allocation of speaking time.¹⁰³ At the end of Question Period, the President is usually replaced by one of the three Vice-Presidents. Orders of the Day are chaired almost exclusively by the Vice-Presidents, except for the opening speech and the budget speech, both of which are usually presided over by the President. Vice-Presidents also chair the Committee of the Whole (SO 109).¹⁰⁴

The President of the National Assembly is ex officio Chair of the Committee on the National Assembly and of the Subcommittee on Parliamentary Reform (SO 115(1) and 117(1)). This is only to be expected since these two bodies constitute the forums par excellence for discussing and reaching decisions on all aspects of the operation of the National Assembly and its committees.¹⁰⁵ When

101 See Chapter 11, Subsection 11.2.2, "Addressing the Assembly"; see also Chapter 13, Subsection 13.1.1, "Speaking Order".

102 See Chapter 13, "Rules of Parliamentary Debate and Allocation of Debating Time".

103 See Chapter 9, "The Conduct of a Sitting" and Chapter 11, "Order and Decorum".

104 See Chapter 17, "Committees of the Whole".

105 See Chapter 18, "Parliamentary Committees".

chairing these bodies, the President plays the same role of presiding officer as in the Assembly¹⁰⁶ and has only a casting vote. However, since these bodies often deal with subjects that primarily concern the functioning of the Assembly, including questions related to parliamentary reform, it is not unusual for the President to participate in discussions.

As Chair of the Committee on the National Assembly, the President convenes the meetings of that committee and of the Subcommittee on Parliamentary Reform, sets the agenda and tables the committee report in the National Assembly (SO 148 and 174). The President is also a member of the steering committee of the Committee on the National Assembly and is again responsible for calling meetings and setting the agenda (RCP 4.1 and 4.2). The President's role in the operation of the other standing committees is a minor one: presiding over the election of the committee Chairs at the opening of the first session of a new legislature or during the course of a legislature, if necessary (SO 134 and 136), and calling standing committee meetings whenever the two-year mandate of the committee Chairs and Vice-Chairs ends, so that the committee members may elect their replacements.

Vice-Presidents of the National Assembly are *ex officio* members of the Committee on the National Assembly (SO 115(2)) and, as such, may participate in discussions, make motions and vote. They are also members of the Subcommittee on Parliamentary Reform but do not have the right to vote (SO 117(2)).

4.2.2 ADMINISTERING ASSEMBLY SERVICES

The President is responsible for seeing that the Members of the National Assembly receive the services they need to carry on their work. The *Act respecting the National Assembly* expressly states that the President of the Assembly directs and administers the services of the Assembly (ANA, s. 115). The President may entrust some administrative responsibilities to the First or Second Vice-President who then, within the limits of the delegation, has the same powers and duties as the President (ANA, s. 118).

The President of the National Assembly prepares the budget estimates for the Assembly each year, after consulting the Office of the National Assembly. If, during the year, the President expects a budget overrun, the Office is again consulted and supplementary budget estimates are prepared (ANA, s. 125).

The President also directs the work of the Office of the National Assembly, which acts as a board of directors for the National Assembly. In addition to the President, the Office is made up of five Members from the governing party, three from the Official Opposition and one from the remaining opposition party that

106 JD, March 31, 1987, p. CAN-35 and 36 (Pierre Lorrain).

won the next highest number of seats or, if two parties obtained the same number of seats, the one that obtained the greatest number of valid votes. If the Official Opposition is the only opposition party, the number of its representatives in the Office is raised to four (ANA, s. 88). Each party also designates the same number of substitute members, each of whom may act for an Office member who is absent or unable to act (ANA, s. 89). Within the first 15 days of a session, each party gives the President the names of the Members and substitutes it has designated (ANA, s. 90). The President submits the list of Members designated by the parties to the Assembly, which either adopts or rejects the entire list (ANA, s. 91). If a party fails to designate its representatives, the President designates the Members who will complete the composition of the Office (ANA, s. 92). The Vice-Presidents may participate in the discussions of the Office, but do not have the right to vote (ANA, s. 95).

The Office of the National Assembly has supervisory and regulatory functions, as well as any other function the Assembly may assign to it (ANA, s. 100). A number of the regulations it has adopted specify the resources that may be made available to Members of the National Assembly. The Office adopts the Assembly's administrative organization plan on a motion by the President. It must also approve the budget estimates prepared by the President and any supplementary budget estimates, and gives its opinion on any question referred to it by the President (ANA, s. 101).

The Office has exceptional power regarding the management of the National Assembly: although section 110 of the *Act respecting the National Assembly* provides that the Assembly is to be managed within the scope of the Acts, regulations and rules that apply to it, the same section specifies that the Office may depart from these provisions by making regulations that specify the provisions that will stand in their stead. In a sense, this power of the Office is intended to reflect, with respect to administrative management, the Assembly's collective privilege of exclusive control over its internal affairs free from outside interference.¹⁰⁷

When the Assembly stands prorogued, the members of the Office continue to perform their duties until replaced or reappointed (ANA, s. 93). When the Assembly is dissolved, however, only the President and Vice-Presidents remain in office (ANA, s. 94). The First or Second Vice-President may take the President's place as Chair of the Office (ANA, s. 96).

In the Office, the President has a casting vote (ANA, s. 97) and is responsible for tabling in the Assembly any regulations the Office adopts (ANA, s. 109), thus rendering them public.

107 See Chapter 3, "Parliamentary Privilege".

The President is also responsible for security in the buildings and premises occupied by the Members and personnel of the Assembly and may create an advisory committee to that end (ANA, s. 116). Since 1994, under a memorandum of understanding¹⁰⁸ with the Ministère de la Sécurité publique, the resources of the provincial police force (the Sûreté du Québec) can be used to carry out some of these responsibilities in collaboration with the Assembly's constables and guards. This is why the Sergeant-at-Arms was for many years an officer of the Sûreté du Québec.

No administrative deed, document or writing is binding on the Assembly or may be attributed to the President unless it is signed by the President, by the Secretary General or, uniquely in a case and to the extent determined by regulation of the Office of the National Assembly (ANA, s. 123, 1st para.), by another officer.

THE SECRETARY GENERAL

Formerly known as the Clerk, the Secretary General is both the principal and the most senior official of the Assembly.¹⁰⁹ The function of Clerk or Secretary General of Parliament has existed since the Middle Ages. In 1363, the King of England appointed a permanent Clerk of the House of Commons in the person of Robert de Melton.¹¹⁰ In post-Conquest Québec, a clerk having legislative, judicial and executive functions was attached to the Council of Quebec from as early as 1764. John Gray was the first to hold this position. The Legislative Council that was created in 1775 also had its own clerk, as did both the Legislative Council and the Legislative Assembly of 1792. Samuel Phillips, the first Clerk of the House of Assembly of Lower Canada, was primarily responsible for writing up the minutes—the Journal—in French and English. An assistant clerk and two “writers” were all the personnel he had to help him.

In 1868, after the establishment of the Canadian federal system, the Legislative Assembly of Quebec adopted Rules and Regulations, including rule 104 on the responsibilities and duties of the Clerk:

104. *The clerk of the house shall be responsible for the safe keeping of all the papers and records of the house, and shall have the direction and control over all the officers and clerks employed in the offices, subject to such orders as he may from time to time receive from Mr. Speaker, or the house.*

108 Replaced on March 15, 2006, by Decision 1297 of the Office of the National Assembly.

109 The Secretary General of the National Assembly, alongside the Secretary General of the Executive Council, is ranked 16th in the order of precedence of dignitaries invited individually to public ceremonies by the Government of Québec (*Ordre de préséance des autorités convoquées individuellement dans les cérémonies publiques organisées par le gouvernement du Québec*, (Order in Council 1123-2019, November 13, 2019)).

110 William Robert McKay, *The Clerk of the House* (London, House of Commons Information Office, 2006), p. 4.

In 1969, this position title was changed from Clerk to Secretary General. In December 1982, the National Assembly passed the Act respecting the National Assembly (ANA), which includes a number of sections on the appointment and functions of the Secretary General. The Act provides that, under the authority of the President, the Secretary General of the Assembly supervises the members of the personnel of the Assembly, administers the day-to-day business of the Assembly and exercises any other functions assigned by the Office of the National Assembly (ANA s. 119, 1st para.). Orders issued by the Secretary General are to be carried out in the same manner as those of the President (ANA, s. 119, 2nd para.). The Secretary General is given the same powers over the personnel of the Assembly as those vested in a deputy minister by the Public Service Act (ANA, s. 120, 2nd para.).¹¹¹

In addition to these statutory duties, the Secretary General carries out duties conferred by the Assembly (ANA, s. 28), such as overseeing the preparation of Assembly sittings and the publication of the Order Paper, the Votes and Proceedings and the Journal des débats (Hansard). The Secretary General is also the most senior adviser to the President and the Members in all procedural matters and must consequently remain strictly neutral at all times.

Although the Secretary General used to be appointed by government decree (or order in council), since the adoption of the Act respecting the National Assembly, the Secretary General is appointed by the Assembly on a motion of the Premier (ANA, s. 26). The Secretary General must have the full confidence of the President and the House as a whole, which is why it is customary for the Premier to consult the Opposition before standing in the Assembly to nominate a candidate. Unlike the statutes providing for the appointment of certain persons to specific offices, the Act respecting the National Assembly does not provide for a minimum vote threshold for the adoption of the motion to appoint the Secretary General of the Assembly. Nevertheless, considering the Secretary General's key role and the need to gain the Members' trust, the percentage of votes should ideally be close to that required for other persons appointed with the approval of the Assembly, which is two-thirds of the Members. As the Act does not limit the appointment to a set number of years, a Secretary General's term of office is indefinite.

¹¹¹ Public Service Act, CQLR, c. F-3.1.1.



The Clerk's Table in the National Assembly Chamber.

To assist the Secretary General, the Assembly may also appoint one or more associate secretaries general in the same manner, that is, on a motion of the Premier (ANA, s. 26). If the Secretary General is absent or unable to act or in the case of vacancy of the office of Secretary General, the President designates one of the associate secretaries general to replace the Secretary General during the absence or inability to act or until the vacancy is filled (ANA, s. 27).

In the National Assembly Chamber, the Secretary General is seated at one end of the Table, in front of the President's Chair and facing the Mace, which is placed at the other end of the Table. The Secretary General is flanked by two Table officers who assist in the duties of clerk and parliamentary procedure adviser.

THE SERGEANT-AT-ARMS

The position of Sergeant-at-Arms, which for many years was filled by a military officer and then by a member of the Sûreté du Québec, is now separate from that of Security Director at the National Assembly.¹¹² The Sergeant-at-Arms and the Deputy Sergeant-at-Arms are primarily in charge of order and decorum, while security, which used to be the direct responsibility of the Sergeant-at-Arms, has been entrusted jointly to the Sergeant-at-Arms and the Directorate of Security. An employee of the Directorate of Security is now the Associate Sergeant-at-Arms in Charge of Security. In the House, the Sergeant-at-Arms is the guardian of the Mace, which is the symbol of the authority of both the Assembly and its President.

¹¹² For the first time, a woman was appointed Sergeant-at-Arms on September 20, 2017.

THE SPEAKER OF THE LEGISLATIVE ASSEMBLY, ACCOMPANIED BY THE SERGEANT-AT-ARMS



The Speaker, accompanied by the Sergeant-at-Arms (holding the Mace), just before the traditional parade at the beginning of every sitting of the Assembly. The ceremonial dress (tricorn, robes and white gloves) has not been part of the National Assembly's decorum since 1968.

The position of Sergeant-at-Arms was created in Lower Canada in 1792. Hugh McKay was the first to hold the position in the House of Assembly.

The current Standing Orders are silent on the role of the Sergeant-at-Arms. However, Standing Order 19 in force from 1972 to 1984 provided that "the Sergeant at Arms or, if he is absent, his deputy shall act on every order he receives from the Assembly or the President". Prior to that, the Geoffrion Standing Orders in force from 1941 to 1972 were much more explicit on the functions of the Sergeant-at-Arms:

SO 38. — *The sergeant-at-arms shall attend the Speaker, with the mace, on entering the house at the opening of a sitting, or leaving the house after an adjournment, or attending the Lieutenant-Governor, or going to the bar of the Legislative Council; he shall announce all messengers from the Lieutenant-Governor; he shall preserve order in the galleries and lobbies of the house; he shall execute orders of the house, or of the Speaker; he shall serve process or cause the same to be served and execute all warrants issued by the Speaker and addressed to himself or cause the same to be executed; he may force an entrance in the execution of warrants addressed to him; he shall arrest all persons ordered to be taken into custody; he shall confine in his custody or elsewhere all persons committed by order of the house;*

he shall give notice of the execution of orders of the house and of warrants of the Speaker; he shall bring to the bar persons in custody to be reprimanded, or examined as witnesses; he shall give notice of persons attending in obedience to orders of the house; he shall stand with the mace at the bar whilst a witness in his custody or in custody of a goaler [sic] is examined; he shall report to the house any resistance to orders of the house; he shall acquaint the house with complaints or actions brought against him for acts made in executing orders of the house; he shall be responsible for the safekeeping of the mace and of the furniture and fittings of the house; and he shall be responsible for the conduct of the messengers and inferior employees, subject to such orders as he may receive from the Speaker and, in the absence of the Speaker, from the clerk.

Many of these duties are now obsolete, such as serving and executing arrest warrants issued by the Speaker (President). However, a number of the functions described in Standing Order 38 remain. For example, the President enters the Assembly Chamber to open a sitting and leaves the Chair after adjournment preceded by the Sergeant-at-Arms, who shoulders the Mace. The Sergeant-at-Arms also works closely with the security services to keep order in the galleries and lobbies of the Chamber.

4.2.3 REPRESENTING THE ASSEMBLY

Yet another function of the President is to represent the Assembly, particularly in its relations with other parliaments (SO 1). This function does not originate in Standing Order 1, but rather stands traditionally as one of the two main roles inherent in the position of presiding officer of a British-style legislative assembly, and probably of any legislative assembly no matter what the underlying parliamentary system. This is clearly stated by the main authorities on parliamentary law:

The Speaker of the House of Commons is the representative of the House itself in its powers, proceedings and dignity . . . The Speaker's functions fall into three main categories. First, the Speaker is the spokesperson or representative of the House in its relations with the Crown, the House of Lords and other authorities and persons outside Parliament. Second, the Speaker presides over the debates of the House of Commons and enforces the observance of all rules for preserving order in its proceedings. Third, the Speaker has administrative responsibilities, including chairing the House of Commons Commission. In carrying out these duties, the Speaker is assisted by a small personal staff.¹¹³

113 Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 25th ed., para. 4.19.

Since the President's role of representing the Assembly did not derive at the outset from the Standing Orders and since Standing Order 1 does not go into the details of that role, it is necessary to turn to parliamentary law to discover its true scope. The passage cited above reveals that, in the United Kingdom, there are three facets to the Speaker's role of representative of the House of Commons: representing the House in its relations with the Monarch, with the House of Lords and with the outside world.

In Québec, the need to represent the Assembly in its relations with the Legislative Council disappeared with the abolition of that Council on December 31, 1968.

However, the President still represents the Assembly in its relations with the Lieutenant Governor, who represents the Monarch and constitutes one of the components of Parliament (ANA, s. 2). Thus, the President must meet with the Lieutenant Governor on certain occasions, particularly at the opening of a session or on the prorogation of the Assembly, and when bills are given royal assent.

As for persons and parties outside Parliament, the President may be called on by the Assembly to send a message of thanks, censure or warning on its behalf, or again to relate information received from another legislative assembly, a foreign country or an international organization to the Assembly.

The President's capacity to represent the Assembly on the international stage is scarcely touched on by authorities in parliamentary law. However, as the recognized spokesperson for the elected representatives of Québec and therefore responsible for all the Assembly's official acts,¹¹⁴ the President certainly does have the authority to represent the Assembly internationally. Standing Order 1 states that the President represents the Assembly "most particularly in its relations with other parliaments", which does not seem to place restrictions on the President's role in this sense.

While independent representation of Québec outside its borders by the legislative power must not be seen to oppose or contradict the representation of Québec by the executive power of the State, the *Act respecting the Ministère des Relations internationales* fully upholds the independence of the National Assembly with respect to international interparliamentary relations.¹¹⁵

All this appears to confirm that the President of the National Assembly, as spokesperson for all elected representatives of Québec, has the legal capacity to represent the Assembly in its relations with people and organizations outside the Assembly itself, on both the domestic and international stages.

114 Brun et al., *Droit constitutionnel*, p. 388.

115 "In particular, agreements reached within the framework of relations established between the National Assembly and other parliamentary institutions are exempt from this Act", *Act respecting the Ministère des Relations internationales*, CQLR, c. M-25.1.1, s. 26, 2nd para.

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■ CHAPTER 5

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5

PARLIAMENTARY GROUPS AND INDEPENDENT MEMBERS

To sit in the National Assembly, a Member must be elected in one of Québec's 125 electoral divisions. Québec's electoral system is a single-ballot, first-past-the-post system, meaning that there is only one ballot and the candidate who obtains the most votes in an electoral division is declared elected. A candidate who wins with 35% of the votes in one electoral division is just as much a Member as a candidate who obtains an absolute majority in another. This is why the percentage of votes a party obtains and the number of candidates who ultimately represent that party in the Assembly do not necessarily correspond.

The concept of party is extremely important in Québec's electoral system. The last time independent candidates were elected in a general election was on June 5, 1966.¹ Since that time, all candidates elected in Québec have been affiliated with a political party. Yet, although the concept of party is omnipresent in the electoral process, it is virtually non-existent in the parliamentary process, where "parliamentary groups" replace political parties.²

Parliamentary jurisprudence³ confirms that recognition of a political party as a parliamentary group does not result from application of the *Election Act*,⁴ but from the Assembly's rules of procedure. This means that electoral law has no effect on the rights and obligations of the political parties represented in the National Assembly. The law that applies is parliamentary: the Assembly's rules of procedure.

1 The candidates were Frank Hanley, elected in the electoral division of Sainte-Anne, and Arthur Ewen Séguin, elected in the electoral division of Robert-Baldwin. The latter joined the Liberal Party in 1967.

2 See Appendix I, "Composition of the National Assembly from the 38th to the 42nd Legislature".

3 JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 13/3.

4 *Election Act*, CQLR, c. E-3.3.

The explanation for this is that electoral law and parliamentary law are based on different principles. The courts have the exclusive power to interpret the rules of common law, but, in accordance with the Assembly's parliamentary privilege to govern its proceedings free of outside interference, the presiding officers of the Assembly have the exclusive power to interpret the rules of parliamentary procedure. This means that the percentage of votes obtained by the different political parties during an election cannot be used as a means of recognizing them as parliamentary groups. The Standing Orders speak of recognition of parties as groups, but they never refer to the percentage of votes that must be obtained to confer parliamentary rights.⁵ However, negotiations at the beginning of the 42nd Legislature had an impact on this aspect of parliamentary matters. The outcome was that, in the event of a tie in the number of Members elected by two political parties, the percentage of votes obtained could be used to determine which of the two parties should be recognized as the Second Opposition Group.⁶

Not all parties that have candidates elected can claim parliamentary group status. Only a party that qualifies under the rules of parliamentary procedure is considered a parliamentary group. Members who were not elected under the banner of a party qualifying as a parliamentary group may either join such a group in the National Assembly or sit as independent Members (SO 14).

The recognition of a party as a parliamentary group has significant consequences on parliamentary deliberations. While all Members have rights under the rules of procedure, parliamentary group status confers certain advantages. In this chapter, we will describe in greater detail the respective rights of parliamentary groups and independent Members. However, it should first be noted that the President⁷ has a significant role to play in safeguarding the rights of independent Members in general. In certain cases, the Standing Orders expressly provide that the President must take into account whether the Assembly includes independent Members,⁸ for example, when conferring with parliamentary group House leaders to determine a time frame for limited debates.

5 JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28.

6 JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32.

7 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

8 The French-language version of the Geoffrion Standing Orders noted: [TRANSLATION] "It must also be taken into account that the purpose of the Standing Orders is to safeguard the rights of the minority." (Geoffrion 1941, SO 3, note 2.)

5.1 PARLIAMENTARY GROUPS

The concept of parliamentary group was introduced in the National Assembly when the current Standing Orders were adopted on March 13, 1984. In the previous Standing Orders, the expression “recognized party” was used.

5.1.1 DEFINITION OF “PARLIAMENTARY GROUP”

In the Standing Orders, a parliamentary group is defined as any group composed of at least 12 Members elected from the same political party, or any group of Members from a political party that obtained at least 20% of the popular vote in the most recent general election. With the exception of the President, Members who do not belong to a parliamentary group sit as independent Members (SO 13).

Parliamentary group status is established based on the date and outcome of the last general election. This gives rise to the question: Can a political party lose parliamentary group status, or can a new parliamentary group be officially recognized if, after the date of the last general election, changes occur in the composition of the National Assembly as a result of a death, by-election, resignation or change of allegiance?

At first glance, Standing Order 13 may give the impression that the reference to the most recent general election applies only to a political party that obtained at least 20% of the popular vote. However, the previous Standing Orders clearly specified that it also applied to a group composed of at least 11 Members elected under the banner of the same political party.⁹ As mentioned in Chapter 2, previous Standing Orders may be referred to when those currently in force do not clearly address a particular point.¹⁰ Therefore, given that the concept of parliamentary group provided in the current Standing Orders is an extension of the concept of recognized party found in the previous Standing Orders, in force from 1972 to 1984, the latter may be used to interpret Standing Order 13.

9 1972-1984 Standing Orders, SO 1(f). Before being amended on December 22, 1976, this provision, which had been in force since March 27, 1972, stated that the number of Members required to form a recognized party was 12, rather than 11.

10 JD, April 12, 1976, pp. 594-595 (Jean-Noël Lavoie)/RDPP, No. 180/1.

Under the previous Standing Orders, a recognized party was one that had at least 11 Members elected in the last general election or that, based on the official vote count for that election, had obtained at least 20% of the valid votes cast.¹¹

The date of the last general election is therefore a key criterion for recognition of a party as a parliamentary group.¹² This approach was taken by the President when ruling on the consequences of the departure of two Members from the Second Opposition Group, formed by the Action démocratique du Québec (ADQ) at the time, thereby bringing it below the number of Members required to be recognized as a parliamentary group during that legislature.¹³

11 1972–1984 Standing Orders, SO 1(f). For the interpretation of Standing Order 13, see also subparagraph 6 of the first paragraph of section 7 of the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly*, CQLR, c. C-52.1, which contains the same criteria for determining which other party leaders are entitled to an additional annual indemnity under that Act. It provides that a Member of the National Assembly, other than the Leader of the Official Opposition, who leads an opposition party that had at least 12 Members elected in the last general election or obtained 20% of the valid votes cast according to the official count of votes cast throughout Québec, receives, on an annual basis, an indemnity equal to 35% of the annual indemnity.

12 The following excerpt from the minutes of a sitting of the Standing Subcommittee on Parliamentary Reform, responsible for examining the proposals that led to the 1984 parliamentary reform, supports this interpretation:

[TRANSLATION] “The term ‘parliamentary group’ replaces ‘recognized party’ and is inspired by French and Belgian terms. The criteria for recognizing parties are set out in the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly* and remain unchanged” (Minutes, December 1, 1983, Standing Subcommittee on Parliamentary Reform, p. 3). Under subparagraph 6 of the first paragraph of section 7 of that Act—as it was in force in 1982—a party leader’s indemnity was afforded to

... any Member, other than the Member contemplated in paragraph 4, who leads in the Assembly an opposition party

- (a) which had at least 12 Members elected at the last general election or
- (b) of which the recognized membership in the Assembly is less than 12 Members but which, according to the official addition of the votes cast throughout Québec at the last general election, obtained 20% of the valid votes cast.

13 JD, November 10, 2009, pp. 3845–3847 (Yvon Vallières)/RDPP, No. 13/2.

OATHS TAKEN BY MEMBERS

I (name of the Member) do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen Elizabeth II.

Constitution Act, 1867, 30 & 31 Vict., c. 3, (UK), s. 128

I, (name of the Member), declare under oath that I will be loyal to the people of Québec and that I will perform the duties of Member honestly and justly in conformity with the constitution of Québec.

Act respecting the National Assembly, CQLR, c. A-23.1, Schedule I



Once elected, but before being allowed to sit in the Assembly, each Member is required to swear two oaths and sign the Oath Book. The Member is then subject to the applicable parliamentary rules.

The President was even more categorical about this when ruling on the consequences of a Member belonging to the Second Opposition Group leaving to sit as an independent Member.¹⁴ The President stated that parliamentary group status is determined based on the results of the last general election. Once a parliamentary group receives such recognition, it retains the status for the

14 This departure caused the Second Opposition Group, formed by the Parti québécois (PQ), to fall from 10 to 9 Members, in other words, fewer than the 10 Members affiliated with Québec solidaire (QS), which formed the Third Opposition Group at the time.

duration of the legislature, regardless of any changes that may arise during the legislature. For example, referencing the permanent criteria set out in the Standing Orders, the President ruled that if a political party with 12 elected Members loses seats during a legislature, it will nevertheless continue to be recognized as a parliamentary group, and a party that obtains 20% of the votes cast in the last general election will continue to have parliamentary group status even if some of its Members decide to leave the group during the legislature. Moreover, if, over the course of a legislature, 12 Members decide to sit under the banner of a new political party, that party will not be recognized as a parliamentary group because it did not win any seats in the last general election or obtain any votes under that party banner.¹⁵ In other words, any change in the number of Members has no effect on the recognition of a parliamentary group, which remains valid for the duration of the legislature in question. This clarification is important in parliamentary law. However, it should be noted that the President stated clearly in the ruling that the rank of a parliamentary group within the opposition is not fixed for the duration of the legislature but determined according to the number of Members comprising each group. A change in the number of Members comprising a group during a legislature can therefore have an effect on its rank within the opposition.¹⁶

When the President determines the rights that a group of Members will have for parliamentary proceedings, an important factor is whether they have been recognized as having parliamentary group status. A 2003 decision specified that the President's role with respect to the recognition of a parliamentary group is limited to ascertaining whether the criteria set out in the Standing Orders for forming such a group have been met. The President does not evaluate the rank to be given to a political party based on the percentage of votes it obtained during an election.¹⁷ That said, as previously mentioned, the President has in the past accepted an agreement according to which the percentage of votes obtained by two political parties with the same number of elected Members would be used to determine, for example, which one would form the Second Opposition Group, and which would form the Third Opposition Group.¹⁸

15 JD, March 20, 2019, pp. 1069–1072 (François Paradis)/RDPP, No. 13/4.

16 This decrease in the number of PQ-affiliated Members meant that the PQ went from being the Second Opposition Group to being the Third Opposition Group. However, while it fell in rank, it kept its status as a parliamentary group.

17 JD, October 30, 2003, pp. 1216–1217 (Michel Bissonnet)/RDPP, No. 74/16. This ruling was in response to a question from an independent Member who wanted to know the number of questions that would be granted to the four independent Members during Question Period, given that the party under which they had been elected had obtained over 18 percent of the popular vote in the last general election (JD, October 28, 2003, p. 1116).

18 JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32.

There have however been times when the Assembly has amended the criteria set out in the Standing Orders to give parliamentary group status to a political party that did not meet the standing criteria.¹⁹

19 In the November 15, 1976 general election, 11 Union nationale Members were elected, but the Standing Orders required 12 for it to be a “recognized party”, so, on December 22, 1976, at the beginning of the First Session of the **31st Legislature**, the Assembly unanimously agreed to amend the Standing Orders so the criterion for recognition as a “recognized party” would be set at 11 Members (JD, December 22, 1976, p. 256 and pp. 273–278). The Union nationale was given “recognized party” status on that basis, and it retained that status even though its number of Members gradually dropped from 11 to 5 during that legislature. Similarly, the ADQ had 41 Members and was the Official Opposition during the 38th Legislature, but at the beginning of the **39th Legislature**, it no longer met the Standing Orders criteria for forming a parliamentary group because it had returned only 7 Members and obtained only 16.4% of the popular vote in the December 8, 2008 general election. In the months that followed, during discussions held in the context of a major parliamentary reform, it was agreed to recognize the ADQ as a parliamentary group for the duration of the legislature in accordance with the conditions set out in a document tabled by the Government House Leader and adopted by the Assembly on April 21, 2009 (“Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature”, Sessional Paper No. 246-20090421, April 21, 2009, (VP, April 21, 2009, p. 214)). This enabled the ADQ to become the Second Opposition Group. The ADQ retained its parliamentary group status even when two of its Members decided to sit as independents. This was because it continued to meet the parliamentary group recognition criteria set out in the special order for the duration of the legislature, namely, [TRANSLATION] “a political party in which not fewer than five Members were returned to the Assembly and which received not less than 11% of the popular vote in the most recent general election” (JD, November 10, 2009, pp. 3845–3847 (Yvon Vallières)/RDPP, No. 13/2). However, the ADQ lost parliamentary group status when its four remaining Members, along with five independent Members, decided to sit under the banner of Coalition avenir Québec (CAQ), a new party recognized by the Chief Electoral Officer. The President of the Assembly then rendered a decision, concluding:

Owing to the intent that is very clearly expressed by the Assembly to allow the Members of the ADQ exclusively to be recognized as a parliamentary group and since there are no longer any Members sitting under this banner, the Chair can only concur in the fact that the document recognizing the ADQ as a parliamentary group has lapsed. As this document henceforth has no force and cannot apply to the Coalition, it therefore ceases to be effective, just as the temporary rules it had established. Thus, the criteria for a parliamentary group to be recognized as provided for in Standing Order 13, namely the requirement of 12 Members elected under the banner of a same political party or 20% of the popular vote obtained in the most recent election, again become the only ones in force. Since the Members of the Coalition do not constitute a parliamentary group in light of the definition of Standing Order 13, they will henceforth sit as independents. (JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 13/3; VP, February 14, 2012, p. 900.)

Lastly, at the beginning of the **42nd Legislature**, following negotiations between the different parties represented in the Assembly, it was agreed that, for the duration of the legislature, the PQ and QS would be recognized as the Second Opposition Group and Third Opposition Group, respectively, despite the fact that the Standing Orders criteria were not met. The PQ and QS each had 10 elected Members and had obtained 17.06% and 16.10% of the votes cast, respectively. Because both parties had the same number of Members, their ranking as Second or Third Opposition Group was determined based on the percentage of votes each had obtained (JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32). See also page 3 of the “Entente relative à la notion de groupe parlementaire, au fonctionnement de l’Assemblée et des commissions parlementaires, ainsi qu’aux aspects budgétaires pour la durée de la 42^e législature”, Sessional Paper No. 48-20181129, November 28, 2018, (VP, November 29, 2018, p. 23)). The first paragraph of Standing Order 13 was amended as follows for the duration of the Legislature: “Each political party represented in the National Assembly following the 1 October 2018 general election shall constitute a parliamentary group.” (TSO 13(1), 42nd Leg.) (VP, November 29, 2018, p. 24).

5.1.2 PARLIAMENTARY GROUP AFFILIATION

The President does not belong to any parliamentary group since the functions of the office require remaining neutral (SO 3). Any other Members not belonging to a parliamentary group sit as independent Members (SO 13, 2nd para.).

Members elected to the National Assembly in a by-election must join a recognized parliamentary group or sit as independent Members (SO 14).

Members who leave their parliamentary group may join another parliamentary group or sit as independent Members (SO 15, 1st para.), and Members sitting as independents may join an existing parliamentary group (SO 15, 2nd para.).

5.1.3 ORGANIZATION OF PARLIAMENTARY GROUPS

The organization of parliamentary groups is relatively straightforward. In principle, the leader of the political party with the greatest number of elected Members, that is, the Premier, is automatically the leader of the parliamentary group forming the Government, while the leader of the party with the second highest number of elected Members becomes the leader of the parliamentary group forming the Official Opposition. If two or more parties are recognized as parliamentary opposition groups, the leader of the group with the third highest number of elected Members is designated the leader of the Second Opposition Group, the leader of the group with the fourth highest number of elected Members is designated the leader of the Third Opposition Group, and so on.

Each parliamentary group leader designates a House leader from among the Members belonging to the group (SO 16). Each House leader plays a multifaceted role, mainly in connection with parliamentary procedure, planning of parliamentary business and development of debating strategies. In addition, House leaders have a special relationship with the President, and they are usually responsible for defending the rights of the Members belonging to their parliamentary group when, for example, questions of procedure arise. Depending on the parliamentary group in question, a deputy House leader can act in the stead of a House leader (SO 17).

In addition to a House leader, each parliamentary group leader also designates a whip from among the Members belonging to the group.²⁰ The main role of the whips and any assistant whips is to maintain order, cohesion and solidarity within their parliamentary group. They ensure that the Members of their group

20 During the 42nd Legislature, the PQ and QS were recognized as parliamentary opposition groups, but it was agreed they would not have whips. Instead, they would each designate a Member to act as their interlocutor with the other parliamentary groups' whips and the Assembly's administration (see: 42nd Legislature, "Entente relative à la notion de groupe parlementaire, au fonctionnement de l'Assemblée et des commissions parlementaires, ainsi qu'aux aspects budgétaires pour la durée de la 42^e législature", p. 3).

who must speak in the House or in a parliamentary committee are present to do so, and also perform certain duties under the *Act respecting the National Assembly*²¹ and the Standing Orders.²²

Although this is not dealt with in the Standing Orders, since it is not a “parliamentary” office in the strict sense, parliamentary group leaders generally designate from their group a caucus chair responsible for presiding over private meetings of all the Members sitting under the banner of their political party. Such meetings, which are opportunities for the members of a parliamentary group to discuss various issues of interest amongst themselves in private, can be used in particular to adopt a common position on a specific issue. Caucus chairs preside over these meetings, establish the agenda, ensure that each topic on the agenda is examined within the allotted time and allow the largest possible number of group members to express their opinions.

However, although the groups all share certain things in common, the way each one is organized has its own particularities, depending on whether the group forms the Government, the Official Opposition or another opposition group.

5.1.3.1 THE PARLIAMENTARY GROUP FORMING THE GOVERNMENT

The Government is called a majority government when the parliamentary group forming it holds the greatest number of the seats in the Assembly, that is, when it has 63 or more Members out of the total 125. Otherwise, it is a minority government.²³

21 *Act respecting the National Assembly*, CQLR, c. A-23.1.

22 Whips have certain specific functions pertaining to the organization of committee work and management of the research budgets granted to parliamentary groups (SO 117.2; RCP 1.1, 1.2 and 2; ANA, ss. 108 and 124.1). During the 42nd Legislature, the *Rules for the Conduct of Proceedings in the National Assembly* were temporarily amended to take into account the fact that neither the Second Opposition Group nor the Third Opposition Group had a whip: “When a parliamentary group has no whip, it shall designate a Member to exercise the powers invested in the whip under this section and to receive the notices set out in Standing Orders 117.7 and 148 and in section 23 of the Rules for the Conduct of Proceedings.” (RCP, TR 3.1, 42nd Leg.)

23 In recent history, two Québec legislatures were marked by minority governments: the 38th and the 40th. During the **38th Legislature**, the Assembly, not counting the President, who cannot belong to any parliamentary group, included 47 Members belonging to the parliamentary group forming the Government, 41 Members belonging to the Official Opposition and 36 Members belonging to the Second Opposition Group. During the **40th Legislature**, there were 54 Members belonging to the parliamentary group forming the Government, 49 Members belonging to the Official Opposition, 19 Members belonging to the Second Opposition Group and 2 independent Members. See also Chapter 1, “The History of Québec’s Political and Parliamentary Institutions”.

As leader of the parliamentary group forming the Government, the Premier is the initiator of certain procedures set out in the Standing Orders,²⁴ the *Act respecting the National Assembly*²⁵ and other Acts.²⁶ In the Assembly, the Premier sits on the President's right, facing the Table, in the first row.²⁷

If the Premier resigns or is not elected, the Deputy Premier²⁸ will probably take on the parliamentary functions of Premier until the party leader wins a seat in the House or a Member is designated the new party leader.²⁹ It is to be noted that the principle of ministerial responsibility set out in Standing Order 189 allows any minister to act on behalf of another minister.³⁰

24 This is the case for the delivery of the opening speech (SO 45), requests for an extraordinary sitting (SO 23) and motions to elect the First and Second Vice-Presidents (SO 9.2). In the two latter cases, although the Standing Orders provide that any Member may nominate any other Member to serve as First, Second or Third Vice-President (SO 9.1), it is actually the Premier who nominates the candidates for the First and Second Vice-President positions, since the Premier's motion is put to a vote before any other (SO 9.2). The same procedure is used to elect the Third Vice-President, except that a motion by the Leader of the Official Opposition is put to a vote before any other (SO 9.2). For further information, see Chapter 4, "The Office of President".

25 The procedures concerned are motions to appoint a Secretary General and one or more associate secretaries general of the Assembly (ANA, s. 26).

26 *Act respecting Access to documents held by public bodies and the Protection of personal information*, CQLR, c. A-2.1, s. 104; *Act respecting the Autorité des marchés publics*, CQLR, c. A-33.2.1, s. 4; *Charter of human rights and freedoms*, CQLR, c. C-12, s. 58; *Referendum Act*, CQLR, c. C-64.1, s. 8; *Act respecting the Director of Criminal and Penal Prosecutions*, CQLR, c. D-9.1.1, ss. 2 and 6; *Election Act*, CQLR, c. E-3.3, ss. 478, 526 and 532; *Public Service Act*, CQLR, c. F-3.1.1, ss. 56, 106 and 122; *Anti-Corruption Act*, CQLR, c. L-6.1, ss. 5, 5.2.1 and 35.8; *Police Act*, CQLR, c. P-13.1, ss. 56 and 56.5; *Public Protector Act*, CQLR, c. P-32, s. 1; *Lobbying Transparency and Ethics Act*, CQLR, c. T-11.011, s. 33; *Auditor General Act*, CQLR, c. V-5.01, ss. 7 and 13. The motion to appoint an Ethics Commissioner must be moved jointly with the Leader of the Official Opposition (*Code of ethics and conduct of the Members of the National Assembly*, CQLR, c. C-23.1, s. 62).

27 See Appendix II, "Seating Plan for the Assembly". For further details on how seats are assigned by the President, see Chapter 11, Subsection 11.2.1, "General Rules of Conduct".

28 Section 9 of the *Executive Power Act*, CQLR, c. E-18, provides: "The Government may define the duties to be exercised by any member of the Conseil exécutif and change the name under which a minister or department is designated." Similarly, section 11 says: "Any member of the Conseil exécutif may, by order in council, be appointed vice-president of the Conseil exécutif and charged, as such, with the duties and powers of the president of the Conseil when the latter is absent from the capital." These legislative provisions thus give the Government complete latitude to designate one of its ministers as Vice-President of the Conseil exécutif (the Cabinet), that is, as the equivalent of Deputy Premier.

29 In the general election of December 2, 1985, the Quebec Liberal Party came to power, but its leader, Robert Bourassa, failed to win a seat in his electoral division. Deputy Premier Lise Bacon replaced him in the National Assembly until he was elected in the electoral division of Saint-Laurent. As Deputy Premier, she introduced the motion then provided for in Standing Order 8 to elect the President of the Assembly (VP, December 16, 1985, p. 4), delivered the opening speech in accordance with Standing Order 45 (VP, December 16, 1985, p. 9) and presented the motion provided for in section 26 of the *Act respecting the National Assembly* to appoint a new Secretary General of the Assembly (VP, December 19, 1985, p. 25).

30 For example, on December 18, 1986, Justice Minister Herbert Marx introduced a motion on behalf of the Premier to appoint members of the Commission des droits de la personne, in accordance with section 58 of the *Charter of human rights and freedoms* (VP, December 18, 1986, pp. 630-631).

The House leader of the parliamentary group forming the Government is referred to as the Government House Leader (SO 16). The Government House Leader, who is always a minister,³¹ sits beside the Premier in the Assembly, and has responsibilities that include determining the Assembly's order of business for the day, as provided for in Standing Order 96. The Government House Leader is also called on to initiate several procedures under the Standing Orders,³² although a deputy House leader or a minister may perform such duties in the Assembly in the Government House Leader's stead (SO 17). In practice, the Government House Leader is assisted by two deputy House leaders, one of whom is chosen from among the members of the Conseil exécutif (the Cabinet).³³

In addition to choosing the Government House Leader and two deputy House leaders, the Premier designates a chief whip and one or more assistant whips from the Government group.³⁴ Unlike the Government House Leader, the Chief Government Whip is not a minister but may attend Conseil exécutif meetings.³⁵ In addition to maintaining order and promoting solidarity within their group, whips and assistant whips ensure quorum and the presence of Members in sufficient number during votes, which is particularly important in certain cases, since a defeat on a major issue could have serious consequences for the Government.³⁶

31 The function of Government House Leader used to be performed by the Premier, but a separate position was created in 1964, when Premier Jean Lesage informed the Assembly that Minister of Municipal Affairs Pierre Laporte would replace him as House Leader to allow him to devote more time and energy to administrative matters under his responsibility (JD, July 31, 1964, p. 5228). Since that time, although not a formal requirement, the Government House Leader has always been a minister. This explains why the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly* does not provide for any remuneration for the person who holds this position, although it does for the position of Official Opposition House Leader (s. 7, 1st para., subpara. 5) and the House leaders of other opposition parties (s. 7, 1st para., subpara. 6.1), as well as for a Deputy Government House Leader who is not a member of the Conseil exécutif (s. 7, 1st para., subpara. 9).

32 These procedures include the motion for the Assembly to meet on a Monday (SO 20 and 21), the motion to adjourn proceedings (SO 105), the motion to refer a matter to committee (SO 146), the convocation of a committee that has received an order of reference from the Assembly (SO 147), the motion to introduce an exceptional procedure (SO 182) and the motion to refer a bill to committee for consultation (SO 235).

33 The *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly* provides for an additional indemnity specifically for a Deputy Government House Leader who is not a member of the Conseil exécutif (s. 7, 1st para., subpara. 9).

34 Under subparagraph 11 of the first paragraph of section 7 of the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly*, the Government and the Official Opposition are entitled to one assistant whip for every 20 Members, excluding the first 20 and any fraction of 20.

35 The Chief Government Whip is sworn to secrecy and takes a formal oath not to disclose, unless duly authorized, anything that may come to knowledge during Conseil exécutif deliberations.

36 See Chapter 7, "Ministerial Responsibility and the Assembly's Confidence in the Government".

As previously mentioned, the Premier also appoints a caucus chair from the Government group. Like the Chief Government Whip, the Caucus Chair of the parliamentary group forming the Government is not a minister or member of the Conseil exécutif, but may attend Conseil exécutif meetings.³⁷

Lastly, the Government may appoint one or several, but not more than 20, parliamentary assistants from among the Members to assist ministers in the performance of their duties. During Assembly proceedings, a minister's parliamentary assistant may answer or take notice of questions addressed to the minister (ANA, s. 25).³⁸

5.1.3.2 THE OFFICIAL OPPOSITION

Even though the opposition has long had a recognized role in our system of parliamentary government, the expression "Official Opposition" has no official legal status.³⁹ Legislative texts and the Standing Orders legitimize the notion of the Official Opposition by using such expressions as "Leader of the Opposition", "Leader of the Official Opposition" and "Official Opposition House Leader", but recognition of Her Majesty's Opposition (the Official Opposition) does not derive from the Standing Orders.⁴⁰ It is based on a constitutional convention:

The Opposition is an important component in the structure of the House and is considered to be essential for the proper working of democratic government and the parliamentary process in the Westminster system.

37 In order to attend Conseil exécutif meetings, the Caucus Chair of the parliamentary group forming the Government must, like the Chief Government Whip, take an oath to protect the confidentiality of Conseil exécutif discussions.

38 Jurisprudence has however established that a parliamentary assistant cannot replace the minister responsible, except during Question Period (JD, October 16, 1990, pp. 4426-4427 (Michel Bissonnet)/RDPP, No. 253/4).

39 The largest minority group prepared to assume office if the Government resigns has the right to be called the "Official Opposition" (Arthur Beauchesne, Alistair Fraser, William Foster Dawson and John A. Holtby, *Beauchesne's Rules & forms of the House of Commons of Canada, with Annotations, Comments and Precedents*, 6th ed. (Toronto: Carswell, 1989), pp. 55-56). If the number of Members does not clearly indicate which group forms the Official Opposition, it is the responsibility of the President of the National Assembly to designate the group.

40 The following address the subject of the Official Opposition: Standing Orders 9 and 9.2, which state that a motion by the Leader of the Official Opposition respecting the election of the Third Vice-President of the Assembly is put to a vote before any other; Standing Orders 16 and 17, which concern the Official Opposition House Leader; Standing Orders 49 and 50, which concern the Leader of the Official Opposition's address during the debate on the opening speech of the session; Standing Order 56, which deals with the Leader of the Official Opposition's comments on a statement by a minister; Standing Orders 117.1, 117.4 and 117.5, which provide for the membership and chairing of the Committee on Public Administration and the participation of Members in opposition other than those from the Official Opposition; Standing Orders 121 and 122, which state how many Members from the Official Opposition are to serve on each committee; Standing Order 128, which allocates committee Chair positions among the groups, including the Official Opposition; and, lastly, Standing Orders 273 and 276, which deal with the address by the representative of the Official Opposition during the debate on the budget speech.

The recognition of “Her Majesty’s Opposition” in Britain is believed to have originated in the early 19th century. Essentially the term is based on the constitutional convention that, in the parliamentary system, the Crown recognises that Her Majesty’s Government exists, for the time being, as the preference of the House over Her Majesty’s Opposition.⁴¹

The President of the Assembly has also established the Official Opposition’s importance by referring on several occasions to the paramount role that it must play in parliamentary proceedings.⁴²

In the Assembly chamber, the Leader of the Official Opposition sits in the front row on the President’s left, facing the Premier, and is traditionally entitled, in principle, to the first question during Question Period, as well as to certain other advantages during that period, for example, the Leader of the Official Opposition’s address in response to the Premier’s opening speech and the debate thereon at the beginning of a session takes priority over and interrupts committee proceedings (SO 87(1)). As leader of a parliamentary group, the Leader of the Official Opposition also enjoys special speaking time privileges time during debates (SO 209).

41 David R. Elder and P. E. Fowler, eds., *House of Representatives Practice*, 7th ed. (Canberra: Department of the House of Representatives, 2018), p. 79.

42 JD, October 18, 2007, pp. 1549–1550 (Michel Bissonnet)/RDPP, No. 97.2/2; JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/RDPP, No. 74/21; JD, September 20, 2011, pp. 2440–2442 (Jacques Chagnon)/RDPP, No. 74/24; JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28; JD, October 10, 2013, pp. 4947–4948 (Jacques Chagnon)/RDPP, No. 78/5; JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31; JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32.

For reasons such as resignation⁴³ or electoral defeat,⁴⁴ the Official Opposition may temporarily find itself without a leader in the National Assembly. In such cases, it is customary for a member of the parliamentary group, such as the House leader,⁴⁵ whip,⁴⁶ caucus chair⁴⁷ or interim leader,⁴⁸ to inform the President

43 On November 20, 1973, after René Levesque, leader of the Parti québécois, was defeated in the electoral division of Dorion, Jacques-Yvan Morin, Member for Sauvé, was designated Leader of the Official Opposition by the party's parliamentary wing (VP, November 27, 1973, p. 53). On December 14, 1976, Gérard D. Levesque, Member for Bonaventure, was designated Leader of the Official Opposition by his party's parliamentary wing, replacing Robert Bourassa, leader of the Liberal Party, who had not been re-elected in the electoral division of Mercier (VP, December 15, 1976, p. 57). On September 19, 2012, Jean-Marc Fournier, Member for Saint-Laurent, was designated interim Leader of the Official Opposition by the members of the Liberal Party caucus since Jean Charest, leader of the party, had not been re-elected in the electoral division of Sherbrooke (VP, October 30, 2012, p. 5). Fournier served in that capacity until Philippe Couillard, elected leader of the party on March 17, 2013, became the Member for Outremont in the by-election of December 9, 2013. On April 23, 2014, Stéphane Bédard, Member for Chicoutimi, was designated interim Leader of the Official Opposition by his Parti québécois caucus colleagues to replace Pauline Marois, who had not been re-elected in the electoral division of Charlevoix-Côte-de-Beaupré (VP, May 20, 2014, p. 5). Bédard served in that capacity until Pierre Karl Péladeau, Member for Saint-Jérôme, was elected leader of the Parti québécois on May 15, 2015.

44 In 1982, after the leader of the Liberal Party, Claude Ryan, resigned, the caucus again designated Gérard D. Levesque, Member for Bonaventure, as Leader of the Official Opposition (VP, November 5, 1982, p. 650), a position he held until Robert Bourassa, re-elected leader of the Liberal Party in October 1983, was elected in the electoral division of Bertrand in the by-election of June 3, 1985. In 1987, following the resignation of Pierre-Marc Johnson as leader of the Parti québécois, Guy Chevette, Member for Joliette, stepped in as Leader of the Official Opposition (VP, November 12, 1987, p. 1082) since the new party leader, Jacques Parizeau, did not have a seat in the National Assembly until he was elected Member for L'Assomption in a by-election held on September 25, 1989. In 1998, following the resignation of Daniel Johnson as leader of the Liberal Party, Monique Gagnon-Tremblay, Member for Saint-François, was appointed Leader of the Official Opposition (VP, May 13, 1998, p. 2006) since the new party leader, Jean Charest, did not have a seat in the National Assembly until he was elected as Member for Sherbrooke in the general election of November 30, 1998. In 2005, following Bernard Landry's resignation as Member and Leader of the Official Opposition, Louise Harel, Member for Hochelaga-Maisonneuve, was designated to serve in the latter capacity until the new leader of the Parti québécois, André Boisclair, became a Member of the National Assembly following the by-election of August 21, 2006, in the electoral division of Pointe-aux-Trembles (VP, June 7, 2005, p. 1627). In 2016, after the resignation of Pierre Karl Péladeau, Member for Saint-Jérôme and leader of the Parti québécois, Sylvain Gaudreault, Member for Jonquière, was designated Leader of the Official Opposition (VP, May 10, 2016, p. 2221). Gaudreault served in that capacity until Jean-François Lisée, Member for Rosemont, was elected leader of the Parti québécois on October 7, 2016. Lastly, following Philippe Couillard's resignation as leader of the Liberal Party after the general election of October 1, 2018, Pierre Arcand, Member for Mont-Royal-Outremont, was designated Leader of the Official Opposition (VP, November 27, 2018, p. 6). Arcand served in that capacity until Dominique Anglade, Member for Saint-Henri-Sainte-Anne, became leader of the Quebec Liberal Party on May 11, 2020.

45 JD, December 15, 1976, p. 11.

46 JD, November 5, 1982, p. 5485; JD, November 12, 1987, p. 9495; JD, May 13, 1998, p. 11062; JD, June 7, 2005, p. 8999.

47 JD, May 10, 2016, p. 10850.

48 JD, October 30, 2012, p. 1; JD, May 20, 2014, p. 1; JD, November 27, 2018, p. 1.

in writing as to which Member will assume the functions of leader of the parliamentary group pending the election of the leader of the party as a Member of the National Assembly or the designation of a new leader from among the Members already sitting.

The Leader of the Official Opposition designates a House leader, known as the Official Opposition House Leader (SO 16), from the parliamentary group forming the Official Opposition. Sitting beside the Leader of the Official Opposition in the Assembly, facing the Government House Leader, the Official Opposition House Leader acts as the group's principal parliamentary procedure strategist and adviser. As is the case for the Government House Leader, the Official Opposition House Leader may be replaced in the House by a deputy House leader (SO 17).

In addition to a House leader and a deputy House leader, the Leader of the Official Opposition may designate a whip from among the members of the group and, if the group has 40 or more Members, an assistant whip.⁴⁹ The Official Opposition Whip's responsibilities include ensuring that Members in the group are present in sufficient number during debates on motions moved by a Member from the Official Opposition and during votes. The Leader of the Official Opposition also designates a caucus chair responsible for presiding over private meetings of Members belonging to the Official Opposition.

Lastly, the Leader of the Official Opposition appoints the members of what is called the "shadow Cabinet", made up of Official Opposition critics for the various sectors of State activity.⁵⁰ During debates in the Assembly, the Official Opposition critic for the sector under discussion generally enjoys extra speaking time by representing the Leader of the Official Opposition (SO 209).

49 *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly*, s. 7, 1st para., subpara. 11. In 2009, during the 38th Legislature, the group forming the Official Opposition was no longer eligible for the assistant whip indemnity following the decision of two of its 41 members to join the parliamentary group forming the Government.

50 The shadow Cabinet, typical in the British parliamentary system, used to be composed of a few Members from the main opposition party (the Official Opposition), each of whom was responsible for focusing on the activities of a particular government department, questioning its minister and examining its budget estimates and expenditures—in other words, staying on the minister's heels, like a shadow, hence the term "shadow Cabinet". In the British Parliament, the shadow Cabinet was composed of former ministers and a few other influential parliamentarians. See Robert Malcom Punnett, *Front Bench Opposition: The Role of the Leader of the Opposition, the Shadow Cabinet and Shadow Government in British Politics* (London: Heinemann, 1973). Québec takes inspiration from British parliamentary tradition, but today's shadow Cabinet is no longer a select group of former ministers that could form a future Conseil exécutif, since the objective is mainly to assign responsibilities to Official Opposition caucus members.

5.1.3.3 OTHER OPPOSITION GROUPS

The Assembly may be comprised of other opposition groups in addition to the Official Opposition. The number of Members belonging to a given parliamentary group determines its rank within the opposition,⁵¹ for example, Second Opposition Group, Third Opposition Group and so on.

For debates in the Assembly, the leaders of the opposition groups other than the Official Opposition are each allocated the same amount of speaking time as the Premier and the Leader of the Official Opposition (SO 209), except during the debate on the opening speech, when they are granted one hour rather than two (SO 50). The speaking time of leaders of opposition groups other than the Official Opposition is considered to be just as valuable as that of the Premier and the Leader of the Official Opposition, and it takes priority over committee proceedings (SO 87(1) and *in fine*). During Question Period, the leaders of the other opposition groups are each granted the same amount of speaking time as the Leader of the Official Opposition.

The leader of such a group may appoint a House leader from among the Members belonging to the group (SO 16),⁵² but the Standing Orders do not make provision for such a House leader to be replaced by a deputy House

51 JD, March 20, 2019, pp. 1069–1072 (François Paradis)/RDPP, No. 13/4.

52 Previously there was no additional indemnity associated with the position of House leader of another opposition group (although a temporary amendment adopted when the ADQ was recognized as a parliamentary group for the duration of the 39th Legislature provided for an indemnity for the House leader of such a group (CQLR 2009, c. 3, s. 1)). However, the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly* was permanently amended in 2012 to provide for such an indemnity (s. 7, 1st para., subpara. 6.1). Moreover, for the duration of the 41st Legislature, the Assembly adopted a temporary amendment to the Standing Orders to provide similar recognition for the House Leader of the Second Opposition Group: “The House Leader of the Second Opposition Group shall hold this title” (TSO 16, 41st Leg.). Likewise, for the duration of the 42nd Legislature, another temporary amendment was adopted by the Assembly to provide the House Leader of the Third Opposition Group with similar recognition: “The House Leader of the Third Opposition Group shall be known by this title of office” (TSO 16, 42nd Leg.).

leader.⁵³ The leader may also appoint Members from the group to serve as whips,⁵⁴ to perform other functions,⁵⁵ to act as critics and to speak in their leader's stead during debates relating to their respective sectors.

As with the Official Opposition, there have been times in the past when other opposition groups have found themselves without a leader in the National Assembly for various reasons.⁵⁶

53 During the 41st Legislature, the Assembly adopted a temporary amendment to make it possible for the Leader of the Second Opposition Group to be replaced in the House by a deputy leader (TSO 17, 41st Leg.). Similarly, the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly* was temporarily amended for the duration of the Legislature to provide for an additional indemnity for a Member occupying the position of caucus chair of an opposition group other than the Official Opposition (s. 7, (10.1)).

54 The *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly* provides that the whip of a parliamentary group other than the Official Opposition receives an indemnity equal to that paid to an assistant Government or Official Opposition whip (s. 7 (11)). During the 42nd Legislature, since it had been agreed that the second and third opposition groups would not have a whip, the provision was amended accordingly for the duration of the Legislature.

55 The *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly* was temporarily amended for the duration of the 41st Legislature to provide for an additional indemnity for a Member occupying the position of caucus chair of an opposition group other than the Official Opposition (s. 7 (11.3)).

56 In 2007, after André Boisclair, Member for Pointe-aux-Trembles and leader of the PQ, resigned, François Gendron, Member for Abitibi-Ouest, was designated Leader of the Second Opposition Group until the new party leader, Pauline Marois, became a Member following a by-election in Charlevoix (VP, May 17, 2007, p. 50). In 2009, following the resignation of Mario Dumont, Member for Rivière-du-Loup and leader of the ADQ, the ADQ caucus designated Sylvie Roy, Member for Lotbinière, as interim party leader (VP, March 11, 2009, p. 37). The following month, the ADQ was recognized as a parliamentary group ("Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature"). Following the election of Gilles Taillon, former Member for Chauveau, as leader of the ADQ, Roy was appointed House Leader of the Second Opposition Group (VP, October 29, 2009, p. 760). François Bonnardel, Member for Shefford, then replaced Roy as Leader of the Second Opposition Group. Bonnardel served in that capacity until Gilles Taillon resigned as leader of the ADQ, and was replaced by Gérard Deltell, Member for Chauveau, who also became Leader of the Second Opposition Group (VP, November 24, 2009, p. 866). In 2018, following the defeat of PQ leader Jean-François Lisée in the Rosemont riding in the general election of October 1, 2018, Pascal Bérubé, Member for Matane-Matapédia, was designated Leader of the Second Opposition Group (VP, November 29, 2018, p. 32). Bérubé remained in office as parliamentary group leader, becoming Leader of the Third Opposition Group in March 2019 after Paul St-Pierre Plamondon, who was not yet a Member, was elected leader of the PQ on October 9, 2020 (VP, October 27, 2020, p. 2531).

5.1.4 PARLIAMENTARY GROUPS' RIGHTS UNDER THE STANDING ORDERS

5.1.4.1 SPEAKING TIME



Speaking time is a Member's most powerful tool during parliamentary deliberations. The more time Members have, the more opportunities they have to voice their opinions and communicate their message. The Standing Orders confer certain advantages on parliamentary groups with respect to speaking time.

The second paragraph of Standing Order 209, which sets out the general rule with regard to the allocation of speaking time, provides that the Premier and the other parliamentary group leaders or their representatives⁵⁷ may each speak for up to one hour to a substantive motion and 30 minutes to a formal motion.⁵⁸ Parliamentary group leaders (or those who speak in their stead) are thus granted more speaking time during debates in the House than the leader of a party that does not form a parliamentary group.⁵⁹

⁵⁷ Although parliamentary custom dictates that it is usually the critic who speaks in the stead of the Leader of the Official Opposition, this is not a requirement under the Standing Orders. Consequently, nothing prevents a Member who is not the critic for the subject debated from speaking instead of the Leader, using the Leader's speaking time (JD, October 27, 2004, pp. 5371–5374 (François Gendron)/RDPP, No. 209/3).

⁵⁸ See Chapter 13, "Rules of Parliamentary Debate and Allocation of Debating Time".

⁵⁹ However, according to the general rule set out in SO 209, the leader of a party that does not form a parliamentary group, may, like any other Member, speak for 10 minutes to a formal motion and 20 minutes to any other matter.

During the debate on the opening speech, the Premier and the Leader of the Official Opposition or their representatives may each speak for up to two hours, while other parliamentary group leaders or their representatives are each granted one hour (SO 50, 1st para.). During the debate on the budget speech, the Official Opposition representative is granted up to two hours of speaking time in addition to the 10 minutes allowed for comments immediately after the speech (SO 271 and 273). The Standing Orders do not set aside any specific speaking time for a speech by the representative of any other opposition group, even though such a representative's address has precedence in the same way as that of the Minister of Finance or the Official Opposition representative (SO 87(4)).⁶⁰ The representative of each of the other opposition groups is, however, granted up to 10 minutes for comments immediately after the budget speech (SO 271).

That said, after every statement by a minister, the Leader of the Official Opposition and the other parliamentary group leaders or their representatives may each comment the statement for up to five minutes (SO 56).

During short debates with specific speaking times set out in the Standing Orders, the representative of each parliamentary group is granted 10 minutes speaking time on the following motions: a motion to adjourn debate (SO 101), a motion to adjourn proceedings in committee (SO 165), a motion to withdraw (SO 195) and a motion to hold a vote (SO 204).

Ten minutes speaking time is also granted to the representative of each opposition group in the context of a debate on a motion to adjourn proceedings (SO 106) and in the context of a debate on a motion to refer a bill to committee when the bill falls within the area of competence of more than one committee (SO 261), which are both motions made by the Government House Leader.

Similarly, at the opening of proceedings in Committee of the Whole for the consideration of any supplementary estimates of expenditure, each parliamentary group representative may speak for up to 20 minutes (SO 290).

60 In fact, as with the Leader of the Second Opposition Group in the context of the opening speech debate, the President generally gives the finance critic of a parliamentary group other than the Official Opposition a maximum of one hour to speak (See: JD, March 31, 2015, p. 5209 (François Ouimet); JD, March 23, 2016, p. 10274 (François Ouimet); JD, March 29, 2018, p. 21006 (Maryse Gaudreault); JD, March 27, 2019, p. 1800 (Marc Picard) and p. 1803 (Chantal Soucy)). It should be noted that the third paragraph of Standing Order 127 of the 1972-1984 Standing Orders expressly provided that, during the debate on the budget speech, the first speaker of a recognized party other than the Official Opposition had one hour of speaking time, which is the same as that now provided to the leader of an opposition group other than the Official Opposition during the opening speech debate. See Chapter 15, Subsection 15.1.2, "The Budget Speech Debate".

Lastly, for limited debates, the President confers with the House leaders and then allocates speaking time to the parliamentary groups, taking any independent Members into account (SO 210). If there are only two parliamentary groups, any time that remains after allocating time to the independent Members is generally divided equally between the group forming the Government and the group forming the Official Opposition, but the allocation formula may vary depending on the makeup of the Assembly.⁶¹

During the **38th Legislature**, in a minority government context when the Assembly was composed of three parliamentary groups, the speaking time for limited debates was allocated proportionally, with the total time granted to each group being based on the number of seats it held in the Assembly.

During the **39th Legislature**, following the recognition of the ADQ as a parliamentary group, speaking times for limited debates were set out in a document adopted on that occasion, at the same time as the parliamentary reform.⁶² As a new parliamentary group, the Second Opposition Group was granted 10% of the total speaking time.⁶³

During the **40th Legislature**, which saw a return to a minority government with three parliamentary groups, the proportionality rule was again used to allocate speaking time among the parliamentary groups for limited debates in accordance with the number of seats they held in the Assembly.

During the **41st Legislature**, when the Government had a majority, there were, for the first time, two parliamentary opposition groups that met the criteria for recognition set out in Standing Order 13. The traditional way of allocating speaking time equally between the Government and the Official Opposition was therefore adapted by introducing an element of proportionality. Once the time for independent Members was subtracted, 50% of the remaining time was

61 For the breakdown of the allocation of speaking times from one legislature to the next, see Appendix VI, "Allocation of Interpellations and Business Standing in the Name of Members in Opposition (Wednesday Motions)".

62 The document allocated speaking time during limited debates on matters raised by Members from the Official Opposition (Wednesday motions, want of confidence motions, emergency debates). However, it did not set out speaking times for limited debates initiated by a Member from the Second Opposition Group or an independent Member. Consequently, this speaking time was allocated by the President after conferring with the House leaders in accordance with Standing Order 210 ("Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature").

63 When the ADQ was recognized as a parliamentary group, it had six Members in the House, representing 4.8% of the total 125 and 10.3% of the Members in opposition. Later, after two of its Members chose to sit as independents, the speaking time allocated to the Second Opposition Group was reduced to 7% of the total speaking time.

granted to the group forming the Government, and the other 50% was divided between the two opposition groups in accordance with the number of seats each held in the House.

This way of allocating speaking time was used again in the **42nd Legislature**, during which the Parti québécois (PQ) and Québec solidaire (QS) were recognized as parliamentary groups in opposition despite the fact that they did not meet the criteria set out in the Standing Orders. This marked the first time that there were four parliamentary groups in the Assembly. The distribution of speaking times for limited debates was set out in a table appended to the agreement reached at that time between the various political parties represented in the Assembly.⁶⁴ The parliamentary groups also agreed to special rules regarding the allocation of speaking times during debates on business standing in the name of a Member belonging to the Second Opposition Group or the Third Opposition Group. They agreed that, in such cases, the parliamentary group of the Member who had moved the motion would be granted another 10 minutes in addition to the time normally afforded for such limited debates, with half of that time subtracted from the Government's time and the other half proportionately from that of the other opposition groups.

5.1.4.2 MEETINGS WITH HOUSE LEADERS

The Standing Orders provide that meetings with the parliamentary group House leaders are to be called by the President, in particular for the purpose of allocating speaking time for limited debates (SO 98 and 210). The President also confers with the House leaders to determine how to proceed with the consideration of the estimates of expenditure (SO 285) and how to organize votes on amendments at the committee report stage of bills (SO 253). At the request of the Government House Leader, the President must also convene the House leaders to reach an agreement on when a committee should table its report on a bill in the Assembly (SO 249).

Given that only parliamentary groups have House leaders, independent Members are not represented at House leader meetings. However, under Standing Order 210, which sets out the general rule governing the allocation of speaking time for limited debates, the President must take any independent Members into account. Independent Members can therefore count on being granted speaking time, either as individuals or collectively, during each limited debate.

64 "Entente relative à la notion de groupe parlementaire, au fonctionnement de l'Assemblée et des commissions parlementaires, ainsi qu'aux aspects budgétaires pour la durée de la 42^e législature".

5.1.4.3 ALLOCATION OF MEASURES

In certain circumstances provided for in the Standing Orders, the concept of parliamentary group is an important criterion that the President must consider when allocating instruments of parliamentary oversight and other measures available to Members in opposition.

The President considers the concept of parliamentary group when determining

- the sequence of business standing in the name of Members in opposition, commonly referred to as “Wednesday motions”: under Standing Order 97.2, the President decides the order in which matters are to be raised, taking into account the order in which the notices were placed on the Order Paper or received for publication, rotation among parliamentary groups and whether there are any independent Members,⁶⁵
- the subject of an interpellation: under Standing Order 295, any Member may interpellate a minister, however, if there are several interpellation notices, the President decides which of them to proceed with, taking into consideration the order in which they were given, the parliamentary groups they originated from and whether there are any independent Members (SO 297),⁶⁶
- the allocation of want of confidence motions: Standing Order 304 gives Members in opposition the right to move seven want of confidence motions per session, including the motions they are entitled to move during the debate on the opening speech and the debate on the budget speech, and the President allocates the motions among the parliamentary groups in opposition, taking into account whether there are any independent Members (SO 305), and
- the sequence of debates upon adjournment: at the adjournment of any Tuesday or Thursday sitting, any Member who raised a matter during Question Period may request further debate on that matter (SO 308). Only three debates upon adjournment may be held per sitting day (SO 312). When more than one Member has requested a debate, the President decides the order in which subjects of debate are to be raised, taking into account the order in which the notices were given, the urgency of the matters raised, rotation among the parliamentary groups and whether there are any independent Members (SO 311).⁶⁷

65 See Chapter 9, Subsection 9.2.2.5, “Business Standing in the Name of Members in Opposition”.

66 See Chapter 19, Section 19.3, “Interpellation”.

67 See Chapter 9, Subsection 9.2.2.6, “Debates upon Adjournment”.

Moreover, the concept of parliamentary group is an element the President must consider when allocating questions even though the section of the Standing Orders concerning Question Period does not address it.

Historically, the composition of the National Assembly made it less necessary to formally allocate measures among Members in opposition, but the recognition of a Second Opposition Group, and subsequently a Third Opposition Group, along with the arrival of several independent Members (direct consequences of the emergence of new political parties), changed the game. This is why, since the 38th Legislature, the President has set out the allocation of the various measures in a more structured manner at the beginning of each legislature.⁶⁸

ALLOCATION OF MEASURES OVER THE LEGISLATURES

38th Legislature

During the 38th Legislature, there was a minority government and two opposition groups, for a total of three parliamentary groups in the Assembly. The allocation of Wednesday motions was established by the President in a directive issued on October 18, 2007.⁶⁹ The rationale for the allocation was based on the makeup of the Assembly, recognition of a party as a parliamentary group, the preponderant role of the Official Opposition, the rotation among the parties provided for in the Standing Orders and the relative weight of each opposition group. The same procedure was used for the allocation of interpellations since there is approximately the same number of both types of measure during the parliamentary year.

Since only one want of confidence motion, presented by the Leader of the Official Opposition, was debated during the legislature, no allocation of measures was carried out.⁷⁰

Debates upon adjournment were allocated in keeping with a directive issued by the President at the beginning of the First Session, based on an agreement between the House leaders.⁷¹

39th Legislature

During the 39th Legislature, the distribution of measures was set out in a document adopted on April 21, 2009, when the ADQ was recognized as a parliamentary group and the new Standing Orders were adopted following the parliamentary reform. Measure allocation criteria from the preceding legislature, namely, the composition of the Assembly, recognition

68 See Appendix III, "Allocation of Statements by Members", Appendix IV, "Allocation of Interpellations and of Business Standing in the Name of Members in Opposition (Wednesday Motions)", and Appendix V, "Allocation of Debates Upon Adjournment".

69 JD, October 18, 2007, pp. 1549–1550 (Michel Bissonnet)/RDPP, No. 97.2/2.

70 VP, November 13, 2007, p. 380.

71 JD, May 10, 2007, pp. 68–69 (Michel Bissonnet)/RDPP, No. 311/1.

of a party as a parliamentary group and the preponderant role of the Official Opposition, were used to determine the allocation of Wednesday motions, interpellations, debates upon adjournment and want of confidence motions, as well as statements by Members, a measure newly introduced in the Standing Orders.

In November 2009, after two Members from the Second Opposition Group decided to sit as independent Members, the President ruled that, to respect the choice of the Members who had unanimously adopted new Standing Orders, he intended to protect the rights of the Official Opposition and the Member already sitting as an independent at the time of the reform. As a result, the measures and speaking times allocated to the two new independent Members were taken from those granted to the Second Opposition Group.⁷² The President subsequently set out, in two other directives, the new allocation of statements by Members and debates upon adjournment,⁷³ and of Wednesday motions and interpellations.⁷⁴

In September 2011, the allocation was again reviewed, when certain Members from the Official Opposition decided to sit as independents. While the President adjusted the allocation somewhat, he reminded the Members that there are advantages conferred by Official Opposition status that do not depend merely on the number of Members composing the parliamentary group.⁷⁵

Subsequently, in February 2012, after four Members from the Second Opposition Group and five independent Members decided to sit under the banner of the new Coalition Avenir Québec (CAQ) party, the President ruled that they had to sit as independents, since the document recognizing the ADQ as a parliamentary group had become obsolete and the CAQ was not a parliamentary group in accordance with the criteria set out in the Standing Orders.⁷⁶ He therefore adjusted the allocation of statements by Members, Wednesday motions, interpellations and debates upon adjournment.⁷⁷ The allocation of statements by Members was adjusted again in April 2012, after two independent Members were reintegrated into the Official Opposition.⁷⁸

72 JD, November 10, 2009, pp. 3845–3847 (Yvon Vallières)/RDPP, No. 13/2.

73 JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/RDPP, No. 74/22.

74 JD, March 9, 2010, pp. 4592–4593 (Yvon Vallières)/RDPP, No. 97.2/3.

75 JD, September 20, 2011, pp. 2440–2442 (Jacques Chagnon)/RDPP, No. 74/24.

76 JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 13/3.

77 JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 74/26.

78 JD, April 17, 2012, p. 5714 (Jacques Chagnon)/RDPP, No. 74/27.

40th Legislature

Since the 40th Legislature meant a return to a minority government with three parliamentary groups, the President began with a new directive for the allocation of Wednesday motions, interpellations, statements by Members and debates upon adjournment.⁷⁹ He noted that the purpose was still the same, that is, to distribute the measures as fairly as possible so that all Members would be able to play their role effectively, in particular with respect to government oversight. The President added that the Assembly's maturity and traditions were very useful guides for establishing how the rights flowing from its rules should take concrete form, and he noted that his decisions were also guided by other broad principles intrinsic to legislative assemblies in the British tradition. In this respect, he reiterated the importance of the opposition, especially the Official Opposition, in a parliamentary system, which explains the preponderant role that the Official Opposition is traditionally given in parliamentary practice. The President also pointed out that the specific composition of the Assembly must be taken into account, and that the percentage of votes obtained by the various political parties in the election could be used only to determine whether they were to be recognized as parliamentary groups. Once a party is recognized as having group status, the Standing Orders never refer to the percentage of votes obtained as conferring rights in parliamentary matters. Lastly, the President announced that he intended to draw on the experience acquired during the minority government of the 38th Legislature and employ certain elements that had proven useful in that context.

In September 2013, following a decision by a Member from the Second Opposition Group to sit as an independent and the resignation of two Members from the Official Opposition, the President made a new ruling on the consequences of those changes, in particular on the allocation of statements by Members.⁸⁰ The President issued a similar directive in February 2014, when a Member from the Official Opposition decided to sit as an independent and two new Members arrived, having been elected in by-elections.⁸¹

41st Legislature

In a directive issued at the beginning of the 41st Legislature, when there was a majority government and two opposition groups recognized as such in accordance with the Standing Orders, the President used the same guiding criteria to establish the new allocation of Wednesday motions, interpellations, statements by Members and debates upon adjournment. However, he noted that statements by Members were not government oversight measures, but instead a means for all Members to express themselves on topics that they consider important, and that, in most cases,

79 JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28.

80 JD, September 18, 2013, p. 4370 (Jacques Chagnon)/RDPP, No. 74/29.

81 JD, February 11, 2014, p. 6391 (Jacques Chagnon)/RDPP, No. 74/30.

directly concern their fellow citizens. The President therefore rendered a decision that in the absence of an allocation agreement, the allocation of such statements had to ensure fair proportionality so that everyone, including ministers, who were first and foremost Members, could exercise their rights.⁸²

42nd Legislature

Following the October 1, 2018 general election, which resulted in a majority government, and after a Member from the parliamentary group forming the Official Opposition left to sit as an independent, negotiations took place between the different parties represented in the Assembly. In addition to recognizing the Second Opposition Group and the Third Opposition Group for the duration of the legislature, the parties agreed on the allocation of various measures and speaking times. They prepared a document containing the agreement and an appendix with tables detailing the allocation.⁸³ In a directive dated November 29, 2018,⁸⁴ the President acknowledged the agreement and commended the parties represented in the Assembly on the consensus they had reached. Given that it was in keeping with the principles established by parliamentary jurisprudence in such matters, the President implemented the agreement, which set out the allocation of Wednesday motions, interpellations, statements by Members⁸⁵ and debates upon adjournment. Motions without notice were also allocated, which marked a precedent. In the directive, however, the President said there was a possibility that the allocation would have to be adjusted during the legislature, as had been done in the past, if the Assembly's composition were to change.⁸⁶

The President had to do just that in February 2019,⁸⁷ after a Member belonging to the parliamentary group forming the Government was elected, and again in March 2019, after a Member belonging to the Second Opposition Group (formed by the PQ at the time) decided to sit as an independent. As a result, the Second Opposition Group found itself

82 JD, May 26, 2014, pp. 105-106 (Jacques Chagnon)/RDPP, No. 74/31.

83 "Entente relative à la notion du groupe parlementaire, au fonctionnement de l'Assemblée et des commissions parlementaires, ainsi qu'aux aspects budgétaires pour la durée de la 42e législature".

84 JD, November 29, 2018, pp. 31-33 (François Paradis)/RDPP, No. 74/32.

85 In the directive, the President noted that the Statements by Members period allowed all Members, including ministers, to express themselves on topics they consider important, and that Members most often use the statements to congratulate their fellow citizens for achievements or to draw attention to important dates and events. Statements by Members also give Members the opportunity to take a stand on any other issue of importance (generally non-partisan in nature) that they wish to raise. To ensure all Members equitable access to making statements, they are allocated proportionally based on the number of seats held by each parliamentary group. (Ibid.)

86 JD, November 29, 2018, p. 33 (François Paradis).

87 Statements by Members was the only measure the President made allocation changes only to at the time (JD, February 5, 2019, p. 423 (François Paradis)).

with nine Members, fewer than the ten of the Third Opposition Group (formed by QS at the time). Since the number of Members in a parliamentary group can change in the course of a legislature, the President concluded that a parliamentary group's status within the opposition could also change and that the two groups would change rank: QS would henceforth form the Second Opposition Group while the PQ would form the Third Opposition Group. Consequently, changes were also made to the distribution of measures and allocation of speaking time during limited debates, and to the seat assignment for the purposes of the Assembly's seating plan.⁸⁸

Lastly, in February 2020, after a Member from the Official Opposition resigned and a Member from the parliamentary group forming the Government was elected in the ensuing by-election, the President adjusted the allocation of interpellations and Wednesday motions in order to redistribute the measures among the opposition groups in a more balanced manner.⁸⁹

5.1.4.4 ALLOCATION OF QUESTIONS DURING QUESTION PERIOD

All Members, including those from the parliamentary group forming the Government, may take part in Question Period. However, most questions are allocated to Members in opposition, and when the Official Opposition is the only opposition group, Question Period is almost entirely devoted to its questions. Although the notion of parliamentary group is not mentioned in the section of the Standing Orders concerning Question Period, it is nonetheless an important criterion that the President must consider when allocating questions.⁹⁰ If there are two or more opposition groups, the President allocates the questions based on each group's proportional representation in the Assembly, while recognizing the preponderant role of the Official Opposition.⁹¹ The President must also take into account whether there are any independent Members, but does not necessarily grant them a question at every sitting, as we will see below and in Chapter 10.

88 JD, March 20, 2019, pp. 1069–1072 (François Paradis)/RDPP, No. 13/4. The President stated that the changes to the allocation of measures and the new seating plan would come into force the following sitting day (JD, March 20, 2019, p. 1072 (François Paradis)). However, the allocation of speaking time was modified that same day due in part to the limited debate to be held during Business Standing in the Name of Members in Opposition (JD, March 20, 2019, p. 1100 (Marc Picard)).

89 JD, February 4, 2020, pp. 6205–6206 (François Paradis).

90 See Chapter 10, “Question Period”, in particular Appendix II, “Question Allocation Tables”.

91 JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/RDPP, No. 74/19; JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/RDPP, No. 74/21; JD, September 20, 2011, pp. 2440–2442 (Jacques Chagnon)/RDPP, No. 74/24; JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 74/26; JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28; JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31; JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32.

5.1.4.5 COMPOSITION AND CHAIRS OF PARLIAMENTARY COMMITTEES

Parliamentary groups also enjoy certain advantages regarding the composition and chairing of parliamentary committees. For instance, the House leader and the whip⁹² of each parliamentary group are members of both the Committee on the National Assembly (SO 115(3)) and the Subcommittee on Parliamentary Reform (SO 117 (3)).⁹³

Not later than the third sitting of the Assembly after the election of a President at the opening of a legislature or whenever necessary during the remainder of the legislature, the Committee on the National Assembly decides the composition of the 10 other parliamentary committees and designates which are to be chaired by a Member from the group forming the Government and which are to be chaired by a Member from the opposition (SO 127). The Committee on the National Assembly must respect the criteria established in the Standing Orders for the representation of each parliamentary group on each committee.

The Committee on Public Administration is made up of 10 permanent members, six from the group forming the Government and four from the opposition, including at least three from the Official Opposition (SO 117.1(1)). It also includes eight temporary members, that is, five from the group forming the Government and three from the Official Opposition (SO 117.1(2)), appointed by their respective whips for the duration of a sitting or an item of business (SO 117.2, 2nd para.). Any Member belonging to an opposition group other than the Official Opposition may participate in the Committee's proceedings, but may not vote or move a motion (SO 117.4). Under Standing Order 117.5, the Chair of the Committee on Public Administration is chosen from the Official Opposition and the Vice-Chair from the parliamentary group forming the Government.

Generally, the other nine committees are made up of 10 to 12 Members. When a committee comprises 10 Members, six are from the parliamentary group forming the Government and four are from the Official Opposition (SO 121). When a committee comprises 12 Members, there is one independent Member or one Member from an opposition group other than the Official Opposition, along with seven from the group forming the Government and four from the Official Opposition (SO 122).

92 During the 42nd Legislature, as it had been agreed that both the Second Opposition Group and the Third Opposition Group would have no whip, both groups were represented on the Committee on the National Assembly and on the Subcommittee on Parliamentary Reform exclusively by their respective House leaders. The Standing Orders were amended accordingly (See: TSO 115 (3) and 117(3), 42nd Leg.), (VP, November 29, 2018, pp. 24-25).

93 Independent Members are not represented on the Committee or the Subcommittee. However, during the 37th Legislature, by leave of the National Assembly to set aside Standing Order 117, Marc Picard, an independent Member (Chutes-de-la-Chaudière riding) affiliated with the ADQ, was appointed to the Subcommittee on Parliamentary Reform for the purposes of the parliamentary reform begun in June 2004 (VP, November 3, 2004, p. 958).

In addition to the Committee on Public Administration, three committees are chaired by Members sitting in opposition—normally Members from the Official Opposition—while six are chaired by Members from the group forming the Government (SO 126). If there is no agreement on the allocation of the choices of committee Chair, the group forming the Government has the first, second, fourth, sixth, eighth and ninth choices. The other choices go to the Official Opposition except when there is another opposition group, in which case that group has the seventh choice (SO 128).⁹⁴

TEMPORARY RULES GOVERNING COMMITTEE MEMBERSHIP

During the 38th Legislature, in the context of a minority government, the Assembly adopted⁹⁵ temporary amendments to the provisions of the Standing Orders governing committee membership, including membership in the Committee on Public Administration, to ensure that its composition better reflected the three parliamentary groups in the Assembly at the time. For the 38th Legislature, the number of Members on each committee was increased to 12: five from the group forming the Government, four from the Official Opposition and three from the Second Opposition Group, one of whom was not entitled to vote (TSO 117.1 and 121, 38th Leg.). Certain changes were also made to the allocation of committee Chairs, with five committees being chaired by Members from the group forming the Government, three (including the Committee on Public Administration) by Members from the Official Opposition and two by Members from the Second Opposition Group (TSO 126, 38th Leg.).

At the beginning of the 39th Legislature, before the ADQ was recognized as a parliamentary group and by unanimous consent of the Members of the Assembly, the composition of the Committee on Public Administration and the Committee on Social Affairs were increased to 12 and 14 Members, respectively, so that independent Members could sit on them.⁹⁶ Subsequently, the Assembly adopted the document entitled “Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature”, which provided, in particular, that the Committee on Public Administration would include a second Vice-Chair from the Second Opposition Group.⁹⁷

94 See Chapter 18, “Parliamentary Committees”, in particular Appendix I, “The Composition and Particularities of the Parliamentary Committees during the 38th to 42nd Legislatures”.

95 VP, May 24, 2007, pp. 73–78.

96 VP, January 15, 2009, p. 27.

97 “Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature”, p. 7.

During the **40th Legislature**, in the context of a minority government, the Assembly also adopted⁹⁸ temporary amendments to the Standing Orders concerning committee composition. The membership of each committee, including the Committee on Public Administration, was reduced to nine for the duration of the legislature, with four Members from the parliamentary group forming the Government, four from the Official Opposition and one from the Second Opposition Group (TSO 117.1 and 121, 40th Leg.). Once again, the allocation of the office of committee Chair was also amended: five committees were chaired by Members from the group forming the Government, three by Members from the Official Opposition and one by a Member from the Second Opposition Group (TSO 126, 40th Leg.). The Committee on Public Administration was also chaired by a Member from the Official Opposition and had two Vice-Chairs, one from the parliamentary group forming the Government and one from the Second Opposition Group (TSO 117.5, 2nd para., 40th Leg.).

After a return to a majority government for the **41st Legislature**, the Assembly nonetheless again adopted temporary amendments to the Standing Orders so that the composition of the committees would take into account the fact that there were two parliamentary groups in opposition, and that these two groups were almost equal in size. The number of Members on each committee, including the Committee on Public Administration, was increased to 13: seven from the parliamentary group forming the Government, four from the Official Opposition and two from the Second Opposition Group, of whom one did not have the right to vote (TSO 117.1 and 121, 41st Leg.). The distribution of the office of committee Chair was also amended through the adoption of the "Agreement relating to the conduct of proceedings in the National Assembly and in parliamentary committees as well as to parliamentary offices and budgetary aspects for the duration of the 41st Legislature",⁹⁹ which provided, in particular, that one committee (the Committee on Citizen Relations) would be chaired by a Member from the Second Opposition Group, and two committees (the Committee on Public Administration and the Committee on Public Finance) would have second Vice-Chairs from that group (TSO 117.5, 2nd para., and 134, 2nd para., 41st Leg.).

98 VP, November 7, 2012, p. 43.

99 "Agreement relating to the conduct of proceedings in the National Assembly and in parliamentary committees as well as to parliamentary offices and budgetary aspects for the duration of the 41st Legislature", Sessional Paper No. 51-20140602, June 2, 2014, (VP, June 2, 2014, p. 64).

At the beginning of the **42nd Legislature**, negotiations between the parties represented in the Assembly resulted in the recognition of a Second Opposition Group and a Third Opposition Group. In consequence, the Assembly made changes to the composition of the committees to take into account the fact that there were four parliamentary groups but also a majority government. Temporary amendments to the Standing Orders and to the Rules for the Conduct of Proceedings in the National Assembly were adopted on the basis of the “Entente relative à la notion de groupe parlementaire, au fonctionnement de l’Assemblée et des commissions parlementaires, ainsi qu’aux aspects budgétaires pour la durée de la 42e législature”.¹⁰⁰ The number of Members on each committee, including the Committee on Public Administration, was therefore increased to 13: seven Members from the parliamentary group forming the Government, four from the Official Opposition, one from the Second Opposition Group and one from the Third Opposition Group (TSO 117.1 and 121, 42nd Leg.). It was also stipulated that the three Members in opposition who would be chairing committees must be from the Official Opposition (TSO 126, 42nd Leg.). Lastly, the distribution of the office of committee Chair was also amended by providing, in particular, that two committees (the Committee on Public Administration and the Committee on Labour and the Economy) would have second Vice-Chairs from the Second Opposition Group (TSO 117.5, 2nd para., and 134, 2nd para., 42nd Leg.).

5.1.4.6 DECISION MAKING IN COMMITTEE

Although any Member may participate in the decision-making process in committee, the weight of a Member’s vote may vary depending on whether the Member belongs to a parliamentary group. The Standing Orders provide that certain motions must be adopted by a majority of the Members from each parliamentary group. This is the case when a committee determines whether to examine a petition (SO 64.4 and 149), elects its Chair or Vice-Chair (SO 135), takes on a self-initiated mandate (SO 149), strikes a subcommittee (SO 150), decides to meet in camera (SO 160) or selects which public bodies to hear for the purposes of an accountability or oversight mandate (SO 293.1 and 294). This is also the case when the Committee on Public Administration determines when and how it intends to proceed when examining financial commitments (RCP 21).

100 “Entente relative à la notion de groupe parlementaire, au fonctionnement de l’Assemblée et des commissions parlementaires, ainsi qu’aux aspects budgétaires pour la durée de la 42e législature”, Sessional Paper No. 48-20181129, November 28, 2018, pp. 5–7 (VP, November 29, 2018, p. 23 ff.).

5.1.5 RIGHTS CONFERRED BY CERTAIN LEGISLATIVE PROVISIONS

In addition to the Standing Orders, certain legislative provisions also confer rights or advantages on parliamentary groups, without necessarily referring to them as such.

This is particularly true of sections 88 and 108 of the *Act respecting the National Assembly*, which deal, respectively, with the composition of the Office of the National Assembly and the allocation of research and support budgets. These provisions do not refer to the concept of parliamentary group, but rather to the broader notion of “represented party”, which includes any political party with at least one Member elected to the National Assembly. These are essentially the only occasions when the notion of political party appears in the context of the daily business of the Assembly.¹⁰¹

Section 88 of the Act gives the breakdown by party of the members of the Office of the National Assembly, aside from the President. Five members are chosen from the Government party and four from the Official Opposition or, if there are two or more opposition parties, three from the Official Opposition and one from the opposition party that obtained the next highest number of seats or, in the case of a tie for third place in terms of number of seats, the party that obtained the next highest number of valid votes. Consequently, the third-ranked party in terms of number of elected Members or valid votes is entitled to designate one member of the Office, even if the party is not a parliamentary group under Standing Order 13.¹⁰²

Section 108 of the Act authorizes the Office of the National Assembly to determine, by regulation, the research and support budgets to be allocated to the political parties represented in the Assembly following the last general election and to any independent Members.

Furthermore, section 124.1 allows Members with certain parliamentary functions to staff offices. In addition to the President and the three Vice-Presidents, the following persons are granted budgets to establish and operate offices: the Leader of the Official Opposition, the leader of a party represented in the Assembly that meets the same conditions as those set out for the

101 See Subsection 5.2.2, “Rights Conferred by Certain Legislative Provisions”.

102 Sections 87 and 88 of the *Act respecting the National Assembly* were amended for the duration of the 42nd Legislature to provide that the Office of the National Assembly would be composed of, in addition to the President of the Assembly, 11 other Members: six from the Government party, three from the Official Opposition party and one from each of the other opposition parties represented in the Assembly following the October 1, 2018 general election. The quorum of the Office was also increased from five to six members (SQ, 2018, c. 28, ss. 1-3).

constitution of a parliamentary group,¹⁰³ the Government House Leader, the Official Opposition House Leader, the House leader of any other opposition group,¹⁰⁴ the Chief Government Whip, the Chief Official Opposition Whip and the Chief Whip of any other opposition group.¹⁰⁵

Under section 7 of the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly*, an additional indemnity is granted to Members who exercise certain parliamentary functions within their parliamentary group.

A Member recognized as the Leader of the Official Opposition receives, on an annual basis, an additional 75% of the annual indemnity granted to Members, and an additional indemnity of 35% is granted to a Member who leads an opposition party other than the Official Opposition, provided the party meets the criteria for forming a parliamentary group.¹⁰⁶

Government Members who assume the following functions are also entitled to an additional indemnity: Chief Government Whip (35%), Assistant Government Whip (20%), Caucus Chair (25%) and, if the Member in question is not a member of the Conseil exécutif, Deputy Government House Leader (25%).

Members of the Official Opposition who take on the following functions are also granted an additional indemnity: House Leader (35%), Deputy House Leader (20%), Caucus Chair, provided there are at least 20 caucus members (22.5%), Chief Whip (30%) and Assistant Whip (20%).¹⁰⁷

103 That is, “a Member to whom subparagraph 6 of the first paragraph of section 7 of the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly* (c. C-52.1) applies”.

104 That is, “the House Leader of a party contemplated in paragraph 6 of section 7 of the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly*”.

105 That is, the whip “of a party contemplated in paragraph 6 of section 7 of the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly*”. Since it was agreed during the 42nd Legislature that the Second Opposition Group and Third Opposition Group would not have a whip, section 124.1 of the *Act respecting the National Assembly* was temporarily amended accordingly (SQ 2018, c. 28, s. 4).

106 In the 42nd Legislature, when the PQ and QS were recognized as parliamentary groups even though they did not meet the criteria for recognition set out in the Standing Orders, the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly* was amended to ensure that any Member “who leads an opposition party represented in the Assembly following the 1 October 2018 general election” would receive the additional 35% indemnity (SQ 2018, c. 28, s. 5).

107 For the purposes of section 7(11) of the Act, the Government and the Official Opposition are each entitled to a number of assistant whips equal to the multiple of 20 Members in excess of 20, any fraction of 20 not being counted.

Lastly, the House leader of any other opposition party that forms a parliamentary group also receives an additional indemnity (25%), as does the whip of that group (20%).¹⁰⁸

5.2 INDEPENDENT MEMBERS

All Members who do not belong to a parliamentary group sit as independent Members, with the exception of the President, of course (SO 13).

As the President pointed out in a 2003 directive,¹⁰⁹ the Standing Orders make no distinction between independent Members who were elected under the banner of a political party and Members who were elected as independents: all are considered independent. The definition of independent Member in the Standing Orders is not the same as that set out in the *Election Act*.¹¹⁰ As the President has also noted, election law has no impact on the rights and obligations of political parties represented in the National Assembly.¹¹¹ The concept of political party found in sections 88 and 108 of the *Act respecting the National Assembly* is for administrative purposes and has no effect on parliamentary proceedings, during which only the concepts of parliamentary group and independent Member are accepted.¹¹²

108 The indemnities for the parliamentary positions of other opposition groups have not always been the same. For example, the indemnity granted to the whip of an opposition party other than the Official Opposition was withdrawn for the duration of the **39th Legislature** following the passage on April 21, 2009, of Bill 36, *An Act respecting the conditions of employment and the pension plan of the Members of the National Assembly* (SQ, 2009, c. 3, s. 1) and replaced by an indemnity of 25% for the House leader of such a party. Subsequently, during the **40th Legislature**, the additional indemnity paid to the leader of a party other than the Official Opposition was permanently integrated into the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly* on November 29, 2012, when Bill 11, *An Act to amend the Act respecting the National Assembly and the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly* (SQ, 2012, c. 24, s. 3) was passed. By passing Bill 7, *An Act to ratify the agreement relating to the conduct of proceedings in the National Assembly and in parliamentary committees as well as to parliamentary offices and budgetary aspects for the duration of the 41st Legislature* (SQ, 2014, c. 5, s. 1), on June 12, 2014, the Assembly also added additional indemnities, for the duration of the **41st Legislature**, for the deputy House leader of any other opposition party forming a parliamentary group (20%) and for the caucus chair of that party if there were at least 20 Members in the caucus (22.5%). Lastly, for the duration of the **42nd Legislature**, since it had been agreed that the Second Opposition Group and Third Opposition Group would not have whips, the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly* was amended accordingly with the passage of Bill 4, *An Act to ratify the Agreement relating to the concept of parliamentary group, to the conduct of proceedings in the Assembly and in parliamentary committees as well as to budgetary aspects for the duration of the 42nd Legislature* (SQ 2018, c. 28, s. 5).

109 JD, October 30, 2003, pp. 1216–1217 (Michel Bissonnet)/RDPP, No. 74/16.

110 *Election Act*, s. 41.

111 JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 13/3.

112 JD, December 10, 2003, pp. 2415–2417 (Michel Bissonnet)/RDPP, No. 13/1.

Although political party affiliation does not confer any particular rights, the President has recognized that the Assembly cannot deny any Member's political affiliation.¹¹³ For example, when a Member belonging to a political party takes the floor in the House, the acronym identifying that Member's political affiliation appears beside the Member's name on television, whether or not the Member belongs to a parliamentary group.¹¹⁴ The same approach is adopted when a Member decides to sit under the banner of a newly created party that has been authorized by the Chief Electoral Officer during the legislature.¹¹⁵ In addition, both on the Assembly's website and in the *Journal des débats* (Hansard), all Members are identified with their political affiliation.¹¹⁶

5.2.1 RIGHTS CONFERRED BY THE STANDING ORDERS

Individually, independent Members enjoy the same general rights as Members belonging to a parliamentary group, including the right to introduce bills (ANA, s. 30, 1st para.), make statements by Members (SO 54.1), table petitions (SO 64), request leave to debate urgent matters (SO 88), move motions (SO 185) and vote. Under the Standing Orders, during most debates they enjoy the same speaking times granted to all Members (SO 209), but of course do not have access to the extra time granted to the leader of a parliamentary group or such a leader's representative.¹¹⁷

Standing Order 84.1, adopted under the 2009 parliamentary reform, confers certain advantages on independent Members. For example, during the stage of Routine Proceedings reserved for motions without notice, one Member per parliamentary group may move one motion per sitting day, but the independent Members as a group are also entitled to choose one independent Member per sitting day to move one motion during that stage. However, the same independent Member may not make more than one motion per three sittings. Since such motions may be debated only by leave of the entire Assembly,

113 Ibid.; JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 13/3; VP, December 7, 2011, p. 856 (Jacques Chagnon)/RDPP, No. 15/1; JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/RDPP, No. 74/21; JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31

114 JD, December 10, 2003, pp. 2415–2417 (Michel Bissonnet)/RDPP, No. 13/1.

115 VP, December 7, 2011, p. 856 (Jacques Chagnon)/RDPP, No. 15/1; JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 13/3.

116 JD, December 10, 2003, pp. 2415–2417 (Michel Bissonnet)/RDPP, No. 13/1; VP, December 7, 2011, p. 856 (Jacques Chagnon)/RDPP, No. 15/1; JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 13/3.

117 On certain occasions, however, following an agreement between the political parties, it is customary for the President to give the floor to the leader or spokesperson of a party, even if the latter does not constitute a parliamentary group. For instance, when new Members are welcomed to the Assembly, the President gives the floor to each party leader or spokesperson, in succession. The same is true when Members convey their best wishes for the holiday season and new year to the public at the end of the fall sessional period and when they express their best wishes for the national holiday just before the Assembly adjourns for the summer.

independent Members may make their consent to debate on a motion moved by a Member affiliated with a parliamentary group subject to obtaining speaking time on that motion.¹¹⁸

Nevertheless, the President has a leading role to play in protecting independent Members, since the protection of the minority from the oppression of the majority is a fundamental principle of parliamentary law.¹¹⁹

This is why, in general, the presiding officer must take into account whether the Assembly includes independent Members when applying the Standing Orders, in particular when required to rule on questions related to the rights granted to all Members regardless of their status. For example, one of the Vice-Presidents was protecting the independent Members when he ruled that requests by independent Members for a recorded division are accepted when at least five independent Members present in the Assembly support the request.¹²⁰

Moreover, certain Standing Orders specifically protect the rights of independent Members, in particular with respect to the distribution of measures granted mainly to Members in opposition and the allocation of speaking time for limited debates. In one case, for example, recalling his duty to protect the rights of the minority, the President ruled that Members should avoid systematically raising points of order because doing so prevents substantive debate and infringes on the rights of independent Members, who have little speaking time in some limited debates.¹²¹ Several other rules in the Standing Orders address the participation of independent Members in committee.

118 See Chapter 9, Subsection 9.2.1.9, "Motions Without Notice".

119 See Chapter 2, "The Foundations of Parliamentary Procedure".

120 JD, November 18, 2004, pp. 5732–5733 (William Cusano)/RDPP, No. 220/5. This ruling came in response to a point of order raised by the Government House Leader, who maintained that an independent Member could not request a recorded division on behalf of other independent Members. However, Standing Order 220 provides that the vote is to be conducted by a show of hands or, if five Members so request, by a recorded division. The Vice-President based the ruling on the practice according to which, if the leader of a parliamentary group requests a recorded division and at least four other Members belonging to that group are present, it is assumed that they are all requesting the vote.

121 JD, February 22, 2018, pp. 18904–18905 (Jacques Chagnon)/RDPP, No. 36/4.

5.2.1.1 ALLOCATION OF MEASURES¹²² AND OF QUESTIONS DURING QUESTION PERIOD¹²³

Several Standing Orders expressly provide that the President must take independent Members into account before making certain decisions. The President must protect their rights during meetings held with House leaders to set the rules for limited debates.¹²⁴ This is particularly important since independent Members are not entitled to attend those meetings, even when the purpose of the meeting is to allocate the speaking time for debate on a motion moved by an independent Member.

The President must also consider independent Members when determining the order of debate for Wednesday motions (SO 97.2), the subjects of interpellations (SO 297), the allocation of want of confidence motions (SO 305), and the allocation and sequence of statements by Members (SO 54.4) and debates upon adjournment (SO 311).

As we have seen, it was mainly from the 38th Legislature onward that the President began establishing certain more formal rules at the beginning of a legislature for the allocation of various measures among Members in opposition. However, long before then, the President had already determined certain rules and standards concerning the rights that could be exercised by independent Members.

For example, in 1990 the President informed the Assembly that independent Members were entitled to only one want of confidence motion during the session.¹²⁵ Then, in 2002 it was ruled that a motion by an independent Member could be debated during the stage of Routine Proceedings reserved for Wednesday motions.¹²⁶ However, during the 37th Legislature, a Second Vice-President opted instead to grant the independent Members collectively one Wednesday motion or interpellation per sessional period, alternating between

122 See Appendix III, "Allocation of Statements by Members", Appendix IV, "Allocation of Interpellations and Business Standing in the Name of Members in Opposition (Wednesday Motions)" and Appendix V, "Allocation of Debates Upon Adjournment".

123 For the breakdown of the allocation of Question Period questions during various legislatures, see Chapter 10, "Question Period", in particular Appendix II, "Question Allocation Tables".

124 See Chapter 13, "Rules of Parliamentary Debate and Allocation of Debating Time".

125 JD, June 18, 1990, p. 3533 (Jean-Pierre Saintonge)/RDPP, No. 305/2.

126 JD, October 15, 2002, pp. 7077-7078 (Louise Harel)/RDPP, No. 97.2/1. This ruling was handed down toward the end of the Second Session of the 36th Legislature, at a time when there were five independent Members and 14 motions had been debated during the session, all moved by Official Opposition Members. Based on the statistics of the preceding legislatures, the President established that one Wednesday motion moved by an independent Member could be debated per session.

the two measures.¹²⁷ In the past, the President has also set out certain rules pertaining to the order and frequency of main questions allocated to independent Members.¹²⁸

The practice during the **35th Legislature** was to grant one main question every three sittings to an independent Member, and to do so on a rotating basis when there was more than one such Member.¹²⁹ This guideline was also followed during the First Session of the **36th Legislature**,¹³⁰ when there was only one independent Member. During the Second Session, the number of independents rose to five and the ratio was increased to two questions every five sittings,¹³¹ and then to two questions every four sittings when a sixth independent Member arrived.¹³² During the **37th Legislature**, when there were four independent Members, the President set the number of questions at two every five sittings.¹³³ When the number of independents again rose to five because one Member left his parliamentary group, the number of questions remained the same.¹³⁴ With the arrival of a sixth independent Member and given the precedents already set, the ratio was once again raised to two questions every four sittings,¹³⁵ and the President specified that those questions were granted to the independent Members collectively, regardless of their political affiliation.¹³⁶

During the **38th Legislature**, the Assembly was made up of three parliamentary groups and no independent Members.

The **39th Legislature** marked an important development with respect to the rights and privileges of independent Members. First, although the President did not grant them the same rights as the parliamentary groups, he decided to consider the proportional representation of independent Members in the allocation of questions. Since the eight independent Members represented 13.6% of the Members in opposition at the beginning of the Legislature, the President granted them one question per sitting day, representing about 10%

127 VP, April 20, 2004, p. 629; VP, November 11, 2004, p. 1001; VP, April 19, 2005, p. 1434; VP, November 3, 2005, p. 1856; VP, May 16, 2006, p. 255; VP, November 9, 2006, p. 610.

128 See Chapter 10, Subsection 10.1.3.1, "Principles Established by the President".

129 JD, September 20, 1995, p. 5159 (Roger Bertrand)/RDPP, No. 74/12.

130 JD, November 21, 2000, pp. 7998–8000 (Jean-Pierre Charbonneau)/RDPP, No. 74/13.

131 JD, October 15, 2002, pp. 7077–7078 (Louise Harel)/RDPP, No. 74/14.

132 JD, December 3, 2002, pp. 7966–7967 (Louise Harel)/RDPP, No. 74/15.

133 JD, October 30, 2003, pp. 1216–1217 (Michel Bissonnet)/RDPP, No. 74/16.

134 JD, March 23, 2004, p. 3186 (Michel Bissonnet)/RDPP, No. 74/17.

135 JD, October 20, 2004, p. 5190 (Michel Bissonnet)/RDPP, No. 74/18.

136 Ibid.

of the total number. This was more than they had enjoyed during the 37th Legislature but slightly less than their proportional representation within the opposition, given the preponderant role granted to the Official Opposition.¹³⁷ Second, although the President had always been of the opinion that the rights granted to independent Members were given to them collectively regardless of their political affiliation,¹³⁸ during the 39th Legislature, certain parliamentary oversight measures were allocated among the independent Members on an individual basis.

At the opening of the 39th Legislature, seven of the eight independent Members were affiliated with the ADQ and one with QS. During Question Period, each was allowed to ask one question on a rotating basis. In addition, a Member could ask a question on behalf of a colleague affiliated with the same political party.¹³⁹ The Member affiliated with QS could therefore be certain to have one question every eight sittings. The proportion was increased to one question every seven sittings after the leader of the ADQ resigned his seat in the House.¹⁴⁰

When the ADQ was recognized as a parliamentary group on April 21, 2009, the rights of the independent Members with respect to the allocation of measures and speaking time for limited debates were set out in a document adopted by the Assembly. Since there remained only one independent Member, according to the document, the independent Member was entitled to one question every seven sittings, the same number as before. The Member was also entitled to one debate upon adjournment per sessional period, as well as one Wednesday motion and one interpellation per parliamentary year, but the rights to the Wednesday motion and the interpellation could not be used in the same sessional period.

Later, when two Members from the Second Opposition Group decided to sit as independents, the President announced the intention to respect the spirit of the document and protect the rights of the original independent Member

137 JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/RDPP, No. 74/21.

138 JD, December 3, 2002, pp. 7966–7967 (Louise Harel)/RDPP, No. 74/15; JD, March 23, 2004, p. 3186 (Michel Bissonnet)/RDPP, No. 74/17; JD, October 20, 2004, p. 5190 (Michel Bissonnet)/RDPP, No. 74/18.

139 JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/RDPP, No. 74/21.

140 The same logic was applied to the allocation of speaking time during limited debates. The Members affiliated with the ADQ were allocated a total amount of time to share, and a separate amount of time was allocated to the independent Member affiliated with QS.

and the Official Opposition. Consequently, the speaking time and oversight measures granted to the two newly independent Members were drawn from those enjoyed by the Second Opposition Group.¹⁴¹

After several Members of the Official Opposition decided to sit as independents, the total number of independent Members rose to 10. At that point, the President concluded that the underlying logic of the order adopted by the Assembly on April 21, 2009, was no longer applicable, and that the new situation made it necessary to update the allocation of oversight measures and speaking time.¹⁴² He determined that the independent Members would be entitled collectively to a maximum of nine questions—by nine different Members—per eight sittings, and that those questions would be distributed by drawing names,¹⁴³ as is done in several parliaments throughout the world. The President also announced that the same procedure would be adopted for Wednesday motions, interpellations and statements by Members.¹⁴⁴ The Member affiliated with QS no longer had all the rights obtained under the reform of 2009, but he did retain greater latitude as to when he could exercise his rights, given that he was not included in the draw.

As previously mentioned, the President ruled in February 2012 that the Second Opposition Group would cease to be recognized as a parliamentary group following the decision by four of its Members and five independents to sit under the new political banner of the CAQ.¹⁴⁵ Consequently, the allocation of the

141 JD, November 10, 2009, pp. 3845–3847 (Yvon Vallières)/RDPP, No. 13/2; JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/RDPP, No. 74/22; JD, March 9, 2010, pp. 4592–4593 (Yvon Vallières)/RDPP, No. 97.2/3. The Member affiliated with QS thus retained the right to one question per seven sittings as well as the parliamentary oversight measures and speaking time during limited debates set out in the document adopted on April 21, 2009. The two new independent Members were also granted the right to one question per seven sittings and one debate upon adjournment per sessional period. However, they did not enjoy the same rights as the other independent Member with regard to speaking time for limited debates or certain other parliamentary oversight measures. For instance, the two Members who had decided to sit as independents were entitled, together, to one Wednesday motion and one interpellation per cycle of 15, while the other independent Member had the right to one Wednesday motion and one interpellation per parliamentary year.

142 JD, September 20, 2011, pp. 2440–2442 (Jacques Chagnon)/RDPP, No. 74/24.

143 The procedure was established on September 20, 2011, and went through a trial period, after which it was modified on November 1, 2011 (Ibid. and JD, November 1, 2011, p. 3085 (Jacques Chagnon)/RDPP, No. 74/25).

144 The independent Members were collectively allocated two Wednesday motions and two interpellations per cycle of 15. They were also allocated a maximum of five statements by Members per six-sitting cycle, with each Member limited to a maximum of one statement every two cycles. Moreover, every independent Member was granted one debate upon adjournment per sessional period. Independent Members shared a time envelope for limited debates, but had to notify the President within the first 10 minutes of a debate if they wished to speak. The President would then divide the total time in the envelope among those wishing to take the floor. For example, during a two-hour limited debate, the total time allocated to them was 10 minutes, with each individual independent Member being limited to a maximum of five minutes.

145 JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 13/3.

various measures was adjusted so that the 16 independent Members would share a total of 17 questions per eight-sitting cycle.¹⁴⁶ The random-draw procedure was also retained. Each independent Member could be granted not more than one question per cycle. Moreover, despite the fact that the independent Members could trade or yield the right to ask questions, a given independent Member could not ask more than one question per sitting. The draw procedure was also maintained for allocating statements by Members, Wednesday motions and interpellations,¹⁴⁷ with a few rules concerning how rights could be traded or yielded. In addition, the independent Members as a group had the right to one debate upon adjournment per cycle of three sittings.

Later, in April 2012, the President made some changes to the allocation of questions for Question Period and statements by Members after two independent Members had returned to the Official Opposition, which regained the rights that had been devolved to those two Members.¹⁴⁸

During the **40th Legislature**, the President allocated one question per eight-sitting cycle to each of the two independent Members affiliated with the same political party (QS). In his directive,¹⁴⁹ he also specified that from then on, when independent Members were affiliated with the same political party, they would be able to trade or yield such rights to one another. Similarly, the directive revived the practice followed during the 37th Legislature (restated in the document recognizing the ADQ as a parliamentary group during the 39th Legislature) whereby the two independent Members were together entitled to one Wednesday motion and one interpellation per parliamentary year, but never during the same sessional period. The President also granted them each the right to one statement by a Member per six-sitting cycle and one debate upon adjournment per sessional period.

Minor changes were made to this allocation in September 2013, when the President ruled on the impact of the resignation of two Members from the Official Opposition and the decision by a Member from the Second Opposition Group to sit as an independent.¹⁵⁰ In short, the newly independent Member was granted, from the rights enjoyed by his former parliamentary group, the equivalent of those to which the two other independent Members were entitled, that is, the right to one question per eight-sitting cycle and one Member's statement

146 The Chair specified that the Member affiliated with QS, who was the only independent Member to have been elected under the political banner for which he was still sitting, would retain a priority right to ask a question and choose the sitting in which to do so. This was to maintain the rights he enjoyed before the adjournment of the Assembly in December 2011.

147 The Chair granted the 16 independent Members a total of 16 statements by Members per two cycles of six sittings, as well as three Wednesday motions and three interpellations per cycle of 15.

148 JD, April 17, 2012, p. 5714 (Jacques Chagnon)/RDPP, No. 74/27.

149 JD, November 1, 2012, pp. 31-32 (Jacques Chagnon)/RDPP, No. 74/28.

150 JD, September 18, 2013, p. 4370 (Jacques Chagnon)/RDPP, No. 74/29.

per six-sitting cycle. The same approach was taken in February 2014, when the President had to issue a new directive following the decision by a Member of the Official Opposition to sit as an independent.¹⁵¹

At the start of the **41st Legislature**, there were three independent Members affiliated with QS, each of whom was granted one question during Question Period per seven-sitting cycle, one statement by a Member per nine-sitting cycle and one debate upon adjournment per sessional period. Collectively, they were granted one Wednesday motion and one interpellation per parliamentary year, but were not entitled to use both during the same sessional period.¹⁵² Following various changes to the composition of the Assembly and to the number of independent Members sitting in it, the President submitted tables showing the effect of those changes on the allocation of questions during Question Period and Statements by Members, but did not issue a new directive each time.¹⁵³ However, the same logic that had been developed over the course of preceding legislatures was always followed: the rights granted to those of the new independent Members who had expressed the desire to employ them were equivalent to the rights that the other sitting independent Members were entitled to individually, and were drawn from the rights of the parliamentary group from which the new independent Members had come. However, the allocation of Wednesday motions and interpellations was not reviewed following these changes, despite the fact that one of the new independent Members expressed the desire to take advantage of such rights.¹⁵⁴ Since the changes occurred at the end of the legislature and the number of remaining measures that could be used was therefore limited, it was not possible to redistribute them while maintaining the balance among the parliamentary groups in opposition and the Members already sitting as independents.

As we have said, at the beginning of the **42nd Legislature**, the parties represented in the National Assembly came to an agreement¹⁵⁵ that recognized the Second Opposition Group and the Third Opposition Group for the duration of

151 JD, February 11, 2014, p. 6391 (Jacques Chagnon)/RDPP, No. 74/30.

152 JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31.

153 A Member belonging to the Second Opposition Group decided to sit as an independent (VP, September 15, 2015, p. 1351); a serving independent Member died (VP, September 20, 2016, p. 2493); a Member belonging to the Official Opposition and a Member belonging to the Second Opposition Group decided to sit as independents, and an independent Member resigned (VP, February 7, 2017, p. 3002); a Member belonging to the Official Opposition decided to sit as an independent and a new independent Member arrived after being elected in a by-election (VP, June 6, 2017, p. 3535).

154 The independent Member for Vachon requested that right in a letter addressed to the President (JD, October 3, 2017, p. 17267), but withdrew the request a few days later (JD, October 24, 2017, p. 17547).

155 “Entente relative à la notion du groupe parlementaire, au fonctionnement de l’Assemblée et des commissions parlementaires, ainsi qu’aux aspects budgétaires pour la durée de la 42e législature”.

the legislature, and also provided for the distribution of parliamentary measures. In a directive issued on November 29, 2018,¹⁵⁶ the President acknowledged the agreement and implemented it. The only independent Member at that time, who had previously belonged to the Official Opposition, was granted the right to three questions during Question Period per two 10-sitting cycles, one Member's statement per 10-sitting cycle and one debate upon adjournment per sessional period.

In March 2019, after a Member from the Second Opposition Group decided to sit as an independent, the President made changes to the allocation of measures by granting her rights equivalent to those of the other independent Member. The new independent Member's rights were drawn from those granted to her former parliamentary group.¹⁵⁷ In the tables illustrating the new allocation of measures tabled in support of his directive, the President also specified that independent Members would collectively be entitled to one Wednesday motion and one interpellation per parliamentary year, but never in the same sessional period, and that these measures would not be counted in the cycles.

5.2.1.2 INDEPENDENT MEMBERS ON COMMITTEES

Independent Members may serve on parliamentary committees. Although they are not entitled to be appointed to a specific committee, they may nevertheless indicate their personal preferences to the Committee on the National Assembly, which is responsible for committee membership under Standing Order 127.¹⁵⁸ So long as not more than one independent Member expresses a desire to sit on the same committee, a request from an independent Member to serve on a committee is rarely refused. It is common practice for such requests to be granted and for the independent Member to be appointed to the desired committee.¹⁵⁹ When an independent Member joins a sectorial committee, the total number of committee members increases from 10 to 12, and the number of Members from the parliamentary group forming the Government increases from six to seven (SO 122).

¹⁵⁶ JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32.

¹⁵⁷ JD, March 20, 2019, pp. 1069–1072 (François Paradis)/RDPP, No. 13/4. Consequently, the status of the party (PQ) to which the Member had belonged went from Second Opposition Group to Third Opposition Group.

¹⁵⁸ For example, the President refused to grant the request of an independent Member who wished to resign from the Committee on Health and Social Services in order to become a member of the Committee on Institutions. The President found that it was not possible to grant the request because the unanimous consent was required for decisions taken by the Committee on the National Assembly on such matters, and in this case it was lacking. This was because the Leader of the Official Opposition had objected on the grounds that there was already an independent Member sitting on the Committee on Institutions. (JD, December 4, 2013, p. 6057 (Jacques Chagnon)). See Chapter 18, "Parliamentary Committees".

¹⁵⁹ However, in the past, an independent Member's request to sit on the Committee on Public Finance was denied even though there were no other independent Members on the Committee (VP, September 18, 2019, CAN, p. 1 (François Paradis)). When the Member subsequently requested to become a member of the Committee on Culture and Education, her request was granted (VP, October 1, 2019, CAN, p. 1 (François Paradis)).

Independent Members have a special privilege with respect to committees: they are entitled to take part in the proceedings of a committee when it is considering a bill even if they already sit on another committee (SO 133). When they exercise this right, they may move motions, but cannot vote,¹⁶⁰ and there must be a reasonable difference in the amount of speaking time the independent Member is granted and that given to other Members who sit on the committee.¹⁶¹ Independent Members may also take part in the proceedings of the Committee on Public Administration, but they may not vote or move motions (SO 117.4). In contrast, Members from a parliamentary group who have been appointed to sit on a committee may not participate in the work of another committee without the permission of that committee, unless it is considering estimates of expenditure. Even with such permission, they may not vote or move motions (SO 132).¹⁶²

5.2.2 RIGHTS CONFERRED BY CERTAIN LEGISLATIVE PROVISIONS

Some legislative provisions also indirectly grant independent Members certain rights or advantages. Under section 88 of the *Act respecting the National Assembly*, if two or more opposition parties are represented in the Assembly following a general election, the political party that ranked behind the Official Opposition in terms of the number of Members elected or, in the case of a tie, in terms of the number of valid votes obtained, is entitled to designate a Member to the Office of the National Assembly even if that party is not a parliamentary group. This means that an independent Member within the meaning of Standing Order 13 may become a member of the Office on the condition of being affiliated with a political party.¹⁶³

160 JD, March 2, 1993, p. CBA-1871 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 133/1.

161 JD, May 7, 2013, pp. 3023–3025 (Jacques Chagnon)/RDPP, No. 132/1. See also: Minutes, September 27, 2011, CAP p. 3 (Sylvain Simard)/RDPP (Com. Vol.), No. 117.4/1.

162 See Chapter 18, “Parliamentary Committees”.

163 For instance, during the **35th, 36th and 37th Legislatures**, Mario Dumont, Member for Rivière-du-Loup and leader of the ADQ, was designated a member of Office of the National Assembly even though he was considered an independent Member within the meaning of the Standing Orders. At the beginning of the **39th Legislature**, Sylvie Roy, Member for Arthabaska, who was then sitting under the ADQ banner, was also designated a member of the Office of the National Assembly, even though she was considered an independent Member since her party had not yet been recognized as a parliamentary group (which was done, as we have seen, on April 21, 2009). She was later replaced by her colleague Janvier Grondin, Member for Beauce-Nord, who was also affiliated with the ADQ and therefore considered an independent Member. In February 2012, during that same legislature, the President ruled that since the four Members from the Second Opposition Group and five independent Members had decided to sit under the new political banner of the CAQ, they would from then on sit as independents, and Amir Khadir, Member for Mercier, and the only Member representing an opposition party other than the Official Opposition to have been elected under the party’s banner, would be the QS representative to the Office of the National Assembly.

Furthermore, since the last session of the 34th Legislature, all independent Members, whether or not they represent a party, may receive a research and support budget.¹⁶⁴ In the past, only political parties represented in the National Assembly were entitled to such a budget, which is why Members not affiliated with a political party could not have one.¹⁶⁵

An independent Member who is the leader of a political party is not entitled to the additional indemnity granted to a party leader.¹⁶⁶ In addition, such an independent Member, in contrast with the other political party leaders, may not hire administrative office staff, but is authorized to appoint the personnel required to assist with the duties of office, as may any other Member (ANA, s. 124.1).

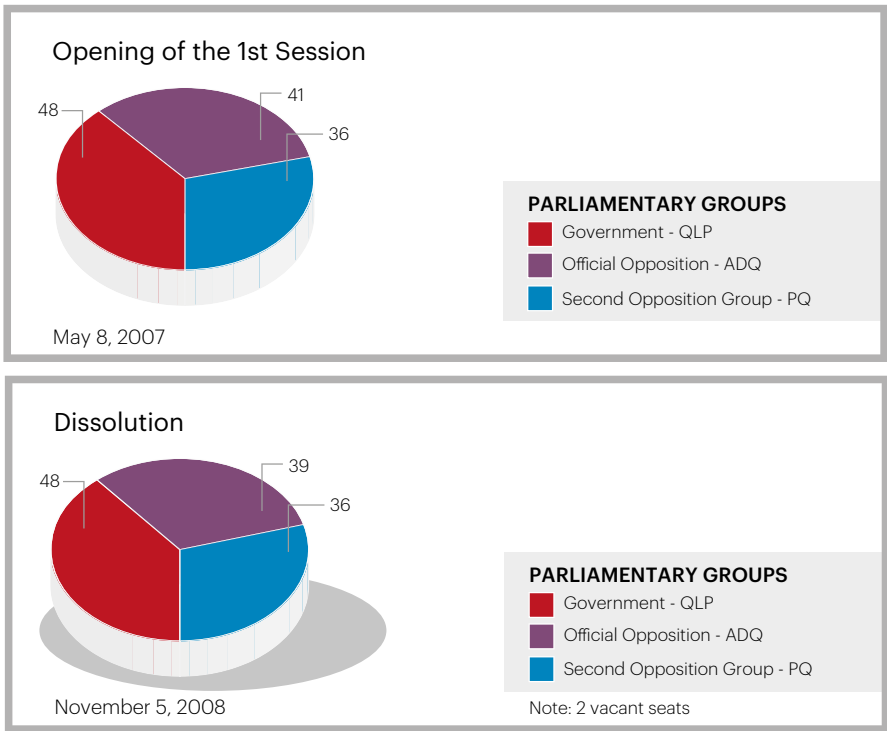
164 Section 108 of the *Act respecting the National Assembly* provides that the Office of the National Assembly determines, by regulation, the amounts that the independent Members and the political parties represented in the National Assembly following the last general election are entitled to receive from the Assembly for research and support purposes, as well as the terms and conditions of payment.

165 However, independent Members affiliated with a political party represented in the Assembly following a general election have a certain advantage over other independent Members. Since 1999, the leader of or an authorized Member from a party that does not constitute a parliamentary group may transfer the amounts required to remunerate the party's regular research and support personnel to the budget granted to the Member in question for the remuneration of personnel and payment of professional services (ANA, s. 108). Formerly, a political party could transfer those amounts only to the budget of the Chief Whip. Since a party that did not constitute a parliamentary group had no whip, it could not take advantage of this provision.

166 In the past, an independent Member who was the leader of a political party was entitled to the additional indemnity granted to a party leader provided the party had met the criteria for forming a parliamentary group in the preceding legislature (*Act respecting the conditions of employment and the pension plan of the Members of the National Assembly*, s. 7, 1st para., subpara. 6(c)). This provision ceased to apply on April 21, 2009, for the duration of the 39th Legislature (SQ, 2009, c. 3, s. 1), and was subsequently repealed definitively in 2012 with the passage of Bill 11, *An Act to amend the Act respecting the National Assembly and the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly*, (SQ, 2012, c. 24, s. 3).

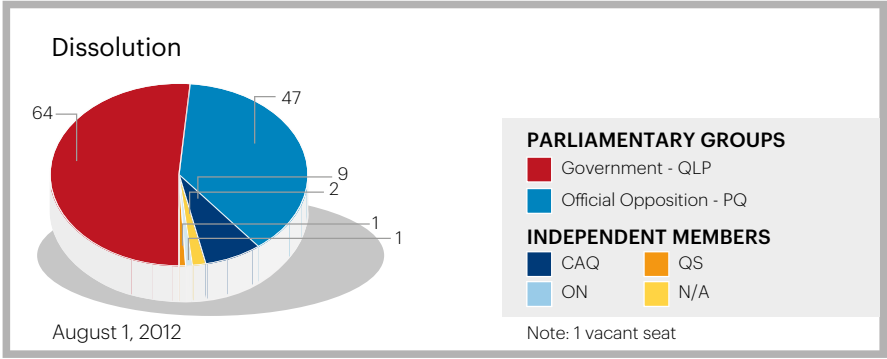
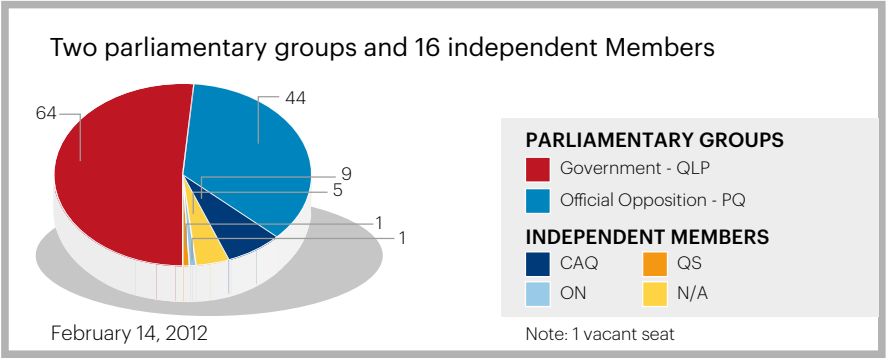
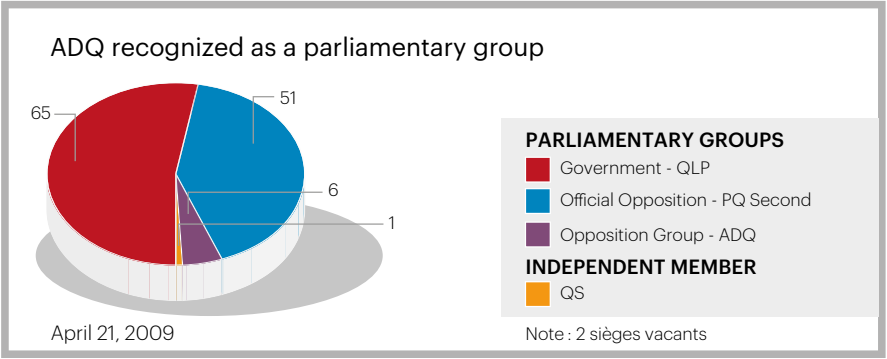
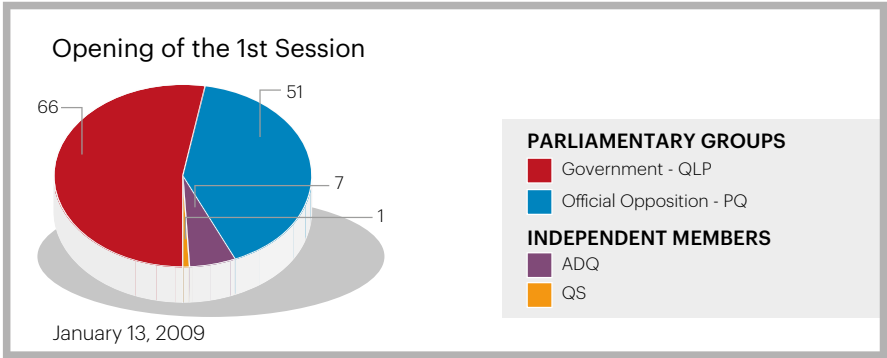
APPENDIX I COMPOSITION OF THE NATIONAL ASSEMBLY FROM THE 38TH TO THE 42ND LEGISLATURE

38TH Legislature



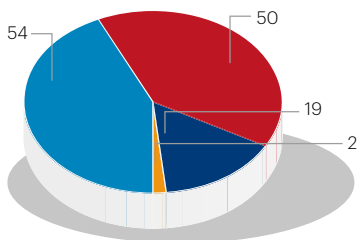
ADQ: ACTION DÉMOCRATIQUE DU QUÉBEC | CAQ: COALITION AVENIR QUÉBEC | N/A: NON-AFFILIATED | ON: OPTION NATIONALE | QLP: QUEBEC LIBERAL PARTY | PQ: PARTI QUÉBÉCOIS | QS: QUÉBEC SOLIDAIRE

39TH Legislature



40TH Legislature

Opening of the 1st Session



October 30, 2012

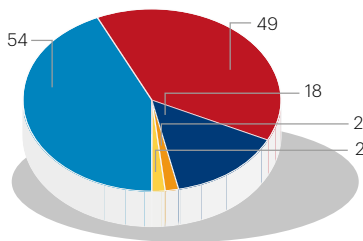
PARLIAMENTARY GROUPS

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- Official Opposition - QLP Second
- Opposition Group - CAQ

INDEPENDENT MEMBERS

- QS

Dissolution



March 5, 2014

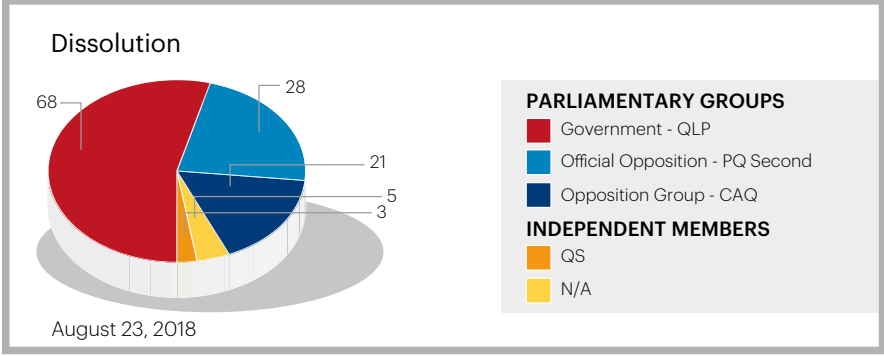
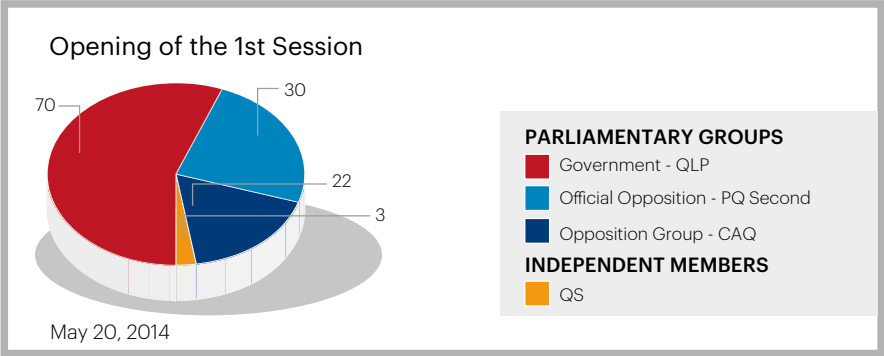
PARLIAMENTARY GROUPS

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- Official Opposition - QLP Second
- Opposition Group - CAQ

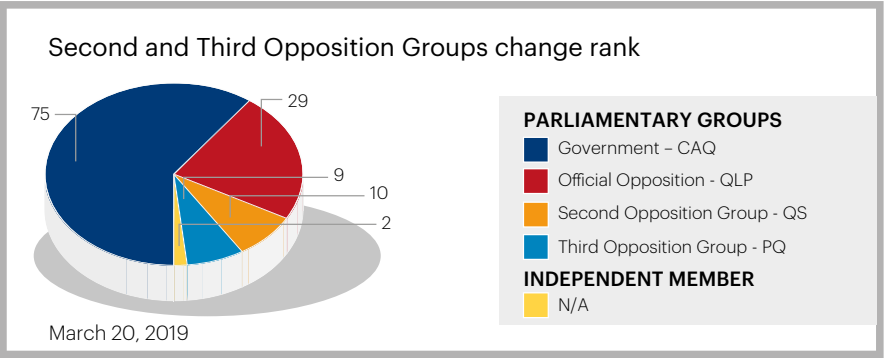
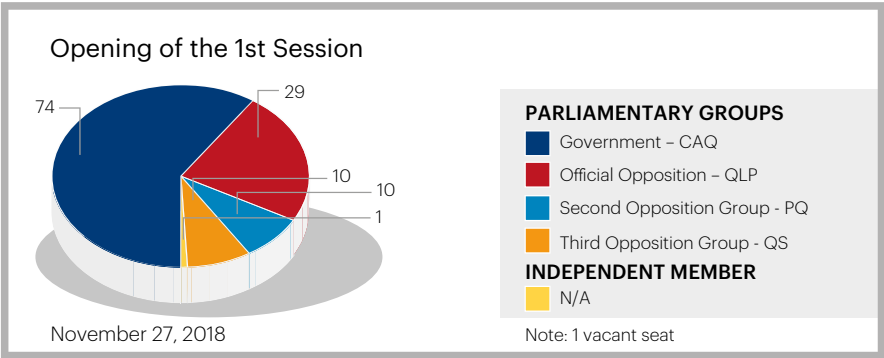
INDEPENDENT MEMBERS

- QS
- N/A

41ST Legislature



42ND Legislature



APPENDIX II SEATING PLAN FOR THE ASSEMBLY

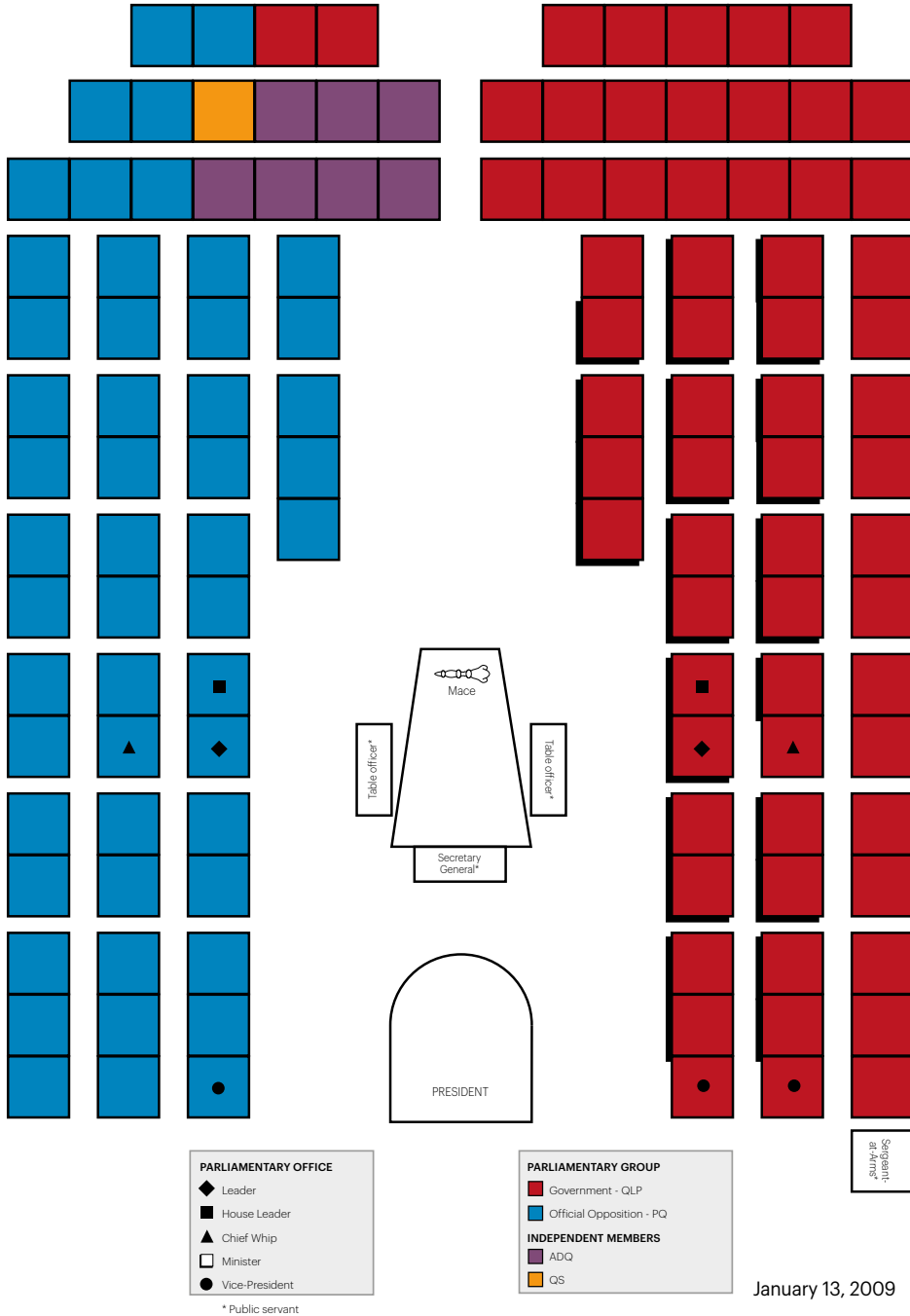
Opening of the 1st Session



* Public servant

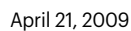
39TH LEGISLATURE

Opening of the 1st Session



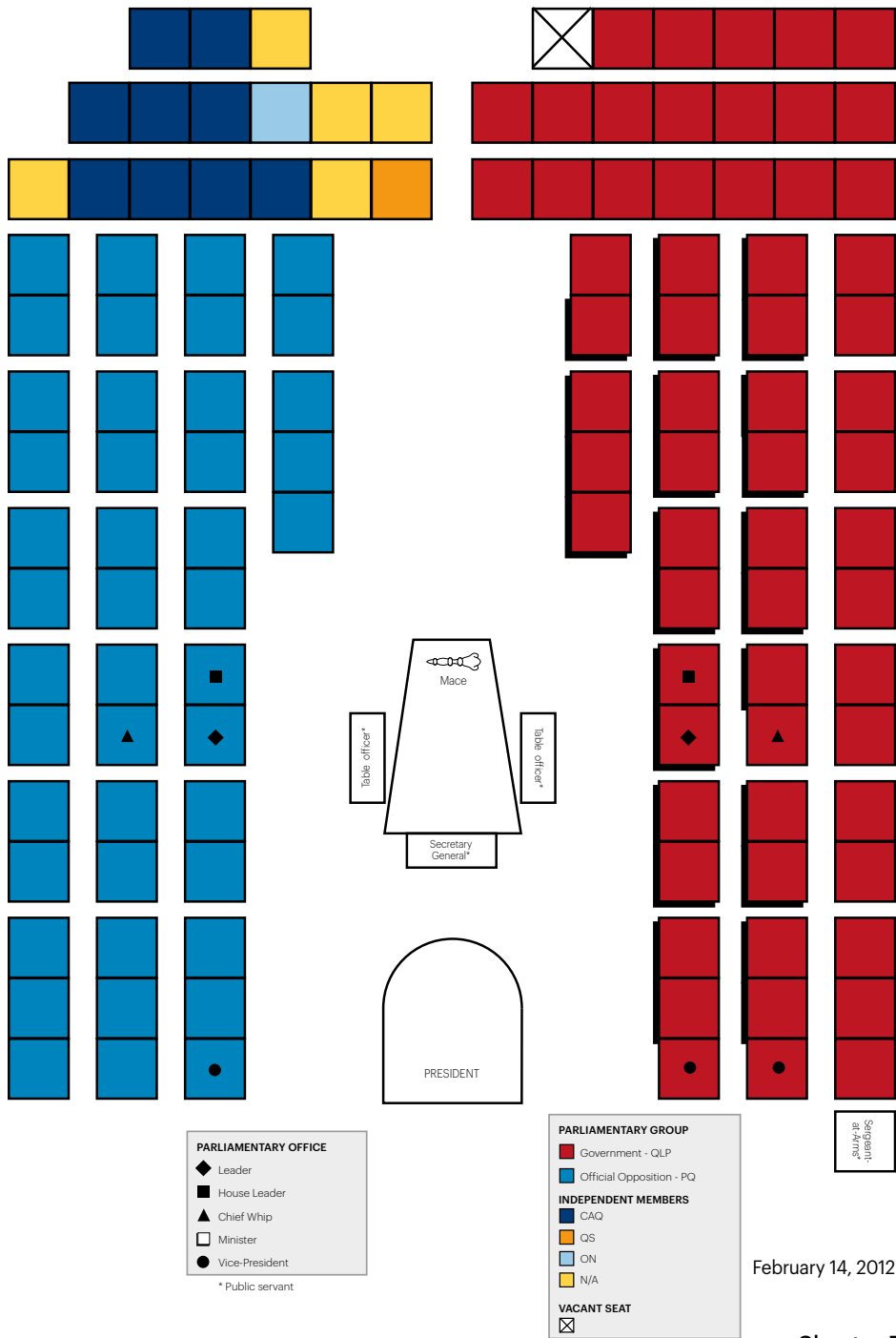
January 13, 2009

The ADQ Recognized as a Parliamentary Group



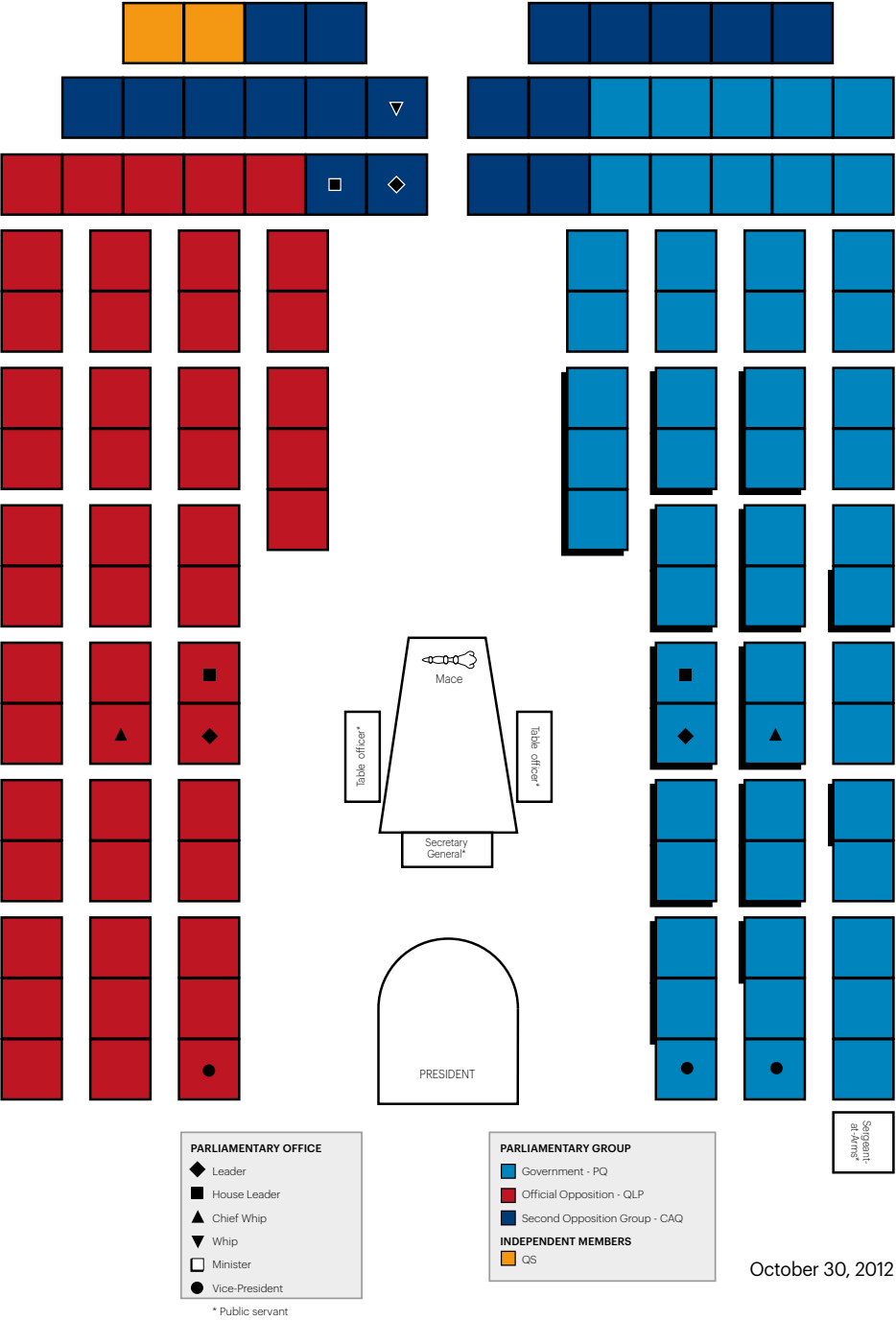
39TH LEGISLATURE

Two Parliamentary Groups and 16 Independent Members



40TH LEGISLATURE

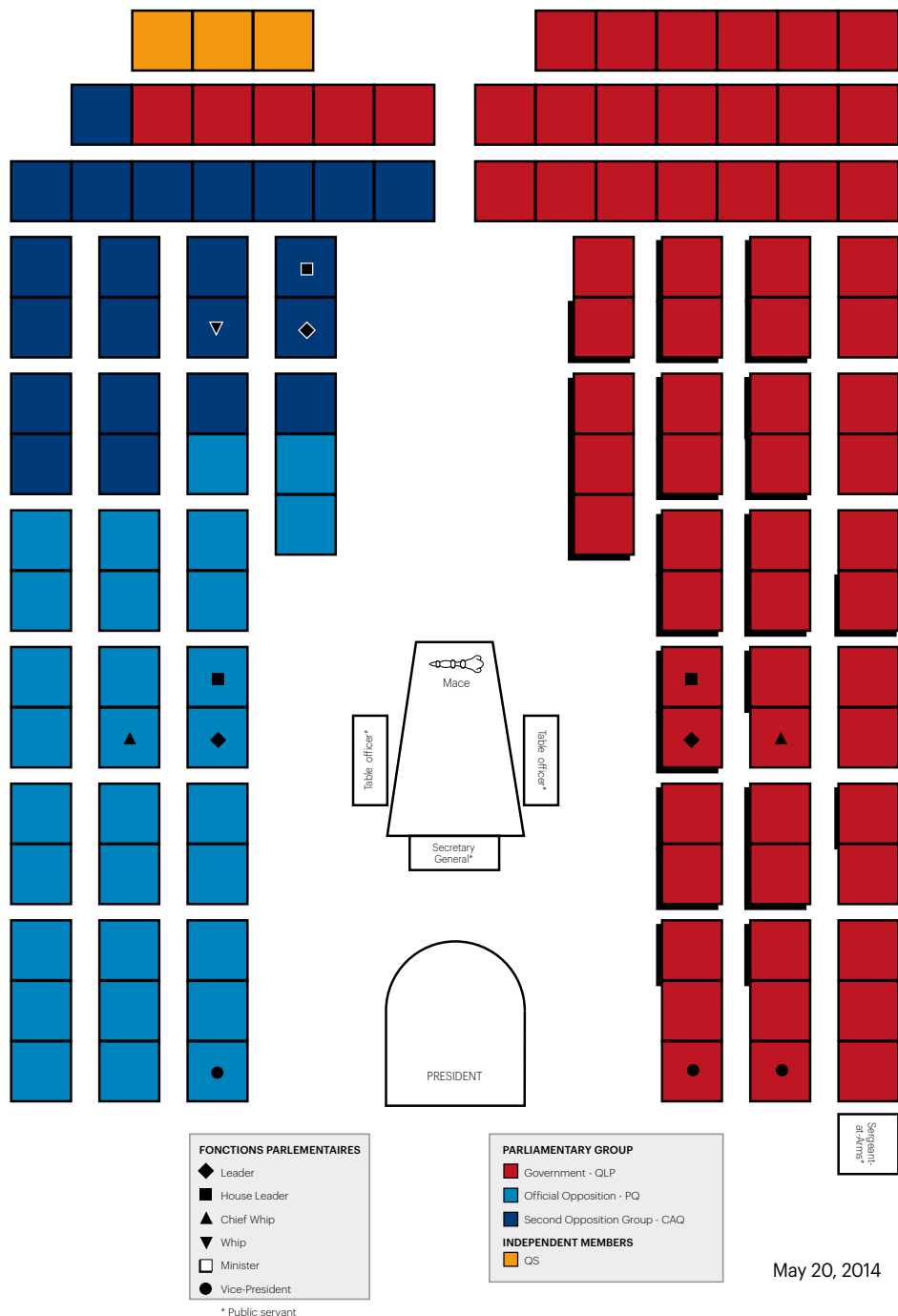
Opening of the 1st Session



October 30, 2012

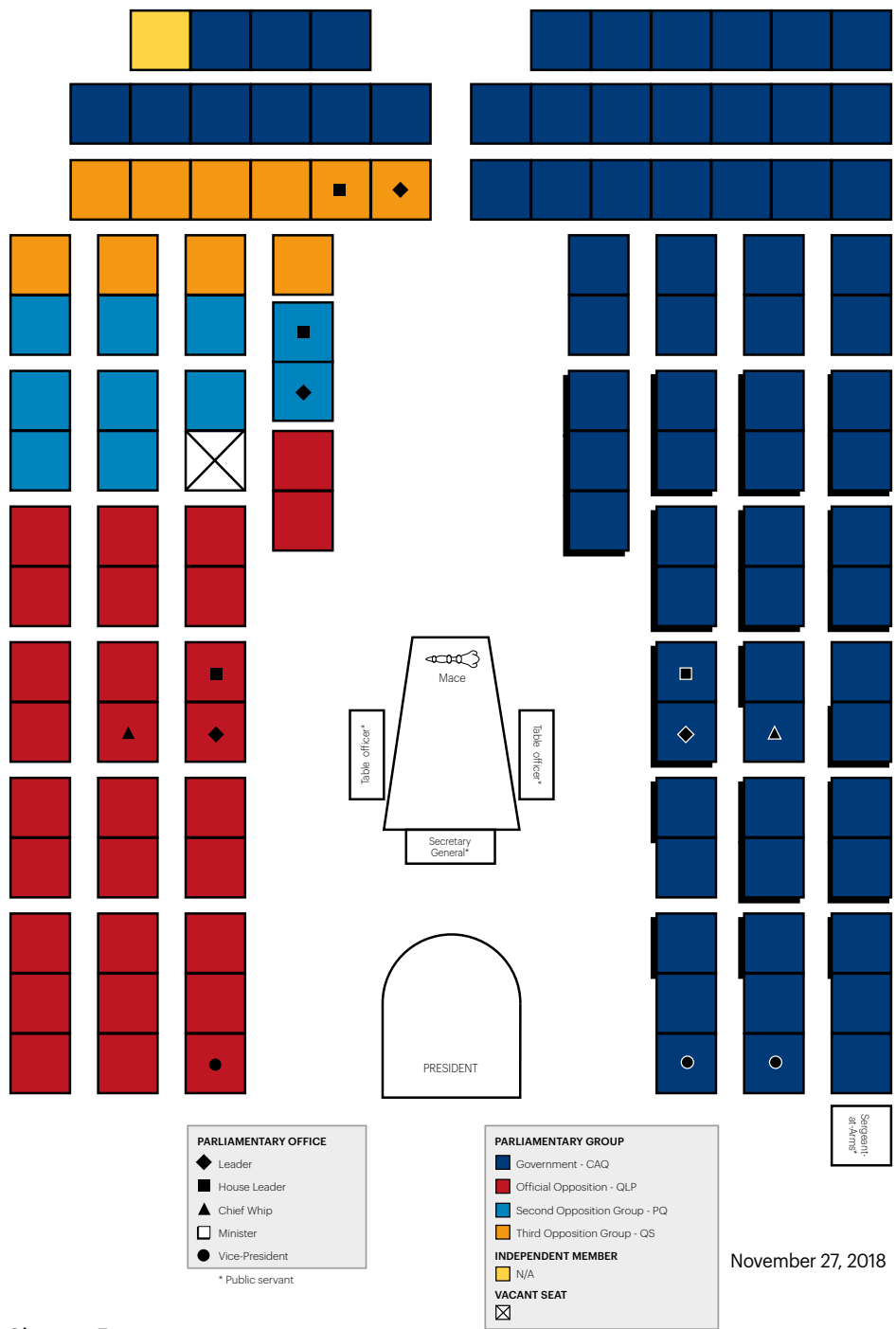
41st LEGISLATURE

Opening of the 1st Session



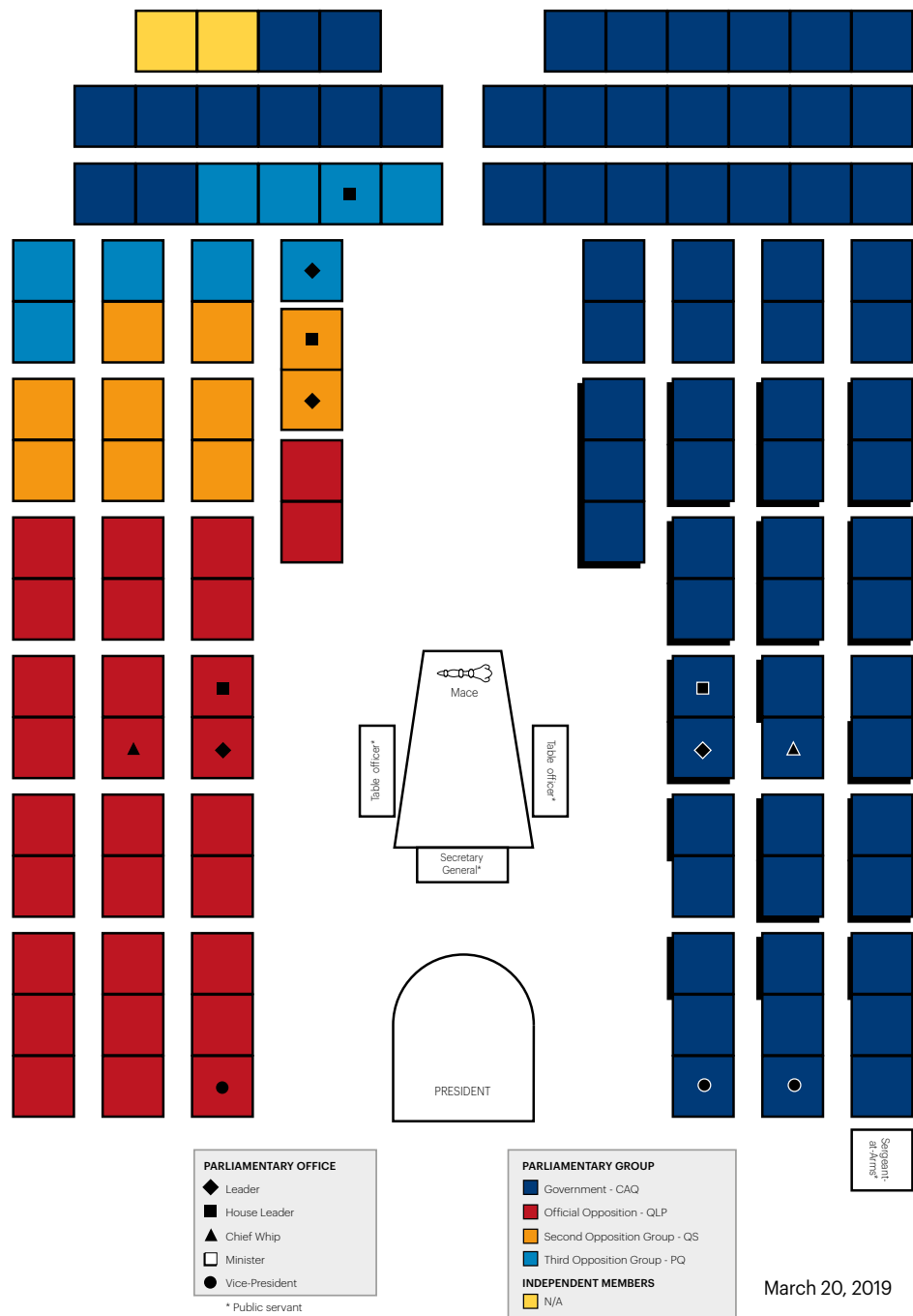
42ND LEGISLATURE

Opening of the 1st Session



42ND LEGISLATURE

Second and Third Opposition Groups Change Ranks



March 20, 2019

APPENDIX III ALLOCATION OF STATEMENTS BY MEMBERS

39TH LEGISLATURE: ADQ RECOGNIZED AS A PARLIAMENTARY GROUP¹⁶⁷

Composition of the Assembly:

- Government (QLP¹⁶⁸): 65 Members
- Official Opposition (PQ¹⁶⁹): 51 Members
- Second Opposition Group (ADQ¹⁷⁰): 6 Members
- Independent: 1 Member affiliated with QS¹⁷¹

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF APRIL 21, 2009)

1	Government	6	Government or independent
2	Official Opposition	7	Official Opposition or independent
3	Government	8	Government
4	Official Opposition	9	Official Opposition
5	Second Opposition Group	10	Government
Government		• 5 statements per sitting.	
Official Opposition		• 4 statements per sitting.	
Second Opposition Group		• 1 statement per sitting.	
Independent		• The 6th or 7th statement once per 6-sitting cycle, in place of a statement by the Government or by the Official Opposition, in alternation.	

¹⁶⁷ JD, April 21, 2009, pp. 1679–1680 (Yvon Vallières); “Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature”, pp. 5–6.

¹⁶⁸ Liberal Party of Québec.

¹⁶⁹ Parti québécois.

¹⁷⁰ Action démocratique du Québec.

¹⁷¹ Québec solidaire.

Chapter 5

39TH LEGISLATURE: TWO MEMBERS FROM THE SECOND OPPOSITION SIT AS INDEPENDENTS¹⁷²

Composition of the Assembly:

- Government (QLP): 66 Members
- Official Opposition (PQ): 51 Members
- Second Opposition Group (ADQ): 4 Members
- Independents:
 - 1 Member affiliated with QS
 - 3 non-affiliated Members¹⁷³

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF NOVEMBER 11, 2009)

1	Government	6	Government or independent
2	Official Opposition	7	Official Opposition or independent
3	Government	8	Government
4	Official Opposition	9	Official Opposition
5	Second Opposition Group or independent	10	Government
Government		• 5 statements per sitting.	
Official Opposition		• 4 statements per sitting.	
Second Opposition Group		• The 5th statement, 4 times per 6-sitting cycle.	
Independents		• The independent Member affiliated with QS retained the right to the 6th or 7th statement once per 6-sittings, in place of a statement by the Government or by the Official Opposition, in alternation. • The 2 new independent Members from the Second Opposition Group were each entitled to the 5th statement once per 6-sittings, in place of a statement from their former group.	

¹⁷² JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/RDPP, No. 74/22.

¹⁷³ One independent Member, who had been part of the parliamentary group forming the Government, did not express a desire to exercise the right to measures and was therefore not included in the new allocation. The following month, the Member returned to the parliamentary group forming the Government.

**39TH LEGISLATURE: SEVERAL OFFICIAL OPPOSITION MEMBERS
SIT AS INDEPENDENTS¹⁷⁴**

Composition of the Assembly:

- Government (QLP): 64 Members
- Official Opposition (PQ): 46 Members
- Second Opposition Group (ADQ): 4 Members
- Independents:
 - 1 Member affiliated with QS
 - 9 non-affiliated Members

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF SEPTEMBER 20, 2011)

1	Government	6	Government or independent
2	Official Opposition	7	Official Opposition or independent
3	Government	8	Government
4	Official Opposition	9	Official Opposition or independent
5	Second Opposition Group or independent	10	Government
Government		• 5 statements per sitting.	
Official Opposition		• 4 statements per sitting.	
Second Opposition Group		• The 5th statement, 4 times per 6-sitting cycle, at the 1st, 3rd, 4th and 6th sittings of the cycle.	
Independents		• 5 statements per 6-sitting cycle: - the 5th statement at the 2nd and 5th sittings of the cycle; - the 6th or 7th statement at the 1st sitting of the cycle, in place of a statement by the Government or by the Official Opposition, in alternation; - The 9th statement at the 3rd and 4th sitting of the cycle, in place of a statement by the Official Opposition.	
Other details		• The times when the independent Members could exercise their rights were determined by random draw. A draw was conducted for a minimum of two 6-sitting cycles. Before the draw was held, the independent Member affiliated with QS informed the President when he wished to exercise his rights.	

¹⁷⁴ JD, September 20, 2011, pp. 2440-2442 (Jacques Chagnon)/RDPP, No. 74/24.

**39TH LEGISLATURE: NINE MEMBERS JOIN THE CAQ,
BRINGING INDEPENDENTS TO 16¹⁷⁵**

Composition of the Assembly:

- Government (QLP): 64 Members
- Official Opposition (PQ): 44 Members
- Independents:
 - 9 Members affiliated with the CAQ¹⁷⁶
 - 1 Member affiliated with QS
 - 1 Member affiliated with ON¹⁷⁷
 - 5 non-affiliated Members

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF FEBRUARY 14, 2012)

1	Government	6	Government or independent
2	Official Opposition	7	Official Opposition or independent
3	Government	8	Government
4	Official Opposition	9	Official Opposition or independent
5	Independent	10	Government or independent
Government		• 5 statements per sitting.	
Official Opposition		• 4 statements per sitting.	
Independents		• 16 statements per two 6-sitting cycles: ¹⁷⁸ - the 5th statement each sitting; - the 6th or 7th statement at the 1st sitting of the cycle, in place of a statement by the Government or by the Official Opposition, in alternation; - the 9th or 10th statement at the 4th sitting of the cycle, in place of a statement by the Government or by the Official Opposition, in alternation.	
Other details		• The times when the independent Members could exercise their rights were determined by random draw. A draw was conducted for a minimum of two 6-sitting cycles. Before the draw was held, the independent Member affiliated with QS informed the President when he wished to exercise his rights.	

¹⁷⁵ JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 74/26.

¹⁷⁶ Coalition avenir Québec.

¹⁷⁷ Option nationale.

¹⁷⁸ This number decreased to 14 statements per 2 6-sitting cycles when 2 independent Members returned to the Official Opposition, with 1 statement per cycle being returned, in alternation, to the Government and to the Official Opposition (JD, April 17, 2012, p. 5714 (Jacques Chagnon)/RDPP, No. 74/27).

40TH LEGISLATURE: OPENING OF THE 1ST SESSION¹⁷⁹

Composition of the Assembly:

- Government (PQ): 54 Members
- Official Opposition (QLP): 50 Members
- Second Opposition Group (CAQ): 19 Members
- Independents: 2 Members affiliated with QS

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF NOVEMBER 1, 2012)

1	Government	6	Government or independent
2	Official Opposition	7	Official Opposition or independent
3	Government	8	Government or Second Opposition Group
4	Official Opposition	9	Official Opposition
5	Second Opposition Group	10	Government
Government		• 5 statements per sitting.	
Official Opposition		• 4 statements per sitting.	
Second Opposition Group		• The 5th statement each sitting. • The 8th statement 3 times per 6-sitting cycle, at the 2nd, 4th, and 6th sittings of the cycle, in place of a statement by the Government.	
Independents		• The 6th or 7th statement twice per 6-sitting cycle, in place of a statement by the Government or by the Official Opposition, in alternation.	
Other details		• Only 1 statement by an independent Member was allowed per sitting.	

¹⁷⁹ JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28.

**40TH LEGISLATURE: TWO OFFICIAL OPPOSITION MEMBERS RESIGN
AND A MEMBER FROM THE SECOND OPPOSITION BECOMES AN INDEPENDENT¹⁸⁰**

Composition of the Assembly:

- Government (PQ): 54 Members
- Official Opposition (QLP): 48 Members
- Second Opposition Group: 18 Members
- Independents
 - 2 Members affiliated with QS
 - 1 non-affiliated Member

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF SEPTEMBER 18, 2013)

1	Government	6	Government or independent
2	Official Opposition	7	Official Opposition or independent
3	Government	8	Government or Second Opposition Group or independent
4	Official Opposition	9	Official Opposition
5	Second Opposition Group	10	Government
Government		• 5 statements per sitting.	
Official Opposition		• 4 statements per sitting.	
Second Opposition Group		• The 5th statement each sitting. • The 8th statement 3 times per 6-sitting cycle, at the 2nd, 4th, and 6th sittings of the cycle, in place of a statement by the Government.	
Independents		• The independent Members affiliated with QS were granted the 6th or 7th statement twice per 6-sitting cycle, in place of a statement by the Government or by the Official Opposition, in alternation. • The other independent Member was granted the 8th statement once per 6-sitting cycle, in place of a statement by the Second Opposition Group.	
Other details		• Only 1 statement by an independent Member affiliated with a given political party was allowed per sitting	

¹⁸⁰ JD, September 18, 2013, p. 4370 (Jacques Chagnon)/RDPP, No. 74/29.

40TH LEGISLATURE: TWO NEW MEMBERS JOIN THE OFFICIAL OPPOSITION AND ONE MEMBER LEAVES THE OFFICIAL OPPOSITION TO SIT AS AN INDEPENDENT¹⁸¹

Composition of the Assembly:

- Government (PQ): 54 Members
- Official Opposition (QLP): 49 Members
- Second Opposition Group (CAQ): 18 Members
- Independents:
 - 2 Members affiliated with QS
 - 2 non-affiliated Members

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF FEBRUARY 11, 2014)

1	Government	6	Government or independent
2	Official Opposition	7	Official Opposition or independent
3	Government	8	Government or Second Opposition Group or independent
4	Official Opposition	9	Official Opposition
5	Second Opposition Group	10	Government Member
Government		• 5 statements per sitting.	
Official Opposition		• 4 statements per sitting.	
Second Opposition Group		• The 5th statement each sitting. • The 8th statement 3 times per 6-sitting cycle, at the 2nd, 4th, and 6th sittings of the cycle, in place of a statement by the Government.	
Independents		• The independent Members affiliated with QS were granted the 6th or 7th statement twice per 6-sitting cycle, in place of a statement by the Government or by the Official Opposition, in alternation. • The independent Member from the Second Opposition Group was granted the 8th statement once per 6-sitting cycle, in place of a statement by the Second Opposition Group. • The independent Member from the Official Opposition was granted the 7th statement once per 6-sitting cycle, at the 1st, 3rd or 5th sitting of the cycle, in place of a statement by the Official Opposition.	
Other details		• Only 1 statement by an independent Member affiliated with a given political party was allowed per sitting. • Independent Members sharing the same slots in the order of statements had to agree on when they would exercise their rights.	

¹⁸¹ JD, February 11, 2014, p. 6391 (Jacques Chagnon)/RDPP, No. 74/30.

Composition of the Assembly:

- Government (QLP): 70 Members
- Official Opposition (PQ): 30 Members
- Second Opposition Group (CAQ): 22 Members
- Independents: 3 Members affiliated with QS

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF MAY 26, 2014)

1	Government	6	Official Opposition or independent
2	Official Opposition	7	Government
3	Government	8	Government or Second Opposition Group
4	Second Opposition Group	9	Government
5	Government	10	Government or Official Opposition
Government		• 5 statements per sitting. • 4 additional statements per 9-sitting cycle: - the 8th statement, at the 2nd and 6th sittings of the cycle, in place of a statement by the Second Opposition Group; - the 10th statement, at the 3rd and 9th sittings of the cycle, in place of a statement by the Official Opposition.	
Official Opposition		• 3 statements per sitting.	
Second Opposition Group		• 2 statements per sitting.	
Independents		• The independent Members affiliated with QS were granted the 6th statement 3 times per 9-sitting cycle, at the 1st, 4th and 7th sittings of the cycle, in place of a statement by the Official Opposition.	
Other details		• The independent Members affiliated with QS could transfer their rights to one another.	

182 JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31.

41ST LEGISLATURE: A MEMBER FROM THE SECOND OPPOSITION BECOMES AN INDEPENDENT¹⁸³

Composition of the Assembly:

- Government (QLP): 69 Members
- Official Opposition (PQ): 29 Members
- Second Opposition Group (CAQ): 20 Members
- Independents:
 - 3 Members affiliated with QS
 - 1 non-affiliated Member

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF SEPTEMBER 15, 2015)

1	Government	6	Official Opposition or independent
2	Official Opposition	7	Government
3	Government	8	Government or Second Opposition Group or independent
4	Second Opposition Group	9	Government
5	Government	10	Government or Official Opposition
Government		• 5 statements per sitting. • 4 additional statements per 9-sitting cycle: - the 8th statement, at the 2nd and 6th sittings of the cycle, in place of a statement by the Second Opposition Group; - the 10th statement, at the 3rd and 9th sittings of the cycle, in place of a statement by the Official Opposition.	
Official Opposition		• 3 statements per sitting.	
Second Opposition Group		• 2 statements per sitting.	
Independents		• The independent Members affiliated with QS were granted the 6th statement 3 times per 9-sitting cycle, at the 1st, 4th and 7th sittings of the cycle, in place of a statement by the Official Opposition. • The independent Member from the Second Opposition Group was granted the 8th statement once per 9-sitting cycle, at the 8th sitting of the cycle, in the place of a statement by the Second Opposition Group.	
Other details		• The independent Members affiliated with QS could transfer their rights to one another.	

¹⁸³ JD, September 15, 2015, p. 6802 (Jacques Chagnon).

41ST LEGISLATURE: DEATH OF AN INDEPENDENT MEMBER¹⁸⁴

Composition of the Assembly:

- Government (QLP): 70 Members
- Official Opposition (PQ): 28 Members
- Second Opposition Group: 20 Members
- Independents: 3 Members affiliated with QS

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF SEPTEMBER 20, 2016)

1	Government	6	Official Opposition or independent
2	Official Opposition	7	Government
3	Government	8	Government or Second Opposition Group
4	Second Opposition Group	9	Government
5	Government	10	Government or Official Opposition
Government		• No change to the allocation of statements by Members established at the opening of the 1st Session of the 41st Legislature.	
Official Opposition			
Second Opposition Group			
Independents			
Other details			

¹⁸⁴ JD, September 20, 2016, p. 11779 (Maryse Gaudreault).

**41ST LEGISLATURE: TWO MEMBERS BECOME INDEPENDENTS
AND AN INDEPENDENT RESIGNS¹⁸⁵**

Composition of the Assembly:

- Government (QLP): 69 Members
- Official Opposition (PQ): 29 Members
- Second Opposition Group (CAQ): 20 Members
- Independents:
 - 2 Members affiliated with QS
 - 4 non-affiliated independent Members

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF FEBRUARY 7, 2017)

1	Government	6	Official Opposition or independent
2	Official Opposition	7	Government
3	Government	8	Government or Second Opposition Group or independent
4	Second Opposition Group	9	Government
5	Government	10	Government or Official Opposition
Government		• 5 statements per sitting • 4 additional statements per 9-sitting cycle: - the 8th statement, at the 2nd and 6th sittings of the cycle, in place of a statement by the Second Opposition Group; - the 10th statement, at the 3rd and 9th sittings of the cycle, in place of a statement by the Official Opposition.	
Official Opposition		• 3 statements per sitting.	
Second Opposition Group		• 2 statements per sitting.	
Independents		• The independent Members affiliated with QS were granted the 6th statement twice per 9-sitting cycle, at the 1st and 7th sittings of the cycle, in place of a statement by the Official Opposition. • The independent Member from the Official Opposition was granted the 6th statement once per 9-sitting cycle, at the 4th sitting of the cycle, in place of a statement by the Official Opposition. • The independent Member from the Second Opposition Group was granted the 8th statement once per 9-sitting cycle, at the 8th sitting of the cycle, in place of a statement by the Second Opposition Group.	
Other details		• The independent Members affiliated with QS could transfer their rights to one another.	

¹⁸⁵ JD, February 7, 2017, p. 13517 (Jacques Chagnon).

**41ST LEGISLATURE: AN OFFICIAL OPPOSITION MEMBER BECOMES
AN INDEPENDENT AND AN INDEPENDENT IS ELECTED ¹⁸⁶**

Composition of the Assembly:

- Government (QLP): 68 Members
- Official Opposition (PQ): 28 Members
- Second Opposition Group (CAQ): 20 Members
- Independents:
 - 3 Members affiliated with QS
 - 5 non-affiliated Members

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF JUNE 6, 2017)

1	Government	6	Official Opposition or independent
2	Official Opposition	7	Government
3	Government	8	Government or Second Opposition Group or independent
4	Second Opposition Group	9	Government
5	Government	10	Government or Official Opposition
Government		• 5 statements per sitting. • 4 additional statements per 9-sitting cycle: - at the 2nd and 6th sittings of the cycle, in place of the 8th statement by the Second Opposition Group; - at the 3rd and 9th sittings of the cycle, in place of the 10th statement by the Official Opposition.	
Official Opposition		• 3 statements per sitting.	
Second Opposition Group		• 2 statements per sitting.	
Independents		• The independent Members affiliated with QS were granted the 6th statement three times per 9-sitting cycle, at the 1st, 5th and 7th sittings of the cycle, in place of a statement by the Official Opposition. • The 2 independent Members from the Official Opposition were granted the 6th statement twice per 9-sitting cycle, at the 1st, 5th and 7th sittings of the cycle, in place of a statement by the Official Opposition. • The independent Member from the Second Opposition Group was granted the 8th statement once per 9-sitting cycle, at the 8th sitting of the cycle, in place of a statement by the Second Opposition Group.	
Other details		• The independent Members affiliated with QS could transfer their rights to one another.	

¹⁸⁶ JD, June 6, 2017, p. 16658 (Jacques Chagnon).

42ND LEGISLATURE: OPENING OF THE 1ST SESSION¹⁸⁷

Composition of the Assembly:

- Government (CAQ): 74 Members
- Official Opposition (QLP): 29 Members
- Second Opposition Group (PQ): 10 Members
 - Third Opposition Group (QS): 10 Members
 - Independents: 1 non-affiliated Member

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF NOVEMBER 28, 2018)

1	Government	6	Government or Second Opposition Group or Third Opposition Group
2	Official Opposition	7	Government
3	Government	8	Government or Second Opposition Group or Third Opposition Group or independent
4	Official Opposition	9	Government
5	Government	10	Government or Official Opposition
Government	• 59 statements per 10-sitting cycle: - 5 statements per sitting; - 9 additional statements per 10-sitting cycle: ▪ the 6th statement at the 3rd and 8th sittings of the cycle; ▪ the 8th statement at the 4th sitting of the cycle; ▪ the 10th statement at the 1st, 3rd, 5th, 7th, 9th and 10th sittings of the cycle.		
Official Opposition	• 24 statements per 10-sitting cycle: - 2 statements per sitting; - 4 additional statements per 10-sitting cycle: the 10th statement at the 2nd, 4th, 6th and 8th sittings of the cycle.		
Second Opposition Group	• 8 statements per 10-sitting cycle: - the 6th statement at the 1st, 4th, 6th and 9th sittings of the cycle; - the 8th statement at the 2nd, 5th, 8th and 10th sittings of the cycle.		
Third Opposition Group	• 8 statements per 10-sitting cycle: - the 6th statement at the 2nd, 5th, 7th and 10th sittings of the cycle; - the 8th statement at the 1st, 3rd, 6th and 9th sittings of the cycle.		
Independents	• 1 statement per 10-sitting cycle: - the 8th statement at the 7th sitting of the cycle.		

¹⁸⁷ "Entente relative à la notion du groupe parlementaire, au fonctionnement de l'Assemblée et des commissions parlementaires, ainsi qu'aux aspects budgétaires pour la durée de la 42e législature", Appendix 1; JD, November 29, 2018, pp. 31-33 (François Paradis)/RDPP, No. 74/32.

42ND LEGISLATURE: ELECTION OF A GOVERNMENT GROUP MEMBER¹⁸⁸

Composition of the Assembly:

- Government (CAQ): 75 Members
- Official Opposition (QLP): 29 Members
- Second Opposition Group (PQ): 10 Members
- Third Opposition Group (QS): 10 Members
- Independents: 1 non-affiliated Member

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF FEBRUARY 5, 2019)

1	Government	6	Government or Second Opposition Group or Third Opposition Group
2	Official Opposition	7	Government
3	Government	8	Government or Second Opposition Group or Third Opposition Group or independent
4	Official Opposition	9	Government
5	Government	10	Government or Official Opposition
Government		• 60 statements per 10-sitting cycle: - 5 statements per sitting; - 10 additional statements per 10-sitting cycle: ▪ the 6th statement at the 3rd and 8th sittings of the cycle; ▪ the 8th statement at the 4th sitting of the cycle; ▪ the 10th statement at the 1st, 3rd, 5th, 7th and 10th sittings of the cycle.	
Official Opposition		• 23 statements per 10-sitting cycle: - 2 statements per sitting; - 3 additional statements per 10-sitting cycle: the 10th statement at the 2nd, 4th and 6th sittings of the cycle.	
Second Opposition Group		• 8 statements per 10-sitting cycle: - the 6th statement at the 1st, 4th, 6th and 9th sittings of the cycle; - the 8th statement at the 2nd, 5th, 8th and 10th sittings of the cycle.	
Third Opposition Group		• 8 statements per 10-sitting cycle: - the 6th statement at the 2nd, 5th, 7th and 10th sittings of the cycle; - the 8th statement at the 1st, 3rd, 6th and 9th sittings of the cycle.	
Independents		• 1 statement per 10-sitting cycle: - the 8th statement at the 7th sitting of the cycle.	

¹⁸⁸ JD, February 5, 2019, p. 423 (François Paradis).

42ND LEGISLATURE: A MEMBER FROM THE SECOND OPPOSITION BECOMES AN INDEPENDENT¹⁸⁹

Composition of the Assembly:

- Government (CAQ): 75 Members
- Official Opposition (QLP): 29 Members
- Second Opposition Group (QS): 10 Members
- Third Opposition Group (PQ): 9 Members
- Independents: 2 non-affiliated Members

ALLOCATION OF STATEMENTS BY MEMBERS (AS OF MARCH 20, 2019)

1	Government	6	Government or Second Opposition Group or Third Opposition Group
2	Official Opposition	7	Government
3	Government	8	Government or Second Opposition Group or Third Opposition Group or independent
4	Official Opposition	9	Government
5	Government	10	Government or Official Opposition
Government		• 60 statements per 10-sitting cycle: - 5 statements per sitting; - 10 additional statements per 10-sitting cycle: • the 6th statement at the 3rd and 8th sittings of the cycle; • the 8th statement at the 4th sitting of the cycle; • the 10th statement at the 1st, 3rd, 5th, 7th, 9th and 10th sittings of the cycle.	
Official Opposition		• 23 statements per 10-sitting cycle: - 2 statements per sitting; - 4 additional statements per 10-sitting cycle: the 10th statement at the 2nd, 4th, 6th and 8th sittings of the cycle.	
Second Opposition Group		• 8 statements per 10-sitting cycle: - the 6th statement at the 1st, 4th, 6th and 9th sittings of the cycle; - the 8th statement at the 2nd, 5th, 8th and 10th sittings of the cycle.	
Third Opposition Group		• 7 statements per 10-sitting cycle: - the 6th statement at the 2nd, 5th, 7th and 10th sittings of the cycle; - the 8th statement at the 1st, 3rd and 9th sittings of the cycle.	
Independents		• 1 statement each per 10-sitting cycle: - the 8th statement at the 6th and 7th sittings of the cycle.	

189 JD, March 20, 2019, pp. 1069-1072 (François Paradis)/RDPP, No. 13/4. As a result, the PQ's rank changed from Second Opposition Group to Third Opposition Group, whereas QS's rank went from Third Opposition Group to Second Opposition Group.

APPENDIX IV ALLOCATION OF INTERPELLATIONS AND OF BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION (WEDNESDAY MOTIONS)

Composition of the Assembly:

- Government (QLP): 48 Members
- Official Opposition (ADQ): 41 Members
- Second Opposition Group (PQ): 36 Members

ALLOCATION OF INTERPELLATIONS AND BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION (WEDNESDAY MOTIONS) (AS OF OCTOBER 18, 2007)

1	Official Opposition	6	Official Opposition
2	Second Opposition Group	7	Second Opposition Group
3	Official Opposition	8	Official Opposition
4	Second Opposition Group	9	Second Opposition Group
5	Official Opposition	10	Official Opposition
Official Opposition		• 6 Wednesday motions and 6 interpellations per cycle of 10.	
Second Opposition Group		• 4 Wednesday motions and 4 interpellations per cycle of 10.	
Other Details		• The 1st Wednesday motion and 1st interpellation in a sessional period were granted to the Official Opposition.	

¹⁹⁰ JD, October 18, 2007, pp. 1549–1550 (Michel Bissonnet)/RDPP, No. 97.2/2.

39TH LEGISLATURE: ADQ RECOGNIZED AS A PARLIAMENTARY GROUP¹⁹¹

Composition of the Assembly:

- Government (QLP): 65 Members
- Official Opposition (PQ): 51 Members
- Second Opposition Group (ADQ): 6 Members
- Independents: 1 Member affiliated with QS

ALLOCATION OF INTERPELLATIONS AND BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION (WEDNESDAY MOTIONS) (AS OF APRIL 21, 2009)

1	Official Opposition	6	Official Opposition
2	Official Opposition	7	Official Opposition
3	Official Opposition	8	Official Opposition
4	Second Opposition Group	9	Official Opposition
5	Official Opposition	10	Official Opposition
Official Opposition		• All Wednesday motions and interpellations not specifically allocated to other Members.	
Second Opposition Group		• One 4th Wednesday motion and one 4th interpellation per cycle of 10.	
Independents		• 1 Wednesday motion and 1 interpellation per parliamentary year, but never both in the same sessional period.	
Other Details		• The 1st Wednesday motion and 1st interpellation in a sessional period were granted to the Official Opposition. • The Wednesday motion allocated to the independent Member was not included in the cycles and could not be preceded or followed by a Wednesday motion moved by the Second Opposition Group. • The interpellation allocated to the Second Opposition Group could not be preceded or followed by an interpellation by an independent Member.	

191 JD, April 21, 2009, pp. 1679-1680 (Yvon Vallières); "Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature", pp. 3-4.

**39TH LEGISLATURE: TWO MEMBERS FROM THE SECOND OPPOSITION
SIT AS INDEPENDENTS¹⁹²**

Composition of the Assembly:

- Government (QLP): 67 Members
- Official Opposition (PQ): 50 Members
- Second Opposition Group (ADQ): 4 Members
- Independents:
 - 1 Member affiliated with QS
 - 2 non-affiliated Members

**ALLOCATION OF INTERPELLATIONS AND BUSINESS STANDING IN THE NAME
OF MEMBERS IN OPPOSITION (WEDNESDAY MOTIONS) (AS OF MARCH 9, 2010)**

1	Official Opposition	9	Official Opposition
2	Official Opposition	10	Official Opposition
3	Official Opposition	11	Official Opposition
4	Official Opposition or Second Opposition Group	12	Official Opposition
5	Official Opposition	13	Official Opposition
6	Official Opposition or Second Opposition Group	14	Official Opposition
7	Official Opposition	15	Official Opposition
8	Official Opposition or independents		
Official Opposition		• All Wednesday motions and interpellations not specifically allocated to other Members.	
Second Opposition Group		• 1 Wednesday motion and 1 interpellation per cycle of 15, alternating between the 6th and 4th slots.	
Independents		• The Member affiliated with QS was granted 1 Wednesday motion and 1 interpellation per parliamentary year, but never both in the same sessional period. • The 2 independent Members from the Second Opposition Group were collectively granted one 8th Wednesday motion and one 8th interpellation per 2 cycles of 15.	
Other Details		• The 1st Wednesday motion and 1st interpellation in a sessional period were granted to the Official Opposition. • The Wednesday motion and the interpellation by the independent Member affiliated with QS were not included in the cycles and could not be preceded or followed by a Wednesday motion or an interpellation by the Second Opposition Group.	

¹⁹² JD, March 9, 2010, pp. 4592–4593 (Yvon Vallières)/RDPP, No. 97.2/3.

39TH LEGISLATURE: SEVERAL OFFICIAL OPPOSITION MEMBERS SIT AS INDEPENDENTS¹⁹³

Composition of the Assembly:

- Government (QLP): 64 Members
- Official Opposition (PQ): 46 Members
- Second Opposition Group (ADQ): 4 Members
- Independents:
 - 1 Member affiliated with QS
 - 9 non-affiliated Members

ALLOCATION OF INTERPELLATIONS AND BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION (WEDNESDAY MOTIONS) (AS OF SEPTEMBER 20, 2011)

1	Official Opposition	9	Official Opposition
2	Official Opposition	10	Official Opposition
3	Official Opposition	11	Official Opposition
4	Second Opposition Group	12	Independents
5	Official Opposition	13	Official Opposition
6	Official Opposition	14	Official Opposition
7	Official Opposition	15	Official Opposition
8	Independents		
Official Opposition		• All Wednesday motions and interpellations not specifically allocated to other Members.	
Second Opposition Group		• One 4th Wednesday motion and one 4th interpellation per cycle of 15.	
Independents		• The Member affiliated with QS was granted 1 Wednesday motion and 1 interpellation per parliamentary year, but never both in the same sessional period. • The other independent Members were collectively granted 2 Wednesday motions and 2 interpellations per cycle of 15, in the 8th and 12th slots.	

¹⁹³ JD, September 20, 2011, pp. 2440–2442 (Jacques Chagnon)/RDPP, No. 74/24.

Other Details	• The 1st Wednesday motion and 1st interpellation in a sessional period were granted to the Official Opposition. • The Wednesday motion and the interpellation by the independent Member affiliated with QS were not included in the cycles and could not be preceded or followed by a Wednesday motion or an interpellation by the Second Opposition Group. • The Wednesday motions and the interpellations allocated to the independent Members were subject to a single random draw for the duration of one cycle. The independent Member whose name was drawn had to choose from the time slots available for either type of measure. Before the draw, the independent Member affiliated with QS had to inform the President of the sitting at which he wished to avail himself of his rights. • After the draw, 2 independent Members could agree to trade rights, but only if the measures were allocated by the same draw.

**39TH LEGISLATURE: NINE MEMBERS JOIN THE CAQ,
BRINGING INDEPENDENTS TO 16¹⁹⁴**

Composition of the Assembly:

- Government (QLP): 64 Members
- Official Opposition (PQ): 44 Members
- Independents:
 - 9 Members affiliated with the CAQ
 - 1 Member affiliated with QS
 - 1 Member affiliated with ON
 - 5 non-affiliated Members

**ALLOCATION OF INTERPELLATIONS AND BUSINESS STANDING IN THE NAME
OF MEMBERS IN OPPOSITION (WEDNESDAY MOTIONS) (AS OF FEBRUARY 14, 2012)**

1	Official Opposition	9	Official Opposition
2	Official Opposition	10	Official Opposition
3	Official Opposition	11	Official Opposition
4	Independents	12	Independents
5	Official Opposition	13	Official Opposition
6	Official Opposition	14	Official Opposition
7	Official Opposition	15	Official Opposition
8	Independents		
Official Opposition		• All Wednesday motions and interpellations not specifically allocated to other Members.	
Independents		• The Member affiliated with QS was granted 1 Wednesday motion and 1 interpellation per parliamentary year, but never both in the same sessional period. • The other independent Members were collectively granted 3 Wednesday motions and 3 interpellations per cycle of 15, in the 4th, 8th and 12th slots.	

¹⁹⁴ JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 74/26.

Other Details	• The 1st Wednesday motion and 1st interpellation in a sessional period were granted to the Official Opposition. • The Wednesday motion and the interpellation by the independent Member affiliated with QS were not included in the cycles. • The Wednesday motions and interpellations allocated to the independent Members were subject to a single random draw for the duration of one cycle. The independent Member whose name was drawn had to choose from the time slots available for either type of measure. Before the draw, the independent Member affiliated with QS had to inform the President of the sitting at which he wanted to avail himself of his rights. • After the draw, 2 independent Members could agree to trade rights, but only if the measures were allocated by the same draw. An independent Member could also transfer rights to another independent Member.

Composition of the Assembly:

- Government (PQ): 54 Members
- Official Opposition (QLP): 50 Members
- Second Opposition Group (CAQ): 19 Members
- Independents: 2 Members affiliated with QS

ALLOCATION OF INTERPELLATIONS AND BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION (WEDNESDAY MOTIONS) (AS OF NOVEMBER 1, 2012)

1	Official Opposition	7	Official Opposition
2	Official Opposition	8	Second Opposition Group
3	Official Opposition	9	Official Opposition
4	Second Opposition Group	10	Official Opposition
5	Official Opposition	11	Official Opposition
6	Official Opposition	12	Second Opposition Group
Official Opposition		• All Wednesday motions and interpellations not specifically allocated to other Members.	
Second Opposition Group		• 3 Wednesday motions and 3 interpellations per cycle of 12, in the 4th, 8th and 12th slots.	
Independents		• The independent Members were collectively granted 1 Wednesday motion and 1 interpellation per parliamentary year, but never both in the same sessional period.	
Other Details		• The 1st Wednesday motion and 1st interpellation in a sessional period were granted to the Official Opposition. • The Wednesday motion and the interpellation by the independent Members were not included in the cycles.	

¹⁹⁵ JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28.

Composition of the Assembly:

- Government (QLP): 70 Members
- Official Opposition (PQ): 30 Members
- Second Opposition Group (CAQ): 22 Members
- Independents:
 - 3 Members affiliated with QS

ALLOCATION OF INTERPELLATIONS AND BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION (WEDNESDAY MOTIONS) (AS OF MAY 26, 2014)

1	Official Opposition	6	Official Opposition
2	Second Opposition Group	7	Second Opposition Group
3	Official Opposition	8	Official Opposition
4	Second Opposition Group	9	Second Opposition Group
5	Official Opposition	10	Official Opposition
Official Opposition		• 6 Wednesday motions and 6 interpellations per cycle of 10.	
Second Opposition Group		• 4 Wednesday motions and 4 interpellations per cycle of 10, in the 2nd, 4th, 7th and 9th slots.	
Independents		• The independent Members affiliated with QS were collectively granted 1 Wednesday motion and 1 interpellation per parliamentary year, but never both in the same sessional period.	
Other Details		• The 1st Wednesday motion and 1st interpellation in a sessional period were granted to the Official Opposition. • The Wednesday motion and interpellation by the independent Members affiliated with QS were not included in the cycles.	

¹⁹⁶ JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31.

Composition of the Assembly:

- Government (CAQ): 74 Members
- Official Opposition (QLP): 29 Members
- Second Opposition Group (PQ): 10 Members
- Third Opposition Group (QS): 10 Members
- Independents: 1 non-affiliated Member

ALLOCATION OF INTERPELLATIONS AND BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION (WEDNESDAY MOTIONS) (AS OF NOVEMBER 28, 2018)

OF MEMBERS IN OPPOSITION (WEDNESDAY MOTIONS) (AS OF NOVEMBER 26, 2016)			
1	Official Opposition	6	Third Opposition Group
2	Official Opposition	7	Official Opposition
3	Official Opposition	8	Official Opposition
4	Second Opposition Group	9	Second Opposition Group
5	Official Opposition	10	Official Opposition
		11	Third Opposition Group
Official Opposition		• 7 Wednesday motions and 7 interpellations per cycle of 11.	
Second Opposition Group		• 2 Wednesday motions and 2 interpellations per cycle of 11, in the 4th and 9th slots	
Third Opposition Group		• 2 Wednesday motions and 2 interpellations per cycle of 11, in the 6th and 11th slots.	
Other Details		• The 1st Wednesday motion and 1st interpellation in a sessional period were granted to the Official Opposition.	

¹⁹⁷ "Entente relative à la notion du groupe parlementaire, au fonctionnement de l'Assemblée et des commissions parlementaires, ainsi qu'aux aspects budgétaires pour la durée de la 42e législature", Appendix 1; RDPP, No. 74/32.

42ND LEGISLATURE: A MEMBER FROM THE SECOND OPPOSITION BECOMES AN INDEPENDENT¹⁹⁸

Composition of the Assembly:

- Government (CAQ): 75 Members
- Official Opposition (QLP): 29 Members
- Second Opposition Group (QS): 10 Members
- Third Opposition Group (PQ): 9 Members
- Independents: 2 non-affiliated Members

ALLOCATION OF INTERPELLATIONS AND BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION (WEDNESDAY MOTIONS) (AS OF MARCH 20, 2019)

1	Official Opposition	6	Third Opposition Group
2	Official Opposition	7	Official Opposition
3	Official Opposition	8	Official Opposition
4	Second Opposition Group	9	Second Opposition Group
5	Official Opposition	10	Official Opposition
		11	Third Opposition Group
Official Opposition		• 7 Wednesday motions and 7 interpellations per cycle of 11.	
Second Opposition Group		• 2 Wednesday motions and 2 interpellations per cycle of 11, in the 4th and 9th slots.	
Third Opposition Group		• 2 Wednesday motions and two interpellations per cycle of 11, in the 6th and 11th slots.	
Independents		• The independent Members were collectively granted 1 Wednesday motion and 1 interpellation per parliamentary year, but never both in the same sessional period. • The Wednesday motion and interpellation granted to the independent Members were not included in the cycle.	
Other Details		• The 1st Wednesday motion and 1st interpellation in a sessional period were granted to the Official Opposition.	

198 JD, March 20, 2019, pp. 1069–1072 (François Paradis)/RDPP, No. 13/4. As a result, the PQ's rank changed from Second Opposition Group to Third Opposition Group, and QS's rank went from Third Opposition Group to Second Opposition Group.

Composition of the Assembly:

- Government (CAQ): 76 Members
- Official Opposition (QLP): 28 Members
- Second Opposition Group (QS): 10 Members
- Third Opposition Group (PQ): 9 Members
- Independents: 2 non-affiliated Members

ALLOCATION OF INTERPELLATIONS AND BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION (WEDNESDAY MOTIONS) (AS OF FEBRUARY 4, 2020)

1	Official Opposition	6	Third Opposition Group
2	Official Opposition	7	Official Opposition
3	Official Opposition	8	Second Opposition Group
4	Second Opposition Group	9	Official Opposition
5	Official Opposition	10	Third Opposition Group
Official Opposition		• 6 Wednesday motions and 6 interpellations per cycle of 10.	
Second Opposition Group		• 2 Wednesday motions and 2 interpellations per cycle of 10, in the 4th and 8th slots.	
Third Opposition Group		• 2 Wednesday motions and 2 interpellations per cycle of 10, in the 6th and 10th slots.	
Independents		• The independent Members were collectively granted 1 Wednesday motion and 1 interpellation per parliamentary year, but never both in the same sessional period. • The Wednesday motion and the interpellation granted to the independent Members were not included in the cycle.	
Other Details		• The 1st Wednesday motion and 1st interpellation in a sessional period were granted to the Official Opposition.	

199 JD, February 4, 2020, pp. 6205–6206 (François Paradis).

APPENDIX V ALLOCATION OF DEBATES UPON ADJOURNMENT

38TH LEGISLATURE: OPENING OF THE 1ST SESSION²⁰⁰

Composition of the Assembly:

- Government (QLP): 48 Members
- Official Opposition (ADQ): 41 Members
- Second Opposition Group (PQ): 36 Members

ALLOCATION OF DEBATES UPON ADJOURNMENT (AS OF MAY 10, 2007)

	Sitting 1	Sitting 2	Sitting 3
1st debate	Official Opposition	Official Opposition	Official Opposition
2nd debate	Second Opposition Group	Second Opposition Group	Second Opposition Group
3rd debate	Official Opposition	Official Opposition	Second Opposition Group
Official Opposition	• 5 debates upon adjournment per 3 sittings.		
Second Opposition Group	• 4 debates upon adjournment per 3 sittings.		
Government	• 1 debate upon adjournment per 9 sittings, in place of a debate by the Official Opposition or a debate by the Second Opposition Group, in alternation.		
Other Details	• When the President received 3 or fewer requests for debates upon adjournment, the Members' requests were granted, regardless of the group to which they belonged. • When there were more than 3 requests for debate, the President determined which ones would be held and in which order.		

²⁰⁰ JD, May 10, 2007, pp. 68–69 (Michel Bissonnet)/RDPP, No. 311/1.

39TH LEGISLATURE: ADQ RECOGNIZED AS A PARLIAMENTARY GROUP²⁰¹

Composition of the Assembly:

- Government (QLP): 65 Members
- Official Opposition (PQ): 51 Members
- Second Opposition Group (ADQ): 6 Members
- Independents: 1 Member affiliated with QS

ALLOCATION OF DEBATES UPON ADJOURNMENT (AS OF APRIL 21, 2009)

	Sitting 1	Sitting 2
Official Opposition	5 debates upon adjournment	
Second Opposition Group	1 debate upon adjournment	
Official Opposition	• All debates upon adjournment not specifically allocated to other Members.	
Second Opposition Group	• 1 debate upon adjournment per 2 sittings.	
Government	• 1 debate upon adjournment per 7 sittings.	
Independents	• 1 debate upon adjournment per sessional period.	
Other Details	• These rights were exercised only if the President received more than 3 requests for debate per sitting.	

²⁰¹ JD, April 21, 2009, pp. 1679-1680 (Yvon Vallières); "Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature", p. 4.

**39TH LEGISLATURE: TWO MEMBERS FROM THE SECOND OPPOSITION
SIT AS INDEPENDENTS²⁰²**

Composition of the Assembly:

- Government (QLP): 66 Members
- Official Opposition (PQ): 51 Members
- Second Opposition Group (ADQ): 4 Members
- Independents:
 - 1 Member affiliated with QS
 - 3 non-affiliated Members²⁰³

ALLOCATION OF DEBATES UPON ADJOURNMENT (AS OF NOVEMBER 11, 2009)

	Sitting 1	Sitting 2	Sitting 3
Official Opposition	8 debates upon adjournment		
Second Opposition Group	1 debate upon adjournment		
Official Opposition	• All debates upon adjournment not specifically allocated to other Members.		
Second Opposition Group	• 1 debate upon adjournment per 3 sittings.		
Government	• 1 debate upon adjournment per 7 sittings.		
Independents	• 1 debate upon adjournment each per sessional period.		
Other Details	• These rights were exercised only if the President received more than 3 requests for debate per sitting. • An independent Member could not raise a debate during the same sitting as a Member from the Second Opposition Group.		

²⁰² JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/RDPP, No. 74/22.

²⁰³ One independent Member, who had previously been part of the parliamentary group forming the Government, did not express a desire to exercise his rights and was therefore not taken into account under the new allocation. The following month, the Member rejoined the parliamentary group forming the Government.

**39TH LEGISLATURE: SEVERAL OFFICIAL OPPOSITION MEMBERS
SIT AS INDEPENDENTS²⁰⁴**

Composition of the Assembly:

- Government (QLP): 64 Members
- Official Opposition (PQ): 46 Members
- Second Opposition Group (ADQ): 4 Members
- Independents:
 - 1 Member affiliated with QS
 - 9 non-affiliated independent Members

ALLOCATION OF DEBATES UPON ADJOURNMENT (AS OF SEPTEMBER 20, 2011)

	Sitting 1	Sitting 2	Sitting 3
Official Opposition	8 debates upon adjournment		
Second Opposition Group	1 debate upon adjournment		
Official Opposition	• All debates upon adjournment not specifically allocated to other Members.		
Second Opposition Group	• 1 debate upon adjournment per 3 sittings.		
Government	• 1 debate upon adjournment per 7 sittings.		
Independents	• 1 debate upon adjournment each per sessional period, in place of a debate raised by the Official Opposition.		
Other Details	• These rights were exercised only if the President received more than 3 requests for debate per sitting. • Not more than one debate upon adjournment could be raised by an independent Member per 3-sitting cycle. • An independent Member could not raise a debate during the same sitting as a Member from the Second Opposition Group.		

²⁰⁴ JD, September 20, 2011, pp. 2440–2442 (Jacques Chagnon)/RDPP, No. 74/24.

**39TH LEGISLATURE: NINE MEMBERS JOIN THE CAQ,
BRINGING INDEPENDENTS TO 16²⁰⁵**

Composition of the Assembly:

- Government (QLP): 64 Members
- Official Opposition (PQ): 44 Members
- Independents:
 - 9 Members affiliated with the CAQ
 - 1 Member affiliated with QS
 - 1 Member affiliated with ON
 - 5 non-affiliated Members

ALLOCATION OF DEBATES UPON ADJOURNMENT (AS OF FEBRUARY 14, 2012)

	Sitting 1	Sitting 2	Sitting 3
Official Opposition	8 debates upon adjournment		
Independents	1 debate upon adjournment		
Official Opposition	• All debates upon adjournment not specifically allocated to other Members		
Government	• 1 debate upon adjournment per 7 sittings.		
Independents	• 1 debate upon adjournment per 3-sitting cycle.		
Other Details	• These rights were exercised only if the President received more than 3 requests for debate per sitting.		

²⁰⁵ JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 74/26.

Composition of the Assembly:

- Government (PQ): 54 Members
- Official Opposition (QLP): 50 Members
- Second Opposition Group (CAQ): 19 Members
- Independents: 2 Members affiliated with QS

ALLOCATION OF DEBATES UPON ADJOURNMENT (AS OF NOVEMBER 1, 2012)

	Sitting 1	Sitting 2	Sitting 3
1st debate	Official Opposition	Official Opposition	Official Opposition
2nd debate	Second Opposition Group	Official Opposition	Second Opposition Group
3rd debate	Official Opposition	Official Opposition	Official Opposition
Official Opposition	• 7 debates upon adjournment per 3-sitting cycle.		
Second Opposition Group	• 2 debates upon adjournment per 3-sitting cycle, in the 2nd slot of the 1st and 3rd sittings.		
Independents	• 1 debate upon adjournment each per sessional period.		
Government	• 1 debate upon adjournment per 7 sittings.		
Other Details	• The rights were distributed in this manner only if the President received more than 3 requests for debate per sitting.		

²⁰⁶ JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28.

41ST LEGISLATURE: OPENING OF THE 1ST SESSION ²⁰⁷

Composition of the Assembly:

- Government (QLP): 70 Members
- Official Opposition (PQ): 30 Members
- Second Opposition Group (CAQ): 22 Members
- Independents:
 - 3 Members affiliated with QS

ALLOCATION OF DEBATES UPON ADJOURNMENT (AS OF MAY 26, 2014)

1st debate	Official Opposition
2nd debate	Second Opposition Group
3rd debate	Official Opposition
Official Opposition	• All debates upon adjournment not specifically allocated to other Members.
Second Opposition Group	• 1 debate upon adjournment per sitting, in the 2nd slot.
Independents	• 1 debate upon adjournment each per sessional period, in the 3rd slot
Government	• 1 debate upon adjournment per 6 sittings.
Other Details	• The rights were distributed in this manner only if the President received several requests for debate and had to determine the order.

²⁰⁷ JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31.

Composition of the Assembly:

- Government (CAQ): 74 Members
- Official Opposition (QLP): 29 Members
- Second Opposition Group (PQ): 10 Members
- Third Opposition (QS): 10 Members
- Independents: 1 non-affiliated Member

ALLOCATION OF DEBATES UPON ADJOURNMENT (AS OF NOVEMBER 28, 2018)

	Sitting 1	Sitting 2
1st debate	Official Opposition	Official Opposition
2nd debate	Second Opposition Group	Third Opposition Group
3rd debate	Official Opposition	Official Opposition
Official Opposition	• All debates upon adjournment not specifically allocated to other Members.	
Second Opposition Group	• 1 debate upon adjournment per 2-sitting cycle, in the 2nd slot.	
Third Opposition Group	• 1 debate upon adjournment per 2-sitting cycle, in the 2nd slot.	
Government	• 1 debate upon adjournment per 6 sittings, in the 3rd slot.	
Independents	• 1 debate upon adjournment per sessional period, in the 3rd slot.	
Other Details	• The rights were distributed in this manner only if the President received several requests for debate and had to determine the order.	

208 "Entente relative à la notion du groupe parlementaire, au fonctionnement de l'Assemblée et des commissions parlementaires, ainsi qu'aux aspects budgétaires pour la durée de la 42^e législature", Appendix 1; *RDPP*, No. 74/32.

42ND LEGISLATURE: A MEMBER FROM THE SECOND OPPOSITION BECOMES AN INDEPENDENT²⁰⁹

Composition of the Assembly:

- Government (CAQ): 75 Members
- Official Opposition (QLP): 29 Members
- Second Opposition Group (QS): 10 Members
- Third Opposition Group (PQ): 9 Members
- Independents: 2 non-affiliated Members

ALLOCATION OF DEBATES UPON ADJOURNMENT (AS OF MARCH 20, 2019)

	Sitting 1	Sitting 2
1st debate	Official Opposition	Official Opposition
2nd debate	Second Opposition Group	Third Opposition Group
3rd debate	Official Opposition	Official Opposition
Official Opposition	• All debates upon adjournment not specifically allocated to other Members.	
Second Opposition Group	• 1 debate upon adjournment per 2-sitting cycle, in the 2nd slot.	
Third Opposition Group	• 1 debate upon adjournment per 2-sitting cycle, in the 2nd slot.	
Government	• 1 debate upon adjournment per 6 sittings, in the 3rd slot.	
Independents	• 1 debate upon adjournment each per sessional period, in the 3rd slot.	
Other Details	• The rights were distributed in this manner only if the President received several requests for debate and had to determine the order.	

209 JD, March 20, 2019, pp. 1069–1072 (François Paradis)/RDPP, No. 13/4. As a result, the PQ's rank changed from Second Opposition Group to Third Opposition Group, and the rank of QS went from Third Opposition Group to Second Opposition Group.

APPENDIX VI ALLOCATION OF SPEAKING TIME

38TH LEGISLATURE: OPENING OF THE 1ST SESSION

Composition of the Assembly:

- Government (QLP): 48 Members
- Official Opposition (ADQ): 41 Members
- Second Opposition Group (PQ): 36 Members

ALLOCATION OF SPEAKING TIME (AS OF MAY 8, 2007)

	Limited debates					
	Opening speech (24:00) ²¹⁰	Budget speech (13:30) ²¹¹	5:00	02:00 ²¹²		1:00
				Without reply (2:00)	With reply (1:50)	
Government	09:18:00	05:08:00	-	00:46:05	00:42:14	00:23:02
Official Opposition	08:14:00	04:51:00	-	00:39:05	00:36:05	00:19:41
Second Opposition Group	06:28:00	03:31:00	-	00:34:34	00:31:41	00:17:17
Other Details	• Each parliamentary group was allocated speaking time based on the number of seats it held in the Assembly.					

²¹⁰ JD, May 10, 2007, p. 69 (Michel Bissonnet)/RDPP, No. 50/3.

²¹¹ JD, May 29, 2007, p. 942 (Michel Bissonnet).

²¹² JD, June 20, 2007, p. 1365 (Jacques Chagnon)/RDPP, No. 210/6.

39TH LEGISLATURE: OPENING OF THE 1ST SESSION

Composition of the Assembly:

- Government (QLP): 66 Members
- Official Opposition (PQ): 51 Members
- Independents:
 - 7 Members affiliated with the ADQ
 - 1 Member affiliated with QS

ALLOCATION OF SPEAKING TIME (AS OF JANUARY 13, 2009)

	Limited debates					
	Opening speech (24:00) ²¹³	Budget speech (13:30) ²¹⁴	5:00	2:00		1:00
				Without reply (2:00) ²¹⁵	With reply (1:50) ²¹⁶	
Government	11:03:30	06:06:00	-	00:54:00	00:39:00	-
Official Opposition	11:03:30	06:16:00	-	00:54:00	00:39:00	-
Independents						
ADQ	01:33:00	00:53:00	-	00:12:00	00:11:00	-
QS	00:20:00	00:15:00	-			-

²¹³ JD, March 11, 2009, p. 181 (Fatima Houda-Pepin).

²¹⁴ JD, March 25, 2009, p. 1287 (François Gendron).

²¹⁵ JD, April 7, 2009, p. 1537 (Fatima Houda-Pepin).

²¹⁶ JD, April 8, 2009, p. 1591 (Jacques Chagnon).

39TH LEGISLATURE: ADQ RECOGNIZED AS A PARLIAMENTARY GROUP²¹⁷

Composition of the Assembly:

- Government (QLP): 65 Members
- Official Opposition (PQ): 51 Members
- Second Opposition Group (ADQ): 6 Members
- Independents: 1 Member affiliated with QS

ALLOCATION OF SPEAKING TIME (AS OF APRIL 21, 2009)

	Limited debates					
	Opening speech (24:00)	Budget speech (13:30)	5:00:00	2:00		1:00
				Without reply (2:00)	With reply (1:50)	
Government	10:38:00	05:54:30	02:12:30	00:51:30	00:47:00	00:26:00
Official Opposition	10:38:00	05:54:30	02:12:30	00:51:30	00:47:00	00:26:00
Second Opposition Group	02:24:00	01:21:00	00:30:00	00:12:00	00:11:00	00:06:00
Independent	00:20:00	00:20:00	00:05:00	00:05:00	00:05:00	00:02:00
Other Details	• An amount of time, which varied according to the type of debate, was allocated to the independent Member. • 10% of the total time was allocated to the Second Opposition Group. • The remaining time was divided equally between the parliamentary group forming the Government and that forming the Official Opposition.					

217 JD, April 21, 2009, pp. 1679–1680 (Yvon Vallières); “Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature”, Appendix 3.

39TH LEGISLATURE: TWO MEMBERS FROM THE SECOND OPPOSITION SIT AS INDEPENDENTS²¹⁸

Composition of the Assembly:

- Government (QLP): 66 Members
- Official Opposition (PQ): 51 Members
- Second Opposition Group (ADQ): 4 Members
- Independents:
 - 1 Member affiliated with QS
 - 3 non-affiliated Members²¹⁹

ALLOCATION OF SPEAKING TIME (AS OF NOVEMBER 11, 2009)

	Limited debates					
	Opening speech (24:00)	Budget speech (13:30)	5:00	2:00		1:00
				Without reply (2:00)	With reply (1:50)	
Government	10:39:36	05:54:30	02:12:30	00:51:30	00:47:00	00:26:00
Official Opposition	10:39:36	05:54:30	02:12:30	00:51:30	00:47:00	00:26:00
Second Opposition Group	01:40:48	00:56:42	00:21:00	00:08:24	00:07:42	00:04:12
Independents						
QS	00:20:00	00:20:00	00:05:00	00:05:00	00:05:00	00:02:00
Others	00:40:00	00:24:18	00:09:00	00:03:36	00:03:18	00:01:48
Other Details	• An amount of time, which varied according to the type of debate, was allocated to the independent Member affiliated with QS. • 7% of the total time was allocated to the Second Opposition Group. • 3% percent of the total time was allocated to the other independent Members. • The remaining time was divided equally between the parliamentary group forming the Government and that forming the Official Opposition.					

²¹⁸ JD, November 10, 2009, pp. 3845–3847 (Yvon Vallières)/RDPP, No. 13/2; JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/RDPP, No. 74/22.

²¹⁹ One independent Member, who had previously been part of the parliamentary group forming the Government, did not express a desire to exercise his rights and was therefore not taken into account under the new allocation. The following month, the Member rejoined the parliamentary group forming the Government.

**39TH LEGISLATURE: SEVERAL OFFICIAL OPPOSITION MEMBERS
SIT AS INDEPENDENTS²²⁰**

Composition of the Assembly:

- Government (QLP): 64 Members
- Official Opposition (PQ): 46 Members
- Second Opposition Group (ADQ): 4 Members
- Independents:
 - 1 Member affiliated with QS
 - 9 non-affiliated independent Members

ALLOCATION OF SPEAKING TIME (AS OF SEPTEMBER 20, 2011)

	Limited debates					
	Opening speech (24:00)	Budget speech (13:00)	5:00	2:00		1:00
				Without reply (2:00)	With reply (1:50)	
Government	10:29:36	05:46:39	02:09:30	00:50:48	00:46:09	00:25:24
Official Opposition	10:29:36	05:46:39	02:09:30	00:50:48	00:46:09	00:25:24
Second Opposition Group	01:40:48	00:56:42	00:21:00	00:08:24	00:07:42	00:04:12
Independents	01:20:00	01:00:00	00:20:00	00:10:00	00:10:00	00:05:00
Other Details	• The independent Members had 10 minutes after the beginning of a limited debate to inform the President of their desire to speak during the debate. The President divided the total time allocated to the independent Members as a group among those who indicated their wish to speak. • For limited debates of 2 hours or less, each independent Member was entitled to a maximum of 5 minutes. • Any speaking time not used by the Second Opposition Group and the independent Members was divided equally between the parliamentary group forming the Government and that forming the Official Opposition.					

²²⁰ JD, September 20, 2011, pp. 2440-2442 (Jacques Chagnon)/RDPP, No. 74/24.

**39TH LEGISLATURE: NINE MEMBERS JOIN THE CAQ;
INDEPENDENTS INCREASE TO 16²²¹**

- Composition of the Assembly:
- Government (QLP): 64 Members
- Official Opposition (PQ): 44 Members
- Independents:
 - 9 Members affiliated with the CAQ
 - 1 Member affiliated with QS
 - 1 Member affiliated with Option nationale (ON)
 - 5 non-affiliated Members

ALLOCATION OF SPEAKING TIME (AS OF FEBRUARY 14, 2012)

	Limited debates				
	Budget speech (13:30)	5:00	2:00		1:00
			Without reply (2:00)	With reply (1:50)	
Government	05:52:30	02:10:00	00:51:30	00:47:00	00:25:00
Official Opposition	05:52:30	02:10:00	00:51:30	00:47:00	00:25:00
Independents	01:45:00	00:40:00	00:17:00	00:16:00	00:10:00
Other Details	• The independent Members had 10 minutes after the beginning of a limited debate to inform the President of their wish to speak during the debate. The President divided the total time allocated to the independent Members as a group among those who indicated their wish to speak. • For limited debates of 2 hours or less, each independent Member was entitled to a maximum of 5 minutes. • Any speaking time not used by the independent Members was divided equally between the parliamentary group forming the Government and that forming the Official Opposition.				

221 JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 74/26.

39TH LEGISLATURE: TWO INDEPENDENT MEMBERS RETURN TO THE OFFICIAL OPPOSITION²²²

Composition of the Assembly:

- Government (QLP): 64 Members
- Official Opposition (PQ): 46 Members
- Independents:
 - 9 Members affiliated with the CAQ
 - 1 Member affiliated with QS
 - 1 Member affiliated with ON
 - 3 non-affiliated Members

ALLOCATION OF SPEAKING TIME (AS OF APRIL 17, 2012)

	Limited debates				
	Budget speech (13:30)	5:00	2:00		1:00
			Without reply (2:00)	With reply (1:50)	
Government	06:00:00	02:12:30	00:52:00	00:47:30	00:25:00
Official Opposition	06:00:00	02:12:30	00:52:00	00:47:30	00:25:00
Independents	01:30:00	00:35:00	00:16:00	00:15:00	00:10:00
Other Details	• The independent Members had 10 minutes after the beginning of a limited debate to inform the President of their desire to speak during the debate. The President divided the total time allocated to the independent Members as a group among those who indicated their desire to speak. • For limited debates of 2 hours or less, each independent Member was entitled to a maximum of 5 minutes. For limited debates of over 2 hours, the President determined the maximum amount of speaking time that could be used by an independent Member based on the circumstances. • Any speaking time not used by the independent Members was divided equally between the parliamentary group forming the Government and that forming the Official Opposition.				

²²² JD, April 17, 2012, p. 5714 (Jacques Chagnon)/RDPP, No. 74/27.

40TH LEGISLATURE: OPENING OF THE 1ST SESSION ²²³

Composition of the Assembly:

- Government (PQ): 54 Members
- Official Opposition (QLP): 50 Members
- Second Opposition Group: 19 Members
- Independents: 2 Members affiliated with QS

ALLOCATION OF SPEAKING TIME (AS OF NOVEMBER 1, 2012)

	Limited debates					
	Opening speech (24:00)	Budget speech (13:30)	5:00	2:00		1:00
				Without reply (2:00)	With reply (1:50)	
Government	10:23:25	05:46:50	02:07:19	00:50:29	00:46:06	00:25:28
Official Opposition	09:37:14	05:21:08	01:57:53	00:46:45	00:42:41	00:23:35
Second Opposition Group	03:39:21	02:02:02	00:44:48	00:17:46	00:16:13	00:08:58
Independents	00:20:00	00:20:00	00:10:00	00:05:00	00:05:00	00:02:00
Other Details	• A time envelope, which varied based on the length of the debate, was allocated to the independent Members, who had to agree among themselves on how they wished to use it. • The remaining time was divided among the parliamentary groups in proportion to the number of seats each held in the Assembly. • Any unused speaking time was redistributed among the parliamentary groups based on the same proportionality rule.					

²²³ JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28.

40TH LEGISLATURE: TWO OFFICIAL OPPOSITION MEMBERS RESIGN AND A MEMBER FROM THE SECOND OPPOSITION BECOMES AN INDEPENDENT²²⁴

Composition of the Assembly:

- Government (PQ): 54 Members
- Official Opposition (QLP): 48 Members
- Second Opposition Group (CAQ): 18 Members
- Independents:
 - 2 Members affiliated with QS
 - 1 non-affiliated Member

ALLOCATION OF SPEAKING TIME (AS OF SEPTEMBER 18, 2013)

	2-hour limited debates	
	Without reply (2:00)	With reply (1:50)
Government	00:51:18	00:46:48
Official Opposition	00:45:36	00:41:36
Second Opposition Group	00:17:06	00:15:36
Independents	00:06:00	00:06:00
Other Details	• A time envelope, which varied based on the length of the debate, was allocated to the independent Members. • The remaining time was divided among the parliamentary groups in proportion to the number of seats each held in the Assembly. • Any unused speaking time was redistributed among the parliamentary groups based on the same proportionality rule.	

²²⁴ JD, September 18, 2013, p. 4370 (Jacques Chagnon)/RDPP, No. 74/29.

**40TH LEGISLATURE: TWO NEW MEMBERS JOIN THE OFFICIAL OPPOSITION
AND ONE MEMBER LEAVES THE OFFICIAL OPPOSITION TO SIT AS AN INDEPENDENT** 225

Composition of the Assembly:

- Government (PQ): 54 Members
- Official Opposition (QLP): 49 Members
- Second Opposition Group (CAQ): 18 Members
- Independents:
 - 2 Members affiliated with QS
 - 2 non-affiliated Members

ALLOCATION OF SPEAKING TIME (AS OF FEBRUARY 11, 2014)

	2-hour limited debates	
	Without reply (2:00)	With reply (1:50)
Government	00:50:26	00:45:58
Official Opposition	00:45:46	00:41:43
Second Opposition Group	00:16:49	00:15:19
Independents	00:07:00	00:07:00
Other Details	• A time envelope, which varied based on the length of the debate, was allocated to the independent Members. • The remaining time was divided among the parliamentary groups in proportion to the number of seats each held in the Assembly. • The independent Members had 10 minutes after the beginning of a limited debate to inform the President of their wish to speak during the debate. The President divided the time envelope allocated to the independent Members as a group among those who indicated their wish to speak. • For limited debates of 2 hours or less, each independent Member was entitled to a maximum of 5 minutes. For limited debates of over 2 hours, the President determined the maximum amount of speaking time that could be used by an independent Member based on the circumstances. • Any unused speaking time was redistributed among the parliamentary groups in proportion to the number of seats each held in the Assembly.	

225 JD, February 11, 2014, p. 6391 (Jacques Chagnon)/RDPP, No. 74/30.

41ST LEGISLATURE: OPENING OF THE 1ST SESSION ²²⁶

Composition of the Assembly:

- Government (QLP): 70 Members
- Official Opposition (PQ): 30 Members
- Second Opposition Group (CAQ): 22 Members
- Independents:
 - 3 Members affiliated with QS

ALLOCATION OF SPEAKING TIME (AS OF MAY 26, 2014)

	Limited debates					
	Opening speech (24:00)	Budget speech (13:30)	5:00	2:00		1:00
				Without reply (2:00)	With reply (1:50)	
Government	11:40:00	06:30:00	02:22:30	00:57:00	00:52:00	00:28:30
Official Opposition	06:43:51	03:45:00	01:22:13	00:32:53	00:30:00	00:16:27
Second Opposition Group	04:56:09	02:45:00	01:00:17	00:24:07	00:22:00	00:12:03
Independents	00:40:00	00:30:00	00:15:00	00:06:00	00:06:00	00:03:00
Other Details	• A time envelope, which varied based on the length of the debate, was allocated to the independent Members affiliated with QS, who had to agree among themselves on how they wished to use it. • The remaining time was divided among the parliamentary groups as follows: 50% to the parliamentary group forming the Government and 50% to the two opposition groups, in proportion to the number of seats each held in the Assembly. • Any unused speaking time was redistributed among the parliamentary groups based on the same method of allocation.					

²²⁶ JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31.

41ST LEGISLATURE: A MEMBER FROM THE SECOND OPPOSITION BECOMES AN INDEPENDENT ²²⁷

Composition of the Assembly:

- Government (QLP): 69 Members
- Official Opposition (PQ): 29 Members
- Second Opposition Group (CAQ): 20 Members
- Independents:
 - 3 Members affiliated with QS
 - 1 non-affiliated Member

ALLOCATION OF SPEAKING TIME (AS OF SEPTEMBER 15, 2015)

	2-hour limited debates	
	Without reply (2:00)	With reply (1:50)
Government	00:56:30	00:51:30
Official Opposition	00:33:26	00:30:29
Second Opposition Group	00:23:04	00:21:01
Independents	00:07:00	00:07:00
Other Details	• A time envelope was allocated to the independent Members. • For 2-hour debates, the independent Member who came from the Second Opposition Group could not use more than 2 minutes. If she did not use her speaking time, the independent Members affiliated with QS could make use of all the time set aside for the independent Members collectively. • The remaining time was divided among the parliamentary groups as follows: 50% to the parliamentary group forming the Government and 50% to the two opposition groups, in proportion to the number of seats each held in the Assembly. • Any unused speaking time was redistributed among the parliamentary groups based on the same method of allocation.	

²²⁷ JD, September 15, 2015, p. 6802 (Jacques Chagnon).

41ST LEGISLATURE: DEATH OF AN INDEPENDENT MEMBER ²²⁸

Composition of the Assembly:

- Government (QLP): 70 Members
- Official Opposition (PQ): 28 Members
- Second Opposition Group (CAQ): 20 Members
- Independents:
 - 3 Members affiliated with QS

ALLOCATION OF SPEAKING TIME (AS OF SEPTEMBER 20, 2016)

	Limited debates					
	Opening speech (24:00)	Budget speech (13:30)	5:00	2:00		1:00
				Without reply (2:00)	With reply (1:50)	
Government	11:40:00	06:30:00	02:22:30	00:57:00	00:52:00	00:28:30
Official Opposition	06:48:20	03:47:30	01:23:08	00:33:15	00:30:20	00:16:38
Second Opposition Group	04:51:40	02:42:30	00:59:23	00:23:45	00:21:40	00:11:52
Independents	00:40:00	00:30:00	00:15:00	00:06:00	00:06:00	00:03:00
Other Details	• No change to the allocation of speaking time established at the opening of the 1st Session of the 41st Legislature.					

²²⁸ JD, September 20, 2016, p. 11779 (Maryse Gaudreault).

41ST LEGISLATURE: TWO MEMBERS BECOME INDEPENDENTS AND AN INDEPENDENT RESIGNS²²⁹

Composition of the Assembly:

- Government (QLP): 69 Members
- Official Opposition (PQ): 29 Members
- Second Opposition Group (CAQ): 20 Members
- Independents:
 - 2 Members affiliated with QS
 - 4 non-affiliated Members

ALLOCATION OF SPEAKING TIME (AS OF FEBRUARY 7, 2017)

	2-hour limited debates	
	Without reply (2:00)	With reply (1:50)
Government	00:56:30	00:51:30
Official Opposition	00:33:26	00:30:29
Second Opposition Group	00:23:04	00:21:01
Independents	00:07:00	00:07:00
Other Details	• A time envelope was allocated to the independent Members. • The independent Members had 10 minutes after the beginning of a limited debate to inform the President of their wish to speak during the debate. • For 2-hour debates, the independent Member from the Official Opposition and the independent Member from the Second Opposition Group could not use more than 1 minute and 30 seconds each. If they did not use their speaking time during such debates, the independent Members affiliated with QS could use up to a maximum of 6 minutes as a group. • The remaining time was divided among the parliamentary groups as follows: 50% to the parliamentary group forming the Government and 50% to the two opposition groups, in proportion to the number of seats each held in the Assembly. • Any unused speaking time was redistributed among the parliamentary groups based on the same method of allocation.	

²²⁹ JD, February 7, 2017, p. 13517 (Jacques Chagnon).

41ST LEGISLATURE: AN OFFICIAL OPPOSITION MEMBER BECOMES AN INDEPENDENT AND A NEW INDEPENDENT IS ELECTED

Composition of the Assembly:

- Government (QLP): 68 Members
- Official Opposition (PQ): 28 Members
- Second Opposition Group (CAQ): 20 Members
- Independents:
 - 3 Members affiliated with QS
 - 5 non-affiliated independent Members

ALLOCATION OF SPEAKING TIME (AS OF JUNE 6, 2017)

	2-hour limited debates	
	Without reply (2:00) ²³⁰	With reply (1:50)
Government	00:55:00	00:50:00
Official Opposition	00:32:05	00:29:10
Second Opposition Group	00:22:55	00:20:50
Independents	00:10:00	00:10:00
Other Details	• A time envelope was allocated to the independent Members. • The independent Members had 10 minutes after the beginning of a limited debate to inform the President of their wish to speak during the debate. • For 2-hour debates, the independent Members affiliated with QS were collectively granted 6 minutes of speaking time, and the 3 other independent Members were each granted 1 minute and 20 seconds. • If the independent Members affiliated with QS or the other independent Members did not use their speaking time, up to a maximum of two minutes was distributed to each of the other remaining independent Members. • The remaining time was divided among the parliamentary groups as follows: 50% to the parliamentary group forming the Government and 50% to the two opposition groups, in proportion to the number of seats each held in the Assembly. • Any unused speaking time was redistributed among the parliamentary groups based on the same method of allocation.	

²³⁰ JD, June 13, 2017, p. 16806 (Maryse Gaudreault).

42ND LEGISLATURE: OPENING OF THE 1ST SESSION ²³¹

Composition of the Assembly:

- Government (CAQ): 74 Members
- Official Opposition (QLP): 29 Members
- Second Opposition Group (PQ): 10 Members
- Third Opposition Group (QS): 10 Members
- Independents: 1 non-affiliated Member

ALLOCATION OF SPEAKING TIME (AS OF NOVEMBER 28, 2018)

	Limited debates					
	Opening speech (24:00)	Budget speech (13:30)	5:00	02:00		1:00
				Without reply (2:00)	With reply (1:50)	
Government	11:55:00	06:41:15	02:27:30	00:59:15	00:54:15	00:29:37
Official Opposition	07:09:00	04:00:45	01:28:30	00:35:33	00:32:33	00:17:47
Second Opposition Group	02:23:00	01:20:15	00:29:30	00:11:51	00:10:51	00:05:55
Third Group Opposition	02:23:00	01:20:15	00:29:30	00:11:51	00:10:51	00:05:55
Independent	00:10:00	00:07:30	00:05:00	00:01:30	00:01:30	00:00:45
Other Details	• A time envelope, which varied based on the length of the debate, was allocated to the independent Member. • The remaining time was divided among the parliamentary groups as follows: 50% to the parliamentary group forming the Government and 50% to the three opposition groups, in proportion to the number of seats each held in the Assembly. • Any unused speaking time was redistributed among the parliamentary groups based on the same method of allocation.					

231 "Entente relative à la notion du groupe parlementaire, au fonctionnement de l'Assemblée et des commissions parlementaires, ainsi qu'aux aspects budgétaires pour la durée de la 42^e législature", Appendix 1; JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32. The speaking times indicated were established before outgoing Premier Philippe Couillard resigned as leader of the Liberal Party and Member for Roberval. The Official Opposition had 30 Members at that time.

	Limited debates on Business Standing in the Name of Members in Opposition (Wednesday Motions) (2 hours with reply)		
	Wednesday Motion by a Member of the Official Opposition	Wednesday Motion by a Member of the Second Opposition Group	Wednesday Motion by a Member of the Third Opposition Group
Government	00:54:15	00:49:15	00:49:15
Official Opposition	00:32:33	00:28:48	00:28:48
Second Opposition Group	00:10:51	00:20:51	00:09:36
Third Opposition Group	00:10:51	00:09:36	00:20:51
Independent	00:01:30	00:01:30	00:01:30
Reply	00:10:00	00:10:00	00:10:00
Other Details	If the motion was in the name of a Member from the Second or Third Opposition Group, the group to which the mover of the motion belonged was granted 10 minutes in addition to the time to which it was normally entitled for such limited debates, with half of that time deducted from the Government's time and the other half deducted proportionately from the time of the other opposition groups.		

42ND LEGISLATURE: ELECTION OF A NEW GOVERNMENT MEMBER ²³²

Composition of the Assembly:

- Government (CAQ): 75 Members
- Official Opposition (QLP): 29 Members
- Second Opposition Group (PQ): 10 Members
- Third Opposition Group (QS): 10 Members
- Independents: 1 non-affiliated Member

ALLOCATION OF SPEAKING TIME (AS OF FEBRUARY 5, 2019)

	Limited debates					
	Opening speech (24:00)	Budget speech (13:30)	5:00	2:00		1:00
				Without reply (2:00)	With reply (1:50)	
Government	11:55:00	06:41:15	02:27:30	00:59:15	00:54:15	00:29:37
Official Opposition	07:03:11	03:57:28	01:27:18	00:35:04	00:32:06	00:17:32
Second Opposition Group	02:25:55	01:21:53	00:30:06	00:12:06	00:11:04	00:06:03
Third Opposition Group	02:25:55	01:21:53	00:30:06	00:12:06	00:11:04	00:06:03
Independent	00:10:00	00:07:30	00:05:00	00:01:30	00:01:30	00:00:45
Other Details	A time envelope, which varied based on the length of the debate, was allocated to the independent Member. The remaining time was divided among the parliamentary groups as follows: 50% to the parliamentary group forming the Government and 50% to the three opposition groups, in proportion to the number of seats each held in the Assembly. Any unused speaking time was redistributed among the parliamentary groups based on the same method of allocation.					

²³² JD, February 5, 2019, p. 423 (François Paradis).

	Limited debates on Business Standing in the Name of Members in Opposition (Wednesday Motions) (2 hours with reply)		
	Wednesday Motion by a Member of the Official Opposition	Wednesday Motion by a Member of the Second Opposition Group	Wednesday Motion by a Member of the Third Opposition Group
Government	00:54:15	00:49:15	00:49:15
Official Opposition	00:32:06	00:28:23	00:28:23
Second Opposition Group	00:11:04	00:21:04	00:09:47
Third Opposition Group	00:11:04	00:09:47	00:21:04
Independent	00:01:30	00:01:30	00:01:30
Reply	00:10:00	00:10:00	00:10:00
Other Details	If the motion was moved by a Member from the Second or Third Opposition Group, the mover's group was granted 10 minutes in addition to the time to which it was normally entitled for such limited debates, with half of that time deducted from the Government's time and the other half deducted proportionately from the time of the other opposition groups.		

**42ND LEGISLATURE: A MEMBER FROM THE SECOND OPPOSITION
BECOMES AN INDEPENDENT²³³**

Composition of the Assembly:

- Government (CAQ): 75 Members
- Official Opposition (QLP): 29 Members
- Second Opposition Group (QS): 10 Members
- Third Opposition Group (PQ): 9 Members
- Independents: 2 non-affiliated Members

ALLOCATION OF SPEAKING TIME (AS OF MARCH 20, 2019)

	Limited debates					
	Opening speech (24:00)	Budget speech (13:30)	5:00	2:00		1:00
				Without reply (2:00)	With reply (1:50)	
Government	11:50:00	06:37:30	02:25:00	00:58:30	00:53:30	00:29:15
Official Opposition	07:08:58	04:00:09	01:27:36	00:35:21	00:32:19	00:17:40
Second Opposition Group	02:27:55	01:22:49	00:30:13	00:12:11	00:11:09	00:06:06
Third Opposition Group:	02:13:08	01:14:32	00:27:11	00:10:58	00:10:02	00:05:29
Independents	00:20:00	00:15:00	00:10:00	00:03:00	00:03:00	00:01:30
Other Details	• A time envelope, which varied based on the length of the debate, was allocated to the independent Members. • For 2-hour debates, each independent Member was granted 1 minute and 30 seconds of speaking time. However, when only 1 independent Member participated in a debate, that Member was entitled to 2 minutes of speaking time. • For 1-hour debates, each independent Member was granted 45 seconds of speaking time. However, when only 1 independent Member participated in a debate, that Member was entitled to 1 minute of speaking time. • The remaining time was divided among the parliamentary groups as follows: 50% to the parliamentary group forming the Government and 50% to the three opposition groups, in proportion to the number of seats each held in the Assembly. • Any unused speaking time was redistributed among the parliamentary groups based on the same method of allocation.					

²³³ JD, March 20, 2019, pp. 1069–1072 (François Paradis)/RDPP, No. 13/4. As a result, the PQ's rank changed from Second Opposition Group to Third Opposition Group, and QS's rank went from Third Opposition Group to Second Opposition Group.

	Limited debates on Business Standing in the Name of Members in Opposition (Wednesday Motions) (2 hours with reply)			
	Wednesday Motion by a Member of the Official Opposition	Wednesday Motion by a Member of the Second Opposition Group	Wednesday Motion by a Member of the Third Opposition Group	Wednesday Motion by an Independent Member
Government	00:53:30	00:48:30	00:48:30	00:48:30
Official Opposition	00:32:19	00:28:30	00:28:36	00:29:18
Second Opposition Group	00:11:09	00:21:09	00:09:52	00:10:06
Third Opposition Group	00:10:02	00:08:51	00:20:02	00:09:06
Independents	00:03:00	00:03:00	00:03:00	00:13:00
Reply	00:10:00	00:10:00	00:10:00	00:10:00
Other Details	• If the motion was moved by a Member from the Second or Third Opposition Group, the mover's group was granted 10 minutes in addition to the time to which it was normally entitled for such limited debates, with half of that time being deducted from the Government's time and the other half deducted proportionately from the time of the other opposition groups. Each independent Member was granted 1 minute and 30 seconds of speaking time. However, when only 1 independent Member participated in a debate, that Member was entitled to 2 minutes of speaking time. • If the motion was moved by an independent Member, that Member was granted 10 minutes in addition to the time normally granted for such limited debates, with half of that time deducted from the Government's time and the other half deducted proportionately from the time of the opposition groups. The independent Member who did not move the motion was granted 1 minute and 30 seconds of speaking time.			

42ND LEGISLATURE: A MEMBER FROM THE OFFICIAL OPPOSITION RESIGNS²³⁴

Composition of the Assembly:

- Government (CAQ): 75 Members
- Official Opposition (QLP): 28 Members
- Second Opposition Group (QS): 10 Members
- Third Opposition Group (PQ): 9 Members
- Independents: 2 non-affiliated Members

ALLOCATION OF SPEAKING TIME (AS OF SEPTEMBER 17, 2019)

	Limited debates					
	Opening speech (24:00)	Budget speech (13:30)	5:00	2:00		1:00
				Without reply (2:00)	With reply (1:50)	
Government	11:50:00	06:37:30	02:25:00	00:58:30	00:53:30	00:29:15
Official Opposition	07:02:59	03:56:49	01:26:23	00:34:51	00:31:52	00:17:26
Second Opposition Group	02:31:04	01:24:34	00:30:51	00:12:27	00:11:23	00:06:13
Third Opposition Group	02:15:57	01:16:07	00:27:46	00:11:12	00:10:15	00:05:36
Independents	00:20:00	00:15:00	00:10:00	00:03:00	00:03:00	00:01:30
Other Details	• A time envelope, which varied based on the length of the debate, was allocated to the independent Members. • For 2-hour debates, each independent Member was granted 1 minute and 30 seconds of speaking time. However, when only 1 independent Member participated in a debate, that Member was entitled to 2 minutes of speaking time. • For 1-hour debates, each independent Member was granted 45 seconds of speaking time. However, when only 1 independent Member participated in a debate, that Member was entitled to 1 minute of speaking time. • The remaining time was divided among the parliamentary groups as follows: 50% to the parliamentary group forming the Government and 50% to the three opposition groups, in proportion to the number of seats each held in the Assembly. • Any unused speaking time was redistributed among the parliamentary groups based on the same method of allocation.					

234 JD, September 17, 2019, p. 3919 (François Paradis). This allocation did not change following the election of a Member from the parliamentary group forming the Government during the by-election held on December 2, 2019 (JD, February 4, 2020, pp. 6205–6206 (François Paradis)).

	Limited Debates on Business Standing in the Name of Members in Opposition (Wednesday Motions) (2 hours with reply)			
	Wednesday Motion by a Member of the Official Opposition	Wednesday Motion by a Member of the Second Opposition Group	Wednesday Motion by a Member of the Third Opposition Group	Wednesday Motion by an Independent Member
Government	00:53:30	00:48:30	00:48:30	00:48:30
Official Opposition	00:31:52	00:28:05	00:28:11	00:28:54
Second Opposition Group	00:11:23	00:21:23	00:10:04	00:10:19
Third Opposition Group	00:10:15	00:09:02	00:20:15	00:09:17
Independents	00:03:00	00:03:00	00:03:00	00:13:00
Reply	00:10:00	00:10:00	00:10:00	00:10:00
Other Details	• If the motion was moved by a Member from the Second or Third Opposition Group, the mover's group was granted 10 minutes in addition to the time to which it was normally entitled for such limited debates, with half of that time deducted from the Government's time and the other half deducted proportionately from the time of the other opposition groups. Each independent Member was granted 1 minute and 30 seconds of speaking time. However, when only 1 independent Member participated in a debate, that Member was entitled to 2 minutes of speaking time. • If the motion was moved by an independent Member, that Member was granted 10 minutes in addition to the time normally granted for such limited debates, with half of that time deducted from the Government's time and the other half deducted proportionately from the time of the opposition groups. The independent Member who did not move the motion was granted 1 minute and 30 seconds of speaking time.			

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- . "Entente relative à la notion de groupe parlementaire, au fonctionnement de l'Assemblée et des commissions parlementaires, ainsi qu'aux aspects budgétaires pour la durée de la 42^e législature". Sessional Paper No. 48-20181129, November 28, 2018.

■ CHAPTER 6

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6

LEGISLATURES, SESSIONS AND SITTINGS



The 5th Session of the 5th Legislature opened on April 8, 1886. It was on this occasion that Members sat in the present-day National Assembly Chamber for the first time.

The notion of time is important in a parliament, and parliamentary proceedings are rooted in the logic that all actions allowed must occur within limits established by rules governing all periods of time, whether long or short.

In any democratic society, elected representatives may collectively serve for only certain periods of time. In Canada, the maximum duration, or term, of a legislature is expressly set out in the Canadian Constitution. A legislature is made up of periods of undetermined length called sessions, which in Québec correspond to the intervals between when the Assembly is summoned by the Lieutenant Governor and when it is prorogued. In other words, sessions are periods during which the

Assembly is authorized to sit. Sessions are made up of sittings, which take place on the days on which the Assembly meets, in keeping with the calendar and timetable set out in the Standing Orders.¹ Even the debates held during a sitting are subject to time limits defined in the rules of parliamentary procedure.²

1 See Chapter 9, “The Conduct of a Sitting”.

2 See Chapter 13, “Rules of Parliamentary Debate and Allocation of Speaking Time”.

6.1 LEGISLATURES

In Québec, the term “legislature” generally refers to the life of a Parliament, that is, the period of time between the beginning of a legislative assembly’s term, after a general election is held, and its dissolution. In other words, a “legislature” corresponds to the collective term of the Members of the National Assembly between two general elections (ANA, s. 6).

It is important to clarify here, as “legislature” can also have another meaning. The term is sometimes used to designate Québec’s legislative body, or Parliament. In this regard, section 71 of the *Constitution Act, 1867*³ states: “There shall be a Legislature for Quebec consisting of the Lieutenant Governor and of Two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.” The Legislative Council was, however, abolished by the *Act respecting the Legislative Council*.⁴

In strictly legal terms, “legislature” should no longer be used in Québec to designate the Parliament. The *Act respecting the National Assembly* states that the Parliament of Québec is formed of the National Assembly and the Lieutenant Governor, and assumes all the powers conferred on the Legislature of Québec.⁵

On the other hand, both the *Constitution Act, 1867*,⁶ and the *Constitution Act, 1982*,⁷ contain several provisions that refer to the legislature of a province as a legislative body.

6.1.1 DURATION OF A LEGISLATURE

The beginning of a legislature is not determined by the date of the general election. Since the Assembly is made up of the Members elected in the 125 electoral divisions established under the *Election Act*,⁸ the beginning of a legislature is the day on which the Secretary General of the National Assembly receives

3 *Constitution Act, 1867 (British North America Act, 1867)* (UK), 30 & 31 Vict., c. 3, reprinted in RSC 1985, App. II, No. 5.

4 *Act respecting the Legislative Council*, SQ, 1968, c. 9.

5 *Act respecting the National Assembly*, CQLR, c. A-23.1, s. 2. On this subject, see Jean-Pierre Bloch, Claude Remy and Gaston Deschênes, *Lexique des termes parlementaires en usage en Belgique, en France et au Québec* (Québec: National Assembly of Québec, 1986), p. 27, and *Interpretation Act*, CQLR, c. I-16, s. 61(8).

6 *Constitution Act, 1867*, ss. 71, 80, 83, 84 and 92.

7 *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982*, (UK), 1982, c. 11, reprinted in RSC 1985, App. II, No. 44, ss. 4, 5, 32 and 45.

8 *Election Act*, CQLR, c. E-3.3.

the complete list of all elected candidates (ANA, s. 1) from the Chief Electoral Officer, acting under section 380 of the *Election Act* (ANA, s. 6). Several weeks may elapse between the general election and the reception of this list.⁹

In accordance with the *Constitution Act, 1982*,¹⁰ the *Act respecting the National Assembly* formerly provided, in section 6, that the maximum term of a legislature was five years but set no specific duration for a legislature within that five-year period.

In 2013, the Assembly passed the *Act to amend the Election Act for the purpose of establishing fixed-date elections*,¹¹ which amended section 6 of the *Act respecting the National Assembly* to read as follows: “A Legislature ends on 29 August of the fourth calendar year following the year that includes the most recent general election polling day.” (ANA, s. 6, 2nd para.). The *Election Act* was also amended to provide that “the general election following the end of a Legislature shall be held on the first Monday of October of the fourth calendar year following the year that includes the last day of the previous Legislature” (*Election Act*, s. 129, 2nd para.).

Thus, since the establishment of fixed-date elections,¹² a legislature lasts approximately four years, barring exceptions. For example, in the case of an overlap with a federal or municipal general election, the Québec general election would exceptionally be held on the first Monday of April of the fifth calendar year following the year that includes the last day of the previous legislature (*Election Act*, s. 129.2). That legislature would then end on February 27, or February 28 in the case of a leap year, of the fifth calendar year following the year that includes the most recent general election polling day (ANA, s. 6, 3rd para.).

9 A general election was held on September 12, 1994. Owing to a tie vote, a new election was held in the riding of Saint-Jean and it was only on October 31 that the Secretary General received the name of the last candidate declared elected. The same thing happened in the April 14, 2003 general election, in the riding of Champlain; in that case, the complete list was received on May 27. In the November 30, 1998 general election, a candidate in the riding of Masson died a few days before the poll, which was then postponed until December 14 in that riding. As a result, the list of elected candidates was not complete until December 21.

10 *Constitution Act, 1982*, s. 4(1).

11 SQ 2013, c. 13.

12 Québec’s first fixed-date election was held on October 1, 2018. Although the legislature was to end on August 29 in accordance with the second paragraph of section 6 of the *Act respecting the National Assembly*, the Assembly was in fact dissolved six days earlier, on Thursday, August 23, under the first paragraph of section 131 of the *Election Act*. However, the polling date (October 1, 2018) remained the same, namely, the sixth Monday following the issue of the order instituting the election (*Election Act*, s. 131, 1st para.), and also corresponded to the “first Monday of October of the fourth calendar year following the year that includes the last day of the previous Legislature” (*Election Act*, s. 129, 2nd para.), the date on which the election would have been held if the legislature had ended on the date initially provided for by law (August 29, 2018).

Despite these legislative changes, the Lieutenant Governor, who dissolves the Assembly by proclamation (ANA, s. 5), has retained the power to do so before the expiry of a legislature (ANA, s. 6, 4th para.; *Election Act*, s. 129, 3rd para.).¹³ However, the actual duration of a legislature is determined by the Government, as it is on the Government's advice, according to constitutional convention, that the Lieutenant Governor dissolves the Assembly. If the Government calls an early general election, polling takes place on the fifth Monday following the issue of the order instituting the election if the order is issued on a Monday, Tuesday or Wednesday, or on the sixth Monday if the order is issued on another day. If polling day falls on a holiday, the poll is held on the following day (*Election Act*, s. 131). Thus, under Québec law, the length of an election campaign may vary from 33 to 39 days, depending on the date the Assembly is dissolved.

Concretely, to end a legislature, the Conseil exécutif (the Cabinet), on the recommendation of the Premier,¹⁴ adopts an order to dissolve the Assembly. The Lieutenant Governor then issues a proclamation by which the Assembly is dissolved. Both the order and the proclamation are published in the *Gazette officielle du Québec*.¹⁵

In Québec, in most cases, the proclamation to dissolve the Assembly has been made after the Assembly was prorogued to a specific date.¹⁶ In the other cases, the Assembly has been dissolved without first being prorogued,¹⁷ prorogation

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- 13 [TRANSLATION] "From the time when sovereigns governed as absolute monarchs, the sovereign retained exceptional powers and some privileges as regards the application of law. These are called royal prerogatives . . . By constitutional convention, the sovereign's exceptional powers (dissolution of legislative assemblies . . .) have all been transferred to the governments." (Henri Brun, Guy Tremblay and Eugénie Brouillet, *Droit constitutionnel*, 6th ed. (Cowansville: Éditions Yvon Blais, 2014), p. 370).
- 14 "As leader of the government, the Prime Minister possesses several prerogatives. His role 'like [that of] the Cabinet, reflects the development of constitutional usage and practices rather than statute' . . . In addition, he possesses the prerogative to recommend the convocation and dissolution of Parliament . . ." (René Dussault and Louis Borgeat, *Administrative Law: A Treatise*, trans. by M. Rankin, 2nd ed., Vol. 1 (Toronto: Carswell, 1988), p. 60).
- 15 Orders are published in the *Gazette officielle du Québec* under section 11.1 of the *Executive Power Act*, CQLR, c. E-18. The proclamation consists of the letters patent, stating that the Assembly is dissolved. The Secretary General of the Assembly signs the proclamation under the words "By Order" at the bottom of the letters patent signed by the Lieutenant Governor, and has it published in Part I of the *Gazette officielle du Québec* as a notice concerning the National Assembly. For an example, see *Gazette officielle du Québec*, Part I, September 8, 2018, p. 527.
- 16 There have been 27 such cases to date. In the most recent one, the Assembly was prorogued by proclamation on October 21, 1998, to reconvene on December 15, 1998. It was subsequently dissolved by proclamation on October 28, 1998.
- 17 The last such instance was on August 23, 2018. Prior to that, the Assembly had been dissolved without first being prorogued 13 times since 1867: on June 11, 1936; September 19, 1962; April 18, 1966; March 12, 1970; September 25, 1973; October 18, 1976; March 12, 1981; August 9, 1989; March 12, 2003; February 21, 2007; November 5, 2008; August 1, 2012, and March 5, 2014.

not technically being necessary, since dissolution automatically closes the session.¹⁸ According to parliamentary doctrine, a proclamation to dissolve the Assembly may also be made the same day the Assembly is prorogued or following a proclamation continuing an earlier prorogation.¹⁹

The *Constitution Act, 1982*, stipulates that, in time of real or apprehended war, invasion or insurrection, a legislature may be continued by the Assembly beyond five years if the continuation is not opposed by the votes of more than one-third of the Members of the Assembly.²⁰

6.1.2 EFFECTS OF DISSOLUTION OF THE ASSEMBLY

Dissolution is rightly defined as the civil death of a Parliament.²¹ Once dissolved, an Assembly immediately loses the authority to sit and the Members cease to have a mandate. A Member's term is of the same duration as that of the Assembly,²² although by law Members continue to receive certain indemnities and allowances until the next general election.²³ That said, ministers normally remain in office until their successors are designated, even if the House has been dissolved and they have been defeated in their own ridings.²⁴ The President²⁵ and Vice-Presidents also remain in office and carry out the duties of the Office of the National Assembly (ANA, s. 94)²⁶ until they are replaced or reappointed by the new Assembly (ANA, s. 24).

Since each Assembly dies, so to speak, when dissolved, all accessory elements also lapse: orders not fully executed, proceedings pending, select committees established and bills not passed²⁷ (SO 47 and 48). According to Standing

18 Geoffrion 1941, SO 9.

19 Thomas Erskine May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 22nd ed. Donald Limon, W. R. McKay and G. Cubie, eds. (London: Butterworths, 1997), p. 232.

20 *Constitution Act, 1982*, s. 4(2).

21 Philippe Lauvaux, *La dissolution des assemblées parlementaires* (Paris: Economica, 1983), p. 306.

22 Henri Brun and Guy Tremblay, *Droit constitutionnel*, 4th ed. (Cowansville: Éditions Yvon Blais, 2002), p. 321.

23 *Act respecting the National Assembly*, s. 104; *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly*, CQLR, c. C-52.1, ss. 6 and 20.

24 Brun et al., *Droit constitutionnel*, 6th ed., p. 384.

25 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

26 The Office of the National Assembly manages and regulates the administration of the Assembly. See Chapter 4, "The Office of President".

27 On at least two occasions, however, the Assembly has, by unanimous consent, carried a motion to continue examining a bill at the stage it had reached before the Assembly was dissolved. The bills involved were Bill 20, *An Act to add the reformed law of persons, successions and property to the Civil Code of Québec* (JD, December 19, 1985, p. 298), and Bill 52, *An Act respecting end-of-life care* (JD, May 22, 2014, p. 47).

PROCLAMATIONS DISSOLVING THE ASSEMBLY

 **CANADA**

PROVINCE DE QUÉBEC

ELIZABETH II, par la grâce de Dieu, REINE du Royaume-Uni, du Canada et de ses autres royaumes et territoires, Chef du Commonwealth, Défenseur de la Foi.

À tous ceux à qui les présentes pourront concerner.

PROCLAMATION

ATTENDU que par l'ordre du Conseil exécutif de la Province de Québec, Nous avons jugé à propos de dissoudre la présente Assemblée.

À CEN CAUSE, Nous dissolvons par les présentes ladite Assemblée.

EN VUE DE QUOI, Nous avons fait rendre Nos présentes lettres patentes en à celles qui appartiennent le Grand Secrétaire de la Province de Québec.

Témoins Nos bons Seigneurs et Conseillers: J. Michel Doyon

Gouverneur-Général de la Province de Québec

Donné en Notre Ville de Québec, le vingt-huitième jour d'août 1977, à Notre Seigneur le Prince Philippe.

Par Nous, Hubert Fournier

 **CANADA**

PROVINCE DE QUÉBEC

ELIZABETH II, par la grâce de Dieu, REINE du Royaume-Uni, du Canada et de ses autres royaumes et territoires, Chef du Commonwealth, Défenseur de la Foi.

À tous ceux qui les présentes pourront en qu'elles pourront concerner.

PROCLAMATION

ATTENDU que c'est Notre droit et Notre bon plaisir de transmettre aussitôt que possible le pouvoir de la Province de Québec et d'établir une autre assemblée en l'Assemblée.

À CEN CAUSE, Nous transmettons par les présentes que, par l'ordre du Conseil exécutif de la Province de Québec, Nous avons en plein respect le droit et le pouvoir de dissoudre de tous les élections générales. 1977 à 27 octobre 1977 en vertu de la constitution d'une nouvelle Assemblée. Le sergent d'armes que Nous donnons les instructions nécessaires et il sera nécessaire d'en tenir un. Les dits ordonnances des élections générales ont été émis de 1977 27 1977.

EN VUE DE QUOI, Nous avons fait rendre Nos présentes lettres patentes et à celles qui appartiennent le Grand Secrétaire de la Province de Québec.

Témoins Nos bons Seigneurs et Conseillers: J. Michel Doyon

Gouverneur-Général de la Province de Québec

Donné en Notre Ville de Québec, le vingt-huitième jour d'août 1977, à Notre Seigneur le Prince Philippe.

Par Nous, Hubert Fournier

Order 47, orders for the production or printing of papers survive the prorogation of a session, but the President of the Assembly has not yet had to rule on whether such orders stand when a session is terminated by dissolution. This may be because the Assembly has rarely adopted orders for the tabling of papers, which is generally done in compliance with legislative provisions that are not repealed on the dissolution of the Assembly.

The Standing Orders and Rules for the Conduct of Proceedings in the Assembly remain in force even when a legislature is dissolved.²⁸

Whether temporary amendments to the Standing Orders and Rules for the Conduct of Proceedings remain in force depends on the wording of the motion carried by the Assembly, that is, on whether the motion states that the temporary rules are to be in force for the duration of the legislature or rather for a specific period, “notwithstanding the closing of the Session”. Since a session may be terminated by either the prorogation or the dissolution of the Assembly (Geoffrion 1941, SO 9), it is not clear whether such Rules or Standing Orders survive in the case of dissolution. As yet, the President of the Assembly has not officially ruled on this question.²⁹

Since standing committees are governed by the Standing Orders, their names and areas of competence remain unchanged following dissolution, but, as they are subgroups of the Assembly, in practice they cease to exist at that point.

28 See Chapter 2, “The Foundations of Parliamentary Procedure”.

29 This situation has occurred twice since the coming into force of the current Standing Orders in 1984. The first time, on March 16, 1988, the Assembly adopted temporary amendments to Standing Orders 127, 138 and 156 and to Rule 1.1 of the Rules for the Conduct of Proceedings. Under the Assembly’s order, the amendments were to be in force “for two years, notwithstanding the closing of the session” (VP, March 16, 1988, p. 64). The second time, on August 9, 1989, a general election was called and the Assembly was dissolved. At the beginning of the following legislature, the temporary amendments remained in force without any question being raised in the Assembly on the subject. On March 15, 1990, the temporary rules were renewed, “until 29 November 1991, notwithstanding the prorogation of a session” (VP, March 15, 1990, p. 206). On November 21, 1991, the temporary rules were again renewed, this time for the duration of the legislature (VP, November 21, 1991, p. 1597). However, on December 19, 2002, the Assembly adopted temporary amendments to the Standing Orders and to the Rules for the Conduct of Proceedings concerning petitions, the exceptional procedure and the introduction and passage of a bill during the same sessional period. The Assembly order provided that the amendments would be in force “until 23 June 2003, notwithstanding the prorogation of the session” (VP, December 19, 2002, pp. 1586–1601). On March 12, 2003, the Assembly was dissolved and a general election was called. During the following legislature, these rules were not applied and no question was raised in the Assembly on the subject.

 Handwritten signature: J. Michel Legay

CANADA
— — —
PROVINCE DE QUÉBEC
— — —

ELIZABETH II, par la grâce de Dieu, REINE du Royaume-Uni, du
Canada et de ses autres royaumes et territoires, Chef
du Commonwealth, Défenseur de la Foi.

À tous ceux qui les présentes verront ou qu'elles pourront concerner,

SALET :

PROCLAMATION

ATTENDU que j'ai bien voulu et Mieux leur plaisir de l'intermédiaire passant que possible le peuple de la Province de Québec et d'élever son bien-être
en l'honneur;

À CES CAUSES, sur l'avis du Conseil exécutif de la Province de Québec, Nous recommandons par les présentes une nouvelle Assemblée pour le
le 15 mai 1978 1978 et adjurons à nos Ministres de l'Assemblée à cette date
la Union du Peuple, ou le Vire de Québec

EN FOI DE QUEL, Nous avons fait signer Nos gouvernements (autres provinces et le même fait approuver) le Grand Secrétaire de la Province de Québec

Signé : *J. Michel Legay*

Le Lieutenant-Gouverneur de Québec Province

Donné en Notre Ville de Québec, le 15 mai 1978 par : *J. Michel Legay*
En la ville de Québec, le 15 mai 1978 et de Notre Région le 15 mai 1978

Fait selon
le Lieutenant-Gouverneur de Québec Province
J. Michel Legay

 *Levesque*

CANADA

PROVINCE DE QUÉBEC

ELIZABETH II, par la grâce de Dieu, REINE du Royaume-Uni, du Canada et de ses autres royaumes et territoires, Chef du Commonwealth, Défenseur de la Foi.

À Sa très haute et Éclatante Honneur de l'Assemblée nationale.

RABET I

PROCLAMATION

ATTENDU que l'Assemblée nationale est venue convoquée en vertu de l'ordonnance des officiers pour le 13 novembre 2012
et la 29 novembre 2012 par le maréchal

À CES CAUSES, Nous, votre humble serviteur, avons fait Proclamer de vive voix le 13 novembre 2012
29 novembre 2012 à 14 heures

EN TOUT CE QUE, Nous avons fait lire lesdites lettres patentes et y avons fait apposer le Grand Sceau de la Province de Québec.

Faites. Sous nos Sceaux et Sous notre Plombet. J. Michel Dagen

Commissaire du Sceau de la Province de Québec

Donné en Notre Ville de Québec, le 13 novembre 2012 par le maréchal

En témoins, le maréchal

6.2 SESSIONS

A session corresponds to the period in a given legislature between the summoning of the Assembly and its prorogation or dissolution.³⁰ It is the period during which the Assembly sits, including intervals during which the proceedings are adjourned, since a session itself is never adjourned: it begins and it ends. Parliamentary sessions may continue even though the Assembly is not meeting, and must not be confused with the periods during which parliamentary proceedings are conducted, that is, the two periods of the year set out in the Standing Orders and known as sessional periods.³¹

A legislature consists of one or more sessions. The duration of a session is determined by the Government. According to constitutional convention, the Lieutenant Governor convokes and prorogues the Assembly (ANA, s. 5) at the request of the Government. Generally, the Government will call a new session when it wants to give a legislature a fresh start or clarify its objectives for the next part of its term.

Since 1867, the number of sessions during a legislature has varied from one to six. The longest was the First Session of the 41st Legislature, which spanned more than four years, from May 20, 2014, to August 23, 2018, exceeding the First Session of the 37th Legislature, which had lasted close to three years, from June 4, 2003 to March 10, 2006. Three other sessions lasted barely one day.³²

6.2.1 SUMMONING THE ASSEMBLY

The Assembly is summoned for the opening of a session by proclamation of the Lieutenant Governor on the advice of the Government. The Assembly may not begin its deliberations before the time specified in the proclamation.³³ However, the opening of a session may be deferred, and even further deferred,

30 Geoffrion 1941, SO 9.

31 See Subsection 6.3.1, “Regular Sittings”.

32 The 5th Session of the 27th Legislature (October 22, 1965), the 2nd Session of the 28th Legislature (October 20, 1967) and the 5th Session of the 31st Legislature (October 24, 1980).

33 Thomas Erskine May, *Erskine May’s Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 25th ed., Mark Hutton, David Natzler, Matthew Hamlyn, Colin Lee, Chloe Mawson, Crispin Poyser, Eve Samson and Kate Lawrence, eds. (London: LexisNexis Butterworths, 2019), para. 8.5.

to a later date by proclamation.³⁴ Although it has been said that the opening of a session may never be moved up, this is not true in practice.³⁵ The only constitutional limit on the date of summoning is set out in section 5 of the *Constitution Act, 1982*, which requires assemblies to hold a sitting at least once every 12 months.

6.2.2 OPENING A SESSION

On the opening day of a session, the Lieutenant Governor reads an address, after which the Premier delivers an opening speech (SO 45). If the Assembly must elect a President and Vice-Presidents, this is done before the Lieutenant Governor's address. The election is generally held at the beginning of a legislature, so the President is usually already in office for the opening of any other session.

THE LIEUTENANT GOVERNOR'S AUTHORIZATION TO ELECT A PRESIDENT

Previously, the custom used to be that the Assembly could not elect the President and Vice-Presidents at the beginning of a session unless authorized to do so by the Lieutenant Governor. In principle, the Assembly cannot begin to deliberate until after the address by the Lieutenant Governor and therefore cannot elect a President unless invited to do so by the Lieutenant Governor. This was actually stipulated in former Standing Orders of the Assembly.³⁶ However, it is no longer mentioned in the current Standing Orders, which require only that the Lieutenant Governor's address to be preceded, if necessary, by the election of a President and Vice-Presidents. The Assembly has nevertheless continued to observe this custom: before the Assembly elects a President, the Premier usually says: "Mr. Secretary General, I hereby inform you that His Honour the Lieutenant Governor requests that the Members of the National Assembly elect a President." However, at the first sitting of the First Session of the 40th Legislature, Premier Pauline Marois broke with this tradition by using a formulation that better reflected the change in the Standing Orders: [TRANSLATION] "Mr. Secretary General, I request that you proceed with the

34 Arthur Beauchesne, Alistair Fraser, William Foster Dawson and John A. Holtby, *Beauchesne's Rules and Forms of the House of Commons of Canada, with Annotations, Comments and Precedents*, 6th ed. (Toronto: Carswell, 1991), pp. 69 and 74. This was the case in 2003, for instance, when the Assembly was initially summoned for the opening of the 1st Session of the 37th Legislature on May 20. The sitting was later moved back to June 3, then to June 4 (*Gazette officielle du Québec*, Part I, March 22, 2003, p. 319; May 17, 2003, p. 506; June 14, 2003, pp. 572–573).

35 Geoffrion 1941, SO 7, note 2; Beauchesne et al., *Beauchesne's Rules and Forms of the House of Commons of Canada*, p. 74. The date on which the National Assembly was summoned to meet was moved up on two occasions: the March 11, 1986 sitting was rescheduled for December 16, 1985; and the March 9, 1999 sitting was rescheduled for March 2, 1999.

36 Geoffrion 1941, SO 8 and SO 11, note 1 (note in French only).

election of a President, in accordance with the Standing Orders of the National Assembly.”³⁷ This new way of proceeding was also adopted by Premiers Philippe Couillard and François Legault, at the beginning of the 41st³⁸ and 42nd³⁹ Legislatures, respectively.

A session is officially open only after the Lieutenant Governor’s address. (SO 45). Thus, the Assembly may not begin to deliberate until the Lieutenant Governor has stated the reasons for summoning the legislature.⁴⁰

The Lieutenant Governor reads the address from the President’s Chair, assuming responsibility for the content of the speech and for any interventions to which it may give rise.⁴¹ The Standing Orders do not set a time limit for the address.

The Lieutenant Governor’s address is followed by the Premier’s opening speech (SO 45).⁴² The most important part of the inaugural message is contained in the Premier’s speech, not in the Lieutenant Governor’s address.⁴³

The Premier’s speech is, in a manner of speaking, a general policy statement on the matters the Government will focus on during the session that is opening. The opening speech by the Premier or the Premier’s representative may last up

37 JD, October 30, 2012, p. 2.

38 JD, May 20, 2014, p. 2.

39 JD, November 27, 2018, p. 2.

40 JD, March 8, 1977, p. 1 (Clément Richard)/RDPP, No. 45/1; Geoffrion 1941, SO 8. On March 2, 1999, during the first sitting of the 36th Legislature, the Assembly introduced and passed Bill 10, *An Act to amend the Act respecting the National Assembly*, to increase the number of Vice-Presidents of the National Assembly from two to three. The bill was passed before the Lieutenant Governor’s address, under a special order of the Assembly. The address was given the next day, March 3, 1999.

41 In 1973, a Member interrupted the Lieutenant Governor to have the Government’s legislative program read in French (JD, March 15, 1973, pp. 1–4).

42 If the Premier is absent, it is generally the duty of the Deputy Premier to deliver the opening speech. See Chapter 5, Subsection 5.1.3.1, “The Parliamentary Group Forming the Government”.

43 In this regard, the terminology of the Standing Orders speaks volumes: the Lieutenant Governor reads an “address”, while the Premier delivers an “opening speech”. The expression “Speech from the Throne” has not been used in Québec since 1968. In December 1976, the Standing Orders then in force were amended to include the concepts of the Lieutenant Governor’s “opening address” and the “inaugural message” by the Premier. See Chapter 1, Subsection 1.6.1, “Abolition of the Legislative Council (1968) and the “Lavoie Code” (1973)”.

to two hours (SO 50) and outlines the Government's general legislative intentions and the program the Premier intends to submit to the Assembly during the session.⁴⁴

Previously, unlike the budget speech, which ended with a motion by the Minister of Finance proposing that the Assembly approve the Government's budgetary policy, the opening speech was not followed by a motion for the Assembly's approval. The 2009 reform changed this. Now the Premier's opening speech concludes with a motion to approve the Government's general policy (SO 45).

After the Premier's speech, the President adjourns the sitting (SO 46). The debate on the opening speech begins on the following sitting day with an address by the Leader of the Official Opposition (SO 49).

The Premier's speech and the speeches by the Leader of the Official Opposition and the leaders of the other parliamentary groups or their representatives top the list of business having precedence in the Assembly (SO 87(1)). Until these speeches have been given, the Assembly may not examine any other matter. Committee proceedings are also suspended during the speeches (SO 87, 2nd para.).

6.2.2.1 THE DEBATE ON THE OPENING SPEECH

The Premier's opening speech is followed by a debate in which several Members take the floor to give their opinion on the content of the speech. This debate, including the Premier's speech, may last up to 25 hours (SO 50). However, Standing Order 50 stipulates that the debate is not limited to the content of the Premier's speech; any and all matters may be discussed. The general rule on relevance set out in Standing Order 211, whereby speeches are to address only the matter under discussion, is set aside. In practice, ministers speak to an aspect of the Premier's speech that concerns their department, while opposition Members speak to the areas of expertise entrusted to them by their leader. The debate may also be an opportunity for a political party to contrast its own vision with the priorities set by the Government.

44 JD, November 14, 2012, p. 356 (Jacques Chagnon)/RDPP No. 45/2. This ruling established that it was normal and legitimate that Members want to know the key issues the Government intends to examine during the session and, moreover, that this information not be disclosed before they themselves are informed of it. This principle was also recalled in a ruling made at the beginning of the 42nd Legislature, when it was alleged that the Premier's entire opening speech had been sent to journalists "under embargo" just after the Premier had begun to deliver it in the National Assembly Chamber. Based on the parliamentary precedent of three Canadian legislative assemblies, the President concluded that a premature disclosure of the opening speech fell outside the scope of parliamentary privilege. However, the President stated that the opening speech should not have been given to third parties before it was presented to the Members (JD, December 7, 2018, pp. 373–374 (François Paradis)/RDPP, No. 67/78).

The Leader of the Official Opposition or the Leader's representative opens the debate with a speech that may last up to two hours. This is followed by speeches by the leaders of the other parliamentary groups or their representatives (SO 49 and 50), who may speak for up to one hour each. These speeches have precedence over any other matter (SO 49 and 87(1)), except a motion to introduce an exceptional procedure (SO 184.2).

Once the leaders of the parliamentary groups have delivered their speeches, the debate continues, with every Member who wishes to speak doing so, until the allotted 25 hours have elapsed. This is known in parliamentary language as the "resumption of the debate on the opening speech". This part of the debate also has precedence, like the Premier's and leaders' speeches. However, unlike these speeches, which constitute the first order of business having precedence listed in the Standing Orders, resumption of the debate on the opening speech comes second to last in the order of priority, just before want of confidence motions and after the debate on the budget speech and the limited debate on the reports from the committees that examined the estimates of expenditure. Thus, resumption of the debate on the opening speech may give way to debates on motions relating to breaches of privilege or contempt, debates on motions relating to the integrity of Parliament or its Members, the budget speech and the ensuing debate, the consideration of interim supply, or the limited debate on the reports from the committees that examined the estimates of expenditure.⁴⁵ Moreover, although the debate on the opening speech has precedence, it is interrupted to allow committee examination of the estimates of expenditure, during which time the Assembly conducts only Routine Proceedings.⁴⁶

In practice, it is on resumption of the debate that the time remaining in the 25 hours allotted for the debate on the opening speech is allocated. The debate is limited, since the Standing Orders grant 25 hours speaking time for the Members as a group rather than a specific amount of time for each Member.

As is the case for all limited debates, a time frame must be established for the debate on the opening speech, with the total speaking time being divided among the Members. The general rule in Standing Order 210 applies: after conferring with the House leaders, the President divides the time for debate among the parliamentary groups, taking into account any independent Members.

When allocating the time, the President first reserves one hour of speaking time for the reply by the Government's representative, as specified in the Standing Orders (SO 50), second sets aside a variable amount of time for the independent

45 For instance, since 1984, the debate on the opening speech has been interrupted on four occasions due to the budget speech and the ensuing debate (VP, March 9, 1999, p. 37; VP, March 29, 2001, p. 39; VP, March 19, 2009, p. 88; VP, March 17, 2011, p. 59).

46 JD, April 24, 2001, pp. 1038-1043 (Jean-Pierre Charbonneau)/RDPP, No. 282/2.

Members, who are given either a collective time envelope or a specific amount of time each, and third divides up the remaining time among the parliamentary groups, including any time already used by the Premier and the leaders of parliamentary groups or their representatives.⁴⁷

In the past, time allocation was simple when the Assembly was composed of only two parliamentary groups: the group forming the Government and the Official Opposition. After subtracting the time reserved for the reply and that allotted to the independent Members, the President divided the remaining time equally between the two groups.

With more than two groups in the Assembly, however, the President has taken into consideration the status of and number of seats held by each group when allocating speaking time.

ALLOCATION OF SPEAKING TIME FOR THE DEBATE ON THE OPENING SPEECH, FROM THE 38TH TO THE 42ND LEGISLATURES

*In the First Session of the **38th Legislature**, in a minority government context, when the Assembly was composed of three parliamentary groups and there were no independent Members, speaking time for the limited debate on the opening speech was allocated as follows: after the time reserved for the reply and the time specified in the Standing Orders for the leaders or their representatives had been subtracted, the remaining time was divided among the groups in proportion to the number of seats each held in the Assembly, that is, 7 hours 18 minutes (38.4%) for the group forming the Government (48 Members); 6 hours 14 minutes (32.8%) for the Official Opposition (41 Members); and 5 hours 28 minutes (28.8%) for the Second Opposition Group (36 Members).⁴⁸*

*At the time of the debate on the opening speech of the **First Session of the 39th Legislature**, the six Members affiliated with the Action démocratique du Québec (ADQ) did not yet constitute a parliamentary group. Following a meeting with the House leaders, the President allocated speaking time of 1 hour 33 minutes to these Members as a group, and 20 minutes to the other independent Member, that is, the Member affiliated with Québec solidaire (QS). Any time not used by the latter was to be added to that of the other independent Members, and vice versa. The remaining time was divided equally between the two parliamentary groups, for a total of 11 hours 3 minutes 30 seconds each.⁴⁹ The following month, the ADQ was recognized as a parliamentary group, thus becoming the Second Opposition Group. According to the special order adopted at the time, for the debate on the opening speech, as for other limited*

47 See Chapter 5, "Parliamentary Groups and Independent Members", and Chapter 13, "Rules of Parliamentary Debate and Allocation of Speaking Time".

48 JD, May 10, 2007, p. 69 (Michel Bissonnet)/RDPP, No. 50/3.

49 VP, March 11, 2009, p. 36.

debates, the Second Opposition Group was entitled to 10% of the total debate time after subtraction of the time reserved for the reply, that is, 2 hours 24 minutes. Speaking time of 20 minutes was reserved for the independent Members, and the remaining time was divided equally between the group forming the Government and the Official Opposition.⁵⁰ For the debate on the opening speech of the **Second Session of the 39th Legislature**, the time allocated to the Second Opposition Group was reduced from 10% to 7%, for a total of 1 hour 40 minutes and 48 seconds, after two of its Members decided to sit as independent Members and were given the same speaking time as the independent Member affiliated with QS, that is, 20 minutes each.⁵¹

After a return to a minority government context, this time with three parliamentary groups and two independent Members, speaking time for the debate on the opening speech of the First Session of the **40th Legislature** was again allocated on a proportional basis. After subtraction of both the time reserved for the reply and the time envelope (20 minutes) determined by the President for the two independent Members, the remaining speaking time was divided among the groups in proportion to the number of seats each held in the Assembly, that is, 10 hours 23 minutes (43.9%) for the group forming the Government (54 Members), 9 hours 37 minutes (40.6%) for the Official Opposition (50 Members) and 3 hours 39 minutes (15.4%) for the Second Opposition Group (19 Members).⁵²

At the beginning of the First Session of the **41st Legislature**, with a majority government back in power, the Assembly was composed of three parliamentary groups and three independent Members. The method traditionally used in a bipartite context to divide speaking time equally between the majority Government and the Official Opposition was adapted to introduce a proportional element. After subtraction of the time reserved for the reply and the time envelope determined by the President for the three independent Members (40 minutes), 50% of the remaining time was allocated to the parliamentary group forming the Government (that is, 11 hours 40 minutes for its 70 Members), and the other 50% was divided between the two parliamentary groups in opposition in proportion to the number of seats each held in the Assembly, that is, 6 hours 43 minutes and 51 seconds for the 30 Members of the Official Opposition and 4 hours 56 minutes and 9 seconds for the 22 Members of the Second Opposition Group.⁵³

50 "Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature", Sessional Paper No. 246-2009042, April 21, 2009 (VP, April 21, 2009, p. 214), Appendix III.

51 VP, February 24, 2011, p. 24.

52 VP, November 1, 2012, p. 24.

53 VP, May 22, 2014, p. 25.

*The same method was used to allocate speaking time for the debate on the opening speech of the First Session of the **42nd Legislature**, although this time it was adapted for the presence of a Third Opposition Group. After subtraction of the time reserved for the reply and the 10 minutes allotted to the only Member sitting as an independent Member at the time, 50% of the remaining time was allocated to the parliamentary group forming the Government, that is, 11 hours 55 minutes for its 74 Members, and the other 50% was divided between the three opposition groups in proportion to the number of seats they held respectively in the House, that is, 7 hours 9 minutes for the 29 Members of the Official Opposition and 2 hours 23 minutes each for the Second and Third Opposition Groups, which both had 10 Members.⁵⁴*

The debate on the opening speech ends, as we have seen, with the reply by the Government's representative, which may last up to one hour (SO 50). This right of reply must be exercised by a government Member. In some cases, it is exercised by the Premier⁵⁵, but most often, by a minister.⁵⁶ In some cases, it has not been exercised at all.⁵⁷

6.2.2.2 MOTIONS STATING A GRIEVANCE AND WANT OF CONFIDENCE MOTIONS

Since the opening speech of the session is a general statement of the Government's policies and Members may discuss any and all matters during the ensuing debate, a Member who takes the floor may move a motion stating a grievance or a want of confidence motion (SO 50).

Previously, during the debate on the opening speech, a Member could move a want of confidence motion to express disapproval of the Government on a particular point. Opposition Members made liberal use of this right, moving several want of confidence motions during debate, which the Assembly then had to put to a vote. The 2009 reform ended this practice by limiting the total number of want of confidence motions that could be moved during a session—including during the debate on the opening speech and the budget speech

54 VP, November 29, 2018, p. 44. The speaking time used was, however, the time that had been established before the Leader of the Official Opposition and outgoing Premier Philippe Couillard's resignation as Member for Roberval, when the Official Opposition was composed of 30 Members.

55 JD, November 19, 1981, p. 316; JD, December 7, 1994, p. 311; JD, April 4, 1996, p. 391; JD, November 14, 2012, pp. 391–393.

56 JD, March 24, 1977, p. 372; JD, October 3, 1984, p. 344; JD, December 6, 1989, p. 330; JD, April 8, 1992, p. 435; JD, March 30, 1994, p. 258; JD, June 11, 2003, p. 307; JD, March 28, 2006, p. 858; JD, May 23, 2007, p. 366; JD, April 2, 2009, p. 1489; JD, April 6, 2011, p. 1410; JD, June 2, 2014, pp. 388–390.

57 JD, April 19, 1983, p. 427; JD, April 1, 1999, p. 1049; JD, May 15, 2001, p. 1171; JD, December 6, 2018, p. 365.

(SO 304)—to seven and by requiring that all want of confidence motions state that the Assembly withdraws its confidence in the Government (SO 304.1). As a result, Members can still move a want of confidence motion to withdraw the Assembly's confidence in the Government, but they should keep in mind that this will leave fewer opportunities to do so during the rest of the session.

At the time of the 2009 parliamentary reform, a new means of expressing a concern was added to the Standing Orders: the motion stating a grievance. This motion allows Members to express their dissatisfaction with the Government and its policies without calling the Assembly's confidence in the Government into question.⁵⁸ Unlike in the case of want of confidence motions, there is no limit on the number of motions stating a grievance. Such motions, which were designed to give opposition Members a new means of expressing themselves, can state the grounds on which they are based. This is an exception to the general rule in the first paragraph of Standing Order 191 stipulating that no motion may recite either the grounds on which it is moved or arguments on its behalf. The second paragraph of Standing Order 191 states that the motions provided for in Standing Orders 50 and 274, including motions stating a grievance, which may be moved during the opening speech debate and the budget speech debate, respectively, may briefly state the grounds on which they are based, although arguments are not permitted.⁵⁹

A motion moved during the debate on the opening speech must be in writing (SO 190), but no notice is required (SO 50, 2nd para.). This is an exception to the general rule requiring Members to give prior notice of motions on the Order Paper (SO 188). Motions stating a grievance and want of confidence motions are usually moved at the end of a Member's speech, although there is no obligation in this respect. They may not be amended (SO 50, 2nd para.).

The President must reject a motion that is contrary to the Standing Orders (SO 193), and any Member may challenge the admissibility of any motion that has not been put to a vote.⁶⁰ This means that, during the debate on the opening speech, the period granted for contesting the admissibility of a motion stating a grievance or a want of confidence motion is quite long, since such motions are not put to a vote until the end of the allotted 25 hours. This explains why the President rarely rules on the admissibility of such a motion at the time

58 *La réforme parlementaire 2009*, Sessional Paper No. 247-20090421, April 21, 2009 (VP, April 21, 2009, p. 216), pp. 4–5.

59 JD, April 21, 2015, p. 5706 (François Ouimet)/RDPP, No. 191/6.

60 JD, April 23, 1991, p. 7547 (Jean-Pierre Saintonge)/RDPP, No. 193/4.

it is moved, but rather only later, before the question is put.⁶¹ The President generally specifies that the motion has been moved subject to its admissibility, and this condition is also included in the *Votes and Proceedings*.

After the Government's reply, the motions stating a grievance are put to a vote in the order they were moved. Then, the question is put on the want of confidence motions and, finally, on the Premier's motion to adopt the Government's general policy (SO 50.1).

6.2.3 CLOSING A SESSION BY PROROGATION

A session is closed when the Assembly is prorogued by proclamation of the Lieutenant Governor (ANA, s. 5), on the advice of the Government. In parliamentary jargon, "prorogation" means the Government terminates a session. In practice, prorogation suspends the sittings of the Assembly, deferring them to a later date. The Assembly may not continue its deliberations beyond the time specified in the proclamation.⁶² The Assembly may be prorogued either while assembled in the presence of the Lieutenant Governor,⁶³ or by proclamation if it is not sitting. Concretely, prorogation consists first in the Conseil exécutif adopting an order ending the session on the recommendation of the Premier and then, second in the Lieutenant Governor giving effect to the order and proroguing the Assembly.

Although both prorogation and adjournment defer Assembly sittings to a later date, there are key differences between these two important acts in parliamentary life. Prorogation is an act of the executive power that defers the activities of the Assembly until the latter is again summoned to meet on a date set by the Government. Following a prorogation and throughout the resulting recess, the Assembly may not meet in any way, even if the rules of procedure provide that it should. Adjournment, on the other hand, is an act by which the Assembly halts a sitting and schedules when it will resume sitting during the same sessional period.

In addition to deferring Assembly activities, prorogation and adjournment have another major point in common in that the Government takes the initiative in both cases. Even if prorogation is an act of the Lieutenant Governor, as mentioned above, it is the Government, under a constitutional convention, that

61 For the admissibility criteria for a want of confidence motion, see Chapter 7, "Ministerial Responsibility and the Assembly's Confidence in the Government". For the general criteria regarding the admissibility of motions, see Chapter 12, "The Decision-Making Process".

62 Beauchesne et al., *Beauchesne's Rules and Forms of the House of Commons of Canada*, pp. 68 and 74; Thomas Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, para. 8.5.

63 JD, June 17, 1994, pp. 2090–2091.

decides to prorogue the Assembly. Similarly, although the Assembly adjourns itself, only the Government can make a motion proposing the adjournment, which the Assembly then votes on.

The similarities between these two acts end here, as prorogation has other very specific major effects: unless the Assembly decides otherwise, all select committees appointed by the Assembly are dissolved, all orders not fully executed, except those relating to the production or printing of papers, cease to have effect, and any business pending or bills that have not been passed lapse (SO 47). A former Standing Order of the Assembly in fact provided that the closing of a session terminated any bill the Lieutenant Governor had not assented to, even if it had been passed.⁶⁴

The effects of prorogation are not irreversible, however. Under Standing Order 47, the Assembly may carry a motion to counter them. It may decide, for instance, to pursue the examination of one or more matters in the following session.⁶⁵ However, such a motion must necessarily be moved before the session is closed. Should such a motion not be carried before the closing of the session, mandates not fully carried out could, however, be placed on the *Order Paper and Notices* at the following session, with the consent of the Members of the Assembly to override Standing Order 47.⁶⁶

64 Geoffrion 1941, SO 9 and 10.

65 On March 10, 1994, the Assembly carried motions without notice to allow three committees to carry out certain mandates despite the closing of the 2nd Session of the 34th Legislature. Some of the matters under consideration had been taken up on the committees' own initiative (VP, March 10, 1994, pp. 1494-1495 and 1499). The 2nd Session was closed on March 10 and the 3rd Session began on March 17. The mandates concerned were carried out during the 3rd Session. On March 12, 1996, the Assembly also carried a motion to allow two committees to carry out certain mandates despite the closing of the 1st Session of the 35th Legislature (VP, March 12, 1996, pp. 924-925).

66 This method has been used a number of times. The Assembly was prorogued on March 10, 2006, putting an end to the 1st Session of the 37th Legislature. On March 15, 2006, at the second sitting of the 2nd Session, by leave of the Assembly to set aside Standing Order 47, it was moved that the Select Committee on the Election Act, established pursuant to a motion carried on June 15, 2005, during the 1st Session, be allowed to continue its proceedings and table its report during the 2nd Session (VP, March 15, 2006, p. 19). The same day, a similar procedure was followed to carry two more motions. The first, that the Committee on Social Affairs hold general consultations on the document entitled "Guaranteeing access: meeting the challenges of equity, efficiency and quality", was retroactive to February 21, 2006, despite the prorogation of the 1st Session of the 37th Legislature (VP, March 15, 2006, pp. 15-16). The second, to ratify the order referred to the Committee on Transportation and the Environment to hold special consultations on the policy paper on off-highway vehicles presented by the Minister for Transport, was also retroactive, to March 7, 2006, despite the prorogation of the session (VP, March 15, 2006, pp. 16-18). Similarly, on February 24, 2011, at the time set aside for motions without notice during the second sitting of the 2nd Session, by leave of the Assembly to set aside Standing Order 47, it was moved that the Select Committee on Dying with Dignity be allowed to continue its proceedings and table its report during the 2nd Session of the 39th Legislature (VP, February 24, 2011, p. 20).

PROCLAMATION PROROGUING THE ASSEMBLY AND SUMMONING IT TO RECONVENE AT A LATER DATE



Another, less restrictive measure to prevent bills introduced before prorogation from lapsing is set out in the Standing Orders: before the third sitting that follows the conclusion of the debate on the opening speech of the session, the Assembly may decide, on a motion without notice by the Government House Leader, to continue examining bills introduced in the previous session, at the stage they had reached before the Assembly was prorogued (SO 48). Once the motion has passed, the bills are reinstated on the Order Paper, under the heading for the stage previously reached. According to a ruling by a committee Chair, if a session ends while a bill is undergoing clause-by-clause consideration, the committee must resume its proceedings exactly where it left off before prorogation.⁶⁷ Provided that it observes the above deadline, there is no limit to the number of motions the Government can move to continue examining bills. It may move a single motion covering several bills or a separate motion for each bill concerned.⁶⁸ Motions made by the Government House Leader are put to a vote without debate (SO 48).

Prorogation has no effect on the composition of standing parliamentary committees. The Standing Orders even include a mechanism for filling vacancies that occur on committees while the Assembly is prorogued: Standing Order 129

67 JD, April 12, 2001, CTE-2 p. 4 (Claude Lachance)/RDPP (Com. Vol.), No. 48/1.

68 JD, March 23, 1994, pp. 110–111 (Jean-Pierre Saintonge)/RDPP, No. 48/1.

provides that when the Assembly stands prorogued, a vacancy on a committee may be filled or a permanent substitution made by the Committee on the National Assembly.

According to section 13 of the *Act respecting the National Assembly*, a committee or subcommittee may sit even when the Assembly is not in session, but it is bound by the effects of prorogation set out in Standing Order 47. As parliamentary committees are offshoots of the Assembly, they cannot, under section 13 of the *Act respecting the National Assembly*, be given a power that the Assembly itself does not have. Consequently, they are not authorized to meet after a prorogation unless the Assembly has adopted an order to that effect in accordance with Standing Order 47.⁶⁹

6.3 SITTINGS

Once a session opens, the Assembly can meet to deliberate. In parliamentary language, each day of deliberations constitutes a sitting. The number of sittings during a session may vary considerably, depending on the length of the session. On three occasions, a session comprised only one sitting,⁷⁰ while the longest session so far had 353 sittings.⁷¹

Sittings held in keeping with the parliamentary calendar, during the periods, on the days and at the times set out in the Standing Orders, are known as “regular sittings”. For various reasons, the Assembly may exceptionally be required to hold a sitting outside those periods. In such cases, the Assembly is said to be meeting for “extraordinary sittings”.

69 On March 18, 1992, the Assembly carried a motion without notice to allow the Committee on Planning and Infrastructures to hold a deliberative meeting on Thursday, March 19, 1992, from 9:30 a.m. to 12:30 p.m., despite the closing of the session (JD, March 18, 1992, p. 12082). The 1st Session was closed on March 18 and the 2nd Session began at 2:00 p.m. the next day. The deliberative meeting was therefore held between the two sessions. Similarly, on March 12, 1996, the Assembly passed a motion to allow two committees to meet despite the closing of the 1st Session of the 35th Legislature: the Assembly was prorogued on March 13, yet the Committee on Institutions held general consultations and public hearings on Bill 133, *An Act to amend the Charter of human rights and freedoms and other legislative provisions*, on March 19, 20 and 21, thus completing the mandate entrusted to it on December 15, 1995, by order of the Assembly. Then, on March 13 and 19, 1996, the Committee on Planning and Infrastructures continued its general consultations and public hearings on the draft bill respecting semi-public companies in the municipal sector, thus concluding the mandate entrusted to it by order of the Assembly on December 14, 1995 (VP, March 12, 1996, p. 941). As the 2nd Session began on March 25, 1996, both committees met between the two sessions.

70 The 5th Session of the 27th Legislature (October 22, 1965), the 2nd Session of the 28th Legislature (October 20, 1967) and the 5th Session of the 31st Legislature (October 24, 1980).

71 The 1st Session of the 41st Legislature, which ran from May 20, 2014 to August 23, 2018.

6.3.1 REGULAR SITTINGS

During a legislature, the Assembly holds regular sittings in the spring, from February to June, and in the fall, from September to December. This constitutes the parliamentary calendar.

There are two different timetables for each of these sessional periods depending on whether the Assembly is holding ordinary or extended hours of meeting.

CHANGES IN THE PARLIAMENTARY CALENDAR AND TIMETABLE

In 1984, the Assembly adopted a fixed parliamentary calendar according to which it would meet during two periods of the year: from the second Tuesday in March until not later than June 23 and from the third Tuesday in October until not later than December 21. The Assembly would sit three days a week, from Tuesday afternoon to Thursday evening, but it could also decide to meet on a Monday.

The timetable was amended in 1990 so that Members would no longer have to sit in the evening during ordinary hours of meeting. However, during extended hours of meeting, held from May 25 to June 23 and from November 25 to December 21, the Assembly would meet from Monday to Friday with no set time for sittings to end. Sittings could therefore last 24 hours, until the time set for the next sitting to begin, at 10:00 a.m. the following day.

Seven years later, in 1997, the timetable was modified so that each sitting would end at midnight at the latest. In addition, the Assembly would no longer meet on a Monday unless it decided to do so on a motion without notice moved by the Government House Leader.

Then, in 2009, the Assembly adopted a new calendar that took effect on September 14 of that year. In accordance with Standing Order 19, the Assembly would hold two sessional periods each year: one starting on the second Tuesday in February, for 16 weeks of ordinary hours of meeting followed by two weeks of extended hours of meeting, and the other starting on the third Tuesday in September, for 10 weeks of ordinary hours of meeting followed by two weeks of extended hours of meeting. The hours of meeting also changed at that time, as we will soon see.

During the sessional periods, the Assembly interrupts its sittings during certain weeks to allow Members to concentrate on work in their ridings. The weeks allotted for riding work are determined by the President after meeting with the House leaders, and comprise three weeks during the sessional period beginning

in February,⁷² one week during the sessional period beginning in September⁷³ and one week following the second week of extended hours scheduled for that period. The Standing Orders stipulate that the calendar is determined at the beginning of each sessional period (SO 19.1). In practice, however, it is generally determined in May⁷⁴ or in June⁷⁵ for the following parliamentary year, as this offers better predictability. A new, amended calendar that reflects the actual start date of parliamentary proceedings is usually tabled at the beginning of a legislature, which may have been delayed due to a general election.⁷⁶ Even though the Assembly cannot meet for regular sittings during weeks devoted to riding work, it may still hold extraordinary sittings. In addition, during those weeks, it is considered to be meeting for the purposes of Standing Order 19 (SO 19.1, 2nd para.).

In addition to a new calendar, the Assembly adopted new hours of meeting in 2009, which were slightly modified in 2015 to start sittings 10 minutes later.⁷⁷ The Assembly's ordinary hours of meeting are now on Tuesdays from 1:40 p.m. to 9:30 p.m., with proceedings being suspended from 6:00 p.m. to 7:30 p.m., and Wednesdays and Thursdays from 9:40 a.m. to 6:00 p.m., with proceedings being suspended from 1:00 p.m. to 3:00 p.m. It may also decide, on a motion moved without notice by the Government House Leader, to meet on a Monday, according to the same timetable as for Tuesdays (SO 20). During extended hours of meeting, the Assembly meets on Thursdays until 10:30 p.m., after a suspension from 6:00 p.m. to 7:30 p.m., and on Fridays from 9:40 a.m. to 1:00 p.m. It may also decide to meet on a Monday, according to the same timetable as for Tuesdays (SO 21).

72 Generally, the two weeks of spring break (the last week of February and the first week of March) and the week immediately following the Easter holiday. The President of the Assembly has, on occasion and by unanimous consent to override Standing Orders 19 and 19.1, tabled a calendar for the coming parliamentary year that included an additional week of riding work for the spring sessional period, thus increasing the number of weeks of ordinary hours of meeting to 17. Consequently, the parliamentary calendar provided that the sessional period begin one week earlier, that is, the first Tuesday in February (see JD, May 31 2016, p. 11225; JD, June 9, 2017, p. 16754; JD, June 15, 2018, p. 22316; JD, May 15, 2019, p. 2761).

73 In general, the week beginning on the second Monday of October, which is considered a holiday (*Interpretation Act*, CQLR., c. I-16, s. 61(23) (g.1)).

74 JD, May 18, 2011, p. 1968; JD, May 23, 2013, p. 3501; JD, May 31, 2016, p. 11255; JD, May 15, 2019, p. 2761.

75 JD, June 11, 2010, p. 7216; JD, June 13, 2012, p. 6846; JD, June 12, 2014, p. 1492; JD, June 11, 2015, p. 6684; JD, June 9, 2017, p. 16754; JD, June 15, 2018, p. 22316.

76 This was the case at the beginning of the 40th (JD, November 1, 2012, p. 30) and 41st Legislatures (JD, May 22, 2014, p. 33), but not at the beginning of the 42nd Legislature.

77 JD, October 7, 2015, p. 7165.

ASSEMBLY SCHEDULE

ORDINARY HOURS OF MEETING		
TUESDAY	WEDNESDAY	THURSDAY
	9:40 a.m. to 11:00 a.m.	9:40 a.m. to 11:00 a.m.
	11:00 a.m. to 1:00 p.m.	11:00 a.m. to 1:00 p.m.
1:40 p.m. to 3:00 p.m.	Suspension	Suspension
3:00 p.m. to 6:00 p.m.	3:00 p.m. to 6:00 p.m.	3:00 p.m. to 6:00 p.m.
Debates upon adjournment		Debates upon adjournment
Suspension		
7:30 p. m.to 9:30 p.m.		

EXTENDED HOURS OF MEETING			
TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
	9:40 a.m. to 11:00 a.m.	9:40 a.m. to 11:00 a.m.	9:40 a.m. to 11:00 a.m.
	11:00 a.m. to 1:00 p.m.	11:00 a.m. to 1:00 p.m.	11:00 a.m. to 1:00 p.m.
1:40 p.m. to 3:00 p.m.	Suspension	Suspension	
3:00 p.m. to 6:00 p.m.	3:00 p.m. to 6:00 p.m.	3:00 p.m. to 6:00 p.m.	
Suspension		Suspension	
7:30 p.m. to 9:30 p.m.		7:30 p.m. to 10:30 p.m.	

LEGEND

-  Routine Proceedings
-  Orders of the Day

The decision to meet on a Monday is made by the Assembly but at the Government's initiative, on a motion by the Government House Leader that may not be debated. Standing Order 20 does not set a specific time for moving such a motion during ordinary hours of meeting. However, during extended hours of meeting, a motion without notice by the Government House Leader to meet on a Monday must be moved at the time set aside during Routine Proceedings for motions without notice. A short debate ensues (SO 21). The mover of the motion and the representatives of the parliamentary groups in opposition then have five minutes each to speak to the question. The mover has two minutes to reply (SO 21, 3rd para.).

In addition, on a request by the Government House Leader addressed to the President, a Wednesday or Thursday sitting during ordinary hours of meeting may be extended, to give the Minister of Finance the opportunity to deliver the budget speech or make a supplementary statement on the budget. Unlike a Government proposal to meet on a Monday, which must be made by a motion carried by the Assembly, a proposal to extend a sitting to comply with Standing Order 271 or 278 does not require a decision on the part of the Assembly; a simple request to the President suffices. The President informs the Assembly of the request at the earliest opportunity. The sitting is then suspended at 6:00 p.m. to resume at 7:30 p.m. (SO 20, 3rd para., 271 and 278). During extended hours of meeting, Wednesday sittings may also be extended under the same conditions (SO 21, 4th para.).

The Assembly calendar does not affect the committees, which may meet year-round except during the weeks set aside for riding work (SO 19.1). The committee schedule is quite different from that of the Assembly. Committees may meet from Monday to Friday during both ordinary hours of meeting (SO 143) and extended hours of meeting (SO 143.1), as well as outside the sessional periods defined in Standing Order 19 (SO 143.2).

The parliamentary calendar consists in all of the specific periods during which the Assembly is authorized to hold regular sittings.⁷⁸ While the Assembly is under no legal obligation to meet during those periods, it is certainly expected to do so unless a decision is made to the contrary.⁷⁹

However, the Assembly can always adjourn its proceedings for a certain period of time by carrying a motion to that effect moved by the Government House Leader. Such a motion defers Assembly proceedings to a specific date, which must fall within the parliamentary calendar. Outside this period, the Assembly may hold only extraordinary sittings that comply with very strict rules.

6.3.2 EXTRAORDINARY SITTINGS

While the Standing Orders determine the parliamentary calendar (the set periods, days and times when the Assembly meets), the Assembly may need to sit outside this predetermined framework to deal with a particular situation. In such cases, the Standing Orders allow it to hold extraordinary sittings (SO 23).

However, the President once ruled that, for the calculation of certain time limits prescribed in the Standing Orders, extraordinary sittings count as sittings in the same way regular sittings do. Consequently, for the purposes of Standing Order 273, if the budget speech is delivered on a Thursday and an extraordinary sitting is held on the Friday, the speech of the representative of the Official Opposition is delivered on the next sitting day, that is, on the following Tuesday.⁸⁰ By the same logic, an extraordinary sitting should also be counted in calculating the time limits prescribed in the Standing Orders for filing an electronic petition (RCP 46), since these time limits are also expressed in numbers of sitting days.

78 JD, December 15, 2005, p. 11054 (Michel Bissonnet)/RDPP, No. 23/2. According to Standing Order 19 then in force (1985 SO), the sessional periods ended on June 23 or December 21 at the latest. The President interpreted this provision as meaning that the Assembly could decide to adjourn its proceedings sooner. In the President's opinion, despite the parliamentary calendar, the Assembly was not required to meet, its only obligation being that set out in section 5 of the *Constitution Act, 1982*: "There shall be a sitting of Parliament and of each legislature at least once every twelve months." As a result, the Assembly could always carry a motion adjourning its proceedings to a later date on the parliamentary calendar.

79 For example, on June 5, 2018, during extended hours of meeting, by leave of the Assembly to set aside Standing Orders 21 and 143.1, it was agreed that the Assembly would not sit on Friday, June 8, 2018, due to the activities surrounding the G7 Summit being held in La Malbaie (JD, June 5, 2018, pp. 21900–21901). Similarly, during the Wednesday, May 10, 2017 sitting, the Assembly adopted a special order to retroactively ratify the cancellation of the sitting of the previous day, Tuesday, May 9, 2017, due to extensive flooding in several regions of Québec (JD, May 20, 2017, p. 16124).

80 JD, March 30, 2001, p. 513 (Jean-Pierre Charbonneau).

6.3.2.1 SUMMONING THE ASSEMBLY FOR EXTRAORDINARY SITTINGS

As their name indicates, extraordinary sittings are not a common occurrence.⁸¹ Furthermore, they are held exclusively on the Government's initiative, since they must be requested by the Premier (SO 23).

The Premier's request must be addressed to the President of the Assembly or, in the President's absence, to the Secretary General (SO 24), and must set out the reason or reasons for summoning the Assembly, which only the Premier may decide⁸² and over which the President has no say.⁸³ These are the sole formalities in the Standing Orders regarding summoning the Assembly for extraordinary sittings. The Premier's, and thus the Government's, initiative is exclusive and absolute. This power of initiative also allows the Premier to cancel an extraordinary sitting.⁸⁴

In addition to the reasons for summoning the Assembly for an extraordinary sitting, the Premier's request letter must state the scheduled day and time for the sitting, which can be held at any time outside the periods, days and times specified in Standing Orders 19 to 21.

For example, Standing Order 20 determines the timetable to be followed by the Assembly during ordinary hours of meeting. Outside those hours, nothing prevents it from meeting for an extraordinary sitting at the Premier's request. However, according to a ruling handed down in 2005, the possibility of meeting for extraordinary sittings outside the periods, days and times provided in the Standing Orders means the Assembly can meet for such sittings at any time at

81 The Assembly is generally summoned for extraordinary sittings only a few times during a legislature: once in the **33rd Legislature**, (March 26, 1986), four times in the **34th Legislature** (August 30, 1990, August 27, 1991, September 3, 1992, and September 9, 1992), four times in the **35th Legislature** (January 26, 1995, September 7, 1995, March 21, 1997, and February 18, 1998 (the last sitting, however, was cancelled one hour before it was to be held), five times in the **36th Legislature**, (July 2, 1999, March 21, 2000, February 22, 2001, March 30, 2001, and July 25, 2002), four times in the **37th Legislature** (July 16, 2003, March 21, 2005, December 15, 2005, and February 20, 2007), six times in the **39th Legislature** (January 13, 2009, September 18, 2009, June 11, 2010, October 18, 2010, February 21, 2011, and May 17, 2012), twice in the **40th Legislature** (June 30, 2013, and December 9, 2013) and nine times in the **41st Legislature** (July 3, 2014, February 6, 2015, April 20, 2015, June 10, 2016, December 9, 2016, February 27, 2017, May 29, 2017, November 16, 2017 (sitting cancelled a few minutes before it was to be held), and June 14, 2018). No extraordinary sittings were held during the **38th Legislature**. From the beginning of the **42nd Legislature** until the end of the fall sessional period, four extraordinary sittings were held (June 15 and 16, 2019, December 7, 2020, and February 7, 2020). See Appendix I, "Extraordinary Sittings as of the 33rd Legislature".

82 JD, February 21, 2011, pp. 9158–9159 (Yvon Vallières)/RDPP, No. 26.1/3.

83 JD, December 15, 2005, p. 11056 (Michel Bissonnet)/RDPP, No. 23/3.

84 The extraordinary sittings scheduled for February 18, 1998, and November 16, 2017, were cancelled. In the latter case, the Premier's letter requesting cancellation of the sitting was tabled at the following sitting (JD, November 21, 2017, p. 18047).

which it could not otherwise meet. Thus, if the Assembly adjourns its proceedings before the deadline specified in the calendar, it can meet for extraordinary sittings between the carrying of the adjournment motion and that deadline. In the President's opinion, any other interpretation of the Standing Orders would deprive the Assembly of a means of meeting between the two dates, however urgent the situation.⁸⁵ In the same vein, the fact that the Assembly can meet on a Monday during a sessional period, on a motion by the Government House Leader, does not preclude it, failing such a motion, from meeting on a Monday for an extraordinary sitting.⁸⁶

Although the Standing Orders do not specify the length of time between the moment the extraordinary sitting is called and the moment it begins, it has been ruled that the Members are to be given a reasonable amount of time to enable them to attend such a sitting.⁸⁷

On a few occasions since 1984, the Assembly has held an extraordinary sitting after meeting for a regular sitting on the same day.⁸⁸ When the Assembly is not sitting, the Members are generally informed of being summoned for an extraor-

85 JD, December 15, 2005, p. 11054 (Michel Bissonnet)/RDPP, No. 23/2. On December 14, 2005, the Assembly carried a motion adjourning its proceedings until Tuesday, March 14, 2006. The same day, the Premier sent a letter to the President requesting that the Assembly meet the next day for an extraordinary sitting. The Official Opposition House Leader claimed that the sitting was irregular since, according to the parliamentary calendar then in force, the Assembly was to meet for regular sittings until December 21 and could meet for extraordinary sittings only outside the periods, days and hours specified in the Standing Orders. The President rejected this argument on the grounds that the adjournment of the House until the second Tuesday of March 2006 had terminated the period of regular proceedings and that, consequently, in order to deal with a matter, the Assembly had to meet for an extraordinary sitting. The President could not interpret the Standing Orders in such a way as to prevent the Assembly from meeting, nor was it up to the President to evaluate the reasons that had led the Government House Leader to propose the adjournment of proceedings or the Premier to summon the Assembly for an extraordinary sitting.

86 JD, February 21, 2011, pp. 9158–9159 (Yvon Vallières)/RDPP, No. 26.1/3.

87 JD, June 11, 2010, p. 7254 (Yvon Vallières)/RDPP, No. 24/1. The Premier's letter requesting that the Assembly be summoned for an extraordinary sitting was sent a few minutes after the Assembly adjourned its proceedings for the summer. Based on this fact, the President deemed that since the Members were still in or near the National Assembly, it was unnecessary to grant them reasonable time to travel in from their ridings to the Assembly.

88 March 26, 1986 (Bill 34, *An Act respecting the resumption of transportation service in the territory of certain school boards*), March 21, 2000 (report from the Comité de la rémunération des juges de la Cour du Québec et des cours municipales tabled in the Assembly on October 28, 1999), June 11, 2010 (Bill 100, *An Act to implement certain provisions of the Budget Speech of 30 March 2010, reduce the debt and return to a balanced budget in 2013–2014*), May 17, 2012 (Bill 78, *An Act to enable students to receive instruction from the postsecondary institutions they attend*), June 10, 2016 (Bill 100, *An Act to amend various legislative provisions respecting mainly transportation services by taxi*), December 9, 2016 (Bill 106, *An Act to implement the 2030 Energy Policy and to amend various legislative provisions*), and June 14, 2018 (Bill 400, *An Act to amend the Act respecting the estate of the Honourable Trefflé Berthiaume and La Compagnie de Publication de La Presse, Limitée*).

dinary sitting by a notice sent by the Secretary General. However, this information has also on occasion been communicated to them during the ordinary sitting preceding the extraordinary one, either by the tabling of the letter calling the sitting⁸⁹ or simply by a verbal notice from the President.⁹⁰

The summoning of the Assembly for an extraordinary sitting does not change the order in which Routine Proceedings are addressed. Where Statements by Members are concerned, the Members are not released from their obligation to forward the required notice within the time prescribed in Standing Order 54.1. However, it is impossible for a Member to forward the notice within the prescribed time if the extraordinary sitting is called the day it is to be held, or after 5:00 p.m. the day before. In such cases, there can be no Statements by Members during the Routine Proceedings of the extraordinary sitting.⁹¹ It has become common practice for the President to open such sittings at the time specified in the notice of meeting and immediately call the next item of business under Routine Proceedings, without suspending Assembly proceedings, contrary to what might be suggested by the second paragraph of Standing Order 54.5.⁹²

6.3.2.2 CONDUCT OF EXTRAORDINARY SITTINGS

In theory, Standing Orders 20 and 21, which address the calendar and timetable for proceedings, do not apply to extraordinary sittings, which take place outside the periods, days and times specified there. Before the 2009 reform, the Standing Orders were not very explicit as to the conduct of extraordinary sittings.⁹³ They simply stated that if the Assembly was summoned to deal with an urgent matter, the Government House Leader could move, at the time set aside during Routine Proceedings for motions without notice, to suspend the rules of procedure in order to establish a special procedure for that sitting and specify which Standing Orders, if any, were to be suspended (1985 SO 28).

89 JD, March 21, 2000, p. 5017; JD, March 29, 2001, pp. 147-148; JD, November 16, 2017, p. 18006 (the last sitting, however, was later cancelled).

90 JD, June 10, 2016, p. 11709 (François Gendron).

91 See *Order Paper and Notices*, June 11, 2010, p. 1; *Order Paper and Notices*, May 17, 2012, p. 1; *Order Paper and Notices*, June 10, 2016, p. 1; *Order Paper and Notices*, June 14, 2018, p. 1.

92 **“54.5. End of statements; continuation of sitting** — Twenty minutes after the time appointed for calling the Assembly to order or, if Statements by Members is not yet finished, immediately thereafter, the Assembly shall continue the Routine Proceedings.

During extraordinary sittings, the period envisaged in the first paragraph of this Standing Order shall be ten minutes.”

93 On December 6, 2001, during the 2nd Session of the 36th Legislature, the Assembly adopted temporary rules governing extraordinary sittings and their time frame. These rules were to be in force until June 23, 2003, notwithstanding the prorogation of the session. However, they ceased to be in force on the dissolution of the 36th Legislature on March 12, 2003, and were not renewed in the following legislature.

Since the Standing Orders did not specify the rules (calendar and timetable) governing extraordinary sittings, a motion to suspend the rules of procedure was required to set the time frame.

Given these omissions in the Standing Orders, in 1992 the President clarified the conduct of extraordinary sittings, as follows: when the Assembly was summoned for an extraordinary sitting at the Premier's request, the sitting was to begin with Routine Proceedings. At the time set aside for motions without notice, the Government House Leader would explain, in a limited debate, the reasons for summoning the House. The Government House Leader could propose in the motion that certain rules of procedure be suspended, even though, in accordance with Assembly custom, the new rules might have been determined by prior agreement between the House leaders. The new rules still had to be adopted by the Assembly.⁹⁴

As part of the 2009 reform, the Assembly definitively replaced the motion to suspend the rules of procedure with a new procedure known as the "motion to introduce an exceptional procedure", which will be discussed in Chapter 16. Since the Assembly was then obliged to adopt new rules for the conduct of extraordinary sittings, it took the opportunity to clarify the rules governing the time frame for such sittings.

Under these rules, at the time set aside during Routine Proceedings for motions without notice, the Government House Leader moves a motion to set the time frame for the extraordinary sittings. The motion must state the matters for which the Assembly has been summoned (SO 26.1).

This motion generally also determines the time at which the Assembly may begin to sit, and how long it may sit until it has completed the examination of the matter for which it was summoned or until it decides to adjourn its proceedings. The President once ruled that, even if the time limit set in the motion has expired at the time the question is put on the motion, the carrying of the motion does not have the effect of ending the sitting. This allows the Assembly to resume sitting the next day at the agreed time. However, if further sittings are necessary to address the matter for which the Assembly has been summoned, they begin at the time set in the motion establishing the time frame.⁹⁵ The same ruling was made when the Assembly was summoned for an extraordinary sitting at 3:00 p.m. and the motion setting the time frame provided that "the Assembly

94 JD, September 3, 1992, pp. 3059–3064.

95 JD, September 18, 2009, p. 3025 (Yvon Vallières)/RDPP, No. 26.1/1. Given that the motion provided "THAT the Assembly shall be permitted to sit every day, beginning at 10.00 o'clock a.m. . . .", and that it was after 10:00 a.m. when the motion was introduced, the Opposition House Leader alleged that, if the motion were carried, the sitting would have to be adjourned and Assembly proceedings would have to be resumed the next day at 10:00 a.m.

shall be permitted to sit every day, beginning at 10.00 o'clock a.m. . . ." On that occasion, the Chair dismissed the Second Opposition Group House Leader's argument that since the Assembly had been summoned for 3:00 p.m., it would have to immediately adjourn its proceedings to 10:00 a.m. the next day if the motion were carried.⁹⁶

Immediately after the motion to set the time frame, the Government House Leader may move a motion to introduce an exceptional procedure (SO 26.1, 2nd para.). The reason for summoning the House, the motion to set the time frame and any motion to introduce an exceptional procedure all give rise to a single limited debate. As for any limited debate, Standing Order 210 applies. But since Standing Orders 20 and 21 do not apply during extraordinary sittings, the debate is held regardless of the time specified for suspension or adjournment in the Standing Orders. Once the limited debate is over, the President puts the question first on the motion to establish the time frame for the extraordinary sittings and then, if applicable, on the motion to introduce an exceptional procedure. If the latter motion is carried, the Assembly concludes Routine Proceedings (SO 27).

Since a motion may introduce an exceptional procedure to deal with only one matter (SO 182, 1st para.), each such motion is normally the subject of a limited two-hour debate (SO 182, 2nd para., and 210). However, the Standing Orders make an exception for cases where the Assembly is summoned to consider two or more matters: once the first matter has been considered, each additional motion to introduce an exceptional procedure is discussed in a limited debate of up to one hour (SO 27.1).

The President once stated that the provision "that each such motion may introduce an exceptional procedure with regard to but a single matter" means that the exceptional procedure may not be used to consider more than one matter or, in the case of legislation, to consider more than one bill.⁹⁷ Another ruling,⁹⁸ however, specified that Standing Order 182 must be read within the context of the Standing Orders relating to extraordinary sittings. Standing Orders 26.1 and 27.2 provide that the Assembly may be summoned to hold extraordinary sittings to examine more than one matter and that the sittings shall be concluded when the Assembly has dealt with the matters for which it was summoned. Standing Order 27.1 also provides the mechanism that applies if more than one matter must be considered by way of an exceptional procedure. It is therefore

96 JD, June 11, 2010, p. 7254 (Yvon Vallières)/RDPP, No. 24/1.

97 JD, April 20, 2015, p. 5573 (Jacques Chagnon)/RDPP, No. 182/31. The President mentioned, however, that the fact that a bill contains more than one principle does not render a motion to introduce an exceptional procedure inadmissible, since reaching a different conclusion would, for all intents and purposes, make the exceptional procedure inapplicable.

98 JD, June 15, 2019, pp. 3694–3696 (François Paradis)/RDPP, No. 26.1/4.

clear that the Standing Orders allow the Assembly to be summoned for extraordinary sittings for the consideration of more than one matter. However, during such sittings, the Assembly cannot consider more than one matter at once or alternate between two or more matters. Once an exceptional procedure has begun in the Assembly, the latter must devote itself exclusively to the matter under examination since the exceptional procedure, until it has been concluded, takes precedence over all other business before the Assembly (SO 184.2, 3rd para.). It is only once the procedure has been concluded that another exceptional procedure motion may be moved, and this motion then leads to a one-hour limited debate (SO 27.1).

6.3.2.3 EXTRAORDINARY SITTINGS AT THE BEGINNING OF A SESSION

As previously discussed, extraordinary sittings begin with Routine Proceedings. However, there is one exception: if the Assembly is summoned for extraordinary sittings after the session is closed, Routine Proceedings are preceded by the Lieutenant Governor's address.

Under the former rules, immediately after the Lieutenant Governor's address, the Government House Leader moved a motion to suspend the rules of procedure governing the opening of a new session (1985 SO 25). The procedure has been simplified in that the current rules for the opening of a session, except those pertaining to the Lieutenant Governor's address, are automatically suspended (SO 25). Standing Orders 45 and 46, concerning the opening speech, and Standing Orders 49 to 50.1, concerning the ensuing debate, are therefore suspended without further formality for the purpose of considering the matters that the Assembly has been summoned to examine. The opening speech must be delivered at the first regular sitting that follows.

6.3.2.4 END OF EXTRAORDINARY SITTINGS

Extraordinary sittings conclude when the Assembly has dealt with the matters for which it was summoned (SO 27.2). Therefore, when the Assembly holds an extraordinary sitting to examine a bill, the sitting ends immediately after the Assembly has dealt with the legislation. No other debate is possible, not even a debate on adjournment.⁹⁹

At the time set for the beginning of a regular sitting under the calendar and timetable specified in Standing Orders 19 to 21, the Assembly may not have completed its consideration of one or more matters it was summoned to decide. In this regard, the President has determined that as soon as a motion to

99 JD, July 2, 1999, pp. 2956-2957 (Jean-Pierre Charbonneau)/RDPP, No. 308/9; JD, March 21, 2000, pp. 5063-5064 (Jean-Pierre Charbonneau).

introduce an exceptional procedure is carried, any Standing Orders incompatible with this procedure, including those relating to the calendar and timetable, are implicitly suspended for the purposes of considering the matter concerned.¹⁰⁰

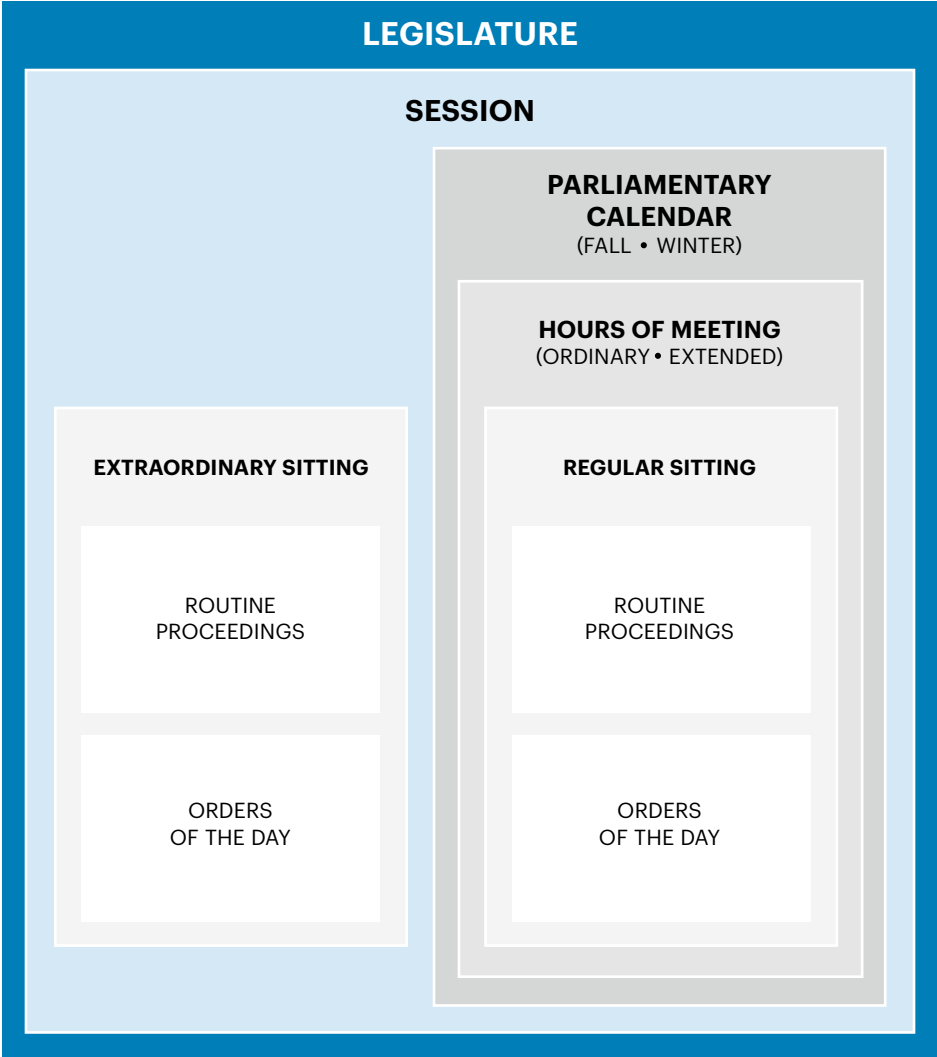
As previously seen, the Standing Orders relating to the Assembly's hours of meeting do not apply during extraordinary sittings. Therefore, when the Assembly is summoned for such sittings, it may sit, regardless of the time set out in Standing Orders 20 and 21 for the suspension or adjournment of the Assembly, until a motion is moved to set the time frame for the extraordinary sittings. Once the motion is carried, the hours of meeting specified in the motion apply and, as a result, the extraordinary sittings cannot exceed 24 hours.¹⁰¹ If more than one sitting is required to examine the matter for which the Assembly has been summoned, the second sitting begins with Routine Proceedings at the time specified in the motion and continues until the Assembly has completed its examination of the matter¹⁰² or until it decides to adjourn its proceedings.

100 JD, October 18, 2010, pp. 1632–1633 (Yvon Vallières)/*RDPP*, No. 26.1/2; JD, February 21, 2011, pp. 9158–9159 (Yvon Vallières)/*RDPP*, No. 26.1/3.

101 JD, June 15, 2019, pp. 3694–3696 (François Paradis)/*RDPP*, No. 26.1/4.

102 JD, February 21, 2011, pp. 9158–9159 (Yvon Vallières)/*RDPP*, No. 26.1/3.

ILLUSTRATION OF PARLIAMENTARY TIME FRAMES



**APPENDIX I EXTRAORDINARY SITTINGS
AS OF THE 33RD LEGISLATURE**

EXTRAORDINARY SITTINGS AS OF THE 33RD LEGISLATURE¹⁰³

LEGISLATURE SESSION	DATE	SUBJECT OF DEBATE
33RD LEGISLATURE		
1st Session	March 26, 1986	Passage of the <i>Act respecting the resumption of transportation service in the territory of certain school boards.</i>
34TH LEGISLATURE		
1st Session	August 30 and September 4, 1990	Ministerial statement on consumption taxes; Assignment of a mandate to the Committee on the Budget and Administration to have it study the schedule to the ministerial statement; <i>Passage of the Act respecting the building of a section of Highway 30 between Châteauguay and Sainte-Catherine;</i> Passage of the <i>Act to establish the Commission on the Political and Constitutional Future of Québec;</i> Appointment of the Chairs and members of the Commission.
	August 27 and 28, 1991	Passage of the <i>Act respecting health services and social services.</i>
2nd Session	September 3, 4 and 8, 1992	Passage of the <i>Act to amend the Act respecting the process for determining the political and constitutional future of Québec</i>
	September 9–11, 15 and 16, 1992	Adoption of a referendum question on a new constitutional partnership; Carrying of a motion setting the amount of the subsidy to be paid to each national committee.

103 Note: The Assembly was not summoned for any extraordinary sittings during the 2nd Session of the 33rd Legislature, the 3rd Session of the 34th Legislature, or the 38th Legislature. An extraordinary sitting was cancelled on February 18, 1998, and another on November 16, 2017.

LEGISLATURE SESSION	DATE	SUBJECT OF DEBATE
35TH LEGISLATURE		
1st Session	January 26 and 27, and February 2 and 3, 1995	Consideration of various bills on the Order Paper.
	September 7, 11–14 and 18–20, 1995	Introduction of the <i>Act respecting the future of Québec</i> ; Adoption of a referendum question; Carrying of a motion setting the amount of the subsidy to be paid to each national committee.
2nd Session	March 21, 1997	Passage of the <i>Act respecting the reduction of labour costs in the public sector and implementing the agreements reached for that purpose</i> .
36TH LEGISLATURE		
1st Session	July 2, 1999	Passage of the <i>Act respecting the provision of nursing services and pharmaceutical services</i> .
	March 21, 2000	Carrying of a motion on the report from the Comité de la rémunération des juges de la Cour du Québec et des cours municipales to approve certain recommendations and amend others.
	February 22, 2001	Passage of the <i>Act to provide for the maintenance of pharmaceutical services in Québec</i> .
2nd Session	March 30, 2001	Adoption of the supplementary estimates for the 2000–2001 fiscal year; Adoption of interim supply for the 2001–2002 fiscal year.
	July 25, 2002	Passage of the <i>Act to ensure the continued provision of emergency medical services</i> .

LEGISLATURE SESSION	DATE	SUBJECT OF DEBATE
37TH LEGISLATURE		
1st Session	July 16, 2003	Adoption of the estimates of expenditure for the 2003–2004 fiscal year;
		<i>Passage of the Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities.</i>
	March 21, 2005	Consideration and adoption of certain appropriations necessary for the administration of the Government from April 1 to June 30, 2005;
		<i>Passage of the Act to amend the Forest Act.</i>
	December 15, 2005	<i>Passage of the Act respecting conditions of employment in the public sector;</i>
		<i>Passage of the Educational Childcare Act.</i>
2nd Session	February 20, 2007	Budget speech delivered by the Minister of Finance and comments from the Official Opposition critic for finance and an independent Member.
39TH LEGISLATURE		
1st Session	January 13–15, 2009	Election of the President and the Vice-Presidents;
		Lieutenant-Governor's address;
		Economic Statement delivered by the Minister of Finance, followed by a debate;
		<i>Passage of the Act to amend the Supplemental Pension Plans Act and other legislative provisions in order to reduce the effects of the financial crisis on plans covered by the Act;</i>
		Appointment of the Office of the National Assembly and the parliamentary committees.

LEGISLATURE SESSION	DATE	SUBJECT OF DEBATE
1st Session	September 18, 2009	Passage of the Act to amend the <i>Balanced Budget Act</i> and various legislative provisions concerning the implementation of the accounting reform.
	June 11, 2010	Passage of the Act to implement certain provisions of the Budget Speech of 30 March 2010, reduce the debt and return to a balanced budget in 2013-2014.
	October 18, 2010	Passage of the Act following upon the court decisions on the language of instruction.
	February 21, 2011	Passage of the Act to ensure the continuity of the provision of legal services within the Government and certain public bodies.
2nd Session	May 17, 2012	Passage of the Act to enable students to receive instruction from the postsecondary institutions they attend.
40TH LEGISLATURE		
1st Session	June 30, 2013	Passage of the Act respecting the resumption of work in the construction industry.
	December 9, 2013	Passage of the Act to amend the <i>Mining Act</i> .
41ST LEGISLATURE		
1st Session	July 3, 2014	Adoption of the estimates of expenditure for the 2014-2015 fiscal year.
	February 6, 2015	Passage of the Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies.
	April 20, 2015	Passage of the Act mainly to implement certain provisions of the Budget Speech of 4 June 2014 and return to a balanced budget in 2015-2016.
	June 10, 2016	Passage of the Act to amend various legislative provisions respecting mainly transportation services by taxi.

LEGISLATURE SESSION	DATE	SUBJECT OF DEBATE
	December 9, 2016	Passage of the Act to implement the 2030 Energy Policy and to amend various legislative provisions.
	February 27, 2017	Passage of the Act to ensure the continuity of the provision of legal services within the Government and to allow continued negotiation and the renewal of the collective agreement of the employees who provide those legal services.
	May 29, 2017	Passage of the Act to ensure the resumption of work in the construction industry and the settlement of disputes for the renewal of the collective agreements.
	June 14, 2018	Passage of the Act to amend the Act respecting the estate of the Honourable Trefflé Berthiaume and La Compagnie de Publication de La Presse, Limitée.
42ND LEGISLATURE		
1st Session	June 15, 2019	Passage of the Act to increase Québec's socio-economic prosperity and adequately meet labour market needs through successful immigrant integration.
	June 16, 2019	Passage of the Act respecting the laicity of the State.
	December 7, 2019	Passage of the Act to simplify the process for establishing electricity distribution rates.
	February 7, 2020	Passage of the Act to amend mainly the Education Act with regard to school organization and governance.

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■ CHAPTER 7

MINISTERIAL RESPONSIBILITY AND THE ASSEMBLY'S CONFIDENCE IN THE GOVERNMENT

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7

MINISTERIAL RESPONSIBILITY AND THE ASSEMBLY'S CONFIDENCE IN THE GOVERNMENT

As we have seen, one of the features of our parliamentary system is a flexible separation between the legislative and executive branches of the State. The Québec Parliament, composed of the 125 Members of the National Assembly and the Lieutenant Governor, wields legislative power, but executive power is exercised by the Government of Québec, composed of the Conseil exécutif (the Cabinet) and the Lieutenant Governor.

The *Constitution Act, 1867*, states that the “Executive Council of Ontario and of Québec shall be composed of such Persons as the Lieutenant-Governor from Time to Time thinks fit”. It then provides a non-exhaustive list of those persons.¹ However, in practice and in accordance with constitutional convention,² the Premier appoints the ministers who will take on the various roles in Cabinet.³ In Québec’s British-style parliamentary system, a constitutional convention⁴ also dictates that ministers must be, or become, Members of Parliament. In Québec, as elsewhere in Canada, ministers are sometimes appointed without being

1 *Constitution Act, 1867 (British North America Act, 1867)* (UK), 30 & 31 Vict., c. 3, (reprinted in RSC 1985, App. II, No. 5), s. 63.

2 Henri Brun, Guy Tremblay and Eugénie Brouillet, *Droit constitutionnel*, 6th ed. (Cowansville: Éditions Yvon Blais, 2014), p. 377.

3 *Executive Power Act*, CQLR, c. E-18, s. 4.

4 Constitutional conventions are [TRANSLATION] “rules established empirically, through agreements between governments or politicians. They are not enforced by the courts but are applied and respected out of a feeling of political necessity.” Brun et al., *Droit constitutionnel*, 6th ed., p. 43.

Members of the National Assembly, but they must be elected to the Assembly at the earliest possible opportunity, either in a by-election or a general election. If defeated, they must resign immediately.⁵

We have also seen that constitutional mechanisms ensure structured collaboration between the executive and legislative branches. One of the means for achieving some balance between the two branches is the principle of ministerial responsibility, which means that Government Members must enjoy the confidence of the majority of the elected Members of Parliament.⁶

According to this, to continue governing, the Government must ensure that it has the Assembly's confidence at all times. The ministers must answer to the Assembly for their actions, and the Assembly has the power to hold them to account.⁷ In this chapter, we will look at this principle before studying situations in which the Assembly's confidence in the Government can be challenged.

7.1 MINISTERIAL RESPONSIBILITY

The principle of ministerial responsibility has two aspects: individual responsibility and collective responsibility.

7.1.1 INDIVIDUAL MINISTERIAL RESPONSIBILITY

Ministers are individually responsible for managing their departments or the area of administrative activity that has been entrusted to them.⁸ They are in charge of presenting the Government's policies and orientations in the area of activity for which they are responsible, and they have to answer to the parliamentarians for the actions of their departments and the administration in their sectors.

5 Ibid., p. 384 and the *Executive Power Act*, s. 11. The last person to become a minister without being a Member was Jean-Marc Fournier, who was appointed Minister of Justice and Minister responsible for the Reform of Democratic Institutions and Access to Information by Premier Jean Charest on August 11, 2010. He was later elected in the by-election held in the riding of Saint-Laurent on September 13, 2010. Prior to him, Yves Bolduc was appointed Minister of Health and Social Services by Premier Charest on June 25, 2008, before being elected Member for Jean-Talon on September 29, 2008. A few years before, David Levine was appointed Minister for Health by Premier Bernard Landry on January 30, 2002, but he had to resign when he lost the by-election held in Berthier on June 17, 2002. In the history of Québec, the person who was a member of the Conseil exécutif for the longest without being a Member of the Assembly is Richard Legendre. He served as Minister for Tourism, Recreation and Sport for 207 days, from the time he was appointed by Premier Landry on March 8, 2001, until he was elected in the by-election held in Blainville on October 1 of that year.

6 *Québec (Attorney General) v. Blaikie*, [1981] 1 SCR 312 at 320.

7 JD, November 21, 2012, pp. 1148-1150 (Jacques Chagnon)/RDPP, No. 97/9. The terms "responsible government", "ministerial responsibility/accountability", "government responsibility/accountability" and "constitutional responsibility/accountability" are all used to describe the same general idea.

8 Ibid.

Ministers are held to account for the way they perform their governmental functions. The Assembly has the power to hear ministers on matters within their competence: oversight of the executive branch and Government actions is one of the prerogatives of the legislative branch. This power is enshrined in section 4 of the *Act respecting the National Assembly*.⁹ The legislative branch's supervisory and oversight power can be exercised in various ways, both in the Assembly and in parliamentary committee.¹⁰

For example, in the Assembly, ministers introduce and advocate for bills in their spheres of activity. They can also be asked, especially during Question Period, about actions they have performed as members of Cabinet.

The Assembly can also mandate a parliamentary committee to hear a minister on a specific matter, just as such committees can summon ministers when carrying out a mandate or order of reference.¹¹ Similarly, when budget estimates are being considered in parliamentary committee, ministers defend the appropriations requested from Parliament and the way they will be spent.

According to the principle of ministerial responsibility, ministers are accountable to Parliament not only for their own actions, but also for the actions of the public servants in their departments. Consequently, ministers may be forced to resign for poor management within their departments.¹²

7.1.2 COLLECTIVE MINISTERIAL RESPONSIBILITY

The constitutional convention of ministerial responsibility also comprises collective responsibility, in other words, Cabinet solidarity. Under this principle, the Premier and the ministers are collectively accountable to the Assembly for the actions of the Government. This means that the Cabinet speaks with a single voice, and each and every minister is wholly and irrevocably responsible for the decisions the Cabinet makes, regardless of any personal opinions.

[TRANSLATION] Cabinet solidarity is the main political outcome of ministerial responsibility. If the Government is defeated on a vote of confidence in the Assembly, it falls as a whole. A minister's fate is tied to that of the Government of which the minister is a part; conversely, the fate of the Government or the Premier can rest on the decisions made by a single minister.¹³

9 *Act respecting the National Assembly*, CQLR, c. A-23.1.

10 JD, November 21, 2012, pp. 1148-1150 (Jacques Chagnon)/RDPP, No. 97/9.

11 Ibid.

12 Pierre Issalys and Denis Lemieux, *L'action gouvernementale : précis de droit des institutions administratives* (Cowansville: Éditions Yvon Blais, 2009), p. 343.

13 Brun et al., *Droit constitutionnel*, 6th ed., p. 386.

At the National Assembly, the Cabinet solidarity aspect of ministerial responsibility is codified in Standing Order 189, which stipulates that any minister may act on behalf of another at any time. For example, during Question Period, even if a question is aimed at a specific minister, it may be fielded by another minister designated by the Government.¹⁴ By the same token, ministers may be replaced at any time during the consideration of bills that they introduced or during any other debate, including during debates upon adjournment¹⁵ and interpellations in committee.¹⁶ This means that a minister answering on behalf of another during a debate does not constitute contempt of Parliament.¹⁷

7.2 THE ASSEMBLY'S CONFIDENCE IN THE GOVERNMENT

A number of authorities agree that determining what constitutes a question of confidence is a political judgment that is not a matter of parliamentary procedure.¹⁸ Such questions cannot therefore be settled by the President of the Assembly,¹⁹ despite the fact that it is during parliamentary debates that the Assembly's confidence in the Government is tested. The Government always has the right to interpret the outcome of a vote.²⁰ It can exercise this right beforehand, as we will see, by making a matter a "question of confidence", or after the fact, by interpreting whether the Assembly really intended to bring down the Government or by asking the Assembly itself to clarify the meaning of its action.²¹

14 JD, June 6, 1984, p. 6712 (Richard Guay)/RDPP, No. 79/2.

15 JD, March 25, 1986, pp. 672–674 and 695–696 (Pierre Lorrain)/RDPP, No. 308/1; JD, November 29, 1990, pp. 5518–5521 (Michel Bissonnet)/RDPP, No. 308/3; JD, March 23, 1999, pp. 723–725 (Jean-Pierre Charbonneau)/RDPP, No. 308/7; JD, May 25, 1999, pp. 1720–1721 (Jean-Pierre Charbonneau)/RDPP, No. 308/8. See Chapter 9, Subsection 9.2.2.6.4, "Replacement of a Minister".

16 JD, May 31, 1996, CAS-21 p. 10 (Claude Lachance)/RDPP (Com. Vol.), No. 295/1; JD, October 4, 2013, CFP-65, p. 25 (Roland Richer)/RDPP (Com. Vol.) No. 295/2.

17 JD, March 23, 1999, pp. 723–725 (Jean-Pierre Charbonneau)/RDPP, No. 67/39.

18 Marc Bosc and André Gagnon, eds., *House of Commons Procedure and Practice*, 3rd ed. (Montréal: Éditions Yvon Blais, 2017), p. 42; Mary Harris, David Wilson, David Bagnall and Pavan Sharma, eds., *Parliamentary Practice in New Zealand*, 4th ed. (Auckland: Oratia Books, 2017), p. 128.

19 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

20 [TRANSLATION] "British parliamentary history shows just how much room for interpretation the Government has in the absence of an explicit non-confidence vote. In the 1970s, the British Government was defeated in Parliament more than 50 times, and yet, in the vast majority of cases, it saw no need to even request an explicit non-confidence vote." (Brun et al., *Droit constitutionnel*, 6th ed., p. 643.)

21 Ibid., p. 642.

That said, there are some situations in which confidence in the Government is generally considered to be in question. Yet, encoding in the Standing Orders those situations that are generally considered a test of confidence in the Government does not call into question the Government's right to decide whether it must resign when defeated in a vote. It simply assures Members that their vote on other questions cannot be interpreted as a lack of confidence in the Government.

In a proposal for parliamentary reform tabled in the National Assembly in 1983, President Richard Guay wrote:

[TRANSLATION] The various elements of the proposed parliamentary reform involve limiting the notion of government responsibility and, at the same time, giving it an appropriate sense of formality. If Government Members are to freely discuss a bill referred for their consideration, they must be certain that they will not be bound by such a strict rule. Similarly, if committee oversight is to be effective, it seems obvious that the rule of government responsibility must be reviewed and limited in such a way as to keep committee members from automatically having to toe the party line.

I recommend that we consider the possibility of limiting government responsibility to votes on the opening speech, the budget speech, want of confidence motions and any other motion that the Government declares a question of confidence. With such a rule in place, it will no longer be possible to interpret the results of a vote after the fact.²²

In his parliamentary reform proposal tabled in 1998, President Jean-Pierre Charbonneau suggested amending the Standing Orders to set out the circumstances in which the question of the Assembly's confidence in the Government could be raised:

[TRANSLATION] This proposal is aimed at helping Members carry out their roles as legislators and exercisers of oversight with more freedom, without them constantly feeling bound by the limits imposed by the constitutional convention of responsible government. The proposal lists the issues that may be considered questions of confidence, but without challenging the Government's prerogative to determine whether defeat on one of these issues calls into question its existence.²³

22 Richard Guay, *Réforme parlementaire : projet du président de l'Assemblée nationale* (Québec: Assemblée nationale du Québec, 1983), pp. 13–14.

23 Jean-Pierre Charbonneau, ed., *Réforme parlementaire présentée par le Président de l'Assemblée nationale*, Vol. 9 (Québec: Assemblée nationale du Québec, 1998), p. 3.

In 2004, it was President Michel Bissonnet's turn to table a parliamentary reform proposal. Taking the form of new standing orders, this proposal contained a list of circumstances in which the question of the Assembly's confidence in the Government could be raised.

The Assembly adopted the approach as part of the 2009 parliamentary reform.²⁴ New Standing Order 303.1²⁵ was introduced at that time, and under it the Assembly's confidence in the Government could be called into question only by means of a vote on (1) a want of confidence motion, (2) a motion by the Premier that the Assembly approve the Government's general policy, (3) a motion by the Minister of Finance that the Assembly approve the Government's budgetary policy, (4) a motion for the passage of an appropriation bill introduced under Standing Order 288 or (5) a motion that the Premier or the Premier's representative expressly declares is a question of confidence in the Government.

7.2.1 WANT OF CONFIDENCE MOTIONS

Want of confidence motions are grounded in the principle of responsible government under which the Government must enjoy the confidence of the Assembly, that is, of the majority of the Assembly's Members.

[TRANSLATION] In Canadian constitutional law, the Government must enjoy the constant support of the elected House . . . There is a strong presumption that the Government has the confidence of the elected Assembly. This presumption can be rebutted either explicitly or, with much greater difficulty, implicitly.

Explicitly, the Government has lost the support of Parliament once a want of confidence motion is adopted by the elected Assembly.²⁶

Since the Assembly alone has the power to rule on want of confidence motions designed to test the legislative branch's faith in the executive, and such motions are considered to have precedence in the Assembly, they cannot be moved in parliamentary committee.²⁷

7.2.1.1 PURPOSE

Want of confidence motions were originally intended to censure the Government and ultimately to withdraw the confidence of the Assembly.²⁸ However, for many years, most if not all such motions put before the Assembly simply censured the Government, without really raising the question of confidence. This situation

24 *La réforme parlementaire 2009*, Sessional Paper No. 247-20090421, (VP, April 21, 2009, p. 216).

25 SO 303.1 came into force on September 14, 2009.

26 Brun et al., *Droit constitutionnel*, 6th ed., p. 642.

27 JD, March 7, 1991, pp. CBA-2679-2681 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 292/1.

28 JD, May 22, 1997, pp. 6887-6888 (Claude Pinard)/RDPP, No. 304/2.

led to some confusion among Members regarding the implications of adopting want of confidence motions, as opposed to other motions aimed at censuring the Government. This was especially true during minority governments, when Members could feel limited in their right to disagree with the Government out of fear that their actions might be interpreted as a desire to put the Assembly's confidence in the Government to the test. To clarify the possible repercussions of a vote, the Standing Orders were amended in 2009 to specify that a want of confidence motion must clearly state that the Assembly withdraws its confidence in the Government (SO 304.1).

7.2.1.2 NUMBER

Prior to the 2009 reform, each Member could move a want of confidence motion when speaking during the opening speech or budget speech debates. Theoretically, there could be as many motions moved as opposition Members who rose to speak. At the end of the debate, it was not uncommon for the House to have to vote on five to ten consecutive want of confidence motions, a practice that trivialized the seriousness of the vote. Under former Standing Order 304, in addition to the unlimited number of want of confidence motions that could be moved during the opening speech and budget speech debates, opposition Members could move six want of confidence motions over the course of a session.

To underscore the importance of such motions, the reform limited to seven the total number of want of confidence motions that could be moved over the course of a session. This includes not only motions moved during the opening speech and budget speech debates, but also the want of confidence motions giving rise to debates with precedence under Standing Orders 87(8) and 306 (SO 304). To compensate, a new means for opposition Members to express their discontent with the Government—but which does not withdraw the Assembly's confidence—was introduced into the Standing Orders: the grievance motion.²⁹ During the opening speech and budget speech debates, any Member may move a motion stating a grievance or a want of confidence motion (SO 50 and 274), and at the end of the debate, each motion is put to the vote.

It is obvious that, by their very nature and purpose, want of confidence motions are a prerogative of Members sitting in opposition. Also, while Standing Orders 50 and 274 provide that “every Member” may move a want of confidence motion during the opening speech and budget speech debates, these provisions must be read with Standing Order 304, under which “Members sitting in opposition” may move up to seven want of confidence motions during a session. Opposition Members must keep in mind that moving a want of confidence

29 See the explanatory document *La réforme parlementaire 2009*, April 21, 2009, (VP, April 21, 2009, p. 216), pp. 4 and 5, and Chapter 6, Subsection 6.2.2.2 “Motions Stating a Grievance and Want of Confidence Motions”.

motion during the opening speech or budget speech debates reduces the number of opportunities to move other want of confidence motions under Standing Order 306. In contrast, as mentioned above, any Member may move a motion stating a grievance against the Government instead of a want of confidence motion during the opening speech or budget speech debates.³⁰

7.2.1.3 ALLOCATION

The President of the Assembly allocates want of confidence motions among the parliamentary groups in opposition, taking independent Members into account (SO 305). To avoid arbitrariness, the President must consider past practice and fairly assess the number of such motions that may rightfully be claimed by the Official Opposition, by any other opposition groups and by any independent Members. A balance must be struck in the allocation of such motions. In addition, the placing of a want of confidence motion on the Order Paper does not automatically mean that it will be debated.³¹ Fair allocation is a principle that must be applied on an ongoing basis, not just when more than one want of confidence motion is entered on the Order Paper at the same time.³²

During the **34th Legislature**, when the number of want of confidence motions in addition to those moved during the opening speech and budget speech debates was limited to six, the presiding officer ruled that the independent Members would be entitled collectively to only one such motion per session. Since there were no other opposition groups, the remaining want of confidence motions, excluding those moved during the opening speech and budget speech debates, were allocated to the Official Opposition. The same allocation continued to apply during subsequent legislatures.

During the **38th Legislature**, when any want of confidence motion could have led to the defeat of the minority Government, only one such motion, moved by the Official Opposition, was debated,³³ apart from those moved during the opening speech³⁴ and budget speech³⁵ debates, and there was no allocation.

30 See Chapter 6, “Legislatures, Sessions and Sittings” and Chapter 15, “The Budget Process”.

31 JD, June 18, 1990, p. 3533 (Jean-Pierre Saintonge)/RDPP, No. 305/2. In his decision to allow the motion in this case, the President took into consideration the fact that it was the third want of confidence motion moved that session and the first moved by an independent Member. However, he specified that independent Members would not be allowed any more such motions for the duration of the session.

32 JD, March 26, 1985, pp. 2666–2667 (Richard Guay)/RDPP, No. 305/1.

33 It was defeated by a vote of 72 to 39, the Second Opposition Group having voted against it (VP, November 13, 2007, p. 381).

34 During the debate on the opening speech of the first session, a single want of confidence motion was moved. It was rejected by a vote of 42 to 29, no Member of the Official Opposition having taken part in the vote (VP, May 23, 2007, p. 67).

35 During the debate on the budget speech, three want of confidence motions were moved by Members of the Second Opposition Group. Each was defeated by a vote of 84 to 33 (VP, April 8, 2008, pp. 675–676).

During the **39th Legislature**, want of confidence motions were formally allocated in a document that was tabled and adopted on April 21, 2009, at the time when Action démocratique du Québec was recognized as a parliamentary group. Of the 14 such motions allowed over the course of two sessions, two were allocated to the Second Opposition Group and one to independent Members, with the 11 remaining motions being allocated to the Official Opposition.³⁶ In the end, a total of seven want of confidence motions were debated during the legislature: six were moved by the Official Opposition³⁷ and one by an independent Member.³⁸

During the **40th Legislature**, the President did not allocate want of confidence motions. In fact, no motion was moved to withdraw the Assembly's confidence in the Government, which was a minority government.

Similarly, the President did not have to formally allocate want of confidence motions during the **41st Legislature** since only two were debated. One was moved by the Official Opposition,³⁹ and the other by an independent Member.⁴⁰

The President did not allocate want of confidence motions at the beginning of the **42nd Legislature**.

7.2.1.4 CONTENT

Like other motions, a want of confidence motion must be deemed admissible by the presiding officer before it can be moved. In particular, it must conform to certain rules of parliamentary procedure provided for in the Standing Orders and established through precedent at the Assembly. In addition to the admissibility criteria that generally apply to all motions,⁴¹ certain rules apply specifically to want of confidence motions.

WANT OF CONFIDENCE MOTION

THAT the National Assembly withdraw its confidence in the Government for [reasons] . . .

36 "Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature", Sessional Paper No. 246-20090421, April 21, 2009 (VP, April 21, 2009, p. 214), p. 4.

37 VP, October 29, 2009, p. 766; VP, March 16, 2010, p. 1075; VP, June 11, 2010, p. 1489; VP, November 24, 2010, p. 1829; VP, December 7, 2011, p. 860; VP, May 3, 2012, p. 1212.

38 VP, February 28, 2012, p. 979.

39 VP, November 27, 2014, p. 579.

40 VP, October 18, 2016, p. 2642.

41 See Chapter 12, "The Decision-Making Process."

It goes without saying that a want of confidence motion must target the Government and not the Official Opposition.⁴² Furthermore, it must clearly state that the Assembly withdraws its confidence in the Government (SO 304.1). Consequently, a motion that merely censures the Government would be inadmissible. In addition, a want of confidence motion cannot be used to condemn the behaviour of one or more Members of the National Assembly in the performance of their parliamentary duties since it may be used only to censure the actions of the Government.⁴³ A want of confidence motion may, however, censure one or more members of the Cabinet in the performance of their administrative duties⁴⁴ provided that, in addition to censure, the purpose of the motion is clearly to withdraw the confidence of the Assembly in the Government.

As recognized through precedent, want of confidence motions must have substantive content and contain the reason or reasons for which withdrawal of confidence in the Government is being sought. A want of confidence motion may deal with more than one subject,⁴⁵ but the subjects must not be confused with the purpose of the motion, which is to censure the Government's action⁴⁶ and to ultimately withdraw the confidence of the Assembly. Parliamentary precedent has recognized that it is the very nature of a want of confidence motion to contain, in addition to the expression of censure itself, the reasons, which may be numerous, for censuring the Government.⁴⁷ This explains why grounds are permitted in want of confidence motions, whether moved under Standing Order 50, 274 or 303.1, and despite the first paragraph of Standing Order 191, which states that no motion shall recite either the grounds on which it is moved or arguments on behalf of its object.⁴⁸ However, arguments are not permitted.⁴⁹

Unparliamentary words are prohibited in want of confidence motions, as in any other type of motion, even if the party being addressed is a group of persons—in this case the Government.⁵⁰

42 JD, December 3, 1980, pp. 576–577 (Louise Cuerrier)/RDPP, No. 50/1.

43 JD, July 19, 1977, pp. 2180–2183 (Clément Richard)/RDPP, No. 316(3)/4

44 Ibid.

45 JD, May 6, 1986, pp. 1270, 1271 and 1283 (Jean-Pierre Saintonge)/RDPP, No. 274/1.

46 JD, May 22, 1997, pp. 6887–6888 (Claude Pinard)/RDPP, No. 304/2.

47 Ibid.

48 This also applies to motions stating a grievance. See Chapter 6, Subsection 6.2.2.2, "Motions Stating a Grievance and Want of Confidence Motions".

49 JD, May 22, 1997, pp. 6887–6888 (Claude Pinard)/RDPP, No. 304/2; JD, April 8, 1998, p. 10713 (Jean-Pierre Charbonneau)/RDPP, No. 274/2; JD, March 23, 1999, pp. 735–736 (Jean-Pierre Charbonneau).

50 JD, April 3, 1996, pp. 294–295 (Raymond Brouillet)/RDPP, no. 50/2.

7.2.1.5 DEBATE ON A WANT OF CONFIDENCE MOTION

One clear day's notice must be given (SO 306) in order for a want of confidence motion to be debated, unless it is to be moved during the opening speech and budget speech debates. This means that at least one day must elapse between the time the notice appears on the Order Paper and the time the motion is proposed. While the President has never had to rule on whether the day in question must be a sitting day, current practice suggests that it must be a day on which the Order Paper is published, hence a day on which the Assembly sits. In other words, the motion is debated on the second sitting day after it is placed on the Order Paper.⁵¹

The debate on a want of confidence motion has precedence and is held in a single sitting day. It is a limited debate. The President must therefore confer with the House leaders to determine how to apportion debating time, taking any independent Members into consideration (SO 210).

51 This is the practice observed each time a want of confidence motion has been debated in recent legislatures (Notice of the motion is first entered under "Notices Appearing for the First Time" and then the motion is debated under "Business Having Precedence".)

41st Legislature:

Order Paper and Notices, October 5, 2016, p. 27—*Order Paper and Notices*, October 18, 2016, p. 3;

Order Paper and Notices, November 25, 2014, p. 14—*Order Paper and Notices*, November 27, 2014, p. 3.

39th Legislature:

Order Paper and Notices, May 1, 2012, p. 22—*Order Paper and Notices*, May 3, 2012, p. 3;

Order Paper and Notices, February 22, 2012, p. 20—*Order Paper and Notices*, February 28, 2012, p. 3;

Order Paper and Notices, December 2, 2011, p. 20—*Order Paper and Notices*, December 7, 2011, p. 3;

Order Paper and Notices, November 18, 2010, p. 20—*Order Paper and Notices*, November 24, 2010, p. 3;

Order Paper and Notices, June 9, 2010, p. 22—*Order Paper and Notices*, June 11, 2010, p. 3;

Order Paper and Notices, March 10, 2010, p. 17—*Order Paper and Notices*, March 16, 2010, p. 3;

Order Paper and Notices, October 27, 2009, p. 14—*Order Paper and Notices*, October 29, 2009, p. 3.

38th Legislature:

Order Paper and Notices, November 7, 2007, p. 15—*Order Paper and Notices*, November 13, 2007, p. 3.

A want of confidence motion placed on the Order Paper for the extraordinary sitting held on July 2, 1999, was debated on Wednesday, October 20, 1999, which was the second sitting following the start of the new session (JD, October 20, 1999, pp. 3009–3024).

During ordinary hours of meeting, the debate on a want of confidence motion ends 15 minutes before the Assembly is to rise. During extended hours of meeting, it ends three hours after the scheduled opening of the sitting (SO 306). The motion is then put to a vote, even if all the time allocated to each parliamentary group has not been used.⁵² The vote on a want of confidence motion may however be deferred.⁵³

7.2.2 MOTION BY THE PREMIER FOR THE ADOPTION OF THE GOVERNMENT'S GENERAL POLICY

According to doctrine, the Assembly's loss of confidence in the Government can be expressed either explicitly, through the adoption of a want of confidence motion, or tacitly, if the Government is placed in the minority in a vote in the Assembly:

[TRANSLATION] For a government to be obliged to step down or call an election, it must be defeated on a major issue, on a matter concerning its general policy.⁵⁴

As seen in Chapter 6, since the 2009 reform, upon completing the opening speech, the Premier must move that the Assembly approve the Government's general policy (SO 45).⁵⁵ This provision was added to the Standing Orders in 2009 for the purpose of having the Assembly vote formally on the general policy proposed by the Government. It is one of the Members' first important votes at the beginning of a session because if the Assembly defeats the Government's general policy, then the latter's capacity to act could be threatened and thus its very tenure (SO 303.1(2)).

The motion is worded in the same way each session since its terms do not vary, and it is put to a vote at the end of the debate on the opening speech, after any motions stating a grievance and any want of confidence motions Members may have moved during the debate (SO 50.1).

52 JD, October 10, 1978, pp. 2909–2911 (Clément Richard)/RDPP, No. 306/1.

53 JD, June 18, 1985, pp. 4781–4784 (Richard Guay)/RDPP, No. 223/2; JD, May 30, 1996, pp. 1517–1518 (Raymond Brouillet); JD, May 20, 1999, p. 1701 (Michel Bissonnet).

54 Brun et al., *Droit constitutionnel*, 6th ed., p. 642.

55 This was a novel situation since the earlier rules required Members to vote on want of confidence motions moved by opposition Members at the end of the opening speech, but not on the general policy the Government proposed for the new session.

7.2.3 MOTION BY THE MINISTER OF FINANCE FOR THE ADOPTION OF THE GOVERNMENT'S BUDGETARY POLICY

As we have just seen, a defeat in the House on an issue of major importance in relation to its general policy can result in the Government stepping down or the calling of a general election. The Government's budgetary policy is an issue of this sort, and the Assembly can be called upon to vote on it in two circumstances.

First, the Minister of Finance moves that the Assembly approve the Government's budgetary policy at the conclusion of the budget speech (SO 271). The Minister of Finance has no latitude in drafting the motion as its terms do not vary. Therefore, the motion cannot be amended, since no Member has more latitude than the author of the motion.⁵⁶ Were it possible to amend the motion moved by the Minister of Finance, the Standing Orders would not allow other types of motions to be moved concurrently, namely want of confidence motions⁵⁷ and, since 2009, motions stating a grievance (SO 274). On conclusion of the budget speech debate, the Minister's motion is put to a vote, after any motions stating a grievance and want of confidence motions (SO 277).

Second, the Minister of Finance may also make a supplementary statement on the budget (SO 278). As its name suggests, a supplementary statement is appended to the budget speech for the same fiscal year.⁵⁸ The rules for the budget speech and subsequent debate also apply to a supplementary statement, except that the statement and ensuing debate last a combined total of 12 hours and 30 minutes instead of 25 hours. The Minister ends the statement by moving that the Assembly approve the Government's budgetary policy. The question of the Assembly's confidence in the Government is considered raised by a vote on this motion in the same manner as by the vote taken at the end of the budget speech (SO 303.1(3)).

7.2.4 MOTION FOR THE PASSAGE OF AN APPROPRIATION BILL

As will be described in Chapter 15, during the budget process, the Government informs the Assembly of its financial needs for government operations in the coming year. The Assembly then has to approve the estimates of expenditure before any monies can be spent. Historically, refusing to grant appropriations was

56 JD, June 3, 1993, pp. 7059-7064 (Jean-Pierre Saintonge)/RDPP, No. 271/2.

57 Ibid.; JD, May 25, 2007, pp. 845-847 (Michel Bissonnet)/RDPP, No. 271/5.

58 JD, November 7, 2001, pp. 3494-3495 (Jean-Pierre Charbonneau)/RDPP, No. 278/1.

used as a means to control the Government, just like want of confidence votes.⁵⁹ Still today, some parliaments consider a refusal to grant the appropriations a Government requests as a clear expression of loss of confidence:

If the Lower House rejects or fails to pass a bill appropriating money for the ordinary annual services of the Government, the Governor may dissolve the House for the purposes of a general election as it is assumed that the Government no longer has the confidence of the House.⁶⁰

Likewise, in Québec, the Assembly's confidence in the Government may be challenged by means of a vote on a motion for the passage of an appropriation bill introduced under Standing Order 288 (SO 303.1(4)). The appropriation bill follows the Assembly's concurrence in all reports from the committees examining the main estimates and makes it possible to spend the money requested for government operations for a fiscal year. This shows the importance of the appropriation bill and, therefore, why its passage becomes a question of confidence in the Government.

While the Assembly's confidence in the Government is called into question at the time of a vote on an appropriation bill following the consideration of the main estimates of expenditure, it is not called into question during a vote on the passage of a bill on interim supply estimates (SO 281) or on supplementary estimates⁶¹ (SO 289 and 291). Those cases are not expressly mentioned in Standing Order 303.1, which contains an exhaustive list of motions that can raise the matter of the Assembly's confidence in the Government.

59 Bosc and Gagnon, *House of Commons Procedure and Practice*, 3rd ed., p. 833.

60 Russell Grove, Mark Swinson and Stephanie Hesford, eds., *New South Wales Legislative Assembly: Practice, Procedure and Privilege* (Sydney: New South Wales Parliament, 2007), Chapter 22, p. 208.

61 On December 6, 2002, after a discussion between opposition Members and the Minister of State for Population, Regions and Native Affairs on the estimates of expenditure for Program 1 of the Ministère des Relations avec les citoyens et de l'immigration, a standing vote was taken, and the estimates were negated by the Committee of the Whole. On December 10, after the eight hours allocated for consideration of all supplementary estimates, the Chair of the Committee of the Whole reported to the Assembly that the Committee of the Whole had considered the Supplementary Estimates No. 1 for the fiscal year ending March 31, 2003, and concurred in them, excluding the estimates relating to Program 1 of the Ministère des Relations avec les citoyens et de l'immigration. The Assembly immediately voted on and concurred in the report and went on to introduce, pass in principle and then pass Bill 150, *Appropriation Act No. 3, 2002-2003*, which contained only the estimates approved in committee (JD, December 10, 2002, pp. 8227-8228). The Government did not consider that the rejection of certain supplementary estimates had raised the question of the Assembly's confidence in it. In this respect, the doctrine of the House of Commons states that the Government does not necessarily lose the House's confidence on the basis of a single estimate (Bosc and Gagnon, *House of Commons Procedure and Practice*, 3rd ed., p. 42).

That said, the Government itself may consider any vote to be so important that it is a question of confidence, and, if such is the case, the Government must raise the question of the Assembly's confidence in it. We will examine this in the next section.

7.2.5 OTHER MOTIONS CONSIDERED QUESTIONS OF CONFIDENCE

Since the constitutional convention is that it is the Government that determines whether it has the Assembly's confidence, the Government itself can decide that a matter is of such importance that defeat in a vote on it would represent a loss of confidence in the Government by the Assembly:

The Government, usually at the instigation of the Prime Minister, may decide that a particular issue to be divided upon is so central to its policy that there would be little point in continuing in office if defeated upon it. It therefore conveys to the House its decision to make the vote one of confidence; that is, if defeated upon that issue, it will resign or seek a dissolution.⁶²

A Government could therefore decide to raise the question of the House's confidence at any time and regarding any vote:

While the Government cannot, except in one of those exceptional types of debates, be forced to face a vote of confidence, it can of its own accord at any time put its survival on the line by declaring any vote, no matter how narrowly based, to be a vote of confidence. This does not widen the scope of the debate but it does indicate how strongly the Government is committed to winning that particular vote, and what the political consequences of its defeat would be. Members then cast their votes on the motion knowing the possible consequence if the Government is defeated.⁶³

In such cases, Québec's Standing Orders provide that the Premier or the Premier's representative must expressly declare that the motion constitutes a question of confidence in the Government (SO 303.1(5)).

62 Philip Norton, "Government Defeats in the House of Commons: Myth and Reality", in Geoffrey Marshall, ed., *Ministerial Responsibility, Oxford Readings in Politics and Government* (Oxford: Oxford University Press, 1989), p. 37.

63 Harris et al., *Parliamentary Practice in New Zealand*, 4th ed., p. 129.

Since 2009, this situation has occurred only once, when the Government House Leader, giving notice on the Order Paper of the introduction of a bill,⁶⁴ informed the Members that, under paragraph 5 of Standing Order 303.1, the vote on the bill would raise a question of the Assembly's confidence in the Government. In response to a request from the Official Opposition House Leader for a directive on whether the Government could raise a question of the Assembly's confidence at the introduction stage of a bill, before the Assembly had taken cognizance of it, the President stated that it was the Government's prerogative to determine whether it had the House's confidence, and that it could invoke paragraph 5 of Standing Order 303.1 with respect to any motion.⁶⁵

64 Bill 60, *Charter affirming the values of State secularism and religious neutrality and of equality between women and men, and providing a framework for accommodation requests*.

65 JD, November 7, 2013, pp. 5448–5449 (Jacques Chagnon)/RDPP, No. 303.1/1.

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■ CHAPTER 8
PETITIONS

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A petition is a way to request a public authority to take action in a specific situation.¹ The right to present a petition to the Crown or to Parliament for redress of a grievance is a fundamental constitutional principle that has been applied without interruption since 1867. It has deep historical roots and is one of the primary means for citizens to bring a matter to the attention of parliamentarians and ask them to take action.²

8.1 THE RIGHT TO PETITION THE NATIONAL ASSEMBLY AND THE PETITION PROCEDURE

In Québec, the immense importance of the right to petition the National Assembly is codified to an extent in the *Charter of human rights and freedoms*, which states that “every person has a right of petition to the National Assembly for the redress of grievances”.³

As we saw in Chapter 3, the right to petition is exercised through a procedural framework set out in the Standing Orders of the National Assembly.⁴ Although the Charter enshrines citizens’ right to petition the Assembly, the parliamentary procedure for exercising that right falls within the Assembly’s exclusive jurisdiction over its operations.

1 See “Pétition” in *Encyclopédie du parlementarisme Québécois* (Québec: Assemblée nationale du Québec), January 10, 2017, online: <http://www.assnat.qc.ca/fr/patrimoine/lexique/petition.html>.

2 Ibid.; Thomas Erskine May, *Erskine May’s Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 25th ed., Mark Hutton, David Natzler, Matthew Hamlyn, Colin Lee, Chloe Mawson, Crispin Poyser, Eve Samson and Kate Lawrence, eds. (London: LexisNexis Butterworths, 2019), para. 24.2.

3 *Charter of human rights and freedoms*, CQLR, c. C-12, s. 21.

4 JD, October 24, 2000, pp. 7300–7304 (Jean-Pierre Charbonneau)/RDPP, No. 62/8; JD, October 9, 2014, pp. 2172–2174 (Jacques Chagnon)/RDPP, No. 62/10.

PETITION IN FAVOUR OF WOMEN'S RIGHT TO VOTE (1922)

Division Electorale: *Quarto Labelle*
 Nombre de Signatures *40*

REQUETE

A l'Hon. L. A. Taschereau, Premier Ministre de la Province de Québec.

Nous, femmes soussignées résidant dans la Province de Québec, requérons respectueusement par les présentes que la franchise électorale provinciale soit accordée aux femmes de la province de Québec pour, entre autres raisons, les suivantes :

1. Les femmes de la province de Québec possèdent déjà la franchise fédérale.
2. Les femmes de toutes les autres provinces du Canada ont déjà obtenu la franchise provinciale.

Nous espérons qu'il sera acquiescé à cette requête et vos pétitionnaires ne cesseront de prier.

<i>Ann Campbell</i> <i>Annar. Pitras</i> <i>Lizjie Black</i> <i>Jimmie Knig</i> <i>Effie Phorn</i> <i>Mary Hammond</i> <i>Alexina Elliott</i> <i>John Wager</i> <i>Emma Lethbride</i> <i>Jessie Woodside</i> <i>Mrs R. H. Crosswell</i> <i>F. Dorothy Lamb</i> <i>Mrs H. A. Campbell</i> <i>Mrs Foster Collyer</i> <i>Mary Leach</i> <i>B. Phorn</i> <i>A. Belcher</i> <i>S. Smith</i> <i>F. Dent</i> <i>C. Thomson</i> <i>M. Thomson</i> <i>J. Black</i> <i>S. Black</i> <i>M. Wigney</i> <i>B. McKeough</i> <i>M. Dwyer</i> <i>E. Campbell</i> <i>K. Campbell</i>	<i>H. Yorney</i> <i>S. Blatch</i> <i>C. F. L. L. L.</i> <i>G. Hussey</i> <i>M. Bernad</i> <i>M. Rivin</i> <i>J. Macdonald</i> <i>M. MacLellan</i> <i>M. MacLellan</i> <i>M. Campbell</i> <i>B. Campbell</i> <i>L. Hevis</i> <i>James W. C. F. H.</i> <i>James</i> <i>James</i>

The 2009 parliamentary reform updated and improved the rules governing petitions. For example, prior to the reform, petitions had to be signed and presented on paper (1985 SO 63), and although parliamentarians did acknowledge the receipt of tabled petitions, there was no obligation to follow up on them, except during a short period, from December 6, 2001 to June 23, 2002, when temporary rules were tried out.⁵ Since 2009, however, petitions can be started and signed on the Assembly's website, and the Government must provide an answer to all petitions within an established period of time.

8.2 THE PETITION PROCESS

We will examine the rules governing the petition process in greater detail below.⁶ It should first be noted that petitions may be submitted either on paper or in electronic form (SO 63, 1st para.),⁷ and that although most rules are the same for both formats, there are some differences regarding the starting procedure.

8.2.1 RULES GOVERNING ALL PETITIONS

A petition must contain a request for redress of a grievance addressed to the Assembly. It may also state the facts on which it is based in terms that are clear, concise, accurate and temperate.⁸ Together, the request for redress and statement of facts may not exceed 250 words (SO 63.1; RCP 42(1)).⁹

The wording of the petition must be in accordance with the rules governing expression in the context of parliamentary proceedings (RCP 42(2); SO 35).¹⁰ For example, a petition may not contain violent, abusive or insulting language, or impute improper motives to or impugn the conduct of any Member.¹¹ The President¹² has in the past ruled out of order a petition that called for the removal of a minister for actions taken while the latter was a Member in opposition and had the effect of attacking the minister's conduct by alleging incompatible offices and conflict of interest.¹³

5 VP, December 6, 2001, pp. 719 and 722-723.

6 See Appendix I, "The Petition Process".

7 See also JD, November 27, 1986, pp. 4358-4359 (Pierre Lorrain)/RDPP, No. 63/2.

8 VP, April 22, 2015, p. 1051 (Jacques Chagnon)/RDPP, No. 62/11.

9 See also JD, November 23, 2005, pp. 10389-10390 (Michel Bissonnet)/RDPP, No. 63.1/2.

10 See also Chapter 13, Section 13.1, "Rules of Parliamentary Debate".

11 See "Impugning a Member's Conduct (SO 35(5))" in "Chapter 11, Subsection 11.2.2.1.

12 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

13 JD, October 9, 2014, pp. 2172-2174 (Jacques Chagnon)/RDPP, No. 62/10.

In addition, the text of the petition may not refer to any matter that is before a court of law or quasi-judicial body, or that is the subject of an inquiry, if making such a reference could be prejudicial to the interests of another person or party.¹⁴ For example, in 1991, the President refused to allow a petition to be tabled on the grounds that it made reference to facts contained in a contract that was the subject of court proceedings.¹⁵ In another instance, a petition referring to a class action suit was rejected, but the President specified that it could be tabled once the suit was no longer before the courts.¹⁶

Any person or association of persons wishing to submit a petition to the Assembly must contact a Member who will agree to act as an intermediary to present the petition during parliamentary proceedings (SO 62). Members are free to agree or to decline to act as intermediaries.¹⁷ A Member who agrees to present a petition does not have to agree with its purpose.¹⁸ Except for the President, any Member, including a minister, may present a petition before the Assembly.¹⁹ However, as the objective of a petition is often to ask the Government to remedy a situation and the Government must provide an answer to the petition, a minister may prefer that it be presented by a Member who is not in Cabinet. It is actually very rare for ministers to present petitions in the Assembly, but the President does not rule on such decisions.²⁰ There are also times when a Member presents the abstract of a petition on behalf of another Member who is not able to do so.²¹

8.2.2 STARTING A PETITION

The first step in the petition process is the gathering of signatures, which can be done electronically or on paper.

14 JD, April 18, 1991, pp. 7403–7407 (Jean-Pierre Saintonge)/RDPP, No. 62/5; JD, March 18, 1993, pp. 5456–5457 (Jean-Pierre Saintonge)/RDPP, No. 62/6.

15 JD, April 18, 1991, pp. 7403–7407 (Jean-Pierre Saintonge)/RDPP, No. 62/5.

16 JD, March 18, 1993, pp. 5456–5457 (Jean-Pierre Saintonge)/RDPP, No. 62/6.

17 JD, December 14, 1984, p. 1835 (Richard Guay)/RDPP, No. 62/3.

18 JD, December 17, 1984, p. 1899 (Richard Guay)/RDPP, No. 62/4.

19 JD, June 15, 1982, pp. 4840–4842 (Claude Vaillancourt)/RDPP, No. 62/1; JD, March 25, 1999, pp. 852–853 (Jean-Pierre Charbonneau)/RDPP, No. 62/7.

20 Ibid.

21 There are certain situations in which a Member may act on behalf of another Member who is not able to be present in the House. The Standing Orders expressly provide for such substitution in certain cases, such as statements by Members (SO 54.2) and motions that have been placed on the Order Paper (SO 189). The same logic is applied to the presentation of petitions. In addition, when no Member is available to present a petition deemed compliant, it is customary that the petition be presented by one of the Vice-Presidents. See Chapter 4, Subsection 4.1.2, “The President’s Impartiality”.

8.2.2.1 ELECTRONIC PETITIONS

Electronic petitions (e-petitions) must be started and signed on the Assembly's website to ensure their integrity between the time of their signing and the time of their presentation to the Assembly. An e-petition signed on any other website will be rejected by the President.

A Member who has agreed to present an e-petition must notify the Secretary General that it will be presented. The notice must contain the text of the petition and specify the period of time during which the e-petition may be signed, which may range from one week to three months.²²

Each request to put an e-petition online is subject to prior examination. The President assesses whether the petition is receivable and compliant, and makes a ruling within seven days of when the Secretary General received the notice (RCP 45). If the ruling is favourable, the petition is published in the petitions section of the Assembly's website and can then be signed. No other e-petition with the same objective may be initiated during the signing period (RCP 44).²³ The number of signatures appears on the website in real time, but the site does not provide any details about the signatories.

After the end of the period for signing the petition, it may be presented as described in subsection 8.2.3 below.

8.2.2.2 PAPER PETITIONS

Paper petitions must be presented on standard-sized paper. Each page must reproduce the text of the petition and the name of the group to which the petitioners belong, if applicable, as well as the original handwritten signatures of the petitioners: copies are not accepted.²⁴

There is no time limit for gathering signatures for petitions submitted on paper. Once the signatures have been gathered, the originator of the petition must forward all the pages bearing signatures to the Member who has agreed to present it. The Member then forwards the petition to the Secretary General.

22 The notice must also include the following information about the person or association of persons who initiated the petition: the first and last name of the person (or of the person in charge of the association), the name of the association (where applicable) and the complete postal address, telephone number and email address of the person or association.

23 If there is more than one request to start a petition with the same objective, the date and hour of receipt will determine which one takes precedence.

24 JD, April 11, 1984, p. 5748 (Richard Guay)/RDPP, No. 63/1. In addition, a resolution of a municipality does not constitute a petition within the meaning of the Standing Orders (JD, March 15, 1984, p. 5210 (Richard Guay)/RDPP, No. 62/2).

Upon the Secretary General's receipt of the petition, the President assesses whether the petition is receivable and compliant. In contrast to the procedure for e-petitions, the analysis is done after the gathering of signatures because it is then that the petition is officially brought to the President's attention. If all the criteria set out in the Standing Orders are met, the petition may be presented as described in subsection 8.2.3 below.

If a petition is found to be non-compliant, the Member must obtain the permission of the President and the unanimous consent of the Assembly before it may be presented (RCP 43, 2nd para.). If consent is obtained, the procedure for presenting the petition is the same as for compliant petitions. In the past, consent has been given to present certain non-compliant petitions, including petitions with objectives that were not within Québec's jurisdiction, petitions with photocopied or faxed pages of signatures and petitions with petitioners' names but not their signatures.²⁵

8.2.3 PRESENTATION

Petitions are presented to the Assembly during Routine Proceedings in the period set aside for presenting petitions, which lasts a maximum of 15 minutes per sitting (SO 64, 2nd para.).²⁶ A Member who wants to present a petition must notify the Secretary General at least one hour before the sitting begins. In the case of an e-petition, sending notice of the petition is sufficient (SO 64, 1st para.), but in the case of a paper petition, the notice must be accompanied by the original on paper, if it has not already been forwarded.²⁷

When given the floor by the President, the Member reads and tables an abstract of the petition, which includes the request for redress, the statement of the facts supporting the request and the number of signatures. The abstract may also identify the group to which the petitioners belong (SO 64, 3rd para.). Immediately after a petition is presented, a copy of the abstract is forwarded to the House leaders, the independent Members and the competent parliamentary committee.²⁸

25 JD, September 17, 2009, pp. 2993–2994 (Yvon Vallières)/RDPP, No. 62/9.

26 Under the second paragraph of Standing Order 64, a maximum of 15 minutes is allotted for presenting petitions during Routine Proceedings. If a petition cannot be presented for lack of time, it may be presented at the following sitting. There have been cases when, with the consent of the Assembly, the period set aside for the presentation of petitions was allowed to continue beyond the 15-minute limit set under SO 64 (VP, June 10, 2010, p. 1465; VP, March 14, 2018, p. 4313).

27 JD, November 13, 1997, p. 8443 (Jean-Pierre Charbonneau)/RDPP, No. 63/3.

28 If the petitioner is a physical person and the petition concerns a motion carried by the Assembly explicitly condemning the petitioner for words spoken or an act committed as a private citizen, the Committee on the National Assembly also receives a copy of the petition (SO 64.2).

The Secretary General keeps the original of the paper petition, or the file containing the e-petition, for seven days after it has been presented, and then returns it to the Member who presented the petition (SO 64.1).

8.2.4 EXAMINATION IN PARLIAMENTARY COMMITTEE

After a petition is tabled, a parliamentary committee has 15 days to decide whether to examine it (SO 64.3, 1st para.).²⁹

Any committee member may propose that the committee hold a deliberative meeting to decide whether to examine a petition. The terms of examination are determined by the committee and may include hearing the petition's originator or the originator's representatives or any other person or organization (SO 64.6, 1st para.). The motion setting out the proposed terms of examination must receive the support of the majority of the committee members from each parliamentary group (SO 64.4, 1st para. and 149). The committee may make decisions on more than one request to examine a petition per sitting and may group together petitions on the same subject (SO 64.3, 2nd para. and 64.4, 2nd para.).

Once it has decided to examine a petition, the committee must submit its report within 30 days (SO 64.6, 2nd para.).³⁰ The report comprises the minutes of the committee's proceedings and, where applicable, its observations, conclusions and recommendations (SO 177), although reports containing recommendations are not debated in the Assembly (SO 64.6, 2nd para.).

8.2.5 THE GOVERNMENT'S RESPONSE

The Government must provide a response to all petitions tabled in the National Assembly. It has 30 days to do so from the date the relevant committee refuses to examine the petition, from the expiry of the committee's 15 days for deciding whether to examine the petition or from the tabling of the report from the committee that examined the petition.

The Government must respond through a minister,³¹ but the minister to whom the petition is addressed need not be the one who provides the response.³²

29 The 15 days do not run during weeks allotted for riding work, during extended hours of meeting, during the examination of budget estimates or during the period between the prorogation of a session and the beginning of the next session (SO 64.7). See also JD, June 14, 2018, p. 22274 (François Gendron)/RDPP, No. 64.3/1.

30 The 30 days do not run during weeks allotted for riding work, during extended hours of meeting, during the examination of budget estimates or during the period between the prorogation of a session and the beginning of the next session (SO 64.7). See also JD, June 14, 2018, p. 22274 (François Gendron)/RDPP, No. 64.3/1.

31 JD, March 19, 2002, p. 4987 (Louise Harel)/RDPP, No. 64.8/1.

32 JD, December 18, 2001, p. 4732 (Jean-Pierre Charbonneau)/RDPP, No. 63.1/1.

The answer is tabled in writing at the time set aside for presenting papers during Routine Proceedings,³³ and a copy of it is forwarded to the Member who presented the petition (SO 64.8).

If there is no answer from the Government, the petition is placed on the Order Paper for the sitting following the expiry of the time limit, with mention of the presentation date and the subject of the petition (SO 64.9). A minister must provide the Assembly with the Government's oral answer to the petition no later than the second sitting after the petition appears on the Order Paper (SO 64.10, 1st para.).³⁴ The Secretary General informs the Member who presented the petition of the Government's oral answer (SO 64.10, 3rd para.).

If there is more than one petition concerning the same subject, the Government may opt to give a single oral answer to them all (SO 64.10, 2nd para.). As is the case for answers given by a minister (SO 81), the opinion that the answer to a petition is unsatisfactory cannot be raised as a point of order (SO 64.11).

As mentioned earlier, unless the Assembly has been dissolved, the rules governing petitions continue to apply when a session is prorogued, despite Standing Order 47 (SO 64.12). In other words, the Government is still required to provide an answer to petitions following the prorogation of the Assembly, but not following its dissolution.

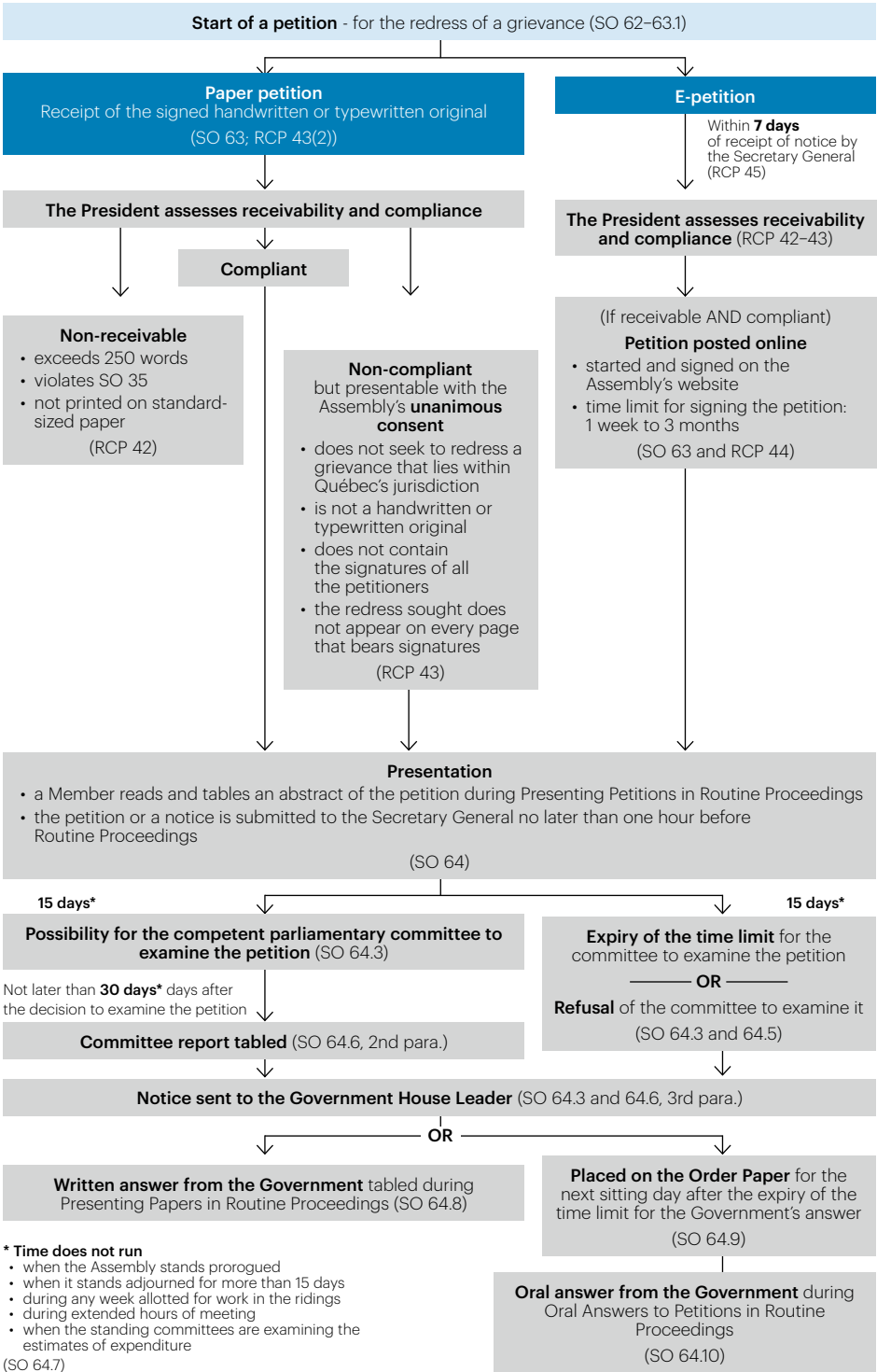
There are a variety of possible outcomes to the petition process. For example, there have been cases where petitions have directly inspired the introduction and eventual passage of a bill.³⁵

33 If there are several petitions on the same subject, the Government may respond with a single answer. For example, on April 27, 2010, the Government House Leader tabled one answer to nine petitions on the same subject (VP, April 27, 2010, p. 1236). On such occasions, a copy of the written answer is forwarded to each Member who presented a petition on the same subject.

34 During the Presenting Papers period on May 16, 2013, Bertrand St-Arnaud, Minister of Justice, having obtained leave of the Assembly to set aside Standing Order 64.10, tabled a written reply to a petition tabled on March 19, 2013, by Jeannine Richard, Member for Îles-de-la-Madeleine, concerning the legal status of pets. The petition had been on the Order Paper under "Oral Answers to Petitions" since May 14, 2013, (VP, May 16, 2013, p. 673).

35 In 2012, several petitions were presented on the subject of increased skin cancer risk among people using artificial tanning devices. This led to the passage of Bill 74, *An Act to prevent skin cancer caused by artificial tanning*.

APPENDIX I THE PETITION PROCESS



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THE CONDUCT OF A SITTING

Every day the Assembly meets during a session is called a sitting. As seen in Chapter 6, there are two types of sittings: regular sittings, which are held according to the calendar and timetable set out in the Standing Orders,¹ and extraordinary sittings, which are held at other times at the Premier's request.

Each sitting of the Assembly, be it regular or extraordinary, is divided into two parts: Routine Proceedings and Orders of the Day (SO 51). Routine Proceedings are generally devoted to information conveyed to the Assembly by the Government and include 11 items of business addressed in the sequence laid out in the Standing Orders (SO 53). Although the President² normally calls every item, there may not always be business under certain headings. If, for example, the President calls "Introduction of Bills" and no bills are to be introduced on that particular day, the Assembly simply moves on to the next item. Question Period, which is reserved for oral questions and answers, is undoubtedly the best-known of the various items.

Orders of the Day are essentially devoted to the debates of the Assembly, which most often concern stages in the consideration of bills. But, while bills take up a large part of Orders of the Day, other matters are also discussed. In fact, it is during Orders of the Day that all substantive debates provided for in the Standing Orders take place.

Like Routine Proceedings, the period set aside for Orders of the Day comprises various items of business that must be addressed in a specific order (SO 54). However, unlike the items under Routine Proceedings, the five items of business under Orders of the Day are not systematically taken up at each sitting. As a result, Orders of the Day varies from one sitting to the next.

1 For more information on the Assembly calendar, see Chapter 6, Subsection 6.3.1, "Regular Sittings".

2 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

At times, the Assembly is obliged to consider an item of business because it has precedence under the Standing Orders (SO 87). Otherwise, except for the time set aside on Wednesdays for business standing in the name of Members in opposition (SO 97), the business on the Order Paper brought before the Assembly is at the discretion of the Government House Leader (SO 96). With a few exceptions, all business to be considered by the Assembly is placed on the Order Paper, which lists the matters that may be brought before the Assembly during a sitting.³

THE PRESIDENT'S PAPERS

To ensure a sitting runs smoothly, the Sittings and Parliamentary Procedure Directorate, in collaboration with the President's office, prepares a document on behalf of the President known as the "President's Papers". This document gives a point-by-point chronological breakdown of each item of business planned to be dealt with during Routine Proceedings and Orders of the Day. The Papers also indicate the parliamentary procedure to be followed for each of the items and contain cues to signal when consent must be sought to depart from the Standing Orders. Depending on the nature of the debates planned, the Papers specify the status of each of the bills before the House, the name of the mover of any motion to be debated, the speaking times allotted, as well as other details regarding the proper conduct of proceedings.

While the President is master of the proceedings, the master of the order of business is generally the Government House Leader, who determines, with a few exceptions, which business on the Order Paper is to be debated. Before each sitting, the Government House Leader's office prepares the order of business, listing the different items that may be considered during Routine Proceedings and Orders of the Day. At least one hour before the beginning of each sitting, this confidential document is sent to the sittings team so it may finish preparing the President's Papers. The information provided by the office of the House leader of each opposition group and by the independent Members is also included in the Papers.

The President's Papers, like the Government House Leader's order of business, are strictly confidential. Unlike the Order Paper and Notices and the Votes and Proceedings of the National Assembly, which are official documents, there is no obligation under the Act respecting the National Assembly⁴ or the Standing Orders to prepare President's Papers. The Papers are distributed only to the President's office, the Secretary General (under whose authority they are prepared), the Table Officers and the other parliamentary procedure advisors. The President's Papers are continually updated to keep the President informed of any changes as the sitting progresses.

3 JD, May 9, 1990, p. 2474 (Jean-Pierre Saintonge)/RDPP, No. 194/1.

4 Act respecting the National Assembly, CQLR, c. A-23.1.



The Flag Room is located in the central tower of the Parliament Building, near the National Assembly Chamber. It is used primarily by the President for meetings concerning parliamentary proceedings. Above the table can be seen six of the eight flags of historical significance to Québec that give the room its name.

9.1 THE BEGINNING OF A SITTING

Under Standing Orders 20 and 21, sittings begin at 1:40 p.m. on Tuesdays and at 9:40 a.m. on other days.⁵ When the Assembly meets on a Monday, the sitting opens at 1:40 p.m. since the Standing Orders prescribe the same hours as on Tuesdays (SO 20, 2nd para. and SO 21, 2nd para.). Each sitting begins with Routine Proceedings (SO 52).⁶

Shortly before the time stipulated in the Standing Orders for a sitting to begin, the bells are rung to call the Members to the Chamber.

The President usually entrusts a Vice-President with chairing the first item of business, Statements by Members. Upon its conclusion, the sitting is generally suspended. Proceedings then resume at 2:00 p.m. on Tuesdays or at 10:00 a.m. on other days, that is, twenty minutes after the prescribed time for the opening

5 Before the 2009 parliamentary reform, sittings during ordinary hours of meeting began with Orders of the Day at 10:00 a.m., while Routine Proceedings were taken up at 2:00 p.m. Orders of the Day were therefore conducted twice a day, once from the opening of the morning sitting until noon, and again in the afternoon immediately after Routine Proceedings. During extended hours of meeting, Routine Proceedings were taken up at the opening of the sitting at 10:00 a.m.

6 There are two exceptions to this rule: Routine Proceedings are held neither during the sitting devoted to the election of the President (SO 5.1) nor during the sitting at which the Premier delivers the opening speech (SO 45).

of the sitting.⁷ However, if Statements by Members are not finished by the time set for resumption of proceedings, Routine Proceedings simply continue as soon as Statements by Members have ended (SO 54.5), without suspension of proceedings.

The provisions concerning the resumption of Routine Proceedings were introduced into the Standing Orders on October 7, 2015, to remedy the fact that proceedings often resumed after the prescribed time of 2:00 p.m. or 10:00 a.m. Previously, no provision in the Standing Orders set out the length of time between the end of Statements by Members and the resumption of Routine Proceedings. The amendments to the Standing Orders thus had the effect of specifying the exact time at which a sitting must resume after the suspension of proceedings at the end of Statements by Members.

The President enters at the resumption of the sitting. The Members and visitors rise and, at the invitation of the President, observe a moment of reflection (SO 31).⁸

Before calling each of the other items of business of Routine Proceedings in turn, the President draws attention to the presence in the gallery of any dignitaries, former Members or other distinguished guests.

9.2 THE STRUCTURE OF A SITTING

9.2.1 ROUTINE PROCEEDINGS

The items of business that make up Routine Proceedings are called in the following order: Statements by Members; Statements by Ministers; Introduction of Bills; Presenting Papers, Reports from Committees and Petitions; Oral Answers to Petitions; Complaints of Breach of Privilege or Contempt and Personal Explanations; Oral Questions and Answers; Deferred Divisions; Motions Without Notice; Notices of Proceedings in Committees; and Information on the Proceedings of the Assembly (SO 53).

9.2.1.1 STATEMENTS BY MEMBERS

Since the 2009 parliamentary reform, Routine Proceedings have begun with the period devoted to Statements by Members (SO 53(0.1)), which is usually chaired by a Vice-President.

During this period, Members make statements on specific subjects of particular interest to them, generally topics that affect their fellow citizens directly.⁹ The introduction of this new item of business placed a cap on the number of motions

7 During extraordinary sittings, proceedings resume after only ten minutes (SO 54.5, 2nd para.).

8 See Chapter 11, Section 11.1, "Opening of a Sitting and Verification of Quorum".

9 JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31.

without notice that could be introduced in a sitting.¹⁰ As specified in a directive issued by the President,¹¹ statements by Members replace motions without notice moved primarily to mark special events or raise topics of local, regional, national or international importance, and allow Members to continue to make their voices heard on such subjects.

A Member who wishes to make a statement must hand in a notice indicating the subject of the statement by 5:00 p.m. on the day before it is to appear on the *Order Paper and Notices*. If the day before the statement is a holiday, the notice to be placed on the Order Paper must be received before the end of the last working day prior to its publication.¹² The Secretary General forwards a copy of any notices received before the deadline to the House leaders and independent Members (SO 54.1). The subject of the statement is then placed on the Order Paper together with the name of the Member and the Member's electoral division. This applies to all Members, including ministers, since ministers may also make statements under this heading in their capacity as Members.¹³

The statement is made on the day on which it appears on the Order Paper. It is normally made by the Member who gave notice of it, although with the latter's permission, another Member may make the statement instead (SO 54.2).

No more than ten Members may make a statement at any sitting, and each statement may last no longer than one minute (SO 54.3). Statements not used during a sitting may not be moved forward to a future sitting day or replaced by statements from another parliamentary group or an independent Member.¹⁴

At the beginning of and, if necessary, during each legislature, the President allocates statements among the parliamentary groups after conferring with the House leaders and taking into account any independent Members. The President also determines the order in which statements are to be made (SO 54.4). The President has stipulated that, as these are not parliamentary oversight measures, the allocation of statements by Members must incorporate a certain degree of proportionality to permit all Members, including ministers—who are, after all, Members first—to exercise their rights equitably.¹⁵

10 See Subsection 9.2.1.9, "Motions Without Notice".

11 JD, May 12, 2009, p. 1853 (Yvon Vallières)/RDPP, No. 54.1/1.

12 JD, May 14, 2009, p. 1963 (François Gendron)/RDPP, No. 54.1/2.

13 Statements by Members that are made by ministers are not to be confused with statements by Ministers, examined in greater detail in the following section.

14 JD, May 12, 2009, p. 1853 (Yvon Vallières)/RDPP, No. 54.1/1.

15 JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31. See Chapter 5, Appendix III, "Allocation of Statements by Members".

9.2.1.2 STATEMENTS BY MINISTERS

The next item after Statements by Members is Statements by Ministers (SO 53(1)). During this period, ministers may make statements that are no more than five minutes long (SO 55).

The Standing Orders are silent as to the precise nature or content of such statements. In practice, they mostly focus on matters the Government considers important, such as policy announcements or the Government's reaction to a given event. The President has ruled that ministers may make any statement they consider appropriate, provided that the statement's content is of public importance or related to government policy.¹⁶

After each statement, the Leader of the Official Opposition and the other parliamentary group leaders or their representatives may speak for up to five minutes each. Generally, a group's critic for the portfolio pertaining to the subject matter of the statement speaks on behalf of the group's leader. The minister may then speak for up to five minutes in reply (SO 56). The right to speak during a debate on ministerial statements does not extend to independent Members.¹⁷

A minister who wishes to make a statement in the Assembly need not obtain the President's permission or authorization to do so.¹⁸ The Standing Orders only require that, one hour before Routine Proceedings, a copy of the statement be delivered in confidence to the President and the parliamentary group leaders, after which the minister still has complete latitude to decide whether to actually make the statement.¹⁹

It is not the President's role to judge the content of a ministerial statement. The purpose of the copy delivered to the President is not to have the President verify the statement's validity, but simply to inform the President of the minister's intention to make a statement. Upon receipt of a statement, the President ensures that the delivery deadline has been respected, ascertains that the nature of the text submitted corresponds to what would be expected in a ministerial statement and takes note that the minister intends to make a statement during Routine Proceedings.²⁰

16 JD, June 16, 1994, pp. 1973–1974 (Jean-Pierre Saintonge)/RDPP, No. 55/2.

17 JD, October 18, 1983, p. 3004 (Richard Guay).

18 JD, June 16, 1994, pp. 1973–1974 (Jean-Pierre Saintonge)/RDPP, No. 55/2.

19 JD, April 28, 1998, pp. 10900–10901 (Jean-Pierre Charbonneau)/RDPP, No. 55/3.

20 JD, June 16, 1994, pp. 1973–1974 (Jean-Pierre Saintonge)/RDPP, No. 55/2.

Ministerial statements nevertheless remain subject to the rules of parliamentary debate and may not contain prohibited words or unparliamentary language. Likewise, a statement by a minister in the House must contain only the text submitted to the President and the parliamentary group leaders under Standing Order 55, since the purpose of providing copies in advance is to allow the opposition groups to prepare their comments.²¹

A minister who chooses to make an announcement by way of a formal ministerial statement must abide by the rules governing the use of the procedure and keep the contents of the statement confidential until it is delivered in the House.²²

9.2.1.3 INTRODUCTION OF BILLS

Introduction of Bills, the third item of business under Routine Proceedings (SO 53(2)), is the first of the five stages in the consideration of bills, whether public or private (SO 229).

To introduce a bill, a Member must first give notice to that effect on the Order Paper at least one sitting day in advance (SO 232). Once this has been done, the sponsoring Member may choose at which sitting to introduce the bill or ask another Member to introduce the bill instead (SO 189). A minister who sponsors a bill, however, may be represented only by another minister.

In the case of a government bill or a bill introduced by a government Member during Routine Proceedings, the Government House Leader, after having obtained from the President the right to speak, informs the President of the item on the Order Paper that corresponds to the title of the bill in question (SO 232). The President then announces the title of the minister or Member sponsoring the bill, as well as the bill's number and title, and grants the sponsor leave to read the explanatory notes or a summary of the notes. After that, the President puts the motion to introduce the bill to the vote, without debate (SO 234). The parliamentarians do not vote on the bill's content at this stage, but simply on whether the bill may be submitted for further consideration.²³ This is probably why it is extremely rare for the Assembly to refuse to grant leave to introduce a bill.²⁴

21 JD, October 30, 2003, p. 1213 (Michel Bissonnet)/RDPP, No. 55/4.

22 JD, March 28, 2019, pp. 1832–1833 (François Paradis)/RDPP, No. 55/5.

23 JD, December 16, 1993, pp. 9837–9838 (Jean-Pierre Saintonge)/RDPP, No. 233/3.

24 The Assembly has not refused to grant leave to introduce a bill since 1988.

The procedure is virtually identical for public bills introduced by opposition Members. If the Member belongs to a parliamentary group, the group's House leader requests leave from the President to speak and informs the President of the item to be called on the Order Paper; if the bill is introduced by an independent Member, the Member informs the President of the item to be called.

The procedure for introducing a private bill differs from that for a public bill. While a Member sponsoring a public bill stands to read the explanatory notes, this is not the case for a Member sponsoring a private bill at the request of an interested person, as private bills do not contain explanatory notes (SO 266). When the House leader or independent Member has informed the President of the pertinent item on the Order Paper, the President informs the Assembly of the content of the Law Clerk's report (SO 265), which states, among other things, whether the required notices have been duly published and the deadlines set out in the Standing Orders adhered to.²⁵ The President then tables the report, announces the bill's sponsor, number and title, and puts the question of the introduction of the bill to the House. On a motion without notice moved by the Government House Leader and put to a vote without debate, the bill is then referred to a committee (SO 267).

Thus, any Member may introduce a bill during Introduction of Bills. However, there are certain exceptions to this principle that will be addressed in the chapter on the legislative process.²⁶

9.2.1.4 PRESENTING PAPERS, REPORTS FROM COMMITTEES AND PETITIONS

The next item of business involves the presentation of three types of documents, which are tabled in the following order: papers, reports from committees and petitions (SO 53(3)). Like documents tabled at other times during a sitting, they are recorded in the Assembly's *Votes and Proceedings* (SO 65). Documents become public as soon as they are tabled, and they are also published on the Assembly's website.

9.2.1.4.1 Papers

During this item of business, ministers may table any papers, in other words, documents, they deem to be of public interest (SO 59). It is the only time during a sitting when they may table a document without first having obtained the Assembly's consent. At all other times, ministers are subject to the same rule as the other Members and must obtain the Assembly's consent before tabling a document.

25 See Chapter 14, Subsection 14.2.2, "Private Bills".

26 See Chapter 14, "The Legislative Process".

With somewhat limited powers at this stage, the President may neither rule on whether a tabled document is of public interest,²⁷ nor compel any Minister to table a document. Although one of the President's functions is to ensure that the rights and privileges of the National Assembly are respected, a ruling has specified that the holder of the office of President may not do more than is specifically permitted under the Standing Orders and the *Act respecting the National Assembly*.²⁸

In most cases, the documents tabled are those that ministers are obliged to table in the House under a specific legislative provision. For example, ministers are required by statute to table the annual management reports of departments and public bodies. To inform the Members of the documents that must by law be tabled in the House, the President lays a list of them upon the Table at the beginning of each session (SO 58).²⁹

Such documents are of fundamental importance: their primary objective is to ensure efficient parliamentary oversight of government activities. For this, the Assembly needs to be informed of the undertakings of the state apparatus. The President recognized this in a ruling that found that the failure of 21 departments and public bodies to report to the Assembly on their activities within the time required by law constituted a priori contempt of Parliament. According to the President, such an omission impedes the Members in the performance of their duties.³⁰ In a more recent decision, the President reiterated the duty of government departments and public bodies to exercise vigilance in ensuring all legal obligations to table papers in the Assembly are respected.³¹

The President may also be required by law or the Standing Orders to table papers at this stage or consider it appropriate to do so under the circumstances. However, it has been ruled that documents received solely for information purposes need not be tabled.³² Nor do all the letters and other messages officially transmitted to the President need to be read out: only the gist of such

27 JD, May 5, 1987, pp. 7049–7051 (Pierre Lorrain).

28 JD, September 3, 1992, pp. 3031–3033 (Jean-Pierre Saintonge)/RDPP, No. 59/2.

29 Although the second paragraph of Standing Order 58 requires that the list be published in full in the *Votes and Proceedings*, this has no longer been done since the opening of the 36th Legislature because the list has become too long. However, the list is published on the Assembly's website and is updated at the beginning of each sessional period.

30 JD, March 11, 1993, pp. 5292–5294 (Jean-Pierre Saintonge)/RDPP, No. 67/28. Subsequently, the Assembly unanimously carried a motion calling for compliance with the legislative provisions that require departments and public bodies to table their activity reports in the Assembly (JD, March 24, 1993, p. 5597).

31 JD, February 12, 2015, pp. 3537–3538 (Jacques Chagnon)/RDPP, No. 67/66.

32 JD, June 7, 1979, p. 1799 (Clément Richard)/RDPP, No. 59/1.

documents need be given.³³ Moreover, the President may not table papers that a minister could refuse to table.³⁴ It should also be noted that, just as the President may speak at any time, the President may also table documents at any time during a sitting.

A Member who tables a document during Presenting Papers must simply state its title without further comment. There may be no discussion.³⁵ Members may not question the Government at this stage to ascertain the nature of the document being tabled or to know whether the Government intends to table a specific document. The time for such questions is Question Period.

It is standard practice to present papers in printed format. In 1996, it was ruled that so long as uncertainty remained as to the long-term viability of audiovisual documents, in particular with regard to their conservation, reproduction and distribution, only handwritten or printed documents that could be read without specialized apparatus and reproduced by photocopier could be tabled. Consequently, to be tabled in the Assembly, documents recorded in another medium had first to be transcribed on paper. The accuracy of the transcription was presumed without further formality in accordance with the principle that no one may refuse to take a Member at their word (SO 35(6)). However, annual reports and strategic plans of departments and public bodies, along with documents emanating from officers of the Assembly, are tabled in the House in digital format as well as on paper. To ensure wider distribution and reduce the use of paper, all such documents may be consulted directly on the National Assembly website. A few minutes after being tabled, the documents are made available on the Assembly webpage entitled “Newly Tabled Documents”. However, the paper version remains the only official version.³⁶

In the fall of 2016, the Assembly conducted a pilot project concerning the documents tabled by ministers and the President during this item of business. The goal was to reduce the number of printed copies distributed as well as the time required to put them online. At the end of the pilot project, the decision was made to institute a permanent process as of February 2017, setting the required number of printed copies at 11, barring exceptions.³⁷ This does not apply to tabled answers to petitions or written questions, or to other papers tabled under Standing Orders 59 and 214.

33 Geoffrion 1941, SO 17, note 4 (in French only).

34 JD, October 9, 1979, pp. 2743–2746 (Clément Richard)/RDPP, No. 67/6.

35 JD, September 3, 1992, pp. 3031–3033 (Jean-Pierre Saintonge)/RDPP, No. 59/2

36 JD, October 23, 2007, p. 1577 (Michel Bissonnet)/RDPP, No. 59/6.

37 There are some exceptions to this rule. For example, 24 copies are required of the annual management reports of certain state-owned enterprises. For the annual estimates and the budget speech, 155 copies are required.

9.2.1.4.2 Reports from Committees

Reports from committees are tabled next. These are the reports that committees are obliged to table in the Assembly as soon as they have concluded their proceedings on a given matter (SO 174). A committee's report is tabled by the committee Chair or a committee member designated by the Chair (SO 61). Reports of the Committee on the National Assembly are tabled by the President of the Assembly, as are the reports of the standing committees that examine the estimates (SO 288).

Committee reports are generally not voted on when they are tabled, except in the case of reports by committees that have heard interested parties and carried out clause-by-clause consideration of a private bill. These are put to a vote immediately upon being tabled, with no debate (SO 267), as the consideration of a private bill, unlike that of a public bill, does not include consideration of the committee report on the bill.

9.2.1.4.3 Petitions

Tabling of committee reports is followed by presentation of petitions. The Standing Orders provide for a maximum of 15 minutes for petitions (SO 64, 2nd para.).

The formalities for presenting a petition at a given sitting differ depending on the form in which it is submitted. If a petition is submitted on paper, the Member presenting it must file it with the Secretary General not later than one hour before Routine Proceedings. For a petition submitted in electronic form, the Member need only hand in notice of it (SO 64, 1st para.).

When presenting a petition, the Member acting on behalf of the petitioners tables an abstract of the petition and certifies it to be true to the original. The abstract read out by the Member specifies the number of signatures contained in the petition, the material allegations and the redress sought (SO 64, para. 3). The President is the only Member who may not table a petition in the House.³⁸

If a petition does not comply with the formalities set out in the Standing Orders, the President verifies, before giving the floor to the Member who is acting as an intermediary, whether the Assembly nonetheless gives leave for the petition to be presented. However, if there are grounds for refusal under Rule 42 of the Rules for the Conduct of Proceedings, the Assembly cannot give leave for the rule to be set aside (RCP 42 and 43).

Further details regarding the criteria for petition form and content are provided in Chapter 8, "Petitions".

³⁸ JD, June 15, 1982, pp. 4840–4842 (Claude Vaillancourt)/RDPP, No. 62/1.

ABSTRACT OF A PETITION

ASSEMBLÉE NATIONALE
N° 935-2011133


ASSEMBLÉE NATIONALE
QUÉBEC

EXTRAIT DE PÉTITION
(Article 64 du Règlement)

Je dépose l'extrait d'une pétition adressée à l'Assemblée nationale, signée par 8 801 pétitionnaires.

Désignation : Citoyens et citoyennes du Québec

Les faits invoqués sont les suivants :

CONSIDÉRANT QU'en 2009, le Centre international de Recherche sur le Cancer a classé les appareils de bronzage dans la catégorie des risques de cancer les plus élevés pour l'humain, au même titre que la cigarette ou l'amiante;

CONSIDÉRANT QUE de nombreuses études montrent que l'exposition au rayonnement UV des appareils de bronzage artificiel, avant l'âge de 35 ans, augmente de 75 % le risque de développer un mélanome, la forme de cancer de la peau la plus sévère et la plus meurtrière;

CONSIDÉRANT QUE chez les 15 à 29 ans, le mélanome compte pour 11 % des nouveaux cas de cancer et que 70 % des utilisateurs de lits de bronzage sont des femmes de ce même groupe d'âge;

CONSIDÉRANT QUE plusieurs pays interdisent la vente de services de bronzage artificiel aux mineurs. Au Canada, la Nouvelle-Écosse le fait, ainsi que le district de Victoria, en Colombie-Britannique;

CONSIDÉRANT QUE l'Organisation mondiale de la Santé (OMS) recommande l'interdiction de vendre des services de bronzage artificiel aux moins de 18 ans;

Et l'intervention réclamée se résume ainsi :

Les signataires de cette pétition demandent à l'Assemblée nationale d'interdire la vente de services de bronzage artificiel aux mineurs, de mettre sur pied un registre de tous les commerces offrant des services de bronzage et d'instaurer des mesures visant à restreindre les pratiques de marketing des salons de bronzage artificiel auprès des jeunes.

Je certifie que cet extrait est conforme au Règlement et à l'original de la pétition.


Maryse Gaudreault, députée de Hull

le 22 novembre 2011
Date de signature de l'extrait



An abstract of a petition regarding the use of tanning salons by minors. A parliamentarian read out the extract before tabling the petition during Routine Proceedings.

9.2.1.5 ORAL ANSWERS TO PETITIONS

The presentation of petitions is followed by the period for oral answers to petitions (SO 53(3.1)).

Under the Standing Orders, the Government is required to answer every petition in writing (SO 64.8, 1st para.), and to table its answer in the Presenting Papers period during Routine Proceedings (SO 64.8, 2nd para.). If the Government fails to answer a petition in writing by the end of the period specified in the Standing Orders, it must provide an oral answer at the time set aside during Routine Proceedings for that purpose (SO 64.9 and 64.10).³⁹

9.2.1.6. COMPLAINTS OF BREACH OF PRIVILEGE OR CONTEMPT AND PERSONAL EXPLANATIONS

Complaints of breach of privilege and personal explanations follow oral answers to petitions (SO 53(4)). This is the period preceding Oral Questions and Answers.

A Member may report any breach of the privileges of the Assembly or of one of its Members, or provide personal explanations at this stage (SO 53(4)). During this item of business, a Member who has been the subject of a report by the Ethics Commissioner may also reply to the report within five sitting days after the tabling of the report. The reply takes the form of a statement not exceeding 20 minutes.⁴⁰

9.2.1.6.1 Breach of Privilege or Contempt

As seen in Chapter 3, breaches of privilege or contempt of the Assembly or of one of its Members, whether committed by a Member or by another person, may be raised in the Assembly by a procedure known as a “point of privilege” (SO 66). There are two ways of raising a matter of privilege (SO 69).

A Member may rise on a point of privilege at any time in a sitting immediately after a perceived breach has occurred in the House.⁴¹ However, the Member may choose instead to rise during Complaints of Breach of Privilege or Contempt and Personal Explanations, after first notifying the President in writing, at least one hour prior to Routine Proceedings, of the intent to do so. The notice must state the privilege or immunity the Member alleges was breached, and briefly set out the facts in support of the allegation (SO 69).

39 See Chapter 8, Subsection 8.2.5, “The Government’s Response”.

40 *Code of ethics and conduct of the Members of the National Assembly*, CQLR, c. C-23.1, s. 102. See, for example: JD, December 5, 2017, pp. 18310–18313; JD, November 11, 2020, p. 9687–9688. After determining that a Member who was the subject of a report by the Ethics Commissioner could not be present at the Assembly due to ill health, the President allowed a letter from the Member to be tabled in lieu of a statement (JD, June 13, 2018, pp. 22194–22195 (Jacques Chagnon)/RDPP, No. 2/12).

41 JD, June 10, 2003, p. 162 (Michel Bissonnet)/RDPP, No. 69/4.

Upon reception of a written notice, the President informs the Assembly that a request has been received from a given Member, within the prescribed time, to be heard on an alleged breach of privilege. The President then informs the House of the facts raised by the Member. There is no obligation to read out the notice in full: only such passages as are necessary to summarize the matter need be made known. The President does not ordinarily read out the arguments contained in a notice.⁴²

If the President judges that a notice of intent to raise a point of privilege given under the second paragraph of Standing Order 69 is sufficiently clear, there is no requirement to hear from the House leaders, although this may be done if the President considers that the information in the notice is insufficiently detailed.⁴³

The President may rule on the matter immediately or take it under advisement,⁴⁴ in which case the ruling may be made later in the same sitting or during a subsequent sitting. Rulings made at a subsequent sitting are generally handed down during the period for questions of privilege or contempt. The President's role is to decide whether the facts constitute at first sight a breach of privilege of the Assembly or of one of its Members.

9.2.1.6.2 Personal Explanations

With the President's leave, parliamentarians may also explain matters that, while not constituting a breach of privilege or contempt, concern them as Members of the Assembly. For instance, a Member may wish to call attention to inaccuracies contained in the written record of a speech, refute allegations made in a publication or explain remarks that have been misinterpreted. In such cases, the Member must provide the President with a written notice setting out the substance of the explanation no later than one hour before Routine Proceedings (SO 71).

The President informs the Assembly that a notice has been received from a Member wishing to make a personal explanation and then immediately rules on the admissibility of the request.⁴⁵ If the request is in order, the President gives the floor to the Member concerned. The Member's explanation must be concise and not be framed in such a way as to provoke debate (SO 71, 2nd para.). The same procedure applies in the case of a Member who gives an explanation on behalf of a Member who is absent (SO 73).

42 JD, June 11, 1990, pp. 3018–3022 (Jean-Pierre Saintonge)/RDPP, No. 69/1.

43 JD, June 11, 1990, pp. 3018–3022 (Jean-Pierre Saintonge)/RDPP, No. 41/2; JD, October 27, 2009, pp. 3616–3620 (Yvon Vallières)/RDPP, No. 69/5.

44 JD, May 30, 1990, pp. 2719–2725 (Jean-Pierre Saintonge)/RDPP, No. 41/1.

45 For admissibility criteria, see Chapter 3, Subsection 3.6.1, "Personal Explanations".

9.2.1.7 ORAL QUESTIONS AND ANSWERS

The period for oral questions and answers lasts a maximum of 45 minutes and is held during every regular and extraordinary sitting of the Assembly except for the first sittings of a session, which are reserved exclusively for the election of the President and for the Premier's opening speech (SO 5.1 and 46).

Despite the lively give-and-take that characterizes it, Question Period is not considered a forum for parliamentary debate as such.⁴⁶ It is instead an opportunity for Members and ministers to discuss issues of current interest. Parliamentary debate takes place primarily during Orders of the Day and focuses on substantive matters submitted for the Assembly's consideration.

Question Period is a part of Assembly sittings that receives considerable media attention and is the subject of copious jurisprudence. An entire chapter of this book is devoted to Question Period and the special rules that apply to it.⁴⁷

After Question Period, the President may set aside a brief period for questions taken as notice. A question taken as notice is a question addressed to a minister during Question Period that the minister chooses to answer later, at the end of Question Period or at a subsequent sitting. Ministers who have deferred answering a question until a later sitting must notify the President, in writing, no later than one hour before Routine Proceedings, when they wish to provide the answer. The President informs the Assembly of the notice at the beginning of Question Period. Once the minister has answered the question taken as notice, the President may also allow a supplementary question to be asked (SO 80).

9.2.1.8 DEFERRED DIVISIONS

As will be seen in greater detail in the section on voting in Chapter 12, "The Decision-Making Process", recorded divisions (votes) may be deferred (SO 223). If a recorded division is deferred to the following sitting, it is held during Routine Proceedings immediately following Question Period or, if there are questions taken as notice to be answered, immediately after the answers have been given (SO 53(6) and 83). In such cases, the division bells are rung throughout the Assembly five minutes before the end of Question Period. As soon as the Deferred Divisions period is announced, the President puts to a vote any motions for which divisions have been deferred, in the order in which they were considered by the Assembly.

46 JD, March 13, 1984, p. 5108 (Richard Guay)/RDPP, No. 212/2; JD, May 16, 1995, p. 2757-2758 (Raymond Brouillet)/RDPP, No. 212/5.

47 See Chapter 10, Section 10.1, "Oral Questions", and Appendix II, "Question Allocation Tables".

9.2.1.9 MOTIONS WITHOUT NOTICE

Members who wish to make a motion requesting that the Assembly decide a matter must generally give prior notice of their motion on the Order Paper (SO 188).⁴⁸ However, motions not included on the Order Paper may be moved and debated after Deferred Divisions, during Motions Without Notice (SO 53(7)).

The period reserved for motions without notice allows for exceptions to two rules: the rule that requires notice for motions and the rule that prohibits debate during Routine Proceedings, for substantive motions are normally debated during Orders of the Day. There are two types of motions that may be debated during Motions Without Notice: those that require the consent of the Assembly (SO 84.1 to 84.3) and those that do not (SO 84).

9.2.1.9.1 Motions Requiring Consent

The first paragraph of Standing Order 84.1 provides that despite Standing Order 188, any Member may make a motion without prior notice, but such a motion may be debated only by unanimous consent of the Assembly.

In its second paragraph, Standing Order 84.1 limits the number of motions without notice that may be moved, specifying that only one Member from each parliamentary group and one independent Member may make a motion without notice during a given sitting day (SO 84.1, 2nd para.). This means that, once a Member has moved a motion, no one else from the same parliamentary group may do so. The same applies for independent Members: if one independent Member has moved a motion, no other independent Members may do so. Moreover, the same independent Member may not move more than one motion every three sittings (SO 84.1, 3rd para.). For a parliamentary group or a second independent Member to move a second motion, the Standing Order must be set aside, and the President must first verify whether the Assembly gives leave for this to be done.⁴⁹

48 See Chapter 12, “The Decision-Making Process”, and Chapter 16, “Exceptional Procedures”.

49 JD, October 27, 2011, pp. 3066–3067 (Fatima Houda-Pepin)/RDPP, No. 84.1/5.

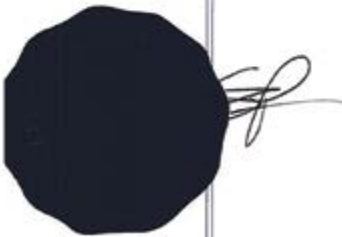


RÉSOLUTION DE L'ASSEMBLÉE NATIONALE DU QUÉBEC

QUE l'Assemblée nationale demande à l'ensemble de ses élus, ainsi qu'aux partis politiques et à leurs représentants d'exercer une grande vigilance quant aux propos exprimés sur les pages de leurs différents réseaux sociaux en y retirant systématiquement les commentaires haineux pouvant s'y retrouver et en les rapportant aux autorités compétentes lorsque la situation le nécessite.

COPIE CONFORME DE LA MOTION ADOPTÉE À
L'UNANIMITÉ PAR L'ASSEMBLÉE NATIONALE
LE 5 FÉVRIER 2020.

Québec, ce douzième jour de février 2020




SIEGFRIED PETERS
Secrétaire général de l'Assemblée nationale

True copy of a motion carried unanimously by the Assembly.

During Motions Without Notice, the President determines the order in which each Member moving a motion will be given the floor and ensures that there is rotation among the parliamentary groups so that each group has an opportunity to move the first motion of a sitting. While the sequence of rotation may vary depending on the number of parliamentary groups represented in the Assembly,⁵⁰ any motion made by an independent Member comes last (SO 84.3, 2nd para.).

When a Member's turn comes, the Member reads the motion, sharing its contents with the Assembly so all the other Members may decide whether they give leave for it to be debated.⁵¹ Although the Standing Orders provide for each motion to be moved by a single Member (SO 185), current practice is that, before reading out a motion, the Member moving specifies whether the motion is being moved jointly with other Members. Motions without notice often provide an opportunity for the Assembly to speak with one voice, so many of the motions presented at this stage are moved jointly by several Members with leave of the Assembly to set aside Standing Order 185. For the purposes of Standing Order 84.1, however, joint motions are attributed to only the Member who actually read the motion.

Once a motion has been read, the President verifies whether all the Members present in the Assembly consent to it being debated. It is ultimately up to the President to determine whether consent is given or not.⁵² If there is even a single Member who refuses, no debate may be held⁵³ and the motion may not be voted on. At this stage, the President's role is limited to verifying whether there is consent. No debate or explanation is allowed either in favour of or against consent.⁵⁴ Likewise, it is not the President's role to identify any Members who refuse to give consent.⁵⁵

50 Since their amendment in 2009, the Standing Orders have specified that each parliamentary group may present only a single motion per sitting; the President establishes a calendar determining the order in which motions without notice are to be moved. During the 42nd Legislature, a table displaying the rotation sequence for the order in which motions without notice were to be moved was included as an appendix to the agreement among the parties represented in the National Assembly regarding concerns such as the allocation of parliamentary measures and speaking time (*Entente relative à la notion de groupe parlementaire, au fonctionnement de l'Assemblée et des commissions parlementaires, ainsi qu'aux aspects budgétaires pour la durée de la 42^e législature*, November 28, 2018, Sessional Paper No. 48-20181129, (VP, November 29, 2018, p. 23)).

51 JD, October 27, 2011, pp. 3066–3067 (Fatima Houda-Pepin)/RDPP, No. 84.1/5.

52 JD, May 9, 2012, p. 6107 (François Ouimet)/RDPP, No. 84.1/6; JD, February 26, 2015, p. 3911 (François Ouimet)/RDPP, No. 84.1/8.

53 JD, November 1, 2006, p. 3028 (Michel Bissonnet)/RDPP, No. 84.1/4.

54 JD, May 9, 2012, p. 6107 (François Ouimet)/RDPP, No. 84.1/6; JD, November 21, 2012, pp. 1123–1124 (Jacques Chagnon)/RDPP, No. 84.1/7.

55 JD, February 26, 2015, p. 3911 (François Ouimet)/RDPP, No. 84.1/8.

The motion is considered to have been moved, even if the Assembly does not consent to it being debated, since the mover has read it out. Consequently, the Member may not move another motion, having already used that right for the rejected motion.⁵⁶

If leave is given to debate a motion, the general rule set out in Standing Order 209 regarding speaking time normally applies. However, debates conducted at this stage of Routine Proceedings are generally not very long because, when leave is given to debate a motion, the subject of the motion as well as the number and duration of the speeches to be given have usually already been determined by prior agreement between the various parliamentary groups and any independent Members.

The nature and scope of consent may vary according to the circumstances, and, as set out by the President in a decision rendered in 2006,⁵⁷ certain distinctions must be made depending on the situation. First, Members may simply consent to the debate. The motion is then debated under the relevant provisions of Standing Order 209. Second, Members may give their consent under certain conditions. The President must then inquire whether all Members agree to the conditions. If so, the debate takes place in accordance with those conditions; if not, the debate cannot be held. Finally, the House leaders may agree among themselves on the conditions of a debate without informing the Assembly, in which case, the President cannot impose the conditions on the other Members because if they are not informed, they cannot give their consent, which is required for the Assembly to be bound.⁵⁸ As the President has pointed out, it is the Members, not the parliamentary groups, who give their consent. Just because a motion is moved by a Member belonging to a particular parliamentary group does not mean that all the Members belonging to the group are presumed to consent to it being debated. A Member belonging to the same parliamentary group as the mover of a motion may or may not consent to a debate on that motion and is free to attach conditions to doing so.⁵⁹

Numerous decisions have asserted that the only negotiations regarding motions without notice that the President may allow on the Chamber floor are those to obtain unanimous consent.⁶⁰

The President does not generally rule on the admissibility of motions without notice when they are moved, given that any debate on them is already subject to negotiations and to the unanimous consent of the Members. This means

56 JD, June 4, 1999, pp. 2213–2214 (Jean-Pierre Charbonneau)/RDPP, No. 84.1/2.

57 JD, November 1, 2006, p. 3028 (Michel Bissonnet)/RDPP, No. 84.1/4.

58 Ibid.

59 Ibid.

60 JD, November 21, 2012, pp. 1123–1124 (Jacques Chagnon)/RDPP, No. 84.1/7.

that at times the Assembly votes on motions that do not entirely comply with the Standing Orders. However, once the question of admissibility has been raised, the President is required to rule based on the rules of parliamentary law. After having found a motion to be inadmissible, the President may not then submit the motion for leave to be debated.⁶¹

Lastly, like business standing in the name of a Member in opposition (“Wednesday motions”), a motion without notice may not be divided. Nor may it be amended, except with leave of the mover. If leave is given, the debate must concern both the amendment and the main motion, and no subamendment may be moved (SO 84.2).

9.2.1.9.2 Motions Not Requiring Consent

Certain motions relating to the proceedings of the Assembly that may be moved without notice are prescribed by statute or the Standing Orders (SO 84). They do not require the Assembly’s leave to be debated.⁶² For example, a motion to fill a vacancy or make a permanent substitution in the membership of a committee is a motion that concerns Assembly proceedings and may be moved without notice (SO 129); it may therefore be debated without leave.

Motions without notice that do not require the Assembly’s leave to be debated are not subject to Standing Orders 84.1 to 84.3. They are not counted for the purposes of the second paragraph of Standing Order 84.1, which prohibits a Member from a parliamentary group or an independent Member from making a motion if another Member from that group or another independent Member has made a motion during the same sitting.

Other motions provided for in legislative provisions deal with the appointment or working conditions of persons appointed to or holding certain offices. In accordance with long-standing tradition, these motions are moved during Motions Without Notice and debated without the Assembly’s leave being required.⁶³

While Motions Without Notice is the principal time for presenting motions that do not require notice, there is nothing to prevent a Member from moving such a motion at another time, barring specifications to the contrary in a Standing Order or legislation.

9.2.1.9.3 Adjournment of Debate on a Motion Without Notice

If the debate on a motion without notice has not concluded on the adjournment of a sitting, it too is automatically adjourned. The Assembly may also carry a motion to adjourn the debate. A 1995 ruling determined that when the debate

61 JD, September 23, 2014, pp. 1809–1810 (Maryse Gaudreault)/RDPP, No. 191/5.

62 JD, May 4, 1994, pp. 703–704 (Jean-Pierre Saintonge)/RDPP, No. 84/2.

63 JD, December 20, 1989, pp. 928–932 (Jean-Pierre Saintonge)/RDPP, No. 84.1/1.

on a motion without notice is adjourned, the motion is placed on the Order Paper under Orders of the Day and not under Routine Proceedings.⁶⁴ If the motion is moved by a government Member, the motion is placed under Government Motions in Orders of the Day.⁶⁵ That said, when debate was adjourned on a joint motion moved on December 13, 2004, the motion was placed on the Order Paper under a new Orders of the Day heading: Joint Motions.⁶⁶

9.2.1.9.4 Voting on a Motion Without Notice

Once the debate on a motion has concluded, the motion is put to a vote. If a recorded division is requested, it is usually held immediately. However, the vote may be deferred to later during the same sitting or to the next sitting day at the request of the Government House Leader. Standing Order 223 provides that any vote may be deferred, except a vote on a motion for adjournment or for an immediate vote. This includes a vote on a motion without notice. If the vote is deferred, it may be so only once.⁶⁷

9.2.1.10 NOTICES OF PROCEEDINGS IN COMMITTEES

After Motions Without Notice, the Government House Leader or the President communicates the notices of proceedings in committee.

Under Standing Order 147, the method used to convene a committee that has received an order of reference from the Assembly depends on whether the Assembly is sitting. When the Assembly is sitting, the Government House Leader convenes the committee during Notices of Proceedings in Committees (SO 85 and 147). The notice is given orally. When the Assembly is not sitting, the committee is convened by the committee Chair upon reception of a written notice from the Government House Leader stating the date, time, place and purpose of the meeting.⁶⁸ A copy of the notice is sent to the President of the Assembly.

64 JD, June 1, 1995, pp. 3206 and 3213 (Raymond Brouillet)/RDPP, No. 100/4.

65 Ibid.

66 JD, December 13, 2004, p. 6660-6694.

67 JD, May 13, 2010, p. 6717 (Fatima Houda-Pepin)/RDPP, No. 223/6.

68 The Standing Orders do not specify when this written notice must be sent. This is not the case for oral notices, which are to be given at the time set aside during Routine Proceedings for notices of committee proceedings. The method of convening committees is thus more restrictive when the Assembly is sitting. When the Assembly is not sitting, the Government House Leader may convene a committee at any time. In other words, once a sitting is over, the Government House Leader may send a written notice to convene a committee, whereas if the Assembly is still sitting, the Government House Leader must obtain the Members' unanimous consent to communicate a notice of committee proceedings at a point other than that prescribed by the Standing Orders (JD, May 24, 2000, pp. 6127-6128 (Jean-Pierre Charbonneau)/RDPP, No. 147/2).

The Standing Orders in no way limit the power of the Government House Leader to convene a parliamentary committee that has received an order of reference from the Assembly.⁶⁹ However, the Government House Leader may not convene a committee before an order of reference has been given by the Assembly.⁷⁰ In addition, the Government House Leader may not use a notice convening a committee to amend an order of reference setting out specific dates and times for the committee to meet.⁷¹

The President of the Assembly communicates the notice of proceedings on any business that is to be considered by a committee pursuant to an order made on the committee's own initiative (SO 85, 2nd para.). To convene a committee that is to consider a matter it has decided to study on its own initiative, the committee clerk sends a notice to the committee members at the request of the committee Chair (SO 148), as well as to the President. If the Assembly is sitting, the President must read out the copy of the notice. The notice is communicated solely for information purposes and, unlike when notice is given by the Government House Leader, doing so does not serve to convene the committee. For this reason, such a notice may not be withdrawn on the President's own initiative. Only the committee Chair may ask that a notice be withdrawn.⁷²

When the Assembly is sitting, committees that meet in the Parliament Building may not convene during Routine Proceedings (SO 145), which includes the time set aside for motions without notice. However, since the debate on a motion without notice can sometimes be long, and since several such motions may be debated in the course of a single sitting, the Assembly sometimes gives leave for Notices of Proceedings in Committees to precede Motions Without Notice. Further leave is then required for committees to meet during Routine Proceedings. Such leave is most often granted when a committee is meeting for general consultations and does not want to make the persons or groups who are to make presentations wait.

During Orders of the Day, up to four committees may meet concurrently in the Parliament Building.⁷³ This number increases to five when the Assembly is not sitting (SO 145). The Government House Leader may convene up to five committees during Notices of Proceedings in Committees even if the Assembly

69 JD, December 8, 1999, p. 4188 (Jean-Pierre Charbonneau)/RDPP, No. 147/1. The Government House Leader may convene a committee for the clause-by-clause consideration of a bill even if the President has taken under advisement a question of privilege concerning that bill.

70 JD, April 26, 1990, pp. 1889–1897 (Jean-Pierre Saintonge)/RDPP, No. 85/2.

71 JD, May 18, 1993, pp. 6436–6439 (Jean-Pierre Saintonge)/RDPP, No. 85/4.

72 JD, March 18, 1993, pp. 5475–5476 (Jean-Pierre Saintonge)/RDPP, No. 85/3.

73 This number includes committees holding deliberative meetings (JD, June 18, 1985, p. 4765 (Richard Guay)/RDPP, No. 145/1).

has not adjourned its proceedings, on the condition that the proceedings are adjourned at the time set for the committees to convene. If that is not the case, the Government House Leader must inform the Assembly which of the five committees will not be meeting.⁷⁴ In addition, it has been ruled that when proceedings are suspended pending debates upon adjournment, five committees may meet concurrently.⁷⁵

9.2.1.11 INFORMATION ON THE PROCEEDINGS OF THE ASSEMBLY

Under this final heading of Routine Proceedings, the Government House Leader may take the initiative and give the Assembly information on parliamentary proceedings or do so at the request of another Member. Requests for information must relate exclusively to business standing on the Order Paper (SO 86, 2nd para.).⁷⁶ It has been ruled that this item must not be used as a second Question Period.⁷⁷ Thus, requests for information are usually limited to clarifications by the Government on the conduct of parliamentary proceedings.

The President may also be required to provide information to the Assembly at this stage. The Standing Orders provide that on Tuesdays, the President must state the opposition business to be debated the next day (SO 97.2, 2nd para.), and that on Thursdays, the President must give notice not only of the interpellation to be held the next day but also of the subject matter of the following week's interpellation (SO 297). The President may also give other notices, such as notice of when bills will receive royal assent in the Lieutenant-Governor's office.

The President has occasionally called Information on the Proceedings of the Assembly in order to hear arguments regarding a point of order or a breach of privilege raised by a Member.⁷⁸ Notices of breaches of rights or privileges are confidential, so Members are not aware such a notice has been received until the President informs the Assembly during Complaints of Breach of Privilege or Contempt. The President may deem further information on such complaints to be necessary, and deferring Members' explanations to the Information on the Proceedings of the Assembly period permits them to prepare their arguments properly.

74 JD, December 4, 2002, p. 8041 (François Beaulne)/RDPP, No. 145/2.

75 JD, February 22, 2018, CTE-149 pp. 19–20 (Alexandre Iracà)/RDPP (Com. Vol.), No. 145/1.

76 No information may be requested on a bill that has not yet been placed on the Order Paper (JD, June 14, 1989, p. 6686 (Jean-Pierre Saintonge)/RDPP, No. 86/1).

77 JD, February 24, 2015, p. 3775 (François Gendron).

78 See, for example: JD, November 30, 2017, pp. 18235–18239; JD, February 8, 2018, pp. 18643–18644; JD, March 27, 2018, pp. 19175–19179; JD, May 1, 2018, pp. 21423–21428; JD, May 31, 2018, pp. 21860–21866; JD, December 4, 2018, pp. 171–178; JD, October 31, 2019, pp. 5092–5098; JD, December 3, 2019, pp. 5857–5861.

9.2.2 ORDERS OF THE DAY

As we have said before, except during the period set aside for committee consideration of the estimates of expenditure (SO 282),⁷⁹ Orders of the Day follows Routine Proceedings. Whereas Routine Proceedings is mainly an information period, Orders of the Day is essentially a period of debate. As a rule, the three Vice-Presidents take turns chairing the Assembly during Orders of the Day, while the President is generally present only for Routine Proceedings.

All the items on the Order Paper under Orders of the Day may be taken into consideration by the Assembly during this period, subject to the predetermined framework set out in the Standing Orders. The Government House Leader decides which business on the Order Paper will be debated (SO 96), and therefore generally serves as master of the order of business. This power to dictate the order of business is nonetheless tempered by Standing Order 54, which stipulates that Orders of the Day must be taken up in the following sequence: Business Having Precedence; Urgent Debates; Debates on Reports from Committees; Other Business Standing on the Order Paper; and Business Standing in the Name of Members in Opposition.

With the exception of Other Business Standing on the Order Paper, these categories are not subject to the control of the Government House Leader; however, in practice, it is precisely that category that accounts for the bulk of the Assembly's business during Orders of the Day.

It is to be noted that the absence of Orders of the Day during committee consideration of the budget estimates means that all other business is suspended, even business having precedence. For example, the Assembly must suspend the debate on the opening speech of the session, even if it is underway, for the duration of the period of committee consideration of the budget estimates.⁸⁰

9.2.2.1 BUSINESS HAVING PRECEDENCE

As the name indicates, business having precedence has priority over any other matter on account of its importance or urgency (1972–1984 Standing Orders, SO 56(4)). However, since the parliamentary reform of 2009 there has been one exception: the introduction of an exceptional procedure by the Government House Leader for the consideration of a particular matter (SO 182). In such a case, the limited debate on the motion to introduce the exceptional procedure and any debate relating to the matter to which the motion pertains have priority over the items of business having precedence listed in the first paragraph of Standing Order 87 (SO 184.2, 1st para.). No other business before the Assembly may be taken up until the exceptional procedure has been concluded (SO 184.2, 3rd para.).

79 JD, May 27, 1987, pp. 7832–7836 (Pierre Lorrain)/RDPP, No. 88/39; JD, April 30, 1986, pp. 1035–1036 (Pierre Lorrain)/RDPP, No. 282/1.

80 JD, April 24, 2001, pp. 1038–1043 (Jean-Pierre Charbonneau)/RDPP, No. 282/2.

The sequence for the items under Business Having Precedence is set out in Standing Order 87. The Premier's opening speech of the session and the addresses by the parliamentary group leaders or their representatives come first (SO 87(1)).⁸¹ As mentioned in Chapter 6, the session is officially open only once the Lieutenant-Governor's address has been given. This is followed by the Premier's opening speech (SO 45), in which the Government's legislative program is unveiled. Following the speech, which may last up to two hours (SO 50, 1st para.), the President adjourns the sitting (SO 46), and the debate on the opening speech begins on the next sitting day (SO 49),⁸² along with the addresses delivered by the Leader of the Official Opposition and the other parliamentary group leaders, or their representatives (SO 87(1)). The debate on the opening speech, during which the other Members may speak, does not resume immediately. It is the seventh item to be taken up under Business Having Precedence (SO 87(7)).

Motions relating to breaches of privilege or contempt and concerning Parliament's integrity constitute the second and third items (SO 87(2) and (3)). By a motion relating to a breach of privilege or contempt, a Member may complain to the Assembly that another Member has breached the privileges of the Assembly or of one of its Members (SO 316(2)).⁸³ The motion may also be used to impugn the conduct of a non-Member who has allegedly breached the privileges of the Assembly or of one of its Members (SO 324). In this case, however, the Member must first raise a breach of privilege under Standing Orders 66 and following, and announce the intention to move such a motion (SO 317 and 324); in addition, the President must declare that *prima facie* a breach has been committed.

The purpose of the third item of business, motions relating to the conduct of Members of Parliament, is to call into question acts performed by Members in the course of their duties that does not involve a breach of privilege or a situation governed by the *Code of ethics and conduct of the Members of the National Assembly* (SO 316(3)).⁸⁴ The mover of such a motion is not required to raise a question of privilege, but must give notice of the motion in the Order Paper (SO 188). The motion then has precedence.⁸⁵

81 See Chapter 6, Subsection 6.2.2, "Opening a Session".

82 See Chapter 6, Subsection 6.2.2.1, "Debate on the Opening Speech".

83 See Chapter 3, Subsection 3.5.1, "Impugning a Member's Conduct".

84 Paragraph 1 of Standing Order 316 regarding complaints about incompatible offices or conflicts of interest was repealed on October 4, 2011, owing to the coming into force of sections 10 to 36 of the Code. The Ethics Commissioner now has authority to inquire into those matters.

85 See Chapter 3, "Parliamentary Privilege".

The budget speech and the addresses delivered by the parliamentary group leaders or their representatives during the ensuing debate are the fourth item to be taken up under Business Having Precedence (SO 87(4)). Under Standing Order 278, this is also the time for any supplementary statement by the Minister of Finance, and the rules relating to the budget speech and the ensuing debate apply to that statement as well.⁸⁶

Since 2009, the next item has been the consideration of interim supply (SO 87(4.1)). Interim supply represents one quarter of the appropriations necessary for the State to operate for a fiscal year. It may be adopted while awaiting the end of the examination of the budget estimates requested by the Government. The Standing Orders provide that consideration of interim supply by the Assembly must occur before April 1, that is, before the first day of the new fiscal year, and this consideration is given precedence so that it will not be delayed by other matters. Interim supply is considered for up to five hours in a Committee of the Whole, taking priority over other matters (SO 280), such as the resumption of the debate on the budget speech, which becomes the next item of business (SO 87(5)).⁸⁷

Resumption of the debate on the budget speech precedes the limited debate on the committee reports respecting the main estimates (SO 87(5) and (6)). The items are taken up in this order because the Assembly must vote on the Minister of Finance's motion to adopt the Government's budgetary policy before voting on the committee reports respecting the main estimates, which are all tabled together (SO 288).

Want of confidence motions are the ninth item under Business Having Precedence, after the resumption of the debate on the opening speech (SO 87(8)). Opposition Members may move seven want of confidence motions during a session, including those made during the debate on the opening speech and the debate on the budget speech (SO 304). When a want of confidence motion is introduced outside of these two debates, the debate on it has precedence. The debate must be held during a single sitting (SO 306), and the motion may not be amended (SO 306.1).⁸⁸

During ordinary hours of meeting, the debate on a want of confidence motion ends 15 minutes before the sitting is adjourned. During extended hours of meeting, it ends three hours after the time set for the opening of the sitting (SO 306).

86 See Chapter 15, "The Budget Process".

87 See Chapter 15, Subsection 15.2.2.1, "Consideration of Interim Supply Estimates".

88 See Chapter 7, Subsection 7.2.1, "Want of Confidence Motions".

9.2.2.2 URGENT DEBATES

Any Member may request that an urgent debate be held (SO 88), so long as the Member delivers a written notice to that effect to the President no later than one hour before Routine Proceedings (SO 89). The request may contain only brief arguments in favour of the debate (SO 88).

Requests for urgent debates are limited to two per sitting, and only one debate may be held (SO 93). An urgent debate has priority over any other matter that is not business having precedence. There are circumstances, however, in which urgent debates may not be held, such as when the Assembly is meeting to study a matter under a previously adopted special order⁸⁹ or during an extraordinary sitting, which ends, under Standing Order 27.2, once the Assembly has disposed of the matter for which it was summoned.⁹⁰ In addition, as urgent debates take place solely during Orders of the Day, they cannot be conducted during committee consideration of the main estimates, when only Routine Proceedings are held.⁹¹

As specified in Standing Order 90, the President decides without debate whether a request for an urgent debate is admissible. There is no custom compelling the President to hear the House leaders before rendering such a decision.⁹² If the request is granted, the matter is discussed in a limited debate, subject to the rule set out in Standing Order 210.⁹³ This means that, after conferring with the House leaders, the President apportions the speaking time, taking into account any independent Members. The debate lasts no more than two hours. There is no right of reply (SO 91) and the debate concludes without question put (SO 91, 2nd para.).

89 JD, February 20, 1979, pp. 5747–5749 (Clément Richard)/RDPP, No. 179(3)/2.

90 JD, July 2, 1999, pp. 2956–2957 (Jean-Pierre Charbonneau)/RDPP, No. 308/9.

91 JD, May 27, 1987, pp. 7832–7836 (Pierre Lorrain)/RDPP, No. 88/39.

92 JD, December 16, 1988, pp. 4253–4256 (Pierre Lorrain)/RDPP, No. 90/1.

93 Before the 2009 reform, such a debate ended at 6:00 p.m. at the latest, except during extended hours of meeting, when the debate concluded three hours after the time set for the opening of the sitting (1985 Standing Orders, SO 92). Even though an urgent debate was a limited debate, Standing Order 91 stated that the Member who made the request and a representative of the Government were allowed to speak to the subject for 20 minutes each; all other Members were granted 10 minutes each. However, that provision had all but fallen into disuse, since time apportionment was established by the President following a meeting with the House leaders in accordance with Standing Order 210. The 2009 amendment reintroduced a rule that had been in force from October 15, 1990, to May 14, 1992.

Before authorizing an urgent debate, the President must be satisfied that the criteria set out in Standing Order 88 have been met, that the proposed debate will focus on a well-defined matter of importance that is within the authority of the Assembly, and that the matter cannot be or could not have been discussed otherwise (SO 88). Before making this determination, the President must ascertain that the request meets the formal requirements imposed by the Standing Orders. Failure to submit a written notice at least one hour prior to Routine Proceedings, for instance, would render the request out of order.⁹⁴

Unlike past practice, where a motion to suspend a rule of procedure could be moved without notice if urgency was cited as justification (1985 Standing Orders, SO 183), a request for an urgent debate now requires the President to decide whether the matter proposed for debate in fact demands urgent consideration. This is the main criterion in determining whether the request is in order.⁹⁵ According to the jurisprudence, the first question the President must ask is not whether there is a serious problem, but whether the matter requires urgent consideration.⁹⁶ Thus, the President may grant leave to hold a debate in response to a sudden⁹⁷ or acute⁹⁸ crisis or a suddenly aggravated situation.⁹⁹ A request to hold an urgent debate may therefore be deemed out of order if the President concludes that the situation in question has existed for a certain amount of time, and that there has been no sudden aggravation of the situation.¹⁰⁰ Moreover,

94 JD, June 11, 1999, pp. 2540–2541 (Claude Pinard)/RDPP, No. 88/49.

95 Ibid.; JD, February 16, 2010, p. 4480 (Yvon Vallières)/RDPP, No. 88/56.

96 JD, June 7, 1979, pp. 1796–1797 (Clément Richard)/RDPP, No. 88/25.

97 JD, November 4, 1975, pp. 1719–1720 (Jean-Noël Lavoie)/RDPP, No. 88/10; JD, November 3, 1977, pp. 3892–3893 (Clément Richard)/RDPP, No. 88/16; JD, October 10, 1978, pp. 2911–2913 (Clément Richard)/RDPP, No. 88/18; JD, February 6, 1979, pp. 5410–5411 (Clément Richard)/RDPP, No. 88/22; JD, June 7, 1979, pp. 1796–1797 (Clément Richard)/RDPP, No. 88/25; JD, October 9, 1979, pp. 2741–2743 (Clément Richard)/RDPP, No. 88/28; JD, October 16, 1979, pp. 2901–2903 (Clément Richard)/RDPP, No. 88/29; JD, December 6, 1982, pp. 6467–6469 (Claude Vaillancourt)/RDPP, No. 88/34; JD, April 28, 1983, pp. 704–706 (Richard Guay)/RDPP, No. 88/35; JD, March 10, 1987, pp. 5917–5919 (Pierre Lorrain)/RDPP, No. 88/38; JD, October 20, 1987, pp. 9116–9119 (Pierre Lorrain)/RDPP, No. 88/41; JD, December 18, 1987, pp. 11029–11030 (Pierre Lorrain)/RDPP, No. 88/42; JD, December 2, 2005, p. 10663 (Michel Bissonnet)/RDPP, No. 88/53; JD, May 30, 2008, p. 4485 (Michel Bissonnet)/RDPP, No. 88/54.

98 JD, December 20, 1973, p. 745 (Jean-Noël Lavoie)/RDPP, No. 88/6; JD, March 10, 1987, pp. 5917–5919 (Pierre Lorrain)/RDPP, No. 88/38; JD, October 20, 1987, pp. 9116–9119 (Pierre Lorrain)/RDPP, No. 88/41; JD, December 2, 2005, p. 10663 (Michel Bissonnet)/RDPP, No. 88/53.

99 JD, August 11, 1977, pp. 2887–2890 (Clément Richard)/RDPP, No. 88/15; JD, October 12, 1978, p. 3012 (Clément Richard)/RDPP, No. 88/19; JD, December 2, 2005, p. 10663 (Michel Bissonnet)/RDPP, No. 88/53; JD, May 30, 2008, p. 4485 (Michel Bissonnet)/RDPP, No. 88/54; JD, November 3, 2016, p. 12570 (Jacques Chagnon)/RDPP, No. 88/63.

100 JD, September 28, 2016, pp. 11992–11993 (Maryse Gaudreault)/RDPP, No. 88/62; JD, December 2, 2016, p. 13135 (Jacques Chagnon)/RDPP, No. 88/64.

a request to hold an urgent debate on a labour dispute may be refused if negotiations are in progress,¹⁰¹ or are scheduled to begin shortly,¹⁰² in order to allow the normal dispute resolution process to take its course. Conversely, the President has in the past ruled an urgent debate to be in order regarding a situation that had existed for a certain amount of time because, due to consideration of the estimates and a week allotted for riding work, it had not been possible to hold such a debate sooner.¹⁰³

In addition to urgency, jurisprudence has identified the failure to discuss or the impossibility of discussing the matter in some other context as an important factor for the President to consider in deciding whether to authorize an urgent debate.¹⁰⁴ Thus, requests for urgent debates on well-defined, important matters have been rejected by the presiding officer because the matters could have been, or could be, discussed¹⁰⁵ during the debate on the opening speech¹⁰⁶ or the budget speech,¹⁰⁷ when any subject may be taken up. Other opportunities for debate, such as interpellations, Wednesday motions and want of confidence motions have also emerged through jurisprudence.¹⁰⁸ Requests for an urgent debate have also been rejected by the President because the topic, which had been of current interest for some time, could have been discussed on other

101 JD, November 3, 1977, pp. 3892–3893 (Clément Richard)/RDPP, No. 88/16; JD, November 7, 1978, pp. 3532–3534 (Clément Richard)/RDPP, No. 88/20; JD, October 9, 1979, pp. 2740–2741 (Clément Richard)/RDPP, No. 88/27; JD, December 11, 1979, pp. 4271–4273 (Clément Richard)/RDPP, No. 88/30; JD, November 1, 1984, pp. 435–437 (Richard Guay)/RDPP, No. 88/36.

102 JD, November 7, 1972, pp. 2331–2333 (Jean-Noël Lavoie)/RDPP, No. 88/2; JD, December 6, 1982, pp. 6467–6469 (Claude Vaillancourt)/RDPP, No. 88/34.

103 JD, May 7, 2019, pp. 2476–2477 (François Paradis)/RDPP, No. 88/67.

104 JD, November 3, 1977, pp. 3892–3893 (Clément Richard)/RDPP, No. 88/16; JD, November 7, 1978, pp. 3532–3534 (Clément Richard)/RDPP, No. 88/20; JD, October 9, 1979, pp. 2740–2741 (Clément Richard)/RDPP, No. 88/27; JD, December 11, 1979, pp. 4271–4273 (Clément Richard)/RDPP, No. 88/30; JD, November 1, 1984, pp. 435–437 (Richard Guay)/RDPP, No. 88/36; JD, November 22, 2011, p. 3357 (Jacques Chagnon)/RDPP, No. 88/58; JD, November 17, 2015, p. 7859 (Jacques Chagnon)/RDPP, No. 88/60.

105 JD, September 20, 2011, pp. 2435–2436 (Jacques Chagnon)/RDPP, No. 88/57; JD, November 8, 1978, pp. 3583–3585 (Clément Richard)/RDPP, No. 88/21; JD, April 11, 2017, pp. 15778–15779 (Jacques Chagnon)/RDPP, No. 88/65.

106 JD, March 22, 1973, p. 92 (Jean-Noël Lavoie)/RDPP, No. 88/5; JD, April 9, 1974, pp. 512–513 (Jean-Noël Lavoie)/RDPP, No. 88/7; JD, December 15, 1976, pp. 25–27 (Clément Richard)/RDPP, No. 88/12; JD, December 2, 1980, pp. 486–488 (Claude Vaillancourt)/RDPP, No. 88/32.

107 JD, June 12, 1978, pp. 2168–2170 (Clément Richard)/RDPP, No. 88/17; JD, June 3, 1980, pp. 5889–5891 (Clément Richard)/RDPP, No. 88/31; JD, May 2, 1990, p. 2231 (Jean-Pierre Saintonge)/RDPP, No. 88/44.

108 JD, March 10, 1987, pp. 5917–5919 (Pierre Lorrain)/RDPP, No. 88/38; JD, September 20, 2011, pp. 2435–2436 (Jacques Chagnon)/RDPP, No. 88/57.

occasions such as during an interpellation,¹⁰⁹ a Wednesday motion¹¹⁰ or the debate on the opening speech.¹¹¹ As Question Period cannot give rise to a debate, it ought not be considered by the President as an opportunity for discussion.¹¹² That being said, the fact that a subject had already been raised numerous times during Question Period or during debates upon adjournment has been taken into consideration in decisions justifying the refusal of an urgent debate.¹¹³ Moreover, if there are new elements to a situation, the fact that the subject has already been addressed may not be a deciding factor¹¹⁴ as the new elements may cause its discussion to become a matter of urgency.

The President must disregard hypothetical possibilities, such as the likelihood of the Assembly's being dissolved, when determining whether future opportunities for discussion are likely to arise.¹¹⁵

A request to debate an urgent matter is out of order if the issue concerned does not fall under the Government's administrative responsibility.¹¹⁶ The same applies when the province's jurisdiction has not been clearly established¹¹⁷ and when the matter is not under the authority of the National Assembly.¹¹⁸

109 JD, November 1, 1984, pp. 435–437 (Richard Guay)/*RDPP*, No. 88/36; JD, December 2, 2005, p. 10663 (Michel Bissonnet)/*RDPP*, No. 88/53; JD, May 30, 2008, p. 4485 (Michel Bissonnet)/*RDPP*, No. 88/54; JD, October 9, 2014, pp. 2168–2169 (Jacques Chagnon)/*RDPP*, No. 88/59; JD, September 28, 2016, pp. 11992–11993 (Maryse Gaudreault)/*RDPP*, No. 88/62.

110 JD, November 1, 1984, pp. 435–437 (Richard Guay)/*RDPP*, No. 88/36; JD, November 27, 1984, pp. 1018–1023 (Richard Guay)/*RDPP*, No. 88/37; JD, December 2, 2005, p. 10663 (Michel Bissonnet)/*RDPP*, No. 88/53; JD, May 30, 2008, p. 4485 (Michel Bissonnet)/*RDPP*, No. 88/54; JD, September 20, 2011, pp. 2435–2436 (Jacques Chagnon)/*RDPP*, No. 88/57; JD, October 9, 2014, pp. 2168–2169 (Jacques Chagnon)/*RDPP*, No. 88/59; JD, September 28, 2016, pp. 11992–11993 (Maryse Gaudreault)/*RDPP*, No. 88/62.

111 JD, April 1, 1999, pp. 1066–1067 (Jean-Pierre Charbonneau)/*RDPP*, No. 88/48.

112 JD, November 1, 1984, pp. 435–437 (Richard Guay)/*RDPP*, No. 88/36; JD, November 25, 1997, p. 8653 (Jean-Pierre Charbonneau)/*RDPP*, No. 88/47; JD, November 30, 2004, p. 6035 (Michel Bissonnet)/*RDPP*, No. 88/51; JD, June 10, 2005, pp. 9157–9158 (Michel Bissonnet)/*RDPP*, No. 88/52.

113 JD, June 21, 1977, pp. 1530–1531 (Clément Richard)/*RDPP*, No. 88/14; JD, November 8, 1978, pp. 3583–3585 (Clément Richard)/*RDPP*, No. 88/21; JD, December 6, 1982, pp. 6467–6469 (Claude Vaillancourt)/*RDPP*, No. 88/34; JD, April 1, 1999, pp. 1066–1067 (Jean-Pierre Charbonneau)/*RDPP*, No. 88/48.

114 JD, November 25, 1997, p. 8653 (Jean-Pierre Charbonneau)/*RDPP*, No. 88/47.

115 JD, March 11, 2003, p. 8606 (Louise Harel)/*RDPP*, No. 88/50. It should be noted that this decision dates back to before the adoption of the act setting a fixed date for the holding of general elections. At the time, the Premier could call elections at any time after the Legislature had completed 305 sittings.

116 JD, February 8, 1979, pp. 5522–5524 (Clément Richard)/*RDPP*, No. 88/23; JD, March 10, 1987, pp. 5917–5919 (Pierre Lorrain)/*RDPP*, No. 88/38.

117 JD, April 9, 1974, pp. 512–513 (Jean-Noël Lavoie)/*RDPP*, No. 88/7; JD, June 30, 1976, pp. 1885–1888 (Jean-Noël Lavoie)/*RDPP*, No. 88/11.

118 JD, February 13, 1979, pp. 5612–5615 (Clément Richard)/*RDPP*, No. 88/24.

On the other hand, the President has in the past authorized an urgent debate on a stock market crisis: although of international scope, the issue was within the Assembly's jurisdiction.¹¹⁹

Jurisprudence states that legislation must be given priority during extended hours of meeting.¹²⁰ Nevertheless, the President has occasionally granted requests for an urgent debate during this period. Examples of urgent debates that have been authorized include the 1990 debate on the Meech Lake constitutional negotiations, a subject the President deemed sufficiently important to justify the interruption of extended hours of meeting,¹²¹ and the 1992 debate with regard to the sale of a large grocery chain to foreign interests, after the impact of the sale had been evaluated.¹²² On a number of other occasions, the President authorized urgent debates when extended hours of meeting had just begun, judging that the Government would still have ample time to pursue its legislative agenda.¹²³ However, those decisions were rendered before the new calendar took effect on September 14, 2009. While extended hours of meeting could last more than four weeks under the previous calendar, they are now limited to a maximum of two weeks. Moreover, whereas in the past the Assembly could sit from 10:00 a.m. to midnight five days a week during extended hours of meeting, the new calendar provides for only five additional sitting hours during this period.

In any case, the Standing Orders in no way prohibit urgent debates during extended hours of meeting. The President may therefore authorize such a debate on the grounds that it is not possible, during extended hours of meeting, to use the other procedures that might have permitted an urgent debate to take place and that there will therefore be no other opportunity to discuss the matter.¹²⁴ For example, in 2016, an urgent debate took place during the extended hours of meeting regarding allegations of intimidation and of falsification of documents at the Ministère des Transports, arising from testimony given

119 JD, October 20, 1987, pp. 9116–9119 (Pierre Lorrain)/RDPP, No. 88/41.

120 JD, June 7, 1979, pp. 1796–1797 (Clément Richard)/RDPP, No. 88/25; JD, December 2, 1980, pp. 486–488 (Claude Vaillancourt)/RDPP, No. 88/32; JD, June 9, 1987, pp. 8088–8090 (Pierre Lorrain)/RDPP, No. 88/40; JD, December 18, 1987, pp. 11029–11030 (Pierre Lorrain)/RDPP, No. 88/42; JD, June 2, 2009, pp. 2263–2264 (Yvon Vallières)/RDPP, No. 88/55.

121 JD, June 8, 1990, pp. 2972–2973 (Jean-Pierre Saintonge)/RDPP, No. 88/45.

122 JD, December 18, 1992, pp. 4980–4981 (Jean-Pierre Saintonge)/RDPP, No. 88/46.

123 JD, November 25, 1997, p. 8653 (Jean-Pierre Charbonneau)/RDPP, No. 88/47; JD, November 30, 2004, p. 6035 (Michel Bissonnet)/RDPP, No. 88/51; JD, June 2, 2009, pp. 2263–2264 (Yvon Vallières)/RDPP, No. 88/55.

124 JD, December 16, 1988, pp. 4253–4256 (Pierre Lorrain)/RDPP, No. 88/43; JD, June 10, 2005, pp. 9157–9158 (Michel Bissonnet)/RDPP, No. 88/52; JD, June 2, 2009, pp. 2263–2264 (Yvon Vallières)/RDPP, No. 88/55; JD, June 9, 2016, p. 11586 (Jacques Chagnon)/RDPP, No. 88/61.

the day before at a meeting of the Committee on Public Administration.¹²⁵ At the beginning of a sessional period the President may also take into consideration that the Government still has sufficient time for its legislative agenda.¹²⁶

9.2.2.3 DEBATES ON REPORTS FROM COMMITTEES

Unless they relate to bills or financial commitments or arise from deliberative meetings, committee reports that contain recommendations¹²⁷ must be taken up within 15 days of being tabled in the Assembly, subject to the provisions of Standing Order 97 on opposition business (SO 94, 1st para.). However, the 15-day period prescribed by Standing Order 94 does not run during the debate on the opening speech or the budget speech, during committee consideration of estimates or when business having precedence is before the Assembly (SO 94, 2nd para.). According to Assembly practice, the 15 days are calendar days, not sitting days.

Immediately after being tabled, committee reports falling under Standing Order 94 are entered on the Order Paper. During Orders of the Day, the Government House Leader indicates which report will be the subject of a limited debate lasting a maximum of two hours (SO 95, 1st para.). After conferring with the House leaders, the President apportions the speaking time among the parliamentary groups, taking into account any independent Members (SO 210). The report may not be amended and is not put to the Assembly for decision (SO 95).

The fact that the Assembly gives a mandate to a body called a “commission”, “committee”, “board” or “office” does not confer on that body the status of a parliamentary committee.¹²⁸ Only reports from parliamentary committees may be debated during Debates on Reports from Committees.

It would appear from Standing Orders 94 and 95 that the Government House Leader may call for a debate on a committee report at any time during Orders of the Day within 15 days after the tabling of the report in the Assembly. At first sight, this seems difficult to reconcile with Standing Order 54, which, in setting out the sequence for Orders of the Day, gives debates on reports from committees the third position, after business having precedence and urgent debates. However, the relevant provisions must be read and interpreted in relation to each other to be properly understood. Thus, subject to any other interpretation by the President, it appears that paragraph 3 of Standing Order 54, which states that debates on reports from committees must come before other business,

¹²⁵ Ibid.

¹²⁶ JD, September 27, 2017, pp. 17162–17163 (Jacques Chagnon)/RDPP, No. 88/66.

¹²⁷ This provision applies only to reports that contain recommendations and not ones that consist solely of observations or conclusions.

¹²⁸ JD, March 28, 1984, pp. 5543–5544 (Richard Guay)/RDPP, No. 94/1.

only makes sense if the 15-day period is presumed to have elapsed. During that period, a debate on a committee report may be called at any time after business having precedence, except at a time reserved for opposition business. Once the 15-day period has expired, such a debate has precedence over any business that may be called by the Government House Leader.

9.2.2.4 OTHER BUSINESS STANDING ON THE ORDER PAPER

As seen earlier, the Government House Leader largely controls which matters are considered during Orders of the Day. Except for business having precedence, which must be taken up before any other matter, and Wednesday afternoon opposition business (SO 97), the Government House Leader determines the sequence in which the matters placed on the Order Paper are raised (SO 96).

At the request of the Government House Leader, the following items may be taken into consideration under Other Business: the debate on the passage in principle of a public bill, its clause-by-clause consideration in a Committee of the Whole, or, if clause-by-clause consideration takes place in a standing committee, consideration of the committee report and passage of the bill; passage in principle and passage of a private bill; consideration of the supplementary estimates in a Committee of the Whole; and any motion placed on the Order Paper by the Government.

As the Government House Leader has near-total control over Orders of the Day, some items may never be called. Some bills are almost sure to “die on the Order Paper”, according to the well-known parliamentary expression. This is the fate of most public bills presented by opposition Members. Yet, the power to determine the business to be considered has occasionally been used by the Government to allow the Assembly to debate business presented by an opposition Member.¹²⁹

However, the Government House Leader’s control over Orders of the Day is only near total, not unlimited. As seen earlier, business having precedence, urgent debates and, once the 15-day period prescribed by Standing Order 94 has expired, debates on reports from committees must all be taken up before the Government may proceed with other business. In addition, despite the sequence set out in Standing Order 54, the Government House Leader’s power as defined in Standing Order 96 is limited by Standing Order 97 respecting opposition business.

¹²⁹ For example, the Government called certain private Members’ bills during the 41st Legislature, and the Assembly passed Bill 492, *An Act to amend the Civil Code to protect seniors’ rights as lessees*; Bill 493, *An Act to proclaim Nelson Mandela Day*; Bill 693, *An Act to amend the Act respecting the governance of state-owned enterprises to promote the presence of young people on the boards of directors of such enterprises*; and Bill 1094, *An Act to proclaim Hispanic Heritage Month*.

9.2.2.5 BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION

This is the final item in the Orders of the Day according to the sequence set out in the Standing Orders (SO 54(5)). Debates on opposition business take place at a time specified in the Standing Orders: Wednesday afternoon from 3:00 p.m. until no later than 5:00 p.m. (SO 97, 1st para.), which is why opposition business is commonly referred to as “Wednesday motions”. Debates on Wednesday motions may take place only in the absence of any debates with greater priority, that is, debates on business having precedence and urgent debates. Despite the sequence indicated in Standing Order 54, debates on reports from committees do not have precedence over Wednesday motions (SO 94, 1st para.).

The Standing Orders state that during extended hours of meeting no debates on opposition business are to be held (SO 97, 2nd para.).

9.2.2.5.1 Wednesday Motion Notices and Admissibility Criteria

A Member wishing to introduce a Wednesday motion must give notice of the motion, for publication in the Order Paper, not later than noon on the preceding day (SO 97.1, 1st para.). The President tables a copy of the notice on Tuesday, during Routine Proceedings at the time set aside for presenting papers (SO 97.1, 2nd para.). If the motion is in order, it is entered on the Wednesday Order Paper under Business Standing in the Name of Members in Opposition. Despite Standing Order 188, which states that a motion “may not be moved until the next sitting day after that on which it is first published in the *Order Paper and Notices*”, a motion on opposition business may be moved on the day it first appears on the Order Paper (SO 97.1, 3rd para.).

The admissibility criteria for Wednesday motions are generally the same as those prescribed for other motions.¹³⁰ Under Standing Order 191, such motions may not recite grounds or give arguments.¹³¹

It is not the President’s role to judge the accuracy of the alleged facts when assessing the admissibility of a motion. Rather, it is up to the Assembly to determine whether the motion contains information that is factually incorrect.¹³² Similarly, since the President does not interpret the law, the President does not examine whether a motion is consistent with legislative provisions when

¹³⁰ These criteria are listed in Chapter 12, “The Decision-Making Process”.

¹³¹ JD, November 10, 1999, pp. 3443–3444 (Jean-Pierre Charbonneau)/RDPP, No. 97/7.

¹³² Ibid.; JD, March 28, 1984, pp. 5555–5557 (Richard Guay)/RDPP, No. 193/2; JD, May 19, 1999, p. 1615 (Raymond Brouillet)/RDPP, No. 197/26; JD, March 16, 2005, p. 7116 (François Gendron)/RDPP, No. 97/8.

determining whether the motion is admissible.¹³³ It follows that no Member may question the admissibility of a motion on the grounds that it is not wholly true or accurate or is contrary to legislative provisions.

That being said, the Assembly may refer a matter to a committee for examination by means of a Wednesday motion (SO 146). The President has ruled that such a motion may mandate a committee to hear a minister on a particular topic.¹³⁴

Lastly, as is the case for all other motions, the admissibility of a Wednesday motion may be raised at any time before the motion is put to a vote.¹³⁵

9.2.2.5.2 Allocation of Wednesday Motions

The President has the power to determine the order in which matters placed on the Order Paper by opposition Members are to be raised. A number of factors are taken into account in the exercise of this power: the order in which the notices were received or placed on the Order Paper, the principle of “turn and turn about” among the various parliamentary groups and whether there are any independent Members. On Tuesday, under Information on the Proceedings of the Assembly (the final heading of Routine Proceedings), the President informs the Assembly of the matter to be debated the next day (SO 97.2).

When there is only one opposition group, that group simply informs the President of which matter on the Order Paper it wishes to raise. The situation is more complex if there are independent Members or more than one group in opposition, so, as of the end of the 36th Legislature, the President began establishing criteria for the allocation of Wednesday motions among the opposition groups and independent Members.¹³⁶

9.2.2.5.3 Debate on Motions

Debate on motions begins when proceedings resume at 3:00 p.m. on Wednesday afternoon, after the 1:00 p.m. recess, and continues to no later than 5:00 p.m. (SO 97). Any debate in progress at the time set for the recess is automatically adjourned.¹³⁷

133 JD, April 26, 1990, pp. 1898–1906 (Jean-Pierre Saintonge)/RDPP, No. 193/3.

134 JD, November 21, 2012, pp. 1148–1150 (Jacques Chagnon)/RDPP, No. 97/9.

135 JD, April 23, 1991, p. 7547 (Jean-Pierre Saintonge)/RDPP, No. 193/4; JD, June 3, 1999, pp. 2164–2165 (Raymond Brouillet)/RDPP, No. 193/7; JD, May 15, 2013, p. 3283 (Carole Poirier)/RDPP, No. 252/6; JD, October 1, 2014, pp. 2060–2061 (Maryse Gaudreault)/RDPP, No. 146/3.

136 See Chapter 5, Appendix IV, “Allocation of Interpellations and Business Standing in the Name of Members in Opposition (Wednesday Motions)”.

137 See, for example: JD, October 21, 2009, p. 3561 (François Gendron).

Debate on a motion may not run for more than two consecutive Wednesday sittings, unless the motion concerns one of the stages in the consideration of a bill (SO 99).¹³⁸ The length of the debate is usually left to the opposition to decide, but most debates last no longer than a single Wednesday sitting, given the opposition's interest in debating as many motions as possible. A Member may nonetheless move to adjourn a debate in progress, since Standing Order 100 makes no exception for opposition business.¹³⁹

When a debate concerns a stage of the consideration of a bill, the applicable speaking times are those prescribed for the stage in question.¹⁴⁰ However, since debates concerning motions are limited debates, the President allocates speaking time for them to the various parliamentary groups after conferring with the House leaders and taking any independent Members into account (SO 98). In keeping with the practice adopted during the 38th Legislature, with the exception of the 10-minute reply allotted to the mover of the motion, time is allocated in such a manner as to take into account the composition of the Assembly.¹⁴¹

138 Only seven bills have been debated under Wednesday Motions since the current Standing Orders came into force in 1984. All of these debates were on the passage in principle of a bill. The first debate concerned Bill 191, *An Act to amend the Charter of the French language and other legislative provisions*, and was held on May 24 and 31, 1989. The second concerned Bill 193, *An Act to restore the seniority of certain employees in the health and social services sector*, and was held on May 15 and 22, 1991. The third concerned Bill 190, *An Act respecting the selection process applicable to persons to be appointed by the National Assembly and amending the Act respecting the National Assembly*, and was held on November 6 and 20, 2002, the Assembly having adjourned its proceedings from November 7 to 19. On May 11, 2005, the Assembly held the fourth such debate, concerning Bill 390, *An Act to prohibit the distribution of non-biodegradable plastic bags*. The fifth was held on June 15 and November 18, 2015, and concerned Bill 393, *An Act to provide a framework for appointments to certain senior positions and to standardize certain aspects of the appointment of administrative judges and decision-makers*. On October 25, 2017, the sixth was held on Bill 992, *An Act to amend the Public Administration Act and other legislative provisions to make deputy ministers and chief executive officers accountable for their government department's or public body's efficiency*. Lastly, the seventh was held on May 9, 2018, and concerned Bill 1190, *An Act to establish gender-balanced representation among Cabinet Ministers*. None of these bills got past the passage in principle stage. Motions for parliamentary committees to hold special consultations as part of the consideration of bills have also been debated under Business Standing in the Name of Members in Opposition (see: JD, October 30, 2019, pp. 5039–5058; JD, November 13, 2019, pp. 5351–5367).

139 JD, March 27, 1991, pp. 7236 and 7240–7241 (Jean-Pierre Saintonge)/RDPP, No. 97/5.

140 See Chapter 14, “The Legislative Process”.

141 See Chapter 5, Appendix VI, “Allocation of Speaking Time”.

9.2.2.5.4 Amendment to a Wednesday Motion

In April 2009, the Standing Orders were amended to specify that Wednesday motions could be amended only with the mover's leave. Before the change, in accordance with a 1990 ruling, Wednesday motions were treated like any other substantive motion, and were therefore subject to amendment, under the same conditions for admissibility.¹⁴²

For opposition Members, this meant that their initial motion could be changed so significantly by an amendment that they might be obliged to vote against it. The years preceding 2009 therefore saw major changes in jurisprudence with respect to the admissibility of amendments proposed to a motion moved during Business Standing in the Name of Members in Opposition. Whereas, in most cases, the President exercised a degree of latitude in ruling on the admissibility of amendments with a view to fostering debate, the admissibility criteria for amendments to Wednesday motions had been tightened to give opposition Members more opportunity to place a matter before the Assembly.¹⁴³ A 2007 ruling established that, when in doubt, the President must declare an amendment to a Wednesday motion out of order.¹⁴⁴

In 2009, the rule that Wednesday motions may not be amended except with leave of their mover was introduced. Since then, when a Member states the intention of proposing an amendment, the President asks whether the motion's mover consents. The House leader of the mover's parliamentary group may also grant or refuse leave on behalf of the mover.¹⁴⁵ If leave is given, the debate must concern both the amendment and the main motion, and no subamendment may be moved (SO 98.1).

The fact that the mover of a motion must consent to its being amended does not mean the President may no longer rule an amendment out of order. Even if the mover of the motion or the House leader of the group concerned allows an amendment, the President may intervene if a Member from another parliamentary group or an independent Member raises doubts as to the admissibility of the amending motion.¹⁴⁶ For instance, the President may rule out of order an amendment containing recitals or arguments (SO 191), or unparliamentary language (SO 35). Moreover, proposed amendments must always comply with Standing Order 197, that is, they must be relevant to the subject matter of the main motion and must not reverse its principle. The President may also rule an

142 JD, November 28, 1990, pp. 5411–5414, 5427 and 5429 (Jean-Pierre Saintonge).

143 JD, November 24, 2004, p. 5819 (Diane Leblanc)/RDPP, No. 197/35.

144 JD, November 7, 2007, p. 1874 (Marc Picard)/RDPP, No. 197/50.

145 JD, May 13, 2009, p. 1899 (Fatima Houda-Pepin)/RDPP, No. 98.1/1.

146 JD, October 8, 2014, p. 2157 (François Gendron)/RDPP, No. 197/52.

amendment out of order, even if it has been accepted by the mover of the main motion, on the grounds that it would alter,¹⁴⁷ repudiate,¹⁴⁸ contradict,¹⁴⁹ or set aside¹⁵⁰ the main motion, or introduce a new principle.¹⁵¹

Finally, while a Wednesday motion may be amended with leave of its mover, it may not be divided (SO 98.1).

9.2.2.5.5 Putting the Question

A debate on a Wednesday motion concludes by 5:00 p.m., at the latest, with the reply by the mover of the motion. The President then puts any amendments to the vote, as well as the motion, as amended if applicable. However, a vote on a Wednesday motion may be deferred, regardless of its content.¹⁵² For example, the President ruled that deferring to the next day a vote on a Wednesday motion to summon a minister to come before a parliamentary committee on a specific date would not affect the validity of the order given to the committee to hear the minister despite the requirement set out in Standing Order 164 that a minister be notified of such a summons at least 15 days ahead of time. The President pointed out that the purpose of deferring a vote is not to hinder the operation

147 JD, March 18, 1992, pp. 12033–12044 and 12050 (Roger Lefebvre)/RDPP, No. 197/18; JD, November 22, 2000, p. 8057 (Michel Bissonnet)/RDPP, No. 197/27; JD, March 24, 2004, pp. 3201–3202 (François Gendron)/RDPP, No. 197/31; JD, November 2, 2005, p. 9885 (Diane Leblanc)/RDPP, No. 197/42; JD, October 25, 2006, p. 2914 (William Cusano)/RDPP, No. 197/46; JD, November 7, 2007, p. 1874 (Marc Picard)/RDPP, No. 197/50.

148 JD, March 18, 1992, pp. 12033–12044 and 12050 (Roger Lefebvre)/RDPP, No. 197/18; JD, May 5, 1999, pp. 1294, 1299–1300 (Michel Bissonnet)/RDPP, No. 197/25; JD, May 19, 1999, p. 1615 (Raymond Brouillet)/RDPP, No. 197/26; JD, November 22, 2000, p. 8057 (Michel Bissonnet)/RDPP, No. 197/27; JD, November 5, 2003, p. 1295 (Christos Sirros)/RDPP, No. 197/30; JD, November 24, 2004, p. 5819 (Diane Leblanc)/RDPP, No. 197/35; JD, May 4, 1994, p. 715 (Michel Tremblay)/RDPP, No. 197/20.

149 JD, March 18, 1992, pp. 12033–12044 and 12050 (Roger Lefebvre)/RDPP, No. 197/18; JD, November 22, 2000, p. 8057 (Michel Bissonnet)/RDPP, No. 197/27.

150 JD, December 3, 1975, pp. 2352–2356 (Jean-Noël Lavoie)/RDPP, No. 197/2; JD, October 26, 1977, pp. 3701–3704 (Jean-Guy Cardinal)/RDPP, No. 197/3; JD, November 9, 1977, pp. 4018–4020 (Louise Cuerrier)/RDPP, No. 197/4; JD, April 26, 1978, pp. 1153–1155 (Jean-Guy Cardinal)/RDPP, No. 197/5; JD, March 17, 1982, pp. 2567–2568 (Jean-Pierre Jolivet)/RDPP, No. 197/8; JD, May 12, 1982, pp. 3477–3480 (Jean-Pierre Jolivet)/RDPP, No. 197/10; JD, May 28, 1986, p. 1903 (Jean-Pierre Saintonge)/RDPP, No. 197/12; JD, October 21, 1987, pp. 9201 and 9204–9206 (Jean-Pierre Saintonge)/RDPP, No. 197/13; JD, May 25, 1988, pp. 1460 and 1465 (Jean-Pierre Saintonge)/RDPP, No. 197/14; JD, April 4, 1990, pp. 1597–1598 (Lawrence Cannon)/RDPP, No. 197/15; JD, May 1, 1991, pp. 7624–7627 (Michel Bissonnet)/RDPP, No. 197/17; JD, March 18, 1992, pp. 12033–12044 and 12050 (Roger Lefebvre)/RDPP, No. 197/18; JD, October 27, 1993, p. 8280 (Michel Bissonnet)/RDPP, No. 197/19; JD, September 19, 1995, pp. 5127–5128 (Raymond Brouillet)/RDPP, No. 197/22.

151 JD, Octobre 8, 2014, p. 2157 (François Gendron)/RDPP, No. 197/52.

152 JD, October 7, 2009, pp. 3425–3426 (Fatima Houda-Pepin)/RDPP, No. 223/5.

of the Assembly, but rather to ensure that its work proceeds smoothly,¹⁵³ and noted that the rules of procedure are intended to ensure that postponement does not result in the effects of a motion being delayed. The President has also ruled that the choice to defer a vote is a prerogative of last resort and that if a motion that was in order would be rendered out of order simply by deferring the vote, the President would clearly be obliged to refuse to allow it.¹⁵⁴

If carried, a Wednesday motion becomes either an order or a resolution.¹⁵⁵

9.2.2.6 DEBATES UPON ADJOURNMENT

As noted earlier, Question Period is not a forum for Members to debate subjects in depth, but rather an opportunity for them to pose questions in relatively brief exchanges with government ministers.¹⁵⁶ Members who judge that a matter they raised during Question Period was not sufficiently discussed may request a debate upon adjournment (SO 308). This may be done with respect to a main question or to a more specific element addressed in a supplementary question.¹⁵⁷

153 JD, November 28, 2013, p. 5975 (Jacques Chagnon)/RDPP, No. 223/8.

154 JD, November 14, 2013, pp. 5668–5669 (Jacques Chagnon)/RDPP, No. 223/7.

155 As Wednesday motions are one of the means prescribed by the Standing Orders for giving an order of reference to a committee (SO 146), the Assembly has on a number of occasions debated motions moved by opposition Members to refer a particular matter to a committee for examination. For example, three motions carried during the 38th Legislature gave orders of reference to committees. During the 40th Legislature, out of 25 Wednesday motions, 22 were carried, including 7 giving orders of reference to committees. During the 41st Legislature, 4 of the 75 motions tabled proposed orders of reference to be given to committees. All were defeated. These are all examples of motions considered to be orders. For the distinction between an order and a resolution, see Chapter 12, Section 12.1, “Motions”.

156 All Members may take part in such debates, including government Members, although the latter rarely do so. During the 38th Legislature, the President specified in a directive on the allocation of debates upon adjournment that the proportion of debates upon adjournment that government Members could request was the same as the proportion of questions they could ask during Question Period (JD, May 10, 2007, pp. 68–69 (Michel Bissonnet)/RDPP, No. 311/1).

157 For example, during Question Period on February 14, 2017, Sébastien Schneeberger, Member for Drummond–Bois-Francis and a member of the Second Opposition Group, asked Geoffrey Kelley, Minister responsible for Native Affairs, a main question. Mathieu Lemay, Member for Masson, likewise a member of the Second Opposition Group, asked two supplementary questions on the same subject. Later the same day, the Member for Masson requested a debate upon adjournment on the supplementary questions he had asked the Minister (JD, February 14, 2017, pp. 13655–13656 and 13691–13696). Similarly, during Question Period on October 8, 2020, David Birnbaum, Member for D’Arcy-McGee, and Franz Benjamin, Member for Viau, who were both members of the parliamentary group forming the Official Opposition, asked a main question and a supplementary question, respectively, addressed to Christian Dubé, Minister of Health and Social Services, about the impacts of the COVID-19 pandemic on mental health. Each of the questions was later the subject of a debate upon adjournment (JD, October 8, 2020, pp. 9007–9008 and 9053–9056).

The Member must give the President notice of the matter to be debated no later than 30 minutes after the end of Question Period (SO 308). At the earliest opportunity, the President announces to the Assembly the matters to be debated (SO 309).

As we have already seen, and as we will see in greater detail in Chapter 10, under Standing Order 80, a minister may take note of a question asked during Question Period and defer the response to the end of the period or to a later sitting.¹⁵⁸ This is known as “taking a question as notice”. The President has ruled that a Member who is not satisfied with a deferred answer from a minister may request that the matter be debated upon adjournment. Here too, in the absence of guidance from the Standing Orders, since they do not say whether a deferred answer is to be given during the question period mentioned in Standing Order 308, the President has opted in favour of fostering rather than limiting debate.¹⁵⁹ This does not exclude the possibility of requesting a debate upon adjournment when a minister has taken note of a question to defer the response to a subsequent sitting. It has been ruled that nothing in Standing Order 308 states that there must have been at least the beginning of a response in order for the request to be made.¹⁶⁰

Based on the logic that it is not necessary to take the response into account in order to be able to request a debate upon adjournment, a Member is not obliged to address such a request to the minister who actually responded to the Member’s question but may instead address it to the minister of whom the question was initially asked, even if that minister was not the one who responded. This means that the fact that the government chooses, based on the principle of ministerial responsibility, which minister shall answer a question during Question Period does not in any way limit a Member’s right to address the request for a debate upon adjournment to the minister for whom the question was originally intended. However, regardless of the minister to whom the request is made, the Government may choose, during the debate upon adjournment, to answer through any of its ministers, again by virtue of the same principle of ministerial responsibility.

9.2.2.6.1 Days and Time for Debates Upon Adjournment

Debates upon adjournment are held on the adjournment of a Tuesday or Thursday sitting during ordinary hours of meeting (SO 309). However, no more than three such debates may be held at any sitting (SO 312).

158 See Chapter 10, Subsection 10.1.5.3, “Questions Taken as Notice”.

159 JD, May 7, 1991, pp. 7998–7999 (Jean-Pierre Saintonge)/RDPP, No. 308/4.

160 JD, March 30, 2000, p. 5413 (Raymond Brouillet)/RDPP, No. 308/10.

Under the Standing Orders, debates upon adjournment may not be held outside ordinary hours of meeting, such as during extended hours of meeting (SO 312, 2nd para.). Furthermore, the President has ruled that such debates may not be held during extraordinary sittings since, under Standing Order 27.2, such sittings end as soon as the Assembly disposes of the matters for which it was summoned.¹⁶¹

Moreover, since only Routine Proceedings are held when estimates are being examined in committee, debates upon adjournment and other debates that usually take place during Orders of the Day cannot be held during that time.¹⁶²

Although the Standing Orders make no provision for debates upon adjournment to be held on a Wednesday, the President has ruled that a Member who considers that a matter has been insufficiently discussed during a Wednesday Question Period may give notice, the same day, of the intention to raise the matter on the next sitting day when such debates may be held. This ruling was based on the principle that one of the President's mandates is to foster debate in the Assembly, not limit it.¹⁶³ However, the ruling also stipulated that such a debate must be counted as one of the three debates permitted at the Thursday sitting under Standing Order 312.

Debates upon adjournment must be requested the same day the matter in question is raised. This is why the President ruled out of order a Tuesday request to hold a debate upon adjournment with regard to a matter raised during Question Period the previous Thursday.¹⁶⁴ However, a Tuesday or Thursday debate upon adjournment may be deferred to a subsequent sitting day with the unanimous consent of the Assembly.

Debates upon adjournment take place at 6:00 p.m., which is the time appointed for the Assembly to suspend¹⁶⁵ or adjourn proceedings, so suspension or adjournment is delayed accordingly (SO 309). If the Assembly completes its business before 6:00 p.m., the unanimous consent of its Members is required to begin debates immediately upon adjournment.¹⁶⁶

161 JD, July 2, 1999, pp. 2956–2957 (Jean-Pierre Charbonneau)/RDPP, No. 308/9; JD, March 21, 2000, pp. 5063–5064 (Jean-Pierre Charbonneau).

162 JD, May 24, 1990, p. 2693 (Jean-Pierre Saintonge)/RDPP, No. 308/2; JD, April 24, 2001, pp. 1038–1039 (Jean-Pierre Charbonneau).

163 JD, October 31, 1991, p. 10295 (Jean-Pierre Saintonge)/RDPP, No. 309/2.

164 JD, May 15, 1996, pp. 1104–1105 (Jean-Pierre Charbonneau)/RDPP, No. 308/6.

165 Until 2009, debates upon adjournment took place at the time set for the sitting to be adjourned, hence their name. However, according to the timetable that took effect on September 14, 2009, sittings end at 9:30 p.m. on Tuesday, with a recess from 6:00 p.m. to 7:30 p.m. This is why the Standing Orders have provided since then that debates upon adjournment must take place at 6:00 p.m.

166 JD, March 14, 1991, pp. 7024–7026 (Jean-Pierre Saintonge)/RDPP, No. 309/1.

As we will see below, the Government House Leader may present a motion to adjourn the Assembly during Orders of the Day when there is no other business before the Assembly. However, the Government House Leader may not present a motion to adjourn before the deadline for presenting notices of requests for debate upon adjournment has expired, unless the President has made certain that there is no possibility of such a debate being held.¹⁶⁷ Similarly, if a debate upon adjournment is requested, the Government House Leader may not move to adjourn proceedings until the debate is held. This interpretation removes the possibility of motions to adjourn being used systematically to avoid debates upon adjournment.¹⁶⁸

9.2.2.6.2 Order and Allocation of Debates Upon Adjournment

If two or more debates upon adjournment have been requested, the President decides the order in which they are to be held, taking into account the order in which the notices were received, the urgency of the matters raised, the principle of rotation among the various parliamentary groups and whether there are any independent Members (SO 311).

As mentioned earlier, no more than three debates may be held upon adjournment at any sitting (SO 312). If more than three are requested, the President must apply Standing Order 311 and decide which matters are to be debated.¹⁶⁹ However, if all the requests are made by the same parliamentary group, the President may allow the group to choose which of the subjects it wishes to debate. The debates are usually held in the order in which the notices were received.

9.2.2.6.3 Conduct of a Debate Upon Adjournment

During a debate upon adjournment, the Member who raised the matter for debate speaks first, for a maximum of five minutes. Then, the minister responding speaks for up to five minutes. Finally, the Member may speak for two more minutes in reply (SO 310).

Under Standing Order 312, absence of quorum may not be raised when a debate upon adjournment is held. However, a 1999 ruling¹⁷⁰ allows Members to raise points of order.¹⁷¹

167 Ibid.

168 JD, February 22, 2018, CTE-149 pp. 19–20 (Alexandre Iracà)/RDPP (Com. Vol.), No. 145/1.

169 JD, October 31, 1991, p. 10295 (Jean-Pierre Saintonge)/RDPP, No. 309/2. See Chapter 5, Appendix V, “Allocation of Debates Upon Adjournment”.

170 JD, March 23, 1999, pp. 723–725 (Jean-Pierre Charbonneau)/RDPP, No. 308/7.

171 The current Standing Orders do not include the provision from the former Standing Orders stipulating that the President decides all questions pertaining to privilege or order raised during a debate upon adjournment (1972–1984 Standing Orders, SO 174(7)).

In addition, contrary to Question Period, during debates upon adjournment, Members who feel their words have been misquoted or misunderstood may, under Standing Order 212, give brief explanations of what they said.¹⁷² A ruling has stipulated that debates upon adjournment cannot be considered part of Question Period, even though they arise from matters brought forward during that period. Question Period is not for debate, but for Members to question the Government on matters of public interest. In contrast, the *raison d'être* of a debate upon adjournment is to further examine a subject broached during Question Period. Such debates therefore take place during Orders of the Day, the period of a sitting generally devoted to debate.¹⁷³

9.2.2.6.4 Replacement of a Minister

Under section 25 of the *Act respecting the National Assembly*, a minister's parliamentary assistant may replace the minister during Question Period. However, a parliamentary assistant may not replace a minister during a debate upon adjournment, as the President has ruled that such debates are not part of Question Period.¹⁷⁴

However, in keeping with the principle of ministerial responsibility, any minister may act on behalf of another at any time (SO 189).¹⁷⁵ Consequently, during a debate upon adjournment and during Question Period,¹⁷⁶ government answers may be provided by any member of Cabinet. Despite possibly considering it desirable that the minister concerned be present for the debate, the President has no say as to which minister will be there.¹⁷⁷ The President does not have the authority to determine whether a minister's absence is justified or to induce the Government House Leader to take action in this regard.¹⁷⁸ Therefore, the fact that one minister is replaced by another during a debate upon adjournment is not a case of contempt of Parliament.¹⁷⁹ Jurisprudence is consistent on this point: any minister may be replaced by another minister at any time during a debate upon adjournment.¹⁸⁰ This includes the Attorney General,¹⁸¹ regarding whom the President has no reason to make special rules.¹⁸²

172 JD, May 16, 1995, pp. 2757-2758 (Raymond Brouillet)/RDPP, No. 212/5.

173 Ibid.

174 JD, March 29, 2001, pp. 158-159 (Michel Bissonnet)/RDPP, No. 308/11.

175 JD, November 29, 1990, pp. 5518-5521 (Michel Bissonnet)/RDPP, No. 308/3; JD, March 23, 1999, pp. 723-725 (Jean-Pierre Charbonneau)/RDPP, No. 308/7.

176 JD, March 25, 1986, pp. 672-674 and 695-696 (Pierre Lorrain)/RDPP, No. 308/1.

177 JD, November 29, 1990, pp. 5518-5519 (Michel Bissonnet)/RDPP, No. 308/3.

178 JD, March 23, 1999, pp. 723-725 (Jean-Pierre Charbonneau)/RDPP, No. 308/7.

179 JD, March 23, 1999, pp. 723-725 (Jean-Pierre Charbonneau)/RDPP, No. 67/39.

180 JD, March 25, 1986, pp. 672-674 and 695-696 (Pierre Lorrain)/RDPP, No. 308/1.

181 *Act respecting the Ministère de la Justice*, CQLR, c. M-19, s. 2: "The Minister of Justice is *ex officio* the Attorney General of Québec."

182 JD, May 25, 1999, pp. 1720-1721 (Jean-Pierre Charbonneau)/RDPP, No. 308/8.

9.3 THE END OF A SITTING

As we discussed in Chapter 4, the President is responsible for opening, suspending and adjourning the sittings of the Assembly and normally does so in accordance with the timetable set out in Standing Orders 20 or 21, depending on whether the Assembly is holding ordinary or extended hours of meeting, although exceptions may arise.

9.3.1 SUSPENSION OF A SITTING

The President suspends the sitting at the time set out in the Standing Orders,¹⁸³ even when a debate is in progress. However, if a vote is being held at the time appointed for the suspension, the sitting is suspended only after the President has declared the outcome (SO 103).

The debate that was in progress at the time of the suspension continues upon resumption of proceedings, except after the 1:00 p.m. Wednesday recess. The Standing Orders require that any business standing in the name of Members in opposition be taken up at 3:00 p.m. on Wednesdays; any debate that is in progress is automatically adjourned until another sitting.¹⁸⁴

In addition to the times set out in the Standing Orders, the President may also suspend a sitting at any other time (SO 44), a power generally exercised with a view to preserving order and decorum.¹⁸⁵

When the Assembly completes an item of business before the time appointed in the Standing Orders, the Government House Leader has the option of either adjourning Assembly proceedings or calling an item on the Order Paper to be debated. The Government House Leader may also ask the President to suspend proceedings for a certain length of time before calling another item of business, but the latter must then obtain leave from the Assembly.¹⁸⁶ If leave is not given, the Government House Leader must either call another item of business or adjourn the proceedings. Since the Standing Orders make no provision for motions to suspend proceedings,¹⁸⁷ the Government House Leader has no choice but to obtain the Members' unanimous consent to have a sitting suspended.

183 During ordinary hours of meeting, proceedings are to be suspended from 6:00 p.m. to 7:30 p.m. on Tuesday and from 1:00 p.m. to 3:00 p.m. on Wednesday and Thursday (SO 20). During extended hours of meeting, the Assembly must suspend its proceedings from 6:00 p.m. to 7:30 p.m. on Tuesday, from 1:00 p.m. to 3:00 p.m. on Wednesday and Thursday, as well as from 6:00 p.m. to 7:30 p.m. on Thursday (SO 21).

184 For example: JD, October 21, 2009, p. 3561 (François Gendron).

185 JD, February 21, 2019, pp. 794–795 (François Paradis)/RDPP, No. 44/2.

186 Ibid.

187 Ibid.

There are however certain special circumstances under which the Government House Leader does have the ability to request that a sitting be suspended without requiring the Members' leave. Current practice is that on Tuesdays and Thursdays, during ordinary hours of meeting, the Government House Leader may request that the proceedings be suspended if there is no intention to take up any other item on the Order Paper and debates on adjournment are already scheduled for 6:00 p.m. If no such debates are scheduled, the Government House Leader may move a motion to adjourn proceedings. To ensure the Government does not prevent debates upon adjournment from being held by simply adjourning proceedings before such debates may take place, the President grants the Government House Leader's request by suspending proceedings until 6:00 p.m., when the debates are to be held. In this context, the House's unanimous consent is not required for the suspension of proceedings, as a certain balance is achieved: the Opposition's right to exercise parliamentary oversight is preserved, and the limit on the Government House Leader's power to adjourn proceedings is taken into consideration.¹⁸⁸

9.3.2 ADJOURNMENT OF A SITTING

Standing Order 44 provides that the President may adjourn or suspend a sitting at any time. However, this is a disciplinary power¹⁸⁹ to be used only in exceptional circumstances. Outside such circumstances, there are two situations in which the President may adjourn a sitting: the first results from applying the timetable of the Assembly as set out in the Standing Orders and the second follows the adoption of a motion to adjourn the Assembly.

9.3.2.1 ADJOURNMENT OF A SITTING AT THE SCHEDULED TIME

When the President adjourns the sitting at the time appointed in the Standing Orders for its conclusion, debate is automatically adjourned. Any dilatory or superseding motion that is not a hoist motion or a motion to divide a complicated question lapses (SO 103, 1st para.). If a vote is in progress, the sitting is adjourned only once the President has declared the results of the vote (SO 103, 2nd para.). During ordinary hours of meeting, when debates upon adjournment are to be held on Thursday as of 6:00 p.m., adjournment is delayed until the debates have concluded (SO 309).

However, under certain circumstances, the Assembly may not have completed Routine Proceedings at the time set for adjournment. In that case, the President must adjourn proceedings in accordance with the Standing Orders. The sitting is valid even if the Assembly has not taken up Orders of the Day.¹⁹⁰

¹⁸⁸ Ibid.

¹⁸⁹ Ibid. See Chapter 4, Subsection 4.2.1.1, "Calling to Order, Suspending and Adjourning Sitzings of the Assembly".

¹⁹⁰ JD, December 16, 2003, pp. 2698–2699 (Michel Bissonnet)/RDPP, No. 51/1.

Extraordinary sittings are concluded once the Assembly has disposed of the matters for which it was summoned (SO 27.2). Therefore, if the Assembly has been summoned for the examination of a single matter, the President has discretion to adjourn the sitting once the examination of the matter has been concluded. No motion to adjourn the proceedings is required.

9.3.2.2 MOTION TO ADJOURN THE PROCEEDINGS

A motion to adjourn the proceedings requires no notice and has the effect of interrupting the Assembly's proceedings until a later date. Such a motion is required to adjourn the proceedings to a date and time other than those set for the next ordinary sitting of the Assembly under Standing Orders 20 and 21, or to adjourn the proceedings before the time set in the Standing Orders for adjournment.¹⁹¹

The motion may be moved by the Government House Leader, another minister or a deputy Government House Leader at the times permitted under the Standing Orders, that is, during Orders of the Day when no other business is before the Assembly (SO 17 and 105). To move a motion to adjourn following Routine Proceedings, the Government House Leader must wait until Orders of the Day are called, after making certain that no debate upon adjournment has been raised and that there is no business before the Assembly. If a debate is in progress at the time, the Government House Leader must first move a motion to adjourn the debate (SO 100), which must be carried before any proposal to adjourn Assembly proceedings may be made.

Although this is not usually the case, the motion to adjourn the proceedings may give rise to a brief debate. The mover of the motion and one representative from each parliamentary group may each speak for up to 10 minutes. The mover may then speak for up to five minutes in reply (SO 106). The motion may not, however, be amended (SO 105).

If a motion is made to adjourn proceedings for more than 15 days, a different rule governs speaking time: the motion is discussed in a limited debate (SO 107) lasting not more than two hours, in accordance with Standing Order 210. Once the debate has concluded, the motion is put to a vote. Such a vote may not be deferred (SO 223, 2nd para.). If the motion is carried, the sitting is adjourned until the date and time specified in the motion.

191 For example, on Tuesday during ordinary hours of meeting, the Assembly sits from 1:40 p.m. to 9:30 p.m., with a recess from 6:00 p.m. to 7:30 p.m. (SO 20(1)). The Government House Leader controls which matters are considered during Orders of the Day, and therefore, after debates upon adjournment, has the power to move a motion to adjourn the proceedings if no business has been envisaged for the evening. The sitting may not be adjourned on the President's own initiative.



When the Assembly is meeting, the four lights at the top of the Parliament Building's central tower are turned on until the proceedings are adjourned.

9.4 PARLIAMENTARY PUBLICATIONS RELEVANT TO SITTINGS

The National Assembly publishes various documents providing a record of parliamentary proceedings, including the three official publications that are produced for each sitting: the *Order Paper and Notices*, the *Votes and Proceedings* and the *Journal des débats* (Hansard).

All three are published in print form as well as on the Assembly website, in accordance with the conditions and procedures for printing, publishing and distributing established by the Office of the National Assembly.¹⁹²

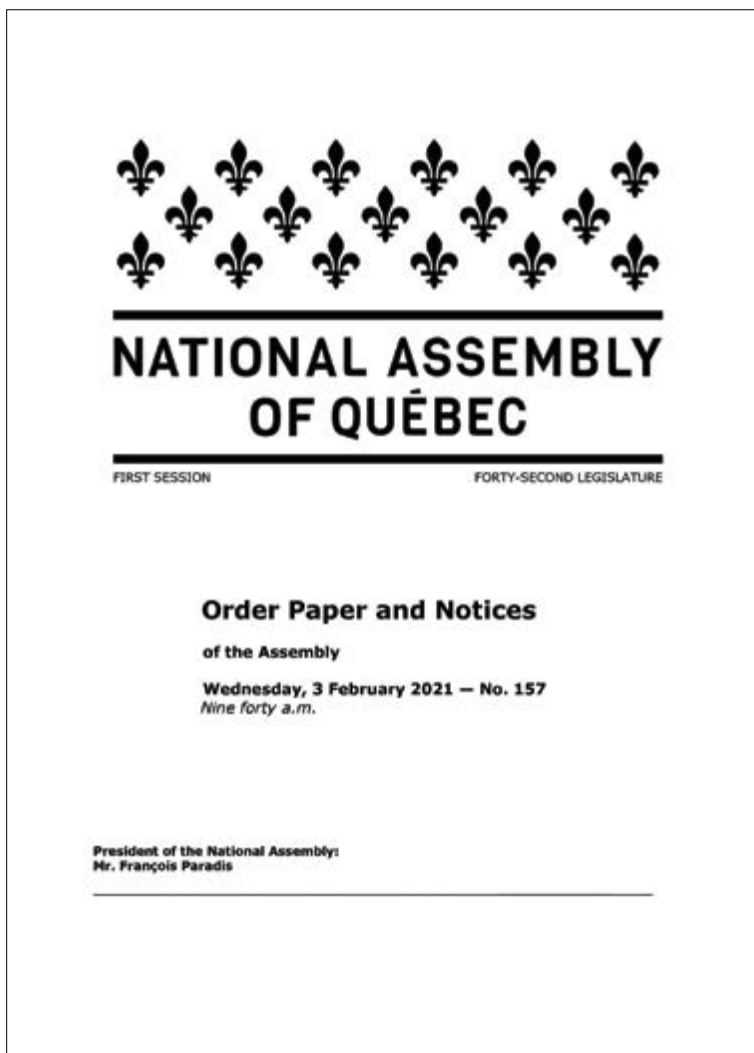
¹⁹² Act respecting the National Assembly, s. 37.

9.4.1 THE ORDER PAPER AND NOTICES

Prepared by the House Secretariat under the authority of the Secretary General and in the name of the President of the Assembly, the Order Paper is published in French and English, as required by section 133 of the *Constitution Act, 1867*.¹⁹³

ORIGIN OF THE ORDER PAPER

When the Assembly started publishing the Order Paper—likely called the “daily agenda paper” at the time—is unknown. The oldest copy on file at the National Assembly Library dates back to 1879.



¹⁹³ *Constitution Act, 1867* (*British North America Act, 1867*) (UK), 30 & 31 Vict., c. 3, reprinted in RSC 1985, App. II, No. 5, s. 133.

The *Order Paper and Notices* sets out both the business that may be considered by the Assembly at a sitting and other useful information for Members. It is a vital, albeit ephemeral, document. A daily “menu” of sorts, the *Order Paper and Notices* keeps Members informed of the matters that may be debated during the sitting.

Under the *Standing Orders of the National Assembly*, bills, statements by Members, interpellations, written questions and, barring exceptions, motions must all be entered on the *Order Paper and Notices*.

The Government House Leader draws up the agenda for the sitting based on the contents of the *Order Paper and Notices*. While some items of business have precedence, others may stay on the Order Paper indefinitely or until the Government, via the intermediary of the Government House Leader, decides to bring them up for consideration. This is the case for bills, for example. Some are introduced but never called for consideration by the Assembly, and so are said to “die on the Order Paper” at the close of the session.

The *Order Paper and Notices* must be available, in French and English, each sitting day as early as possible before the start of the sitting.¹⁹⁴ The document is usually available both electronically and in print as of 8:00 a.m. Its content is strictly confidential prior to publication. For example, the President once ruled that the content of a written question could not be disclosed before it had appeared in the *Order Paper and Notices*.¹⁹⁵

The *Order Paper and Notices* is divided into six distinct parts, each dealing with different items of business that may be debated during the sitting, if called.

PART 1 – ROUTINE PROCEEDINGS

The first part of the Order Paper concerns Routine Proceedings, and contains 11 items of business:

- Statements by Members (SO 54.1 to 54.5);
- Statements by Ministers (SO 55 and 56);
- Introduction of Bills (SO 57);
- Presenting, which includes the tabling of documents by ministers, reports from committees; and petitions (SO 58 to 65);
- Oral Answers to Petitions (SO 64.10);
- Complaints of Breach of Privilege or Contempt and Personal Explanations (SO 66 to 73);

¹⁹⁴ JD, December 22, 1988, p. 4619 (Pierre Lorrain)/RDPP, No. 188/1.

¹⁹⁵ JD, October 21, 2015, pp. 7300–7301 (Jacques Chagnon)/RDPP, No. 313/3.

- Oral Questions and Answers (SO 74 to 82);
- Deferred Divisions (SO 83);
- Motions Without Notice (SO 84 to 84.3);
- Notices of Proceedings in Committees (SO 85); and
- Information on the Proceedings of the Assembly (SO 86).

Under these headings, only Statements by Members and Deferred Divisions may be itemized or contain detailed information, as the specifics of the other items of business under Routine Proceedings are known only on the day of the sitting.

PART 2 – ORDERS OF THE DAY

The second part, Orders of the Day, is divided into five sections:

- Business Having Precedence (SO 87);
- Urgent Debates (SO 88 to 93);
- Debates on Reports from Committees, which are limited to debates on committee reports that contain recommendations and do not pertain to bills or financial commitments or stem from deliberative meetings (SO 94 and 95);
- Other Business, which includes government bills, private Members' public bills, private bills, government motions, estimates of expenditure and statutory debates (SO 96); and
- Business Standing in the Name of Members in Opposition, that is, motions moved by opposition Members and debated on Wednesdays from 3:00 p.m. to 5:00 p.m. (SO 97 to 99).

PART 3 – BILLS PASSED

The third part of the Order Paper lists the bills that have been passed by the Assembly and are awaiting the Lieutenant-Governor's assent.

PART 4 – PROCEEDINGS IN COMMITTEES

The fourth part lists the business taken up by the different parliamentary committees.

PART 5 – WRITTEN QUESTIONS

The fifth part contains the list of the written questions submitted to the Government. These are questions on matters not sufficiently important or urgent to justify an immediate answer, or questions that require a certain amount of research (SO 313). Any new question is published in the Order Paper on the day it is entered. The full list of written questions awaiting a response is published on Wednesdays only.

PART 6 – NOTICES

The sixth part of the Order Paper is divided into two sections: Notices Previously Given and Notices Appearing for the First Time. Any new business for which notice must be given, such as bills, motions (except business standing in the name of Members in opposition) and interpellations, is initially listed in the *Order Paper and Notices* as “appearing for the first time” before moving on to the “previously given” section in the next Order Paper. The business remains in the “previously given” section until called by a House Leader or an independent Member for consideration by the Assembly. There are two exceptions, however:

- notices for want of confidence motions automatically move on to the second part of the *Order Paper and Notices*, Business Having Precedence, as soon as the prescribed notice period has expired; and
- interpellations automatically move on to the fourth part of the *Order Paper and Notices*, Proceedings in Committee, as soon as the prescribed notice period has expired.

9.4.1.1 NOTICES

As we have seen, the Standing Orders require that notice be given in the Order Paper for certain types of business, such as statements by Members,¹⁹⁶ bills,¹⁹⁷ interpellations,¹⁹⁸ most motions¹⁹⁹ and written questions.²⁰⁰ Multiple rulings have stipulated that an announcement made orally in the Assembly, even if published in the *Journal des débats*, may not be substituted for a notice on the Order Paper.²⁰¹

In the absence of guidance from the Standing Orders, an established custom for sending notices to be placed on the Order Paper has been confirmed by a ruling. To appear on the Order Paper if the Assembly is not sitting, a notice must be sent to the Secretary General before 5:00 p.m. on the preceding day. By long-established custom, if the preceding day is a statutory holiday, the notice

196 SO 54.1.

197 SO 232 and 264.

198 SO 296.

199 SO 188.

200 SO 313.

201 JD, December 19, 1986, pp. 5846 and 5887–5891 (Pierre Lorrain); JD, February 3, 1995, pp. 1366–1373 (Pierre Bélanger); JD, March 14, 1995, pp. 1381–1383 (Roger Bertrand).

must be received by the last working day preceding the publication of the Order Paper.²⁰² If the Assembly is sitting, the time limit runs until adjournment. *These deadlines are necessary to ensure there is sufficient time for notices to be translated before the Order Paper is distributed in French and English, in accordance with section 133 of the Constitution Act, 1867.*²⁰³

9.4.2 THE VOTES AND PROCEEDINGS

The Assembly's *Votes and Proceedings* is an official summary of what happens during each sitting. It is a record of all that is officially decided or done during a sitting and all the procedures begun or completed, especially with regard to the stages involved in the consideration of bills. The *Votes and Proceedings* also reports the rulings made by the President.

The *Votes and Proceedings* must include:

- the full text of motions moved;
- the results of divisions and, in the case of recorded divisions, the names of all Members present and how each Member voted;
- a record of the dissent or abstention of any Member during a vote taken by a show of hands if the Member requests that it be so noted (SO 228);²⁰⁴
- the titles of papers tabled at the sitting and the names of the Members who tabled them (papers are each assigned a number in the chronological order in which they are tabled) (SO 65);
- the time at which the Assembly was called to order and the time at which the proceedings were suspended, resumed and adjourned;
- notices of committee proceedings; and
- the list of any bills assented to on the day of the sitting or since the last sitting.

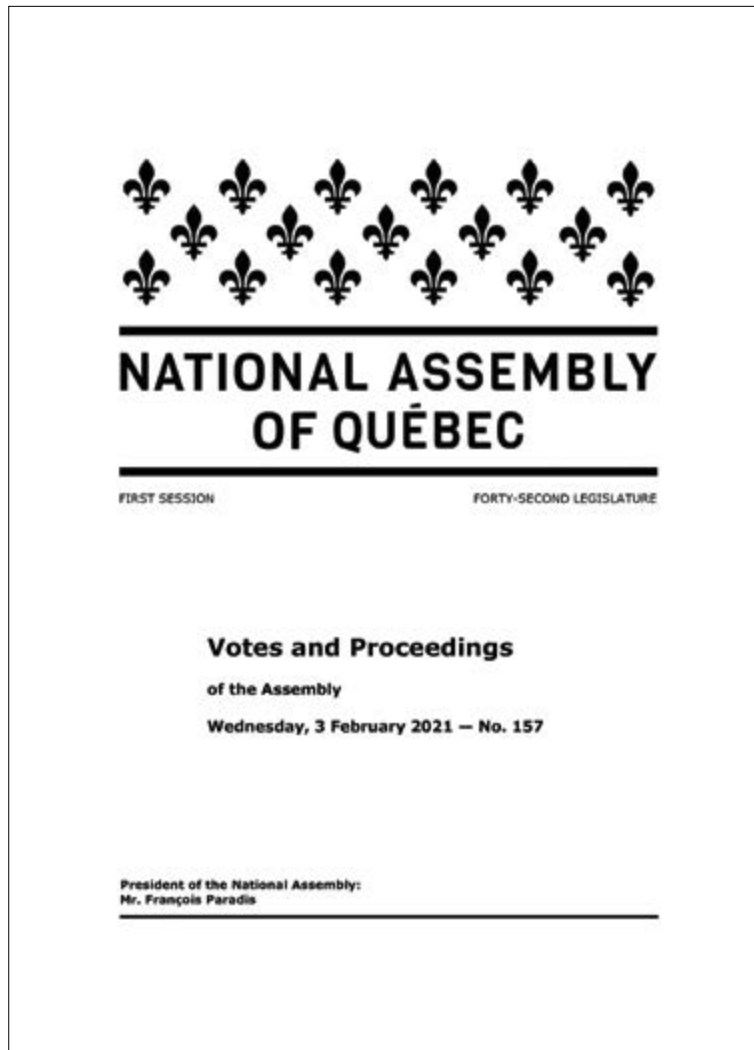
An electronic draft of the *Votes and Proceedings* is posted on the Assembly website, in both French and English, within a few hours of the sitting's adjournment, while a print version is available the next day. The final version is subsequently made available in both formats.

After each parliamentary session, a bound limited edition of the *Votes and Proceedings* is released.

202 JD, May 14, 2009, p. 1963 (François Gendron)/RDPP, No. 54.1/2. However, it should be mentioned that the concept of "working day" does not apply when the Assembly is convened for an extraordinary sitting.

203 See JD, December 22, 1988, p. 4619 (Pierre Lorrain)/RDPP, No. 188/1.

204 JD, December 14, 2004, p. 6762 (François Gendron)/RDPP, No. 228/1.

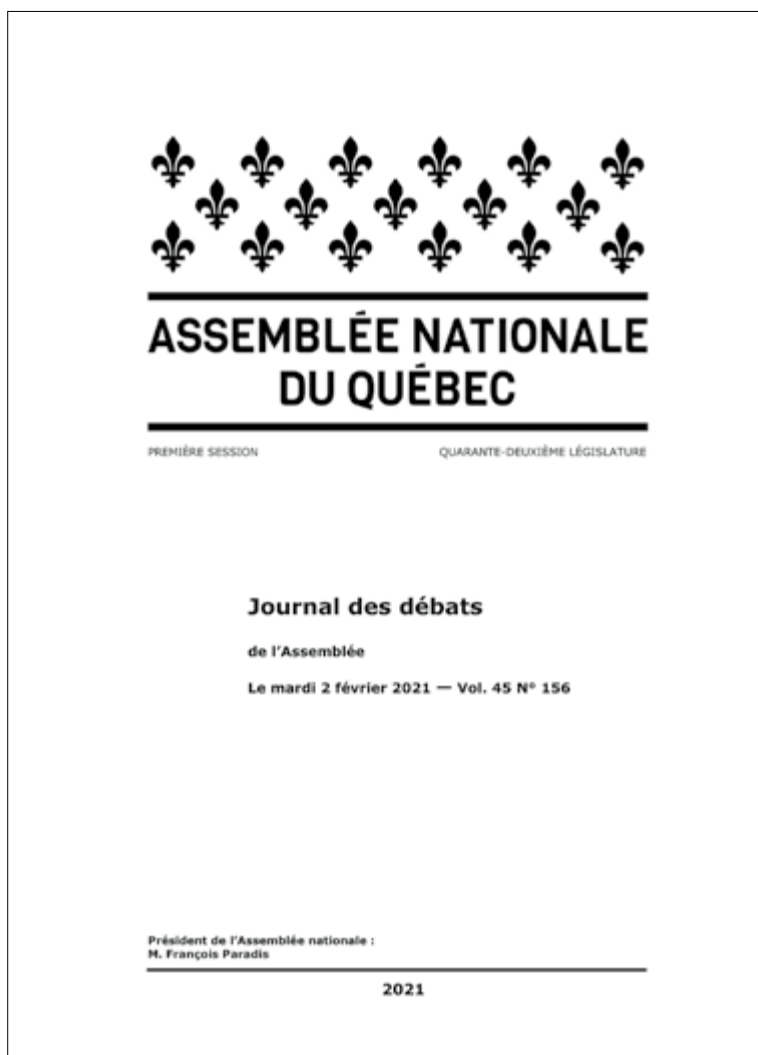


9.4.3 THE JOURNAL DES DÉBATS

While the *Votes and Proceedings* serves as a summary of what takes place during a sitting, the *Journal des débats* (Hansard) provides a verbatim account of the debates in the House. Since 1964, the *Journal des débats* has provided a faithful record of all that is said by Members and anyone else who takes the floor, whether in the House or in parliamentary committee. As there was no collection of parliamentary debates in Québec prior to that date, the National Assembly undertook to reconstitute the pre-1963 debates from various period sources. The reconstituted debates from 1867 to 1963 are available on the National Assembly's website.

Statements made in French or English are transcribed in full in the *Journal des débats* in the original language and are not translated. When another easily identifiable language is used, that fact is noted but the words are not transcribed.²⁰⁵

As dictated by the rules of parliamentary debate, Members may take the floor to speak only if the President has recognized them. Also, when the President is standing, no one else may speak. Remarks heard in the background are not transcribed. If they must be included to explain an interruption or a reply or comment, they are ascribed to “a voice” or “voices”.



²⁰⁵ See Chapter 13, Subsection 13.1.2, “Language of Debate”.

The *Journal des débats* contains no commentary. Minor changes may be made to improve readability, but no stylistic alterations, vocabulary substitutions or other material changes may be made. As soon as the initial unrevised version of the Journal for an Assembly or committee sitting is posted online, a notice is emailed to all Members who spoke during the sitting, asking them to check the verbatim transcription of their speeches and point out any substantive errors. Members are also reminded of the importance of the *Journal des débats*'s mandate, which is to provide a full, accurate reflection of what was said.

As is the case for the National Assembly's other two official publications, the *Journal des débats* is published in both print and electronic format.

The National Assembly also publishes an index of the *Journal des débats* to make the content of parliamentary deliberations in the House and parliamentary committees more readily accessible. Prepared by the National Assembly Library's indexing division and published in both electronic and print formats, the index can be used to search the verbatim transcripts of Assembly and committee sittings

- by subject;
- by Member (all statements by Members in the Assembly and in committee are compiled and classified by subject);
- by bill (deliberations relating to every bill and draft bill introduced during a session);
- by parliamentary committee mandate (public hearings, consideration of budget estimates, clause-by-clause consideration of bills, etc.);
- by individual or body having submitted a brief to a committee; and
- by witness heard by a committee.

The electronic version of the index may be consulted on the National Assembly website. A limited print edition is released at the end of each parliamentary session.

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- JD, December 15, 1976, pp. 25–27 (Clément Richard)/*RDPP*, No. 88/12.
- JD, June 21, 1977, pp. 1530–1531 (Clément Richard)/*RDPP*, No. 88/14.
- JD, August 11, 1977, pp. 2887–2890 (Clément Richard)/*RDPP*, No. 88/15.

- JD, November 3, 1977, pp. 3892–3893 (Clément Richard)/RDPP, No. 88/16.
- JD, June 12, 1978, pp. 2168–2170 (Clément Richard)/RDPP, No. 88/17.
- JD, October 10, 1978, pp. 2911–2913 (Clément Richard)/RDPP, No. 88/18.
- JD, October 12, 1978, p. 3012 (Clément Richard)/RDPP, No. 88/19.
- JD, November 7, 1978, pp. 3532–3534 (Clément Richard)/RDPP, No. 88/20.
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- JD, February 13, 1979, pp. 5612–5615 (Clément Richard)/RDPP, No. 88/24.
- JD, June 7, 1979, pp. 1796–1797 (Clément Richard)/RDPP, No. 88/25.
- JD, October 9, 1979, pp. 2740–2741 (Clément Richard)/RDPP, No. 88/27.
- JD, October 9, 1979, pp. 2741–2743 (Clément Richard)/RDPP, No. 88/28.
- JD, October 16, 1979, pp. 2901–2903 (Clément Richard)/RDPP, No. 88/29.
- JD, December 11, 1979, pp. 4271–4273 (Clément Richard)/RDPP, No. 88/30.
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- JD, December 2, 1980, pp. 486–488 (Claude Vaillancourt)/RDPP, No. 88/32.
- JD, December 6, 1982, pp. 6467–6469 (Claude Vaillancourt)/RDPP, No. 88/34.
- JD, April 28, 1983, pp. 704–706 (Richard Guay)/RDPP, No. 88/35.
- JD, November 1, 1984, pp. 435–437 (Richard Guay)/RDPP, No. 88/36.
- JD, November 27, 1984, pp. 1018–1023 (Richard Guay)/RDPP, No. 88/37.
- JD, March 10, 1987, pp. 5917–5919 (Pierre Lorrain)/RDPP, No. 88/38.
- JD, May 27, 1987, pp. 7832–7836 (Pierre Lorrain)/RDPP, No. 88/39.
- JD, June 9, 1987, pp. 8088–8090 (Pierre Lorrain)/RDPP, No. 88/40.
- JD, October 20, 1987, pp. 9116–9119 (Pierre Lorrain)/RDPP, No. 88/41.
- JD, December 18, 1987, pp. 11029–11030 (Pierre Lorrain)/RDPP, No. 88/42.
- JD, December 16, 1988, pp. 4253–4256 (Pierre Lorrain)/RDPP, No. 88/43.

- JD, May 2, 1990, p. 2231 (Jean-Pierre Saintonge)/*RDPP*, No. 88/44.
- JD, June 8, 1990, pp. 2972–2973 (Jean-Pierre Saintonge)/*RDPP*, No. 88/45.
- JD, December 18, 1992, pp. 4980–4981 (Jean-Pierre Saintonge)/*RDPP*, No. 88/46.
- JD, November 25, 1997, p. 8653 (Jean-Pierre Charbonneau)/*RDPP*, No. 88/47.
- JD, April 1, 1999, pp. 1066–1067 (Jean-Pierre Charbonneau)/*RDPP*, No. 88/48.
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- JD, June 10, 2005, pp. 9157–9158 (Michel Bissonnet)/*RDPP*, No. 88/52.
- JD, December 2, 2005, p. 10663 (Michel Bissonnet)/*RDPP*, No. 88/53.
- JD, May 30, 2008, p. 4485 (Michel Bissonnet)/*RDPP*, No. 88/54.
- JD, June 2, 2009, pp. 2263–2264 (Yvon Vallières)/*RDPP*, No. 88/55.
- JD, February 16, 2010, p. 4480 (Yvon Vallières)/*RDPP*, No. 88/56.
- JD, September 20, 2011, pp. 2435–2436 (Jacques Chagnon)/*RDPP*, No. 88/57.
- JD, November 22, 2011, p. 3357 (Jacques Chagnon)/*RDPP*, No. 88/58.
- JD, October 9, 2014, pp. 2168–2169 (Jacques Chagnon)/*RDPP*, No. 88/59.
- JD, November 17, 2015, p. 7859 (Jacques Chagnon)/*RDPP*, No. 88/60.
- JD, June 9, 2016, p. 11586 (Jacques Chagnon)/*RDPP*, No. 88/61.
- JD, September 28, 2016, pp. 11992–11993 (Maryse Gaudreault)/*RDPP*, No. 88/62.
- JD, November 3, 2016, p. 12570 (Jacques Chagnon)/*RDPP*, No. 88/63.
- JD, December 2, 2016, p. 13135 (Jacques Chagnon)/*RDPP*, No. 88/64.
- JD, April 11, 2017, pp. 15778–15779 (Jacques Chagnon)/*RDPP*, No. 88/65.
- JD, September 27, 2017, pp. 17162–17163 (Jacques Chagnon)/*RDPP*, No. 88/66.
- JD, May 7, 2019, pp. 2476–2477 (François Paradis)/*RDPP*, No. 88/67.
- JD, December 16, 1988, pp. 4253–4256 (Pierre Lorrain)/*RDPP*, No. 90/1.
- JD, March 28, 1984, pp. 5543–5544 (Richard Guay)/*RDPP*, No. 94/1.

- JD, March 27, 1991, pp. 7236 and 7240–7241 (Jean-Pierre Saintonge)/*RDPP*, No. 97/5.
- JD, November 10, 1999, pp. 3443–3444 (Jean-Pierre Charbonneau)/*RDPP*, No. 97/7.
- JD, March 16, 2005, p. 7116 (François Gendron)/*RDPP*, No. 97/8.
- JD, November 21, 2012, pp. 1148–1150 (Jacques Chagnon)/*RDPP*, No. 97/9.
- JD, May 13, 2009, p. 1899 (Fatima Houda-Pepin)/*RDPP*, No. 98.1/1.
- JD, June 1, 1995, pp. 3206 and 3213 (Raymond Brouillet)/*RDPP*, No. 100/4.
- JD, June 18, 1985, p. 4765 (Richard Guay)/*RDPP*, No. 145/1.
- JD, February 22, 2018, CTE-149 pp. 19–20 (Alexandre Iracà)/*RDPP* (Com. Vol.), No. 145/1.
- JD, December 4, 2002, p. 8041 (François Beaulne)/*RDPP*, No. 145/2.
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- JD, June 3, 1999, pp. 2164–2165 (Raymond Brouillet)/*RDPP*, No. 193/7.
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- JD, December 3, 1975, pp. 2352–2356 (Jean-Noël Lavoie)/*RDPP*, No. 197/2.
- JD, October 26, 1977, pp. 3701–3704 (Jean-Guy Cardinal)/*RDPP*, No. 197/3.
- JD, November 9, 1977, pp. 4018–4020 (Louise Cuerrier)/*RDPP*, No. 197/4.
- JD, April 26, 1978, pp. 1153–1155 (Jean-Guy Cardinal)/*RDPP*, No. 197/5.

- JD, March 17, 1982, pp. 2567–2568 (Jean-Pierre Jolivet)/RDPP, No. 197/8.
- JD, May 12, 1982, pp. 3477–3480 (Jean-Pierre Jolivet)/RDPP, No. 197/10.
- JD, May 28, 1986, p. 1903 (Jean-Pierre Saintonge)/RDPP, No. 197/12.
- JD, October 21, 1987, pp. 9201 and 9204–9206 (Jean-Pierre Saintonge)/RDPP, No. 197/13.
- JD, May 25, 1988, pp. 1460 and 1465 (Jean-Pierre Saintonge)/RDPP, No. 197/14.
- JD, April 4, 1990, pp. 1597–1598 (Lawrence Cannon)/RDPP, No. 197/15.
- JD, May 1, 1991, pp. 7624–7627 (Michel Bissonnet)/RDPP, No. 197/17.
- JD, March 18, 1992, pp. 12033–12044 and 12050 (Roger Lefebvre)/RDPP, No. 197/18.
- JD, October 27, 1993, p. 8280 (Michel Bissonnet)/RDPP, No. 197/19.
- JD, May 4, 1994, p. 715 (Michel Tremblay)/RDPP, No. 197/20.
- JD, September 19, 1995, pp. 5127–5128 (Raymond Brouillet)/RDPP, No. 197/22.
- JD, May 5, 1999, pp. 1294 and 1299–1300 (Michel Bissonnet)/RDPP, No. 197/25.
- JD, May 19, 1999, p. 1615 (Raymond Brouillet)/RDPP, No. 197/26
- JD, November 22, 2000, p. 8057 (Michel Bissonnet)/RDPP, No. 197/27.
- JD, November 5, 2003, p. 1295 (Christos Sirros)/RDPP, No. 197/30.
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- JD, November 24, 2004, p. 5819 (Diane Leblanc)/RDPP, No. 197/35.
- JD, November 2, 2005, p. 9885 (Diane Leblanc)/RDPP, No. 197/42.
- JD, October 25, 2006, p. 2914 (William Cusano)/RDPP, No. 197/46.
- JD, November 7, 2007, p. 1874 (Marc Picard)/RDPP, No. 197/50.
- JD, October 8, 2014, p. 2157 (François Gendron)/RDPP, No. 197/52.
- JD, March 13, 1984, p. 5108 (Richard Guay)/RDPP, No. 212/2.
- JD, May 16, 1995, pp. 2757–2758 (Raymond Brouillet)/RDPP, No. 212/5.
- JD, October 7, 2009, pp. 3425–3426 (Fatima Houda-Pepin)/RDPP, No. 223/5.
- JD, May 13, 2010, p. 6717 (Fatima Houda-Pepin)/RDPP, No. 223/6.

- JD, November 14, 2013, pp. 5668–5669 (Jacques Chagnon)/RDPP, No. 223/7.
- JD, November 28, 2013, p. 5975 (Jacques Chagnon)/RDPP, No. 223/8.
- JD, December 14, 2004, p. 6762 (François Gendron)/RDPP, No. 228/1.
- JD, December 16, 1993, pp. 9837–9838 (Jean-Pierre Saintonge)/RDPP, No. 233/3.
- JD, May 15, 2013, p. 3283 (Carole Poirier)/RDPP, No. 252/6.
- JD, April 30, 1986, pp. 1035–1036 (Pierre Lorrain)/RDPP, No. 282/1.
- JD, April 24, 2001, pp. 1038–1043 (Jean-Pierre Charbonneau)/RDPP, No. 282/2.
- JD, March 25, 1986, pp. 672–674 and 695–696 (Pierre Lorrain)/RDPP, No. 308/1.
- JD, May 24, 1990, p. 2693 (Jean-Pierre Saintonge)/RDPP, No. 308/2.
- JD, November 29, 1990, pp. 5518–5521 (Michel Bissonnet)/RDPP, No. 308/3.
- JD, May 7, 1991, pp. 7998–7999 (Jean-Pierre Saintonge)/RDPP, No. 308/4.
- JD, May 15, 1996, pp. 1104–1105 (Jean-Pierre Charbonneau)/RDPP, No. 308/6.
- JD, March 23, 1999, pp. 723–725 (Jean-Pierre Charbonneau)/RDPP, No. 308/7.
- JD, May 25, 1999, pp. 1720–1721 (Jean-Pierre Charbonneau)/RDPP, No. 308/8.
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- JD, March 30, 2000, p. 5413 (Raymond Brouillet)/RDPP, No. 308/10.
- JD, March 29, 2001, pp. 158–159 (Michel Bissonnet)/RDPP, No. 308/11.
- JD, March 14, 1991, pp. 7024–7026 (Jean-Pierre Saintonge)/RDPP, No. 309/1.
- JD, October 31, 1991, p. 10295 (Jean-Pierre Saintonge)/RDPP, No. 309/2.
- JD, May 10, 2007, pp. 68–69 (Michel Bissonnet)/RDPP, No. 311/1.
- JD, October 21, 2015, pp. 7300–7301 (Jacques Chagnon)/RDPP, No. 313/3.

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QUESTION PERIOD

As seen earlier, Members have three main functions: overseeing government actions, making laws and serving as intermediaries between citizens and the State. The possibility for a Member to ask a minister a question, and so hold the Government accountable for its management, is part of the first function mentioned above. The choice of a Member to question a minister orally or in writing depends both on the content and characteristics of the question and on the procedural requirements for each type of question.

Question Period is undoubtedly the best-known and most closely followed of Assembly proceedings and for this reason contributes more than any other factor to shaping the public's image of parliamentarians and their work. It is also one of the most important means the Assembly has of holding the Government accountable for its actions.

10.1 ORAL QUESTIONS

The President¹ must be especially vigilant about maintaining order and decorum during the often heated exchanges that take place during this period. This is the reason Standing Order 32, relating to decorum, was amended in 2015 to prohibit clapping during Question Period.²

Generally, the President is responsible for directing and managing this action-packed period, and thus for granting speaking rights to the Members and ministers taking part. Despite the lively give and take, however, Question Period is not considered a forum for parliamentary debate as such, but rather an opportunity for Members and ministers to discuss issues of current interest. Formal parliamentary debate takes place primarily during Orders of the Day, when the

1 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

2 See Chapter 11, "Order and Decorum".

Assembly takes up the substantive matters submitted for its consideration. This is why Standing Orders 212 and 213, concerning explanations and questions regarding a speech, respectively, do not apply during Question Period.³

During Question Period, Members' questions and ministers' answers are governed by the rules of procedure and tradition. These rules are not necessarily applied in an absolute manner, since some were formulated in response to particular circumstances. The approach taken depends on the dynamics of each Question Period,⁴ and the President has considerable latitude in directing Question Period. In exercising this responsibility, the President must take into account the Standing Orders in force, the principles and criteria developed over the years by parliamentary jurisprudence, and established practice. In addition, the President's discretionary power has allowed agreements and arrangements made with the Assembly's unanimous consent to be taken into account.⁵

THE ORIGIN OF QUESTION PERIOD

Before 1963, the Government took only written questions, and the replies were read without debate. Common during the 1850s, this type of interpellation was codified in the 1860 Rules and Standing Orders of the Legislative Assembly of Canada. However, addresses to the Governor already had an interrogatory form during the Lower Canada period, and were, in a manner of speaking, precursors of oral questions in the House.

From 1867 to 1963, the Members of the Legislative Assembly asked their questions indirectly in the course of requesting papers. Their speeches raised questions about the burning issues of the day and, in answering them, Cabinet members generally took the opportunity to explain the government position.

The Standing Orders did not refer specifically to Question Period. On February 19, 1963, inspired by English and Canadian parliamentary practices, Speaker John Richard Hyde issued new directives concerning

3 JD, March 13, 1984, p. 5108 (Richard Guay)/RDPP, No. 212/2; JD, May 16, 1995, pp. 2757-2758 (Raymond Brouillet)/RDPP, No. 212/5; JD, April 19, 1988, pp. 635-636 (Pierre Lorrain)/RDPP, No. 79/4. See Chapter 13, "Rules of Parliamentary Debate and Distribution of Debating Time".

4 The President once allowed an independent Member to ask a second supplementary question, even though the time set aside for Question Period had expired (JD, May 15, 2013, pp. 3279-3280 (Jacques Chagnon)). This ruling took into consideration that, during Question Period, there had been numerous points of order raised, as well as several other interventions that were not points of order. Furthermore, at the time, independent Members had the right to only one question per eight sittings. The President therefore used his general power to protect the minority through this ruling (JD, October 10, 2013, pp. 4947-4948 (Jacques Chagnon)/RDPP, No. 78/5).

5 JD, December 12, 1989, p. 519 (Jean-Pierre Saintonge).

the oral questions that were arising at the beginning of each sitting. He was of the opinion that if a question period were allowed before Orders of the Day, it would be up to the presiding officer to decide each case on its merits and to determine whether the question was of immediate urgency and in the public interest.⁶

Before the rules governing Question Period were included in the Standing Orders, this period would often last two hours or more. On March 5, 1969, the Assembly limited the period for oral questions and answers to 30 minutes at the beginning of each sitting while maintaining the urgency and public interest criteria for the questions,⁷ in accordance with the recommendations of the Standing Orders review committee. The 30-minute time limit was renewed by the Assembly on February 24, 1970.

While the provisional Standing Orders of 1972 were silent on the duration of Question Period, Standing Order 172 of the 1973 Standing Orders specified that the time allotted to such questions was not to exceed 30 minutes. However, Question Period usually lasted a bit longer than that, leading to an amendment of Standing Order 172 on June 21, 1977, to establish a 45-minute Question Period.

The Standing Orders still provide that Question Period is not to exceed 45 minutes (SO 74). In practice, however, it never lasts exactly that long. It may be prolonged to allow a Member to continue a question begun before the 45-minute time limit expired, or to allow a minister to answer the last question asked.⁸ Only the President, and not the clock, determines when Question Period ends.⁹

10.1.1 MAIN AND SUPPLEMENTARY QUESTIONS

The questions Members address to ministers during Question Period fall into two categories: main questions and supplementary questions.

The main question initiates an exchange on a subject between a Member and a minister. Main questions must be concise, although they may contain a brief preamble that establishes the context (SO 76). However, strictly speaking, the preamble may not serve as an introduction to a speech or a political debate, or be used to set out the background to a question. It must refer to facts, not opinions, and may therefore not contain any arguments.¹⁰ That being said, in practice, the President ensures a slightly more nuanced application of these rules.

6 JD, February 19, 1963, p. 263 (Richard Hyde).

7 JD, February 26, 1969, p. 8 (Gérard Lebel).

8 JD, June 12, 1986, p. 2677 (Pierre Lorrain)/RDPP, No. 74/7; JD, October 10, 2013, pp. 4947–4948 (Jacques Chagnon)/RDPP, No. 78/5.

9 JD, May 16, 1990, p. 2616 (Jean-Pierre Saintonge)/RDPP, No. 74/9.

10 JD, May 15, 1986, p. 1541 (Pierre Lorrain).

Each main question may be followed by one or more supplementary questions, which must be relevant to the main question and to the responses given by the Government. Supplementary questions must also be brief and precise (SO 78). Historically, supplementary questions could not contain a preamble. Standing Order 78 was amended as part of the 2009 parliamentary reform to do away with this prohibition, which was difficult to enforce.¹¹

The number of supplementary questions allowed is at the discretion of the President (SO 78). While the President used to take into account the importance of the subject, the facts and the question under discussion in exercising this discretionary power,¹² the presence of two opposition groups during the 38th Legislature led the President to determine the number of supplementary questions in advance so that each group would be treated fairly. It was thus established that only one supplementary question could be asked per main question, up to the tenth main question inclusively, except in the case of the Official Opposition's first main question, which could be followed by two supplementary questions. Starting at the eleventh main question, no supplementary questions were allowed, to enable more rapid alternation between the two opposition groups and allow more subjects to be covered.¹³ Since then, the President has continued setting in advance, at the beginning of each legislature,¹⁴ the number of supplementary questions allowed: two for each main question, except for the Leader of the Official Opposition's first question, which, regardless of where it falls in the predetermined order,¹⁵ may be followed by three supplementary questions.

Furthermore, in contrast to what used to be the usual practice in a two-party context, since the 38th Legislature a parliamentary group can no longer convert a supplementary question into a main question inasmuch as this would

11 This amendment followed up on a ruling setting aside the distinction between the form of supplementary questions and that of main questions in the minority government context of the 38th Legislature in order to limit points of order. The reason for this was that points of order reduced the time devoted to questions and to answers (JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/RDPP, No. 74/19). This approach was subsequently maintained (JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/RDPP, No. 74/21).

12 JD, June 4, 1986, p. 2158 (Pierre Lorrain)/RDPP, No. 78/2.

13 JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/RDPP, No. 74/19.

14 JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/RDPP, No. 74/21; JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28; JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31; JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32.

15 JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31.

prevent a Member from another parliamentary group from asking a main question. Although supplementary questions are often asked by the same Member who asked the main question, there is no obligation in this respect. In fact, other Members who feel strongly about the subject under discussion often wish to ask a supplementary question to obtain clarification on the matter. This does not generally create any problem when there is a single opposition group but it becomes more difficult to manage when there are two or more opposition groups and the number of questions allocated to each one is determined ahead of time. This has been the case since the 38th Legislature when the President decided that a Member who asked a supplementary question had to be from the same parliamentary group as the Member who asked the main question.¹⁶ Another past ruling specified that the possibility for a Member other than the one who asked the main question to ask a supplementary question also applied to the Leader of the Official Opposition's third supplementary question, which may be asked by any Member from that group.¹⁷

10.1.2 SUBJECT MATTER AND CONTENT OF ORAL QUESTIONS

All questions, whether main or supplementary, must comply with a number of requirements. The subject matter and content of questions asked during Question Period must also respect certain principles contained in the Standing Orders and developed through jurisprudence.

The President is responsible for enforcing these rules but also keeps in mind that Question Period belongs primarily to the Members. For this reason, the Members are generally given as much free rein as possible in determining the subject matter and content of their questions. After all, the Members are the people best qualified to decide on the nature of the questions to be raised during this highly politicized period of parliamentary oversight. Furthermore, it is during the parliamentary groups' caucus meetings that Question Period is meticulously prepared for and that priorities are determined among the various questions Members wish to ask.

The Standing Orders state that questions must relate to matters of urgent or topical public importance for which a minister or the Government is officially responsible. Questions that do not meet this requirement must be placed on the Order Paper (SO 75).

16 JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/RDPP, No. 74/19.

17 JD, December 8, 2011, p. 3712 (Jacques Chagnon)/RDPP, No. 78/4.

The President once ruled that, in order to meet the above criteria, a question must deal with Québec as a whole or with a region of Québec, and must not focus on a case specific to a particular electoral district.¹⁸ In another case, it was ruled that a very broad question on new technologies can hardly qualify as being of urgent or topical public importance.¹⁹ Yet another ruling specified that the purpose of Question Period is not to bring up the myriad individual cases for which each minister is officially responsible, such as the conduct of a public servant towards a citizen.²⁰ However, practices in this regard have become considerably more flexible in the last few years and, as mentioned earlier, the President generally avoids interfering in the content of questions unless they contain unparliamentary language.

Certain types of questions, however, are specifically prohibited by the Standing Orders (SO 77). Questions must not express an opinion, present an argument,²¹ be founded on a supposition, seek a personal or professional opinion,²² suggest their own answers or be framed in such a way as to provoke debate.²³ At first glance, these provisions seem strict. However, although the rules set a general framework that aims to avoid excess, the President has, for many years, generally given Members a degree of latitude. For example, Members asking question are usually allowed to illustrate their remarks using visual aids, although photographs, such as photographs of Members, are not allowed.²⁴

18 JD, December 20, 1984, p. 2178 (Richard Guay)/RDPP, No. 75/4.

19 JD, April 11, 1984, p. 5752 (Richard Guay)/RDPP, No. 75/1.

20 JD, April 11, 1984, pp. 5755–5757 (Richard Guay)/RDPP, No. 75/2.

21 The President has noted that the purpose of an oral question is to obtain, not give, information. The privilege of freedom of speech provides considerable leeway concerning the content of questions, but it must be exercised in keeping with the Acts and regulations that govern parliamentary procedure (JD, October 22, 1987, pp. 9215–9217 (Pierre Lorrain)/RDPP, No. 77(1)/1).

22 A question asked of a minister concerning whether he shared the opinion of his federal counterpart regarding the establishment of a second private French-language television channel was ruled out of order since the purpose of the question was to obtain a personal or professional opinion (JD, April 10, 1984, p. 5733 (Richard Guay)/RDPP, No. 77(3)/1). Similarly, a question addressed to the Minister of Justice as to whether the funds employed by the former Solicitor General were used in accordance with the law was ruled out of order because it amounted to a request for a professional or legal opinion (JD, October 22, 1987, pp. 9216–9217 (Pierre Lorrain)/RDPP, No. 77(3)/2).

23 For example, the President once ruled that it is out of order to claim that a minister has engaged in harassment, due to the fact that such a claim could trigger a debate (JD, April 30, 1987, pp. 6969–6970 (Pierre Lorrain)/RDPP, No. 77(5)/2).

24 JD, November 14, 2007, p. 2020 (Michel Bissonnet)/RDPP, No. 74/20. However, although visual aids can be used to illustrate a point, the use of a larger than usual visual aid is not allowed. (JD, December 4, 2014, pp. 3213–3214 (François Gendron)). See Chapter 11, “Order and Decorum”.

Whenever Members rise to speak in the Assembly, they are generally subject to the rules that apply to debates. This is also true when they rise during Question Period, and they must therefore comply with Standing Order 35 on words that are inadmissible in debate. The President regularly cautions Members against imputing improper motives to other Members, refusing to take other Members at their word (SO 35(6)), or using language that is violent, abusive or insulting (SO 35(7)). On the other hand, the President once ruled that even when a matter on which a point of order or privilege has been raised is taken under advisement, a Member may still ask a question on the subject during Question Period.²⁵

When granted the floor during Question Period, Members sometimes simply make a comment or request permission to table a document instead of asking a question per se. The President generally considers this to be the equivalent of a question, and therefore gives the floor to a minister to answer.²⁶ However, the Members have been reminded that Question Period must not be seen as an opportunity to table documents or as an information session for the Opposition, and that a Member who obtains permission to table a document during this period must follow up with a question.²⁷

Finally, according to doctrine, questions asked of ministers must relate to their current portfolio and not to a previous one.²⁸ However, as the Government may answer through the minister of its choice, nothing prevents ministers from answering questions addressed to the Government on issues that used to concern them in a former portfolio. In addition, no questions may be asked of ministers on a subject that concerned them before they became Cabinet members.²⁹

25 JD, June 9, 1998, pp. 11752-11753 (Jean-Pierre Charbonneau)/RDPP, No. 75/7.

26 JD, March 30, 1995, p. 1859 (Roger Bertrand).

27 JD, June 8, 1993, pp. 7275-7277 (Jean-Pierre Saintonge)/RDPP, No. 74/10; JD, April 13, 1994, p. 381 (Jean-Pierre Saintonge)/RDPP, No. 74/11; JD, November 23, 1999, pp. 3705-3706 (Jean-Pierre Charbonneau).

28 Arthur Beauchesne, Alistair Fraser, William Foster Dawson and John A. Holtby, *Beauchesne's Rules and Forms of the House of Commons of Canada, with Annotations, Comments and Precedents*, 6th ed. (Toronto: Carswell, 1989), p. 122.

29 JD, June 6, 1990, pp. 2798-2800 (Jean-Pierre Saintonge)/RDPP, No. 75/6.

10.1.3 ALLOCATION OF QUESTIONS

As previously mentioned, Question Period is limited to 45 minutes (SO 74). This time frame makes it necessary to exercise strict control over both the number and the length of questions and answers, especially when several parliamentary groups are present, to preserve the right of each group to discharge its role as overseer of government action. The President is responsible for dividing up the questions among the various parties and independent Members. For a long time, the President refrained from laying down strict rules,³⁰ to avoid creating an unduly confining procedural framework inconsistent with the nature of Question Period.³¹

The particular context of the most recent legislatures has led to a small change in this approach: since the 38th Legislature, the questions have been allocated using predetermined tables adapted to the particular composition and characteristics of each legislature.³² This procedure is intended to, among other things, ensure predictability during Question Period, maximize the number of questions that may be asked, and enable the various parliamentary groups and independent Members to participate in a meaningful manner.³³ Since Members receive more media coverage during Question Period than on any of the other occasions they have to hold the Government accountable for its actions, their visibility during this period is critical.

Although there are no strict and explicit rules governing the allocation of questions, the principles drawn up by past Presidents over the years have provided ample jurisprudence on which to base the exercise of the President's discretionary power in the area.

10.1.3.1 PRINCIPLES ESTABLISHED BY THE PRESIDENT

The main principles established by the President over the years for the allocation of questions may be summarized as follows: all Members, including government Members, may ask questions of the Government; most questions are granted to opposition Members; the notion of parliamentary group must be

30 JD, May 15, 1986, pp. 1539–1542 (Pierre Lorrain)/RDPP, No. 74/5.

31 JD, November 21, 2000, pp. 7998–8000 (Jean-Pierre Charbonneau)/RDPP, No. 74/13.

32 See Appendix I, "History of the Allocation of Questions from the 38th to the 42nd Legislature", and Appendix II, "Question Allocation Tables".

33 JD, October 10, 2013, pp. 4947–4948 (Jacques Chagnon)/RDPP, No. 78/5.

considered together with the first two principles; the Official Opposition must be given a preponderant role; and the President must take into account the presence of any independent Members.³⁴

The first principle follows from Standing Order 74, which provides that any Member, regardless of political affiliation, may ask a question of a minister. Thus, both opposition Members and government Members may take part in Question Period, although the latter hardly ever do so.³⁵

According to the second principle, Question Period, as a means of holding the Government accountable for its actions, belongs primarily to opposition Members. This means that all opposition Members, not only those from the Official Opposition,³⁶ are the main participants in this daily give and take. Government Members, as seen earlier, may also question ministers, but to a lesser extent.

The third principle holds that, in allocating questions, the President must recognize all the parliamentary groups. However, this principle does not constitute a guarantee that a group will be granted main questions.³⁷ Until the 37th Legislature, in a two-party context, the distribution of main questions between the parliamentary groups, that is, between Members from the Official Opposition and government Members, varied depending on the sitting day, the number of main questions and the number of supplementary questions.³⁸ However, since the 38th Legislature, questions have been allocated on the basis of the proportional representation of each parliamentary group in opposition.

34 JD, November 21, 2000, pp. 7998–8000 (Jean-Pierre Charbonneau)/RDPP, No. 74/13; JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/RDPP, No. 74/19; JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/RDPP, No. 74/21; JD, September 20, 2011, pp. 2440–2442 (Jacques Chagnon)/RDPP, No. 74/24; JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 74/26; JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28; JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32.

35 Government Members generally ask only a few questions in total during a legislature. For example, during the 293 sittings of the **39th Legislature**, they asked 14, compared to 8 during the 108 sittings of the **40th Legislature**. During the 353 sittings of the **41st Legislature**, they asked no questions whatsoever, a trend that continued in the the **42nd Legislature**.

36 JD, December 12, 1989, pp. 518–521 (Jean-Pierre Saintonge)/RDPP, No. 74/8. For the origin of this principle, see the following rulings: JD, June 22, 1977, p. 1573 (Clément Richard)/RDPP, No. 74/1; JD, May 15, 1986, pp. 1539–1542 (Pierre Lorrain)/RDPP, No. 74/5.

37 JD, December 12, 1989, pp. 518–521 (Jean-Pierre Saintonge)/RDPP, No. 74/8.

38 JD, March 25, 1986, p. 665 (Pierre Lorrain)/RDPP, No. 74/4; JD, June 12, 1986, p. 2676 (Pierre Lorrain)/RDPP, No. 74/6.

Under the fourth principle, when allocating questions, the President must ensure that the Official Opposition is given a preponderant role in overseeing government action, especially when there is more than one opposition group. This may be reflected, for example, in the number of questions allocated to each group or in the order in which they fall.

The fifth principle holds that the President must take into account the presence of independent Members in allocating questions. The President may not, however, guarantee that they will have an opportunity to ask a main question during each and every Question Period.³⁹ In this regard, the number of questions granted to independent Members has fluctuated over the years depending on the number of opposition groups and independent Members sitting in the Assembly, as shown in the following table:

QUESTIONS GRANTED TO INDEPENDENT MEMBERS
35TH LEGISLATURE
1 main question per three sittings for 1 Member ⁴⁰ 1 main question per three sittings for 3 Members
36TH LEGISLATURE
1 main question per three sittings for 1 Member ⁴¹ 2 main questions per five sittings for 5 Members ⁴² 2 main questions per four sittings for 6 Members ⁴³
37TH LEGISLATURE
2 main questions per five sittings for 4 Members ⁴⁴ 2 main questions per five sittings for 5 Members ⁴⁵ 2 main questions per four sittings for 6 Members ⁴⁶
38TH LEGISLATURE
<i>No independent Members</i>

39 JD, March 13, 1985, pp. 2386–2387 (Richard Guay)/RDPP, No. 74/2.

40 JD, September 20, 1995, p. 5159 (Roger Bertrand)/RDPP, No. 74/12.

41 JD, November 21, 2000, pp. 7998–8000 (Jean-Pierre Charbonneau)/RDPP, No. 74/13.

42 JD, October 15, 2002, pp. 7077–7078 (Louise Harel)/RDPP, No. 74/14.

43 JD, December 3, 2002, pp. 7966–7967 (Louise Harel)/RDPP, No. 74/15.

44 JD, October 30, 2003, pp. 1216–1217 (Michel Bissonnet)/RDPP, No. 74/16.

45 JD, March 23, 2004, p. 3186 (Michel Bissonnet)/RDPP, No. 74/17.

46 JD, October 20, 2004, p. 5190 (Michel Bissonnet)/RDPP, No. 74/18.

39TH LEGISLATURE

1 main question **per sitting** for **8** Members⁴⁷

1 main question **per seven** sittings for **1** Member⁴⁸

3 main questions **per seven** sittings for **3** Members⁴⁹

9 main questions **per eight** sittings for **10** Members⁵⁰

17 main questions **per eight** sittings for **16*** Members⁵¹

15 main questions **per eight** sittings for **14*** Members⁵²

** Each independent Member could not be initially allocated more than one question per cycle of eight sittings.*

40TH LEGISLATURE

2 main questions **per eight** sittings for **2** Members⁵³

3 main questions **per eight** sittings for **3** Members⁵⁴

4 main questions **per eight** sittings for **4** Members⁵⁵

41ST LEGISLATURE

3 main questions **per seven** sittings for **3** Members⁵⁶

4 main questions **per seven** sittings for **4** Members⁵⁷

5 main questions **per seven** sittings for **5** Members⁵⁸

42ND LEGISLATURE

3 main questions **per two ten-sitting cycles** for **1** Member⁵⁹

6 main questions **per two ten-sitting cycles** for **2** Members⁶⁰

47 JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/RDPP, No. 74/21.

48 JD, April 21, 2009, pp. 1679–1680 (Yvon Vallières); “Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature”, Sessional Paper No. 246-20090421, April 21, 2009, (VP, April 21, 2009, p. 214), p. 5.

49 JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/RDPP, No. 74/22.

50 JD, September 20, 2011, pp. 2440–2442 (Jacques Chagnon)/RDPP, No. 74/24.

51 JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 74/26.

52 JD, April 17, 2012, p. 5714 (Jacques Chagnon)/RDPP, No. 74/27.

53 JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28.

54 JD, September 18, 2013, p. 4370 (Jacques Chagnon)/RDPP, No. 74/29.

55 JD, February 11, 2014, p. 6391 (Jacques Chagnon)/RDPP, No. 74/30.

56 JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31; JD, September 20, 2016, p. 11779 (Maryse Gaudreault).

57 JD, September 15, 2015, p. 6802 (Jacques Chagnon); JD, February 7, 2017, p. 13517 (Jacques Chagnon).

58 JD, June 6, 2017, p. 16658 (Jacques Chagnon).

59 “Entente relative à la notion de groupe parlementaire, au fonctionnement de l’Assemblée et des commissions parlementaires, ainsi qu’aux aspects budgétaires pour la durée de la 42^e législature”, Sessional Paper No. 48-20181129, November 28, 2018, (VP, November 29, 2018, p. 23), Appendix 1; JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32.

60 JD, March 20, 2019, pp. 1069–1072 (François Paradis)/RDPP, No. 13/4.

In addition, before the 39th Legislature, questions were allocated to the independent Members as a group in accordance with the existing jurisprudence, regardless of individual political affiliations,⁶¹ and it was up to them to decide who would be given an opportunity to ask a main question on any given occasion.⁶² For the 39th Legislature, however, the presence of a number of independent Members from different political parties led the President to alter this approach. Thus, at the beginning of this legislature, when seven independent Members were affiliated with the Action démocratique du Québec (ADQ), which was not yet recognized as a parliamentary group, and one Member was affiliated with Québec solidaire (QS), it was established that each of them could ask a question, on a rotating basis, to ensure that all independent Members were treated fairly. However, they had to decide among themselves who would ask a question during a given sitting. The President considered that he could not establish an order between the independent Members without automatically creating a hierarchy, which it was preferable to avoid. Nevertheless, he could not deny the independent Members' political affiliations, and therefore decided that a Member belonging to a political party could ask a question in the place of another Member from the same party.⁶³ Subsequently, after the CAQ was recognized as the Second Opposition Group and two of its Members decided to sit as independent Members, the President ruled that, to protect the rights of the Official Opposition and of the one Member who was already sitting as an independent Member, the measures and speaking time allocated to the two new independent Members would be determined based on the measures and time allocated to the Second Opposition Group.⁶⁴ This marked a change in the distribution of questions among the independent Members, as it distinguished between those sitting under the political banner under which they had been elected and those who had left their parliamentary group during the legislature, who were granted questions from among those allocated to the parliamentary group from which they came. This principle was then carried forward not only into the 39th Legislature, but also into the following legislatures, whenever an opposition Member left a parliamentary group to sit as an independent Member.⁶⁵ In the opposite situation, it was ruled that if

61 JD, December 3, 2002, pp. 7966–7967 (Louise Harel)/RDPP, No. 74/15; JD, March 23, 2004, p. 3186 (Michel Bissonnet)/RDPP, No. 74/17; JD, October 20, 2004, p. 5190 (Michel Bissonnet)/RDPP, No. 74/18.

62 JD, December 3, 2002, pp. 7966–7967 (Louise Harel)/RDPP, No. 74/15.

63 JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/RDPP, No. 74/21.

64 JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/RDPP, No. 74/22.

65 JD, September 20, 2011, pp. 2440–2442 (Jacques Chagnon)/RDPP, No. 74/24; JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 74/26; JD, September 18, 2013, p. 4370 (Jacques Chagnon)/RDPP, No. 74/29; JD, February 11, 2014, p. 6391 (Jacques Chagnon)/RDPP, No. 74/30; JD, September 15, 2015, p. 6802 (Jacques Chagnon); JD, February 7, 2017, p. 13517 (Jacques Chagnon); JD, June 6, 2017, p. 16658 (Jacques Chagnon); JD, March 20, 2019, pp. 1069–1072 (François Paradis)/RDPP, No. 13/4.

independent Members returned to their original parliamentary group, the group would be reallocated the number of questions it had lost to these independent Members.⁶⁶ In some cases, the President has stated that it is up to the independent Member's former parliamentary group to indicate when the Member would be entitled to ask a question.⁶⁷ As regards the possibility for independent Members affiliated with the same political party to exchange or transfer between themselves their right to ask a question, this principle has been reiterated several times by the President.⁶⁸

Lastly, in addition to the five principles mentioned above, another very important factor is the composition of the Assembly, which the President must take into account both in allocating questions and in determining the order of the main questions. The practice in this respect varied from one legislature to the next but was nevertheless consistent for a number of years, until the beginning of the 38th Legislature. The Official Opposition was normally granted the first two main questions, as well as the third main question if there was no other opposition group.⁶⁹ An independent Member entitled to a main question was granted the fourth one.⁷⁰ The Government party was entitled to two questions every three sittings. On the rare occasions when it took advantage of this right, it was granted the fifth question, unless the fourth question had been allocated to an independent Member, in which case, a government Member could ask the sixth one. All other questions went to the Official Opposition.⁷¹ Since the composition of the Assembly became more complex as of the 38th Legislature, the President adopted the practice of allocating questions based on the particularities of each legislature. If necessary, adjustments are made during the legislature to reflect any change in the Assembly's composition.⁷²

66 JD, April 17, 2012, p. 5714 (Jacques Chagnon)/RDPP, No. 74/27.

67 JD, April 20, 2010, pp. 6349–6350 (Yvon Vallières)/RDPP, No. 74/23; JD, September 15, 2015, p. 6802 (Jacques Chagnon); JD, February 7, 2017, p. 13517 (Jacques Chagnon); JD, June 6, 2017, p. 16658 (Jacques Chagnon); JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32; JD, March 20, 2019, pp. 1069–1072 (François Paradis)/RDPP, No. 13/4.

68 JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28; JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31.

69 JD, March 14, 1985, p. 2415 (Richard Guay)/RDPP, No. 74/3.

70 JD, September 20, 1995, p. 5159 (Roger Bertrand)/RDPP, No. 74/12; JD, November 21, 2000, pp. 7998–8000 (Jean-Pierre Charbonneau)/RDPP, No. 74/13; JD, October 15, 2002, pp. 7077–7078 (Louise Harel)/RDPP, No. 74/14; JD, October 30, 2003, pp. 1216–1217 (Michel Bissonnet)/RDPP, No. 74/16.

71 JD, November 21, 2000, pp. 7998–8000 (Jean-Pierre Charbonneau)/RDPP, No. 74/13; JD, October 30, 2003, pp. 1216–1217 (Michel Bissonnet)/RDPP, No. 74/16.

72 See Appendix I, "History of the Allocation of Questions from the 38th to the 42nd Legislature", and Appendix II, "Question Allocation Tables".

10.1.4 TIME ALLOTTED TO QUESTIONS AND ANSWERS

As we have seen, Question Period is an exercise in parliamentary oversight that is especially important for the Members. This is why, when managing Question Period, the President usually endeavours to facilitate the participation of as many Members as possible. One means of attaining this objective is to ensure that both questions and answers meet the criterion of brevity set out in the Standing Orders.

The way in which Question Period is managed has evolved from one legislature to the next. Until the 37th Legislature, the President used considerable discretion in controlling the length of questions and answers, taking into account, in particular, the political issues of the day and the particular nature of the subject raised.⁷³ Furthermore, in accordance with tradition, the President granted more leeway for exchanges between the Premier and the Leader of the Official Opposition.⁷⁴ As of the 38th Legislature, due to the presence of two opposition groups, the President became more rigorous in enforcing time limits so that one parliamentary group could not use more time at another group's expense.⁷⁵ During this legislature, in a departure from the tradition whereby more time was granted only for questions by the Leader of the Official Opposition and answers by the Premier, one minute and 30 seconds was allotted for the first main question of an opposition group, whether asked by its leader or another Member, and one minute and 45 seconds was allotted for the answer to the question, whether given by the Premier or another minister.⁷⁶ This particularity was unique to the 38th Legislature and was not carried forward to subsequent legislatures.

Generally, the time allotted for each question and answer has remained the same for a number of years. Since the 39th Legislature,⁷⁷ any main question asked by the leader of an opposition group lasts up to 1 minute 30 seconds,

73 JD, November 21, 2000, pp. 7998–8000 (Jean-Pierre Charbonneau)/RDPP, No. 74/13.

74 Ibid.; JD, October 30, 2003, pp. 1216–1217 (Michel Bissonnet)/RDPP, No. 74/16.

75 JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/RDPP, No. 74/19. Since then, the time clocks have shown the time allocated for questions and for answers, previously visible only to the President.

76 Ibid.

77 JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/RDPP, No. 74/21; “Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature”, p. 6; JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28; JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31; JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32.

while other main questions may not exceed 1 minute. Only the leaders of parliamentary groups may use this additional time.⁷⁸ All supplementary questions are limited to 30 seconds.

The Premier has up to one minute and 45 seconds to answer main questions, while other ministers have up to one minute and 15 seconds. All answers to supplementary questions are limited to 45 seconds. The following table shows the time reserved for questions and answers:

LENGTH OF QUESTIONS AND ANSWERS		
Question	Main (leader of an opposition group)	1 min 30 s
	Main (other Member)	1 min
	Supplementary	30 s
Answer	Main (Premier)	1 min 45 s
	Main (other Member)	1 min 15 s
	Supplementary	45 s

10.1.5 ANSWERS

Although a question is usually addressed to a particular minister, there is no guarantee that this minister will be the one to answer it. Essentially, all questions are addressed to the Government, which may therefore decide which minister will answer them. Standing Order 189 expressly provides that any minister may act on behalf of another minister.⁷⁹ The Government may therefore answer a question through the Premier or through any other Cabinet member.⁸⁰ A parliamentary assistant to a minister, even if not a Cabinet member, may also answer on behalf of the minister during Question Period (ANA, s. 25). However, this is very rare.

78 In January 2018, during the 41st Legislature, the Member for Joliette, Véronique Hivon, was appointed “Vice-Leader” of the PQ by the party leader and Member for Rosemont, Jean-François Lisée. However, since this office is not recognized under parliamentary law, the appointment did not result in the Member being granted more time to ask questions during Question Period.

79 JD, May 3, 1988, pp. 724–726 (Pierre Lorrain); JD, March 29, 1990, pp. 1453–1454 (Jean-Pierre Saintonge); JD, May 25, 1999, pp. 1720–1721 (Jean-Pierre Charbonneau)/RDPP, No. 308/8; JD, December 9, 1999, p. 4201 (Jean-Pierre Charbonneau).

80 JD, June 6, 1984, p. 6712 (Richard Guay)/RDPP, No. 79/2.

When, as sometimes happens, two ministers each provide part of the answer to a question, the two parts are considered to constitute a single answer and must not take up more time together than is allotted for a one-part answer.⁸¹ If the minister to whom the question is addressed uses up all the allotted time, the President does not ordinarily grant time for a second minister to complete the answer.⁸²

10.1.5.1 CONTENT OF ANSWERS

Answers to oral questions must be concise and relate only to the subject of the question; they may not give an argument, express an opinion or be framed in such a way as to provoke debate (SO 79). Furthermore, they may not include a preamble: an introduction to the answer could open the way to comments on a subject other than that of the question.⁸³ As regards these rules, the President considers the wording of questions and does not intervene unless of the opinion that it is required in the context.

Members may not raise a point of order merely because they consider that a minister's answer to a question is unsatisfactory (SO 81). Numerous points of order have been raised, however, on the ground that a minister's answer does not comply with Standing Order 79, according to which an answer must be confined to the subject of the question.⁸⁴ The Government House Leader has usually replied by citing Standing Order 81. The President has maintained that these two Standing Orders are perfectly compatible but that enforcing them depends largely on the will of parliamentarians to comply with them. The President has recognized having a role to play in this respect but nevertheless expressed that it is preferable for the presiding officer to avoid constantly intervening to ensure compliance with Standing Order 79.⁸⁵ It is not up to the President to determine the degree of precision required in an answer.⁸⁶

81 JD, May 7, 1996, p. 662 (Jean-Pierre Charbonneau); JD, June 7, 1996, p. 1881 (Jean-Pierre Charbonneau).

82 JD, April 19, 1988, pp. 635–636 (Pierre Lorrain)/RDPP, No. 79/4. It had been previously ruled that, if the President considered the answer given by a minister to be complete, a second minister could not be allowed to add anything, since that would amount to allowing two answers to the same question (JD, April 18, 1984, pp. 5806–5807 (Richard Guay)/RDPP, No. 79/1).

83 JD, May 29, 1985, pp. 3914–3916 (Richard Guay)/RDPP, No. 79/3.

84 Ibid.; JD, May 27, 2008, pp. 4308–4309 (Michel Bissonnet)/RDPP, No. 79/5.

85 JD, May 27, 2008, pp. 4308–4309 (Michel Bissonnet)/RDPP, No. 79/5.

86 JD, March 22, 2011, p. 1003 (Yvon Vallières)/RDPP, No. 79/6; JD, November 28, 2014, p. 3036 (Jacques Chagnon)/RDPP, No. 79/7.

10.1.5.2 REFUSAL TO ANSWER

Ministers may decline to answer a question, in particular if they consider that disclosure of the requested information is contrary to the public interest, or that the effort required to collect the information far exceeds any benefit to be gained from it (SO 82). The President once ruled that the words “in particular” used in Standing Order 82 also allow a minister to legitimately decline to answer a question for other reasons.⁸⁷

Ministers must not answer questions that would cause them to refer to the in camera proceedings of a committee whose report has not yet been tabled in the Assembly (SO 82 and 35(2)), to a matter under inquiry or to a matter before the courts or a quasi-judicial tribunal, if such a reference could be prejudicial to the interests of any person or party (SO 82 and 35(3)). The other provisions of Standing Order 35 regarding inadmissible words must likewise be complied with.

A minister’s refusal to answer a question may be implicit or explicit, substantiated or unsubstantiated. However, the President has recommended that refusals be explicitly stated in order to facilitate the conduct of proceedings.⁸⁸ Whether explicit or implicit, a refusal cannot be challenged (SO 82). Consequently, no Member may insist on receiving an answer, nor may the President require that one be given.⁸⁹

A refusal does not prevent Members from asking supplementary questions on the same subject.⁹⁰ However, a minister who has already refused to answer a question cannot take the question as notice and answer it at a later time.⁹¹

10.1.5.3 QUESTIONS TAKEN AS NOTICE

A minister to whom a question is directed may take the question as notice and answer it at the end of Question Period or at a subsequent sitting (SO 80). Ministers sometimes use this procedure when they do not have on hand the information required to answer a question. In such cases, ministers usually mention in the Assembly that they have taken note of the question. If they do not mention this, it is not up to the President to verify whether they intend to answer the question at a later sitting. Both main and supplementary questions can be taken as notice.⁹² If the minister takes note of a main question asked by

87 JD, April 16, 2002, p. 5577–5578 and 5582 (Louise Harel)/RDPP, No. 82/3.

88 JD, March 18, 1992, pp. 12097–12098 (Jean-Pierre Saintonge)/RDPP, No. 82/2.

89 Ibid.; JD, April 16, 2002, p. 5577–5578 and 5582 (Louise Harel)/RDPP, No. 82/3.

90 JD, October 18, 1988, pp. 2535–2537 (Pierre Lorrain)/RDPP, No. 82/1.

91 JD, March 18, 1992, pp. 12097–12098 (Jean-Pierre Saintonge)/RDPP, No. 82/2.

92 JD, May 4, 1999, pp. 1255–1256 (Jean-Pierre Charbonneau)/RDPP, No. 80/5.

a Member, the latter is not prevented from then asking a supplementary question.⁹³ Ministers who were absent when a question was addressed to them are also entitled to answer the question at a later sitting provided another minister took note of the question on their behalf.⁹⁴ A minister's parliamentary assistant may also take notice of question addressed to the minister (ANA, s. 25).

A minister having taken note of a question who decides to answer the question at the end of Question Period at the same sitting simply mentions this to the President and is given the floor without further formality, once the full 45 minutes of Question Period have elapsed.

A minister who decides to give an answer at a subsequent sitting must so notify the President in writing, no later than one hour before Routine Proceedings of the sitting concerned. The President communicates this notice to the Assembly at the beginning of Question Period and sets aside the time necessary for the minister's answer after that period (SO 80, 2nd para.).

The Standing Orders provide that, following a question taken as notice, the President may allow one supplementary question.⁹⁵ In practice, such a question is always authorized, even if the answer to the question taken as notice is given at the end of the same Question Period.⁹⁶ Generally, the Member who asked the question that was taken as notice also asks the supplementary question, although there is no obligation in this regard. Every question taken as notice, whether main or supplementary, gives rise to a supplementary question. Moreover, if the minister decides to give a single answer to several questions taken as notice on the same subject, there may be as many supplementary questions as there were questions of which the minister originally took note.⁹⁷ Once a supplementary question has been asked, the President gives the floor to the minister to answer it.

Questions taken as notice are subject to the same rules as questions dealt with during Question Period. Hence, in disposing of a question taken as notice, the minister and Members concerned may not take more time than would have been granted during Question Period.⁹⁸ In addition, if the time allotted to a minister to answer a supplementary question taken as notice has not elapsed, another minister may use the remaining time to complete the answer.⁹⁹

93 JD, November 9, 2017, p. 17894 (Jacques Chagnon).

94 JD, October 25, 1988, pp. 2660–2663 (Pierre Lorrain)/RDPP, No. 80/2.

95 JD, June 14, 1984, p. 7063 (Richard Guay)/RDPP, No. 78/1.

96 JD, June 4, 1990, pp. 2770–2771 (Jean-Pierre Saintonge)/RDPP, No. 80/3.

97 JD, May 4, 1999, pp. 1255–1256 (Jean-Pierre Charbonneau)/RDPP, No. 80/5.

98 JD, June 5, 1984, p. 6642 (Richard Guay)/RDPP, No. 80/1; JD, May 4, 1999, pp. 1255–1256 (Jean-Pierre Charbonneau)/RDPP, No. 80/5.

99 JD, May 26, 1998, p. 11313 (Jean-Pierre Charbonneau)/RDPP, No. 80/4.

As mentioned earlier, a minister cannot be compelled to answer a question. The question arises as to whether taking note of a question creates an obligation to reply. While one can presume that the minister has a moral obligation in the circumstances, there has been no official ruling on the matter, and the fact remains that a reply cannot be required. In addition, it has been ruled that, even if a minister has taken note of a question, no time limit may be imposed for the reply.¹⁰⁰

10.2 WRITTEN QUESTIONS

When an oral question does not meet the criteria of urgent or topical public importance, a Member may choose to address a written question to a minister (SO 75). Questions on matters that are not important or urgent enough to warrant an immediate reply must be placed on the Order Paper. The same applies to questions that require research (SO 313, 1st para.). The answers to written questions are tabled by the Government House Leader at the time set aside for that purpose during Routine Proceedings (SO 313, 2nd para., and 60).

As the President has previously mentioned, oral questions and written questions must be seen as complementary.¹⁰¹ Unless otherwise provided, the rules governing oral questions also apply to written questions (SO 314). Consequently, the President has reminded the House that the provisions of Standing Order 35 concerning prohibited words or unparliamentary language apply to both written and oral questions.¹⁰² Similarly, according to another ruling, under Standing Order 314, the following rules, which govern oral questions, apply to written questions: Members may not raise a point of order merely because they believe that a minister's answer to a written question is unsatisfactory (SO 81); a minister may always decline to answer a question, and no Member may insist on obtaining an answer (SO 82); the Government may answer a question through any minister it delegates for that purpose; and the President may not interfere in the content of answers, require a minister to reply to a question, or determine which minister is to reply.¹⁰³

100 JD, November 25, 1986, p. 4231 (Pierre Lorrain).

101 JD, May 29, 2019, p. 2958 (François Paradis)/RDPP, No. 67/79.

102 JD, April 23, 1991, pp. 7527-7532 (Jean-Pierre Saintonge)/RDPP, No. 313/1.

103 JD, May 7, 2002, pp. 5845-5846 (Michel Bissonnet)/RDPP, No. 313/2.

For this reason, under the same ruling, the tabling by the Government House Leader of a document designated as the reply to a question is enough to withdraw the question from the Order Paper, regardless of the content of the answer.¹⁰⁴

The President subsequently reiterated this ruling in 2016, adding that because the President cannot determine the degree of precision required in an answer during Question Period, it would be difficult to determine how much research and detail the Government must provide for written questions, since it is up to the Government to determine the content of the answers it gives. However, the President did make a point of noting that since a written question may be intended to obtain information that requires some research and since there is no time limit for responding, it is reasonable to expect that a written response will include an appropriate degree of detail. The ruling also specified that the Government may respond to multiple written questions with a single answer, as the effectiveness of this exercise in parliamentary oversight is measured not so much by the number of written answers provided as by the content of the answers.¹⁰⁵

Another ruling¹⁰⁶ stated that the President's role is not to judge answers to written questions provided by a minister who refers to the *Act respecting Access to documents held by public bodies and the Protection of personal information*¹⁰⁷ in order to refuse to provide a document. It is up to the minister to decide whether or not to allow the disclosure of documents and the minister may, in making this decision, be guided by criteria set out in various laws. In this regard, it is important to distinguish between a question on the *Order Paper and Notices* and an order to produce documents: only an order made under the Assembly's constitutional privileges makes it possible to require the disclosure of a document regardless of any objections set out in the *Act respecting Access to documents held by public bodies and the Protection of personal information*.¹⁰⁸

104 Ibid. In the case in point, the President nonetheless considered the situation to be a special one in that a question was addressed to two ministers, whereas a separate question should have been addressed to each of them. For this reason, the question was placed on the Order Paper a second time, minus the elements that concerned one of the two ministers, which had been covered in the answer tabled by the Government House Leader.

105 JD, March 16, 2016, pp. 9028–9030 (Jacques Chagnon)/RDPP, No. 313/4.

106 JD, November 21, 2017, pp. 18063–18064 (François Gendron).

107 *Act respecting Access to documents held by public bodies and the Protection of personal information*, CQLR., c. A-2.1.

108 JD, April 12, 2018, pp. 21178–21180 (Jacques Chagnon)/RDPP, No. 67/75.

On another point, the President once ruled that, since written questions must be placed on the Order Paper and since such a document is confidential until published, the text of a written question may not be disclosed before the Order Paper is published.¹⁰⁹

It has also been ruled that written questions on the Order Paper must receive the same protection as oral questions with respect to the privilege of freedom of speech, since they are part of the procedures available to parliamentarians in the exercise of their deliberative functions and in the oversight of government actions. Although written questions are covered by the privilege of freedom of speech, they must nonetheless comply with the rules governing parliamentary debate.¹¹⁰

Lastly, the Standing Orders do not set out a time limit for answering a written question.¹¹¹

109 JD, October 21, 2015, pp. 7300–7301 (Jacques Chagnon)/*RDPP*, No. 313/3. In this case, the questions had been published in a newspaper before the Order Paper was published.

110 JD, May 29, 2019, p. 2958 (François Paradis)/*RDPP*, No. 67/79.

111 JD, March 16, 2016, pp. 9028–9030 (Jacques Chagnon)/*RDPP*, No. 313/4.

APPENDIX I HISTORY OF THE ALLOCATION OF QUESTIONS FROM THE 38TH TO THE 42ND LEGISLATURE

As mentioned previously, with the arrival of multiple opposition groups beginning in the 38th Legislature, the President has had to adapt the allocation of questions to take into account the particularities of the Assembly's composition during each legislature. The following describes how the allocation of questions during Question Period has changed from one legislature to the next.

38TH LEGISLATURE

The election of a minority government and the presence of two opposition groups led to important changes in the allocation of questions during the 38th Legislature. The President looked at the experience of other Canadian parliaments in which there was more than one opposition party and selected the criterion of proportionality for dividing up the questions between the two opposition groups. The framework for Question Period was intended to ensure that each opposition group played a significant part consistent with both the group's relative representation within the opposition and the preponderant role of the Official Opposition.¹¹² There were no independent Members at the time.

39TH LEGISLATURE

At the beginning of the 39th Legislature, despite the Assembly's more traditional composition, with a majority government and a single opposition group, the President was of the opinion that the precedents established during the previous legislature should be taken into account in the allocation of questions. As a result, a balance was struck between the Assembly's new composition and the principles developed over time on the subject.¹¹³ A number of changes in the Assembly's composition led the President to adapt the allocation of

112 JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/RDPP, No. 74/19.

113 JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/RDPP, No. 74/21.

questions during the legislature to ensure the balance remained fair for all Members and that it met the criterion of proportionality selected during the 38th Legislature.

The recognition of a party that did not meet the Standing Orders criteria for recognition as a parliamentary group, namely, the ADQ, along with the April 21, 2009 parliamentary reform, changed the distribution of questions among the various opposition groups.¹¹⁴

This distribution had to be subsequently adjusted when two Second Opposition Group Members decided to sit as independent Members. In ruling on the new distribution,¹¹⁵ the President issued a directive stating his intention to respect the spirit of the document recognizing the ADQ as a parliamentary group, given that only another decision of the Assembly would have allowed the President to apply different rules. In dividing up the measures among the opposition Members, the President intended to protect the rights of the Official Opposition as well as those of the Member already sitting as an independent when the reform was adopted. Thus, as with the other oversight measures, the number of questions during Question Period that were granted to the two newly independent Members was based on the number of questions that the Second Opposition Group had at the time.¹¹⁶ Later, at the request of one of these two Members, the President issued a directive on the logistics of this allocation. To ensure that all independent Members could exercise their right, the Second Opposition Group was to notify the President and each independent Member in advance if it did not intend to ask a question during a sitting, so that one of the two independent Members could ask one instead. The Member already sitting as an independent Member was to inform the President and the other independent Members the day before the sitting concerned of his intention to ask a question, which would preclude the other two independent Members from asking a question.¹¹⁷

The questions were then reallocated when several Official Opposition Members decided to sit as independents at the end of the spring 2011 sessional period. When proceedings resumed in the fall of 2011, the President considered that, with the arrival of the newly independent Members, the logic arising from the recognition of the ADQ as a parliamentary group no longer applied and that,

114 "Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature", p. 5.

115 JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/RDPP, No. 74/22.

116 JD, November 10, 2009, pp. 3845–3847 (Yvon Vallières)/RDPP, No. 13/2.

117 JD, April 20, 2010, pp. 6349–6350 (Yvon Vallières)/RDPP, No. 74/23.

for this reason, the terms for the conduct of Question Period had to be modified. In this ruling, the President increased the number of sittings in a cycle from seven to eight in order to preserve the independent Members' right to ask the Government a question while complying with the other question allocation criteria. These criteria took into account the impact of recognizing the ADQ parliamentary group as the Second Opposition Group and the preponderant role of the Official Opposition. It was also in this ruling that a random draw procedure was introduced for the first time to facilitate the distribution of measures, including questions during Question Period, among the independent Members.¹¹⁸ In accordance with this procedure, after the draws for the various measures, two independent Members could agree to trade rights for a given measure by notifying the President. This random draw procedure was first used for a trial period and then maintained because it was an effective way to objectively divide up the measures among the independent Members and inform them in advance of the timing of each one.¹¹⁹

The President issued a directive changing the allocation of questions during Question Period in February 2012, after being informed by nine Members—including the four from the Second Opposition Group—that they would now be sitting under the banner of the Coalition avenir Québec (CAQ), a newly formed party that, although recognized by the Chief Electoral Officer, could not be recognized as a parliamentary group under the established criteria. This change brought the number of independent Members to 16, and the President had to reallocate the questions during Question Period.¹²⁰ In doing so, the President maintained the random draw procedure for the distribution of measures among the independent Members, specifying the terms governing the exchange or transfer of rights between them. Such an exchange or transfer could not result in a political party being granted a second question during the same sitting, as the initial result of the random draw had granted the party only one question.

Subsequently, the return of two independent Members to the parliamentary group forming the Official Opposition led the President to issue a new ruling in April 2012 specifying that the questions granted to these two Members when they were independents would be transferred to the parliamentary group to which they had returned.¹²¹

118 JD, September 20, 2011, pp. 2440–2442 (Jacques Chagnon)/RDPP, No. 74/24.

119 JD, November 1, 2011, p. 3085 (Jacques Chagnon)/RDPP, No. 74/25.

120 JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 74/26.

121 JD, April 17, 2012, p. 5714 (Jacques Chagnon)/RDPP, No. 74/27.

40TH LEGISLATURE

In the 40th Legislature, a new minority government was elected. In addition, there were two opposition groups and two independent Members affiliated with the same party. This led the President to draw inspiration from the allocation of questions and the experience of the 38th Legislature to determine the conduct of Question Period during the new legislature.¹²²

The allocation of questions later had to be readjusted on two occasions: first, when a Second Opposition Group Member decided to sit as an independent and two Official Opposition Members resigned,¹²³ and again when, after by-elections, two new Members joined the Official Opposition and a Member from that parliamentary group decided to sit as an independent.¹²⁴ In each case, the new allocation of questions was consistent with both the principles developed over the years and the approaches adopted by the President in previous legislatures.

41ST LEGISLATURE

At the beginning of the 41st Legislature, which was characterized by the presence of a majority government, two opposition groups and three independent Members affiliated with the same party, the allocation of questions was based on the same principles developed over the course of previous legislatures so that each group and each Member could take part in this important exercise in parliamentary oversight.¹²⁵

During the legislature, several changes to the Assembly's composition led to a readjustment of the allocation of questions, which were redistributed on four different occasions.¹²⁶ Since each new allocation was based on the same principles as the initial allocation at the beginning of the legislature and was mainly an adjustment made on the basis of the proportional representation of the parliamentary groups and the number of independent Members, a formal ruling was not issued each time. The President opted instead to simply table charts showing the new allocation of questions. As established by parliamentary jurisprudence since the 39th Legislature,¹²⁷ each time the questions were

122 JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28.

123 JD, September 18, 2013, p. 4370 (Jacques Chagnon)/RDPP, No. 74/29.

124 JD, February 11, 2014, p. 6391 (Jacques Chagnon)/RDPP, No. 74/30.

125 JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31.

126 JD, September 15, 2015, p. 6802 (Jacques Chagnon); JD, September 20, 2016, p. 11779 (Maryse Gaudreault); JD, February 7, 2017, p. 13517 (Jacques Chagnon); JD, June 6, 2017, p. 16658 (Jacques Chagnon).

127 JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/RDPP, No. 74/22.

reallocated after Members left an opposition group to sit as independents, the questions granted to them were taken from those that had been granted to the parliamentary groups to which they formerly belonged.

42ND LEGISLATURE

Following the October 1, 2018 general election, the Government had a majority, and, in addition to the parliamentary group forming the Official Opposition, there were two political parties, the Parti québécois (PQ) and Québec solidaire (QS), which both had ten Members elected and which had each obtained, respectively, 17.06% and 16.10% of the vote, an insufficient number of Members and percentage of votes to be recognized as parliamentary groups under the criteria set out in the Standing Orders. Furthermore, shortly after the general election and before the Assembly met for the first sitting of the session, one Member left the parliamentary group forming the Official Opposition to sit as an independent Member. In this context, negotiations between the parties represented in the Assembly led to recognition of the PQ and QS as parliamentary groups for the duration of the legislature. The parties also agreed on an allocation of the various measures and of speaking time.¹²⁸ The President acknowledged this agreement and, as it was in keeping with the principles established by parliamentary jurisprudence in such matters, implemented it in a directive issued on November 29, 2018.¹²⁹ The questions during Question Period were allocated in accordance with this agreement, although the President specified that their allocation might have to be adjusted during the legislature should the Assembly's composition change.¹³⁰ The President had to do just that in March 2019 when a Second Opposition Group Member decided to sit as an independent. From the questions previously allocated to that group, the President allocated the same number of questions to the independent Member as had been allocated to the other independent Member and tabled a chart showing the new allocation. Given that the Second Opposition Group, composed of PQ Members, was now smaller than the Third Opposition Group, composed of QS Members, it was ruled that the respective statuses of these two parties within the opposition should be modified. The PQ thus became the Third Opposition Group, and QS, the Second. The allocation of questions was adjusted accordingly.¹³¹

128 "Entente relative à la notion de groupe parlementaire, au fonctionnement de l'Assemblée et des commissions parlementaires, ainsi qu'aux aspects budgétaires pour la durée de la 42^e législature", Appendix 1.

129 JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32.

130 JD, November 29, 2018, p. 33 (François Paradis).

131 JD, March 20, 2019, pp. 1069–1072 (François Paradis)/RDPP, No. 13/4. These changes were in effect as of the following sitting day (JD, March 20, 2019, p. 1072 (François Paradis)).

APPENDIX II QUESTION ALLOCATION TABLES

38TH LEGISLATURE: OPENING OF THE 1ST SESSION¹³²

Composition of the Assembly:

- Government (QLP¹³³): 48 Members
- Official Opposition (ADQ¹³⁴): 41 Members
- Second Opposition Group (PQ¹³⁵): 36 Members

ALLOCATION OF MAIN QUESTIONS (AS OF MAY 10, 2007)

1	Official Opposition	6	Official Opposition
2	Official Opposition	7	Second Opposition Group or Government
3	Second Opposition Group	8	Official Opposition or Government
4	Second Opposition Group	9	Second Opposition Group
5	Official Opposition	10	Official Opposition
Official Opposition		• The 1st, 2nd, 5th, 6th and 10th questions. • The 8th question, except if a government Member exercised the right to ask a question. • The 11th and following questions, alternating with the Second Opposition Group.	
Second Opposition Group		• The 3rd, 4th and 9th questions. • The 7th question, except if a government Member exercises the right to ask a question. • The 11th and following questions, alternating with the Official Opposition.	
Government		• 1 question per 3 sittings on an alternating basis: - the 7th question, in place of a question by the Second Opposition Group; - the 8th question, in place of a question by the Official Opposition.	

¹³² JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/RDPP, No. 74/19.

¹³³ Quebec Liberal Party.

¹³⁴ Action démocratique du Québec.

¹³⁵ Parti québécois.

Other
Particularities

- 1 supplementary question per main question, except the first main question by the Official Opposition, which could be followed by two supplementary questions.
- No supplementary question allowed for the 11th and following main questions.
- No possibility of converting a supplementary question into a main question.
- Only a Member belonging to the same parliamentary group as the Member who asked the main question could ask a supplementary question.
- No distinction made in the form of main versus supplementary questions.

39TH LEGISLATURE: OPENING OF THE 1ST SESSION¹³⁶

Composition of the Assembly:

- Government (QLP): 66 Members
- Official Opposition (PQ): 51 Members
- Independents
 - 7 Members affiliated with the ADQ
 - 1 Member affiliated with QS¹³⁷

ALLOCATION OF MAIN QUESTIONS (AS OF JANUARY 14, 2009)

1	Official Opposition	6	Official Opposition or Government
2	Official Opposition	7	Official Opposition
3	Official Opposition	8	Official Opposition
4	Independent	9	Official Opposition
5	Official Opposition	10	Official Opposition
Official Opposition	• All questions not specifically allocated to other Members.		
Government	• The 6th question twice per 4 sittings.		
Independents	• The 4th question each sitting. • 1 question each on a rotating basis, the order being determined by the independent Members. • A Member affiliated with the ADQ could ask a question in the place of an ADQ colleague.		
Other details	• A maximum of 2 supplementary questions was allowed for each main question, except the first main question by the Leader of the Official Opposition, which could be followed by 3 supplementary questions. • Only a Member belonging to the same parliamentary group as the Member who asked the main question could ask a supplementary question. • No possibility of converting a supplementary question into a main question. • A supplementary question could include a preamble.		

¹³⁶ JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/RDPP, No. 74/21.

¹³⁷ Québec solidaire.

39TH LEGISLATURE: ADQ RECOGNIZED AS A PARLIAMENTARY GROUP¹³⁸

Composition of the Assembly:

- Government (QLP): 65 Members
- Official Opposition (PQ): 51 Members
- Second Opposition Group (ADQ): 6 Members
- Independents: 1 Member affiliated with QS

ALLOCATION OF MAIN QUESTIONS (AS OF APRIL 21, 2009)

1	Official Opposition	6	Independent or Official Opposition or Government
2	Official Opposition	7	Official Opposition
3	Official Opposition	8	Official Opposition
4	Second Opposition Group	9	Official Opposition
5	Official Opposition	10	Official Opposition
Official Opposition	• All questions not specifically allocated to other Members.		
Second Opposition Group	• The 4th question at each sitting.		
Government	• The 6th question once per 3 sittings.		
Independent	• The 6th question once per 7 sittings.		
Other details	• Government Members and independent Members could not ask a question during the same sitting. • A maximum of 2 supplementary questions was allowed for each main question, except the first main question by the Leader of the Official Opposition, which could be followed by 3 supplementary questions. • Only a Member with the same political affiliation as the Member asking the main question could ask a supplementary question. • No possibility of converting a supplementary question into a main question. • A supplementary question could include a preamble.		

138 JD, April 21, 2009, pp. 1679-1680 (Yvon Vallières); "Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature", pp. 5-6.

**39TH LEGISLATURE: TWO MEMBERS FROM THE SECOND OPPOSITION
SIT AS INDEPENDENTS¹³⁹**

Composition of the Assembly:

- Government (QLP): 66 Members
- Official Opposition (PQ): 51 Members
- Second Opposition Group (ADQ): 4 Members
- Independents:
 - 1 Member affiliated with QS
 - 3 non-affiliated Members¹⁴⁰

ALLOCATION OF MAIN QUESTIONS (AS OF NOVEMBER 11, 2009)

1	Official Opposition	6	Independent or Official Opposition or Government
2	Official Opposition	7	Official Opposition
3	Official Opposition	8	Official Opposition
4	Second Opposition Group or Official Opposition	9	Official Opposition
5	Official Opposition	10	Official Opposition
Official Opposition		• All questions not specifically allocated to other Members.	
Second Opposition Group		• The 4th question 5 times per 7 sittings, during the sittings of its choice.¹⁴¹	
Government		• The 6th question once per 3 sittings.	
Independents		• The 6th question once each per 7 sittings. • The independent Member affiliated with QS could ask his question during the sitting of his choice.¹⁴²	

¹³⁹ JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/RDPP, No. 74/22.

¹⁴⁰ One independent Member, who had been part of the parliamentary group forming the Government, did not express a desire to exercise the right to measures and was therefore not included in the new allocation. The following month, the Member returned to the parliamentary group forming the Government.

¹⁴¹ JD, April 20, 2010, pp. 6349–6350 (Yvon Vallières)/RDPP, No. 74/23.

¹⁴² Ibid.

Other details	• The Members of the Second Opposition Group and the independent Members could not ask a question during the same sitting more than once per 7 sittings. • The government Members and the independent Members could not ask questions during the same sitting. • The Second Opposition Group was to inform the President and the independent Members, by 12:30 p.m. on Tuesdays or by 8:30 a.m. on Wednesdays, Thursdays or Fridays, of the days it did not intend to ask a question.¹⁴³ • The independent Member affiliated with QS was to inform the President and the other independent Members of his decision to ask a question the day before the sitting concerned.¹⁴⁴ • When the Second Opposition Group did not ask a question during a sitting in which the independent Member affiliated with QS asked one, the two other independent Members could not ask a question during this sitting, but one of them could ask a question during any other subsequent day of a 7-sitting cycle, even if the Second Opposition Group also asked one.¹⁴⁵

143 Ibid.

144 Ibid.

145 Ibid.

**39TH LEGISLATURE: SEVERAL OFFICIAL OPPOSITION MEMBERS
SIT AS INDEPENDENTS¹⁴⁶**

Composition of the Assembly:

- Government (QLP): 64 Members
- Official Opposition (PQ): 46 Members
- Second Opposition Group (ADQ): 4 Members
- Independents:
 - 1 Member affiliated with QS
 - 9 non-affiliated Members

ALLOCATION OF MAIN QUESTIONS (AS OF SEPTEMBER 20, 2011)

1	Official Opposition	6	Independent (affiliated with QS) or government Member or Official Opposition
2	Official Opposition	7	Independent (other)
3	Official Opposition	8	Official Opposition
4	Second Opposition Group or Official Opposition	9	Official Opposition
5	Official Opposition	10	Official Opposition
Official Opposition	• All questions not specifically allocated to other Members.		
Second Opposition Group	• The 4th question 6 times per 8-sitting cycle.		
Government	• The 6th question once per 3 sittings.		
Independents	• 9 questions per 8-sitting cycle: - the 6th question (independent Member affiliated with QS); - the 7th question (other independent Members).		
Other details	• The times when independent Members other than the independent Member affiliated with QS could exercise their rights were determined by random draw. The independent Member affiliated with QS could continue to ask a question at any sitting in an 8-sitting cycle.		

¹⁴⁶ JD, September 20, 2011, pp. 2440-2442 (Jacques Chagnon)/RDPP, No. 74/24.

**39TH LEGISLATURE: NINE MEMBERS JOIN THE CAQ,
BRINGING INDEPENDENTS TO 16¹⁴⁷**

Composition of the Assembly:

- Government (QLP): 64 Members
- Official Opposition (PQ): 44 Members
- Independents:
 - 9 Members affiliated with the CAQ¹⁴⁸
 - 1 Member affiliated with QS
 - 1 Member affiliated with the ON¹⁴⁹
 - 5 non-affiliated Members

ALLOCATION OF MAIN QUESTIONS (AS OF FEBRUARY 14, 2012)

1	Official Opposition	6	Official Opposition or Government
2	Official Opposition	7	Independent (other)
3	Official Opposition	8	Official Opposition
4	Independent (affiliated with QS) or Official Opposition	9	Official Opposition
5	Independent (other)	10	Official Opposition
Official Opposition	• All questions not specifically allocated to other Members.		
Government	• The 6th question once per 3 sittings.		
Independents	• 17 questions per 8-sitting cycle. ¹⁵⁰ - the 4th question (independent Member affiliated with QS); - the 5th and 7th questions (other independent Members).		

147 JD, February 14, 2012, pp. 3774–3776 (Jacques Chagnon)/RDPP, No. 74/26.

148 Coalition avenir Québec.

149 Option nationale.

150 This number increased to 15 questions per 8 sittings when two independent Members returned to the Official Opposition (JD, April 17, 2012, p. 5714 (Jacques Chagnon)/RDPP, No. 74/27).

Other details	• Each independent Member could not be initially granted more than 1 question per 8-sitting cycle. • The same independent Member could not ask more than 1 question per sitting. • The times when independent Members other than the independent Member affiliated with QS could exercise their rights were determined by random draw. The independent Member affiliated with QS could continue to ask a question at any sitting in an 8-sitting cycle. • An exchange or transfer could not have the effect of a political party being granted a 2nd question during the same sitting if the initial result of the random draw granted them only 1 question. • If a government Member asked the 6th question during the same sitting in which the independent Member affiliated with QS asked the 4th question, the 7th question granted to an independent Member was asked the following sitting as the 8th question.

40TH LEGISLATURE: OPENING OF THE 1ST SESSION¹⁵¹

Composition of the Assembly:

- Government (PQ): 54 Members
- Official Opposition (QLP): 50 Members
- Second Opposition Group (CAQ): 19 Members
- Independents: 2 Members affiliated with QS

ALLOCATION OF MAIN QUESTIONS (AS OF NOVEMBER 1, 2012)

1	Official Opposition	6	Official Opposition
2	Official Opposition	7	Second Opposition Group or independent or Official Opposition
3	Official Opposition	8	Official Opposition or Government
4	Second Opposition Group	9	Official Opposition
5	Second Opposition Group	10	Official Opposition
Official Opposition	• The first 3 questions each sitting. • The 7th question 4 times per 8-sitting cycle, at the 2nd, 4th, 6th and 8th sittings of the cycle. • All questions not specifically allocated to other Members.		
Second Opposition Group	• The 4th and 5th questions at each sitting. • The 7th question 4 times per 8-sitting cycle, at the 1st, 3rd, 5th and 7th sittings of the cycle.		
Government	• The 8th question once per 4 sittings.		
Independents	• The 7th question once each per 8-sitting cycle, at the 2nd, 4th, 6th or 8th sitting of the cycle. • The independent Members affiliated with the same political party could exchange or transfer their right to ask a question.		
Other details	• A maximum of 2 supplementary questions was allowed for each main question, except the first question by the Leader of the Official Opposition, which could be followed by 3 supplementary questions. • The Members of the Second Opposition Group and the independent Members could exchange the times in the cycle when they asked the 7th question.		

151 JD, November 1, 2012, pp. 31–32 (Jacques Chagnon)/RDPP, No. 74/28.

**40TH LEGISLATURE: TWO OFFICIAL OPPOSITION MEMBERS RESIGN
AND A MEMBER FROM THE SECOND OPPOSITION BECOMES AN INDEPENDENT¹⁵²**

Composition of the Assembly:

- Government (PQ): 54 Members
- Official Opposition (QLP): 48 Members
- Second Opposition Group (CAQ): 18 Members
- Independents:
 - 2 Members affiliated with QS
 - 1 non-affiliated Member

ALLOCATION OF MAIN QUESTIONS (AS OF SEPTEMBER 18, 2013)

1	Official Opposition	6	Official Opposition
2	Official Opposition	7	Second Opposition Group or independent or Official Opposition
3	Official Opposition	8	Official Opposition or Government
4	Second Opposition Group	9	Official Opposition
5	Second Opposition Group	10	Official Opposition
Official Opposition	• No change from the allocation of questions at the opening of the 1st Session of the 40th Legislature.		
Second Opposition Group			
Government			
Independents	• The independent Members affiliated with QS were entitled to the 7th question once each per 8-sitting cycle, at the 2nd, 4th, 6th or 8th sitting of the cycle. • The newly independent Member from the Second Opposition Group was entitled to the 7th question once per 8-sitting cycle, at the 1st, 3rd, 5th or 7th sitting of the cycle, in place of a question by that group. • The independent Members affiliated with the same political party could exchange or transfer their right to ask a question.		
Other details	• No change from the allocation of questions at the opening of the 1st Session of the 40th Legislature.		

¹⁵² JD, September 18, 2013, p. 4370 (Jacques Chagnon)/RDPP, No. 74/29.

**40TH LEGISLATURE: TWO NEW MEMBERS JOIN THE OFFICIAL OPPOSITION
AND ONE MEMBER LEAVES THE OFFICIAL OPPOSITION TO SIT AS AN INDEPENDENT¹⁵³**

Composition of the Assembly:

- Government (PQ): 54 Members
- Official Opposition (QLP): 49 Members
- Second Opposition Group (CAQ): 18 Members
- Independents:
 - 2 Members affiliated with QS
 - 2 non-affiliated Members

ALLOCATION OF MAIN QUESTIONS (AS OF FEBRUARY 11, 2014)

1	Official Opposition	6	Official Opposition
2	Official Opposition	7	Second Opposition Group or independent or Official Opposition
3	Official Opposition	8	Official Opposition or Government
4	Second Opposition Group	9	Official Opposition
5	Second Opposition Group	10	Official Opposition
Official Opposition	• No change from the allocation of questions at the opening of the 1st Session of the 40th Legislature.		
Second Opposition Group			
Government			

¹⁵³ JD, February 11, 2014, p. 6391 (Jacques Chagnon)/RDPP, No. 74/30.

Independents	• The independent Members affiliated with QS were entitled to the 7th question once each per 8-sitting cycle, at the 2nd, 4th, 6th or 8th sitting of the cycle. • The independent Member from the Second Opposition Group was entitled to the 7th question once per 8-sitting cycle, at the 1st, 3rd, 5th or 7th sitting of the cycle, in place of a question by the Second Opposition Group. • The newly independent Member from the Official Opposition was entitled to the 7th question once per 8-sitting cycle, at the 2nd, 4th, 6th or 8th sitting of the cycle, in place of a question by that group. • The independent Members affiliated with the same political party could exchange or transfer their right to ask a question.
Other details	• No change from the allocation of questions at the opening of the 1st Session of the 40th Legislature.

Composition of the Assembly:

- Government (QLP): 70 Members
- Official Opposition (PQ): 30 Members
- Second Opposition Group (CAQ): 22 Members
- Independents:
 - 3 Members affiliated with QS

ALLOCATION OF MAIN QUESTIONS (AS OF MAY 26, 2014)

1	Official Opposition	6	Official Opposition or Government
2	Official Opposition	7	Official Opposition or independent
3	Official Opposition or Second Opposition Group	8	Second Opposition Group or Government
4	Second Opposition Group	9	Official Opposition
5	Second Opposition Group	10	Official Opposition or Second Opposition Group

Official Opposition	• The 1st, 2nd, 6th, 7th and 9th questions. • The 3rd question at the 1st, 3rd, 5th and 7th sittings of the cycle. • The 10th and following questions, alternating with the Second Opposition Group.
Second Opposition Group	• The 4th, 5th and 8th questions. • The 3rd question at the 2nd, 4th and 6th sittings of the cycle. • The 10th and following questions, alternating with the Official Opposition.
Government	• The 6th and 8th questions 3 times per 7-sitting cycle, in place of a question by the Official Opposition or by the Second Opposition Group, on an alternating basis.
Independent	• The 7th question 3 times per 7-sitting cycle, at any sitting in the cycle. • The independent Members affiliated with the same political party could transfer between themselves their right to ask a question.
Other details	• A maximum of 2 supplementary questions was allowed for each main question, except the first question by the Leader of the Official Opposition, which could be followed by 3 supplementary questions.

154 JD, May 26, 2014, pp. 105–106 (Jacques Chagnon)/RDPP, No. 74/31.

**41ST LEGISLATURE: A MEMBER FROM THE SECOND OPPOSITION
BECOMES AN INDEPENDENT¹⁵⁵**

Composition of the Assembly:

- Government (QLP): 69 Members
- Official Opposition (PQ): 29 Members
- Second Opposition Group (CAQ): 20 Members
- Independents:
 - 3 Members affiliated with QS
 - 1 non-affiliated Member

ALLOCATION OF MAIN QUESTIONS (AS OF SEPTEMBER 15, 2015)

1	Official Opposition	6	Official Opposition or Government
2	Official Opposition	7	Official Opposition or independent
3	Official Opposition or Second Opposition Group	8	Second Opposition Group or Government or independent
4	Second Opposition Group	9	Official Opposition
5	Second Opposition Group	10	Official Opposition or Second Opposition Group
Official Opposition		• No change from the allocation of questions at the opening of the 1st Session of the 41st Legislature.	
Second Opposition Group			
Government			

¹⁵⁵ JD, September 15, 2015, p. 6802 (Jacques Chagnon).

Independents	• The independent Members affiliated with QS were entitled to the 7th question once each per 7-sitting cycle, at any sitting in the cycle. • The newly independent Member from the Second Opposition Group was entitled to the 8th question once per 7-sitting cycle, in place of a question by that group. • The Second Opposition Group notified the independent Member of the sitting in the cycle during which the Member could ask a question. The notice was given in writing to the independent Member and to the President, no later than on the day of the sitting concerned, by 12:30 p.m. if it was held on a Monday or Tuesday or by 8:30 a.m. if it was held on a Wednesday, Thursday or Friday. • The independent Members affiliated with the same political party could transfer between themselves the right to ask a question.
Other details	• No change from the allocation of questions at the opening of the 1st Session of the 41st Legislature.

41ST LEGISLATURE: DEATH OF AN INDEPENDENT MEMBER¹⁵⁶

Composition of the Assembly:

- Government (QLP): 70 Members
- Official Opposition (PQ): 28 Members
- Second Opposition Group (CAQ): 20 Members
- Independents:
 - 3 Members affiliated with QS

ALLOCATION OF MAIN QUESTIONS (AS OF SEPTEMBER 20, 2016)

1	Official Opposition	6	Official Opposition or Government
2	Official Opposition	7	Official Opposition or independent
3	Official Opposition or Second Opposition Group	8	Second Opposition Group or Government
4	Second Opposition Group	9	Official Opposition
5	Second Opposition Group	10	Official Opposition or Second Opposition Group

Official Opposition	• No change from the allocation of questions at the opening of the 1st Session of the 41st Legislature.
Second Opposition Group	
Government	
Independents	
Other details	

¹⁵⁶ JD, September 20, 2016, p. 11779 (Maryse Gaudreault).

**41ST LEGISLATURE: TWO MEMBERS BECOME INDEPENDENTS
AND AN INDEPENDENT RESIGNS¹⁵⁷**

Composition of the Assembly:

- Government (QLP): 69 Members
- Official Opposition (PQ): 29 Members
- Second Opposition Group (CAQ): 20 Members
- Independents:
 - 2 Members affiliated with QS
 - 4 non-affiliated Members

ALLOCATION OF MAIN QUESTIONS (AS OF FEBRUARY 7, 2017)

1	Official Opposition	6	Official Opposition or Government or independent
2	Official Opposition	7	Official Opposition or independent
3	Official Opposition or Second Opposition Group	8	Second Opposition Group or Government or independent
4	Second Opposition Group	9	Official Opposition
5	Second Opposition Group	10	Official Opposition or Second Opposition Group

Official
Opposition

- No change from the allocation of questions at the opening of the 1st Session of the 41st Legislature.

Second
Opposition
Group

Government

¹⁵⁷ JD, February 7, 2017, p. 13517 (Jacques Chagnon).

Independents	• The independent Members affiliated with QS were entitled to the 7th question once each per 7-sitting cycle, at any sitting in the cycle. • The newly independent Member from the Second Opposition Group was entitled to the 8th question once per 7-sitting cycle, in place of a question by that group. • The newly independent Member from the Official Opposition was entitled to the 6th question once per 7-sitting cycle, in place of a question by that group. • The sitting in the 7-sitting cycle during which an independent Member who left a parliamentary group could ask a question was determined by that group by means of a notice. The notice was given in writing to an independent Member and the President, no later than on the day of the sitting concerned, by 12:30 p.m. if the sitting was held on a Monday or Tuesday or by 8:30 a.m. if it was held on a Wednesday, Thursday or Friday. • The independent Members affiliated with the same political party could transfer between themselves their right to ask a question.
Other details	• No change from the allocation of questions at the opening of the 1st Session of the 41st Legislature.

**41ST LEGISLATURE: AN OFFICIAL OPPOSITION MEMBER
BECOMES AN INDEPENDENT AND AN INDEPENDENT IS ELECTED¹⁵⁸**

Composition of the Assembly:

- Government (QLP): 68 Members
- Official Opposition (PQ): 28 Members
- Second Opposition Group (CAQ): 20 Members
- Independents:
 - 3 Members affiliated with QS
 - 5 non-affiliated Members

ALLOCATION OF MAIN QUESTIONS (AS OF JUNE 6, 2017)

1	Official Opposition	6	Official Opposition or Government or independent
2	Official Opposition	7	Official Opposition or independent
3	Official Opposition or Second Opposition Group	8	Second Opposition Group or Government or independent
4	Second Opposition Group	9	Official Opposition
5	Second Opposition Group	10	Official Opposition or Second Opposition Group

Official Opposition	• No change from the allocation of questions at the opening of the 1st Session of the 41st Legislature.
Second Opposition Group	
Government	

158 JD, June 6, 2017, p. 16658 (Jacques Chagnon).

Independents	• The independent Members affiliated with QS were entitled to the 7th question once each per 7-sitting cycle, at any sitting in the cycle. • The independent Member from the Second Opposition Group was entitled to the 8th question once per 7-sitting cycle, in place of a question by that group. • The two independent Members from the Official Opposition were entitled to the 6th question once each per 7-sitting cycle, in place of a question by that group. • The sitting in the 7-sitting cycle during which an independent Member who left a parliamentary group could ask a question was determined by that group by means of a notice. This notice was given in writing to an independent Member and to the President, no later than on the day of the sitting concerned, by 12:30 a.m. if the sitting was held on a Monday or Tuesday or by 8:30 a.m. if it was held on a Wednesday, Thursday or Friday. • The independent Members affiliated with the same political party could transfer between themselves their right to ask a question.
Other details	• No change from the allocation of questions at the opening of the 1st Session of the 41st Legislature.

Composition of the Assembly:

- Government (CAQ): 74 Members
- Official Opposition (QLP): 29 Members
- Second Opposition Group (PQ): 10 Members
- Third Opposition Group (QS): 10 Members
- Independent: 1 non-affiliated Member

ALLOCATION OF MAIN QUESTIONS (AS OF NOVEMBER 28, 2018)

1	Official Opposition	6	Official Opposition or Government
2	Official Opposition	7	Second Opposition Group or Third Opposition Group or Government
3	Official Opposition	8	Official Opposition or Second Opposition Group or Third Opposition Group or independent
4	Second Opposition Group or Third Opposition Group	9	Official Opposition
5	Second Opposition Group or Third Opposition Group	10	Official Opposition or Second Opposition Group or Third Opposition Group
Official Opposition		• The 1st, 2nd, 3rd, 6th and 9th questions. • The 8th question at the 1st, 3rd, 4th, 5th, 6th, 8th, 9th and 10th sittings of each 10-sitting cycle. • The 10th question at the 1st, 2nd, 3rd, 6th, 7th and 10th sittings of each 10-sitting cycle. • The 11th and following questions.	
Second Opposition Group		• The 4th and 7th questions at the 1st, 3rd, 5th, 7th, and 9th sittings of each 10-sitting cycle. • The 5th question at the 2nd, 4th, 6th, 8th and 10th sittings of each 10-sitting cycle. • The 8th question at the 2nd sitting of each 10-sitting cycle. • The 10th question at the 4th and 8th sittings of each 10-sitting cycle.	

159 "Entente relative à la notion de groupe parlementaire, au fonctionnement de l'Assemblée et des commissions parlementaires, ainsi qu'aux aspects budgétaires pour la durée de la 42^e législature", Appendix 1; JD, November 29, 2018, pp. 31–33 (François Paradis)/RDPP, No. 74/32.

Third Opposition Group	• The 4th and 7th questions at the 2nd, 4th, 6th, 8th, and 10th sittings of each 10-sitting cycle. • The 5th question at the 1st, 3rd, 5th, 7th and 9th sittings of each 10-sitting cycle. • The 8th question at the 7th sitting of each 10-sitting cycle. • The 10th question at the 5th and 9th sittings of each 10-sitting cycle.
Government	• 5 questions per 10-sitting cycle in the following order: a 6th question in the place of the Official Opposition, a 7th question in the place of the Second Opposition Group, a 6th question in the place of the Official Opposition, a 7th question in the place of the Third Opposition Group and a 6th question in the place of the Official Opposition. • A Government question in place of a question by the Second or Third Opposition Group could be asked only if the opposition group had the 7th question during the sitting.
Independent	• The independent Member from the Official Opposition was entitled to the 8th question 3 times per two 10-sitting cycles, in place of questions by that group. • The Official Opposition notified the independent Member of the sitting in the cycle during which the Member could ask a question. This notice was given in writing to an independent Member and to the President, no later than on the day of the sitting concerned, by 12:30 p.m. if the sitting was held on a Monday or Tuesday or by 8:30 a.m. if the sitting was held on a Wednesday, Thursday or Friday.
Other details	• A maximum of 2 supplementary questions was allowed for each main question, except the first question by the Leader of the Official Opposition, which could be followed by 3 supplementary questions.

42ND LEGISLATURE: A MEMBER BECOMES AN INDEPENDENT¹⁶⁰

Composition of the Assembly:

- Government (CAQ): 75 Members
- Official Opposition (QLP): 29 Members
- Second Opposition Group (QS): 10 Members
- Third Opposition Group (PQ): 9 Members
- Independents: 2 non-affiliated Members

ALLOCATION OF MAIN QUESTIONS (AS OF MARCH 20, 2019)

1	Official Opposition	6	Official Opposition or Government
2	Official Opposition	7	Second Opposition Group or Third Opposition Group or Government or independent
3	Official Opposition	8	Official Opposition or Second Opposition Group or Third Opposition Group or independent
4	Second Opposition Group or Third Opposition Group	9	Official Opposition
5	Second Opposition Group or Third Opposition Group	10	Official Opposition or Second Opposition Group or Third Opposition Group

Official
Opposition

- No change from the allocation of questions at the opening of the 1st Session of the 42nd Legislature.

Second
Opposition
Group

Third
Opposition
Group

Government

¹⁶⁰ JD, March 20, 2019, pp. 1069-1072 (François Paradis)/RDPP, No. 13/4. As a result, the status of the PQ went from that of Second Opposition Group to that of Third Opposition Group, and the status of QS, from that of Third Opposition Group to that of Second Opposition Group.

Independent	• No change from the allocation of questions at the opening of the 1st Session of the 42nd Legislature for the independent Member from the Official Opposition. • The independent Member from the party forming the Third Opposition Group was entitled to the 7th question 3 times per two 10-sitting cycles, in place of questions by that group. • The Third Opposition Group notified the independent Member of the sitting in the cycle during which the Member could ask a question. This notice was given in writing to the independent Member and to the President, no later than on the day of the sitting concerned, by 12:30 p.m. if the sitting was held on a Monday or Tuesday or by 8:30 a.m. if the sitting was held on a Wednesday, Thursday or Friday.
Other details	• No change from the allocation of questions at the opening of the 1st Session of the 42nd Legislature.

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- JD, June 14, 1984, p. 7063 (Richard Guay)/RDPP, No. 78/1.
- JD, June 4, 1986, p. 2158 (Pierre Lorrain)/RDPP, No. 78/2.
- JD, December 8, 2011, p. 3712 (Jacques Chagnon)/RDPP, No. 78/4.

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■ **CHAPTER 11**
ORDER AND DECORUM

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As discussed in Chapter 4, the President's¹ main responsibility is to preserve order during debates—a fine balancing act that involves constantly reconciling a Member's individual right to speak freely and the Assembly's collective right to conduct its business without any hindrance or serious disorder.

The Standing Orders specify that the President has all the powers necessary to maintain order (SO 2(2)). In actual fact, the Standing Orders merely codify a fundamental principle of parliamentary law under which the President is entrusted by the House itself with the delicate task of preserving order and decorum and given the discretionary powers to do so. Order and decorum are essential for the Assembly to conduct its proceedings efficiently and hence for its Members to exercise that most important constitutional privilege, freedom of speech. Thus, a primary function of the President, as presiding officer of the Assembly, is to see that conditions conducive to the proper functioning of the Assembly are maintained at all times.²

To uphold order and decorum in the Assembly, the President has been given various disciplinary powers, the exercise of which is one of the most complex aspects of the task of presiding officer. Despite the existence of rules, customs and traditions to guide the President, the fact remains that each situation must be analyzed in context. In exercising such disciplinary powers, the President must often consider elements that are external to parliamentary procedure, such as the political context surrounding a debate, a Member's personality, the stage of the sitting and the atmosphere in the Assembly. Obviously, these are very subjective criteria, and different presiding officers will assess any given situation differently. There are, however, rules that determine the actions available to wield such disciplinary powers.

1 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

2 JD, May 20, 1998, pp. 11230–11231 (Raymond Brouillet)/RDPP, No. 44/1.

The President uses disciplinary measures only in exceptional circumstances. The rules governing order and decorum in the House apply generally to the conduct of both the Members and the public and, in most cases, tacit recognition of these rules is enough to maintain order and decorum.

11.1 OPENING OF A SITTING AND VERIFICATION OF QUORUM

When the President enters the Chamber at the opening of a sitting, the Members and the public must rise (SO 31).

THE PRESIDENT'S PARADE AND THE MOMENT OF REFLECTION

At the time appointed in the Standing Orders, the Sergeant-at-Arms, standing behind the Secretary General's chair at the table positioned in the middle of the Chamber, announces the arrival of the President by exclaiming: "Monsieur le Président!" Everyone, including the Members, the two assistant Table officers and the public admitted to the gallery, silently stands at their places. The President then enters the Assembly Chamber through the central doors on the south side. The President, with the Secretary General following behind, passes through a receiving line formed by the pages. The two then make their way along the Official Opposition's side before taking their respective places. At the same time, the Sergeant-at-Arms circles the Table from the Government's side, stops at the opposite end of it, turns to face the President who is now seated, acknowledges the President with a slight bow and places the Mace on the Table. The President then asks all those present in the Chamber to observe a moment of reflection. As mentioned in Chapter 1, since 1976, this practice has replaced the prayer that used to be recited by the President.³ Once the moment of reflection has been observed, the Members, the Secretary General, the two Table officers and the public in the galleries sit down. The Sergeant-at-Arms then passes in front of the Official Opposition and behind the President's Chair to return to his or her desk in the northwest corner of the Chamber, not far from the desks of the Vice-Presidents from the parliamentary group forming the Government.

3 The prayer was the following: "O eternal and almighty God from whom all power and wisdom come, by whom kings rule and make equitable laws, we are assembled here before Thee to frame such laws as may tend to the welfare and prosperity of our Province; grant, o merciful God, we pray Thee, that we may desire only that which is in accordance with Thy will, that we may seek it with wisdom and know it with certainty and accomplish it perfectly for the glory and honour of Thy name and for the welfare of our country. Amen." (Geoffrion 1941, SO 94(2)).

Under the Standing Orders, the President cannot open a sitting before verifying quorum (SO 30). Section 8 of the *Act respecting the National Assembly*⁴ specifies that the quorum of the Assembly or a Committee of the Whole is one-sixth of the Members, that is, 21, including the presiding officer, out of 125. When a committee of the Assembly is sitting, however, the quorum in the Chamber is reduced to one-tenth of the Members, or 13, including the presiding officer. Since quorum in the House is governed by the *Act respecting the National Assembly*, the Members present may not derogate from it even by unanimous consent.⁵ Once the sitting is underway, quorum is assumed unless its absence is reported by a Member or shown by the results of a vote,⁶ which is why the presiding officer does not verify quorum upon resumption of proceedings after a suspension.⁷

If quorum is not met for a sitting, the President must put off calling the Assembly to order until it is. Usually, the bells are rung until the required number of Members are in attendance. If quorum is not established after a lapse of time that is left to the President's discretion, the President may take the Chair, publicly announce the want of quorum, and then suspend calling the Assembly to order until a later time or simply adjourn the proceedings until the next sitting day.⁸ The procedure is the same when want of quorum is noted during a sitting. For example, there have been instances where, due to funerals of former political figures being held on the same day, the presiding officer has called the Assembly to order at the time determined, only to immediately adjourn the proceedings, citing want of quorum.⁹

4 *Act respecting the National Assembly*, CQLR, c. A-23.1. Originally, rules on quorum in the Assembly were found in sections 48 and 87 of the *Constitution Act, 1867*, (*British North America Act, 1867*) (UK), 30 & 31 Vict., c. 3, reprinted in RSC 1985, App. II, No. 5. It was by virtue of its power to legislate in the realm of the provincial constitution that the Québec Parliament was able to amend these rules through the *Act respecting the National Assembly*. See Chapter 2, "The Foundations of Parliamentary Procedure".

5 See Chapter 16, "Exceptional Procedures". See also Chapter 2, "The Foundations of Parliamentary Procedure".

6 SO 36; 1972-1984 Standing Orders, SO 28(2).

7 JD, December 1, 1994, p. 104 (Raymond Brouillet)/RDPP, No. 36/2.

8 SO 44; 1972-1984 Standing Orders, SO 28(2); JD, March 16, 1999, p. 579 (Raymond Brouillet).

9 This was notably the case for the funerals of former Québec Premiers Jean Lesage (JD, December 15, 1980, p. 1027) and Jacques Parizeau (JD, June 9, 2015, p. 6621), and of Dr. Camille Laurin, former Minister and Deputy Premier (JD March 16, 1999, p. 579).

Although the Standing Orders do not set out the procedure to be followed when a Member raises want of quorum, the term “reasonable time” is used in the provisions on parliamentary committees with regard to how long the Members should be called (SO 156). The Standing Orders in force from 1972 to 1984 also referred to a reasonable time,¹⁰ while the 1941 Geoffrion Standing Orders referred to a wait of no longer than two minutes.¹¹ In one case, the presiding officer ruled that when a Member calls attention to want of quorum, proceedings are suspended for a few moments.¹²

A Member may point out want of quorum at any time¹³ except during a debate upon adjournment (SO 312) or a vote (SO 227).¹⁴ When a Member points out the fact that quorum is not met, the President begins counting the Members present, including those who enter during the count. If the count shows that quorum is reached, the proceedings can continue.

If quorum is not met, the President asks that the Members be called and suspends the proceedings. Once quorum is re-established, the President gives the floor to the Member who was interrupted due to want of quorum. The time required to verify quorum and call the Members is not counted against the floor time of the Member who was speaking when want of quorum was noticed.¹⁵

10 1972–1984 Standing Orders, SO 28(3).

11 Geoffrion 1941, SO 96.

12 JD, December 17, 1987, p. 10969 (Jean-Pierre Saintonge)/RDPP, No. 36/1.

13 On May 24, 2007, the Assembly adopted a temporary rule for the 38th Legislature because the parliamentary group forming the Government was in a minority in the House and had difficulty ensuring quorum on its own. Under the rule, Members could call attention to want of quorum only if no fewer than six Members belonging to their parliamentary group were present. The minimum was lower, at three, if a committee was sitting (TSO 36.1, 38th Leg.). A similar measure was passed on November 7, 2012, for the duration of the 40th Legislature, which also had a minority Government (TSO 36.1, 40th Leg.). However, since two Members were sitting as independents, which was not the case in the 38th Legislature, Temporary SO 36.1 specified that the restriction on the general rule allowing any Member to call attention to want of quorum should apply only if the Member wishing to notice it belonged to a parliamentary group.

14 Under SO 303, want of quorum may not be raised during an interpellation. However, despite interpellations usually being held in the Chamber, they are considered to be held in the context of a committee meeting, not a sitting of the Assembly.

15 JD, December 17, 1987, p. 10969 (Jean-Pierre Saintonge)/RDPP, No. 36/1.

While quorum is necessary for a motion to be validly carried (SO 219), it would appear that the validity of the motions carried and that of the proceedings taken before want of quorum was noticed cannot be called into question.¹⁶ However, when want of quorum becomes apparent through the results of a vote, those results are not announced and the motion that was put to a vote remains undecided.¹⁷

11.2 CONDUCT OF MEMBERS DURING A SITTING

During Assembly sittings, the Standing Orders must be observed and decorum maintained at all times (SO 32).

11.2.1 GENERAL RULES OF CONDUCT

Standing Order 32 specifically states that Members must keep the seats assigned to them by the President.¹⁸ Although entitled to do so, the President or other presiding officer chairing the proceedings will not generally intervene to ask Members who do not have the floor to go back to their assigned seats if they are sitting somewhere else. If, however, a Member so requests and the President believes the atmosphere in the House requires it, the Members will be asked to return to their seats.¹⁹ It goes without saying that when intervening in the course of Assembly proceedings, Members must be in their assigned places. This is not the case when the Assembly meets as a Committee of the Whole (SO 109.1), as political attachés and public servants may also be present

16 1972–1984 Standing Orders, SO 28(5); Geoffrion 1941, SO 87(4).

17 1972–1984 Standing Orders, SO 28(4); Geoffrion 1941, SO 97, note 2 (note in French only).

18 In reality, the President determines the places where each of the parliamentary groups and the independent Members will sit. Each parliamentary group then determines how to allocate among its Members the seats assigned to it. The President then tables in the Assembly a diagram illustrating the Chamber and the location of the desk assigned to each Member. A new diagram is tabled at the start of each legislature and, if needed, when changes occur during it. Traditionally, the Government occupies the benches on the President's right. The Official Opposition is on the President's left, facing the Government. Members from other opposition groups and independent Members generally sit facing the President, on the benches at the opposite end of the Chamber. For more information on this subject, see Chapter 5, Appendix II, "Seating Plan for the Assembly."

19 JD, December 11, 1986, pp. 5266–5268 (Jean-Pierre Saintonge)/RDPP, No. 32/1; JD, June 17, 1987, p. 8540 (Jean-Pierre Saintonge); JD, December 18, 1987, pp. 10971–10972 (Jean-Pierre Saintonge).

in the Chamber.²⁰ Aside from such a case, no visitors may be admitted on the Chamber floor when the Assembly is sitting since access to the Chamber is reserved for Members and authorized personnel,²¹ namely the Secretary General, the Table officers, the Sergeant-at-Arms and the Sergeant-at-Arms' assistants, the pages, and an employee from the digital production service tasked with audio recording.²² However, on one occasion a baby was allowed to be present during parliamentary proceedings,²³ and on another, a Member was given permission to be accompanied by a service dog.²⁴ Another practice also tolerates the presence of political attachés behind the President's Chair, but only if they do not hinder the smooth functioning of the Assembly's proceedings.

When the Assembly is sitting, Members must stay seated and keep silent unless called on to speak (SO 32, 2nd para.). However, the President is flexible in applying this rule, and private conversations conducted in whispers are usually tolerated so long as they do not disturb the proceedings or the Member who has the floor.

On one occasion, a Vice-President ruled that the use of cellphones by Members in the Chamber is contrary to the rule that Members must remain silent unless granted permission to speak,²⁵ a rule which the President and other presiding officers have reiterated on several occasions in response to technological developments.²⁶ However, Members may use laptops and various smartphone messaging functions while in the Chamber provided that they do not impair the smooth operation of the proceedings or decorum.²⁷ Only the functions on electronic devices compatible with the rules of conduct and smooth operation

20 See Chapter 17, "Committees of the Whole".

21 JD, June 17, 2008, p. 4950 (Fatima Houda-Pepin)/RDPP, No. 32/8.

22 Accredited photographers are also allowed on the floor.

23 The baby of the Member for Rouyn-Noranda-Témiscamingue (JD, October 20, 2020, p. 9062 (François Paradis)).

24 A service dog named "Pepper" accompanied a Member from the Second Opposition Group for health reasons (JD, February 10, 2015, p. 3428 (Jacques Chagnon)).

25 JD, November 14, 1990, pp. 5079–5080 (Roger Lefebvre)/RDPP, No. 32/3.

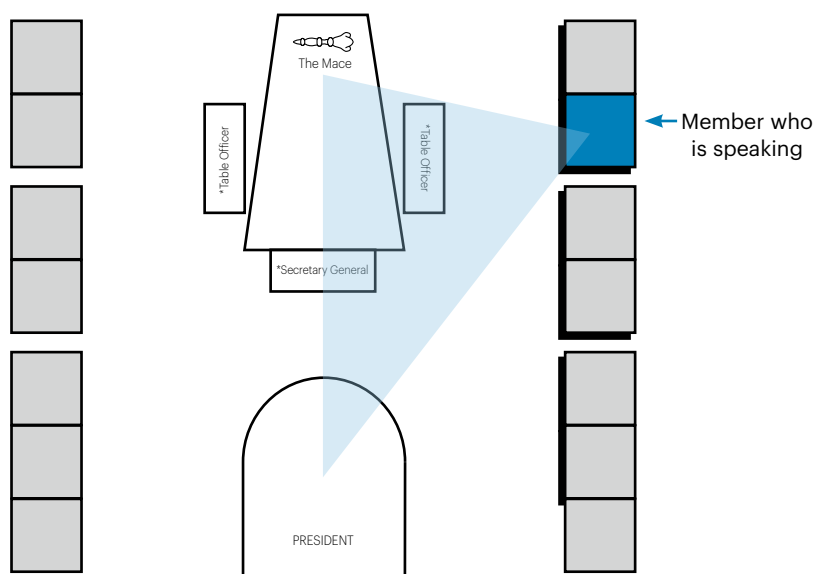
26 In a letter dated April 15, 2008, Michel Bissonnet, President of the Assembly, reminded Members that cellphones were still prohibited in the Chamber, even when used with a wireless Bluetooth headset. On September 23, 2009, President Yvon Vallières sent a letter to all Members specifying that the prohibition also applied to all types of headsets used with an electronic device.

27 Letter from President Yvon Vallières, September 23, 2009.

of the proceedings are allowed.²⁸ For the same reasons, it is prohibited to take pictures or video in the Chamber with any electronic device during a sitting.²⁹ The only photos or images allowed are those taken by accredited photographers and those broadcast by the Assembly's digital production service.³⁰

Once a sitting has commenced, every time the President rises, all Members must sit down and remain seated as long as the President is standing. This rule of conduct also applies to any Member who was speaking at the time (SO 37).

There is also a parliamentary custom according to which no one may pass between a Member who is speaking and the President's Chair or between the Mace on the Table and the President's Chair. The purpose of these rules is to maintain respect for the institution.³¹ The Mace is the symbol of the Assembly's authority: to pass between it and the President's Chair would be to flout decorum.



28 Letters from President Jacques Chagnon, October 22, 2014, and from President François Paradis, November 12, 2019. The President also sent a reminder stating that the vocal function of a telephone was formally prohibited, for that reason, in the Assembly Chamber (Letter from President Jacques Chagnon, October 22, 2014).

29 Letters from President Jacques Chagnon, October 22, 2014 and February 24, 2015, and from President François Paradis, November 12, 2019.

30 As regards image, the President has also asked Members to always show respect towards the Assembly and its Members, as well as towards all democratic institutions. The President has made Members aware of the importance of maintaining a positive image of the National Assembly, in particular during filming and when photos are being taken (Letter from President François Paradis, November 12, 2019).

31 JD, December 17, 1992, p. 4880 (Jean-Pierre Saintonge)/RDPP, No. 32/6.

THE MACE



The Mace of the National Assembly rests on the Table while the Assembly is sitting.

Parliamentary custom also dictates that Members acknowledge the President with a slight bow every time they use the centre aisle.³²

Also, if a Member makes a vulgar gesture to a colleague, the President can warn the former to respect the rules of decorum.³³

On one occasion, the President ruled that a Member who had the floor and who proceeded to tear up a bill was also demonstrating a lack of decorum. In such a case, the Member is invited to either leave the Chamber or apologize to the Members of the Assembly.³⁴

Similarly, on another occasion, when a Member turned his back on the President to protest a bill after being named during a recorded division, the President stated that the behaviour was not in keeping with democratic principles and constituted a violation of decorum because a vote is a solemn event and its sacred

32 Geoffrion 1941, SO 62; Arthur Beauchesne, Alistair Fraser, William Foster Dawson and John A. Holtby, *Beauchesne's Rules and Forms of the House of Commons of Canada*, 6th ed. (Toronto: Carswell, 1989), p. 136.

33 JD, November 6, 1991, pp. 10394-10396 (Jean-Pierre Saintonge)/RDPP, No. 32/4.

34 JD, December 11, 1991, pp. 11464-11466 (Jean-Pierre Saintonge)/RDPP, No. 32/5.

nature must not be undermined.³⁵ A Vice-President also ruled, for the same reasons, that, during a recorded division, Members could not display, one by one, a Québec flag to express disapproval of the passage of a bill.³⁶

Furthermore, the ancient custom of banging on the desks is no longer allowed in the Chamber and has not been for a very long time.³⁷

In short, the President has a great deal of discretion in determining what constitutes a breach of decorum or encroaches on another Member's freedom of expression. Insofar as a Member's behaviour does not contravene the Standing Orders and is neither offensive nor degrading to the National Assembly or any of its Members, it will not generally be considered by the President to be a breach of decorum. The wearing of pins or badges is thus permitted so long as the message conveyed meets these criteria. The President once stated that the wearing of a badge or pin is a well-established democratic tradition and that allowing Members to display their support for a cause or a social, humanitarian or political movement is an important facet of freedom of expression.³⁸ However, a directive was requested on Members wearing a lapel pin showing their political party's logo during Assembly sittings.³⁹ Although the Vice-President who was presiding the sitting had taken the matter under advisement, he did not have to make a ruling since Members instead gathered before the Office of the National Assembly to discuss the matter. It was then agreed that Members would not wear partisan pins during parliamentary proceedings, and the President later reiterated this when the question was again raised in the Chamber.⁴⁰

While the Standing Orders do not impose a dress code on Members, they do provide that Members must help to maintain decorum (SO 32). It is customary for Members to dress in neat, appropriate clothing such as business attire.⁴¹ In the context of parliamentary proceedings, t-shirts, clothing displaying a message or slogan, and sportswear are not considered business attire. In this respect, although Members' attire during parliamentary work gave rise to questions in the fall of 2018, the President ruled that it was not an issue to be decided unilaterally by the President, but rather collectively by all parliamentarians. Until formal

35 JD, November 15, 2016, p. 12770 (Jacques Chagnon); VP, November 15, 2016, p. 2797.

36 JD, June 16, 2019, p. 3909 (Maryse Gaudreault).

37 JD, May 14, 1997, pp. 6651– 6652 (Jean-Pierre Charbonneau).

38 JD, April 3, 1990, p. 1513 (Jean-Pierre Saintonge)/RDPP, No. 32/2.

39 JD, February 16, 2017, pp. 13786– 13787; VP, February 16, 2017, p. 3086.

40 JD, April 12, 2018, p. 21184 (Jacques Chagnon); VP, April 12, 2018, p. 4452.

41 Note that the "business attire" standard applied at the Assembly is essentially the same as that which is observed elsewhere in other parliaments around the world. The National Assembly is also not the only deliberative assembly that has not clearly defined what "business attire" is (JD, February 5, 2019, pp. 417–421 (François Paradis)/RDPP, No. 32/11).

discussions lead to changes, the President has therefore asked that parliamentarians continue to comply with the “business attire” clothing standards followed up to now during parliamentary debates. For men, this implies wearing a suit and tie and for women, dressing in clothing appropriate for the context of parliamentary proceedings.⁴² Members must avoid wearing clothes or accessories that could undermine decorum in the Assembly or infringe on another Member’s freedom of expression. It was on that basis that the President, in one instance, asked Members to remove the white scarves they had been wearing as a call for a commission of inquiry.⁴³

In keeping with decorum, food and drink are strictly forbidden in the Chamber; only the water served in glasses by the pages is allowed. The President has often had to send Members letters to remind them of this rule.⁴⁴

Over the course of the 41st Legislature, a new rule of decorum made its way into the Standing Orders. Since October 7, 2015,⁴⁵ Members must refrain from applauding during the time allotted for oral questions and answers (SO 32, 4th para.). Contrary to other rules of decorum and those concerning inadmissible words and unparliamentary language, the application of this rule requires that the President simply note, rather than interpret, actual fact: the President’s only role is to determine whether or not there was applause.⁴⁶ Since the coming into force of this new rule, presiding officers have done everything possible to ensure that there is no applause and to prevent Members from replacing applause by other displays.⁴⁷ Similarly, the President has noted that applauding in the moments following the end of Oral Questions and Answers goes against the new rule’s objective, which is to improve decorum in the Assembly and the Assembly’s image.⁴⁸

42 Ibid.; Letter from President François Paradis, November 12, 2019.

43 JD, May 19, 2010, p. 6767 (Yvon Vallières)/RDPP, No. 32/9.

44 On December 1, 2006, May 29, 2008, September 23, 2009, February 24, 2015, and November 12, 2019.

45 This change to the Standing Orders came after the carrying of a motion moved by the Official Opposition House Leader, together with the Third Vice-President, the Government House Leader, the Second Opposition Group House Leader and two independent Members. The motion read: “THAT the National Assembly put an end to applause during Oral Questions and Answers in all sittings, as of today, 15 September 2015; . . . THAT the Standing Orders of the National Assembly be amended before 8 October 2015 to reflect the adoption of this motion;” (VP, September 15, 2015, p. 1351). The Standing Orders were then permanently amended during the October 7, 2015, sitting (VP, October 7, 2015, pp. 1489-1493).

46 JD, March 8, 2016, pp. 8798-8799 (Jacques Chagnon)/RDPP, No. 32/10; VP March 8, 2016, pp. 1946-1948.

47 Ibid.; JD, September 16, 2015, p. 6842 (Jacques Chagnon); letter from President François Paradis, November 12, 2019.

48 Letter from President François Paradis, November 12, 2019.

11.2.2 ADDRESSING THE ASSEMBLY

Members wishing to take the floor must rise and ask leave of the President (SO 33). They may speak only to a question that has been taken up by the Assembly or in one of the following circumstances: to raise a question of privilege or point of order, to call attention to want of quorum, to intervene in Routine Proceedings (but only in the specific context of each matter of business) or to invoke Standing Order 212, 213 or 214. Otherwise, Members do not have the right to speak.

During a debate, the President alone decides the order of the speakers,⁴⁹ beginning, of course, with the mover of the motion.⁵⁰ The tradition, when more than one Member rises, is for the President to first give the floor to the Members in rotation, one political party after the other, and then to alternate: one speaker for, one against.⁵¹ During the 38th Legislature, when there were three parliamentary groups in the House, each with a large contingent, the practice of alternation became unwieldy. Consequently, the President chose to favour the rotation system. In any case, neither practice is absolute or binding on presiding officers,⁵² who still retain the right to give the floor to the first Member to rise and address them.⁵³

When the President gives the floor to a Member, the parliamentary privilege of freedom of speech dictates that the Member has the right to speak freely and openly to any question under discussion in the Assembly, without hindrance or obstruction. The Member must nevertheless abide by the rules of parliamentary debate when addressing the Assembly, including the rules of order and decorum. Members may freely express their ideas but always in a manner and using language that are acceptable in the parliamentary context.

11.2.2.1 WORDS INADMISSIBLE IN DEBATE

Generally, Members addressing the House must follow the basic rules of respect and courtesy and use language befitting the National Assembly.⁵⁴

The Standing Orders lay out certain restrictions on language considered to be offensive or unparliamentary. The rules entail that a Member who has the floor may refer to other Members or to the President only by their title. In addition, a Member may refer neither to the proceedings of a committee that is meeting

49 JD, June 7, 1979, p. 1809 (Louise Cuerrier)/RDPP, No. 33/2.

50 JD, November 26, 1974, pp. 2954–2955 (Jean-Noël Lavoie)/RDPP, No. 33/1.

51 JD, October 24, 1979, pp. 3121–3122 (Clément Richard)/RDPP, No. 33/3; JD, December 13, 1984, p. 1779 (Réal Rancourt)/RDPP, No. 33/4. See Chapter 13, Section 13.1.1, “Speaking Order”.

52 JD, October 24, 1979, pp. 3121–3122 (Clément Richard)/RDPP, No. 33/3.

53 JD, December 13, 1984, p. 1779 (Réal Rancourt)/RDPP, No. 33/4; JD, May 10, 1990, pp. 2547–2548 (Michel Bissonnet)/RDPP, No. 33/5.

54 JD, September 3, 1992, pp. 3050–3052 (Jean-Pierre Saintonge)/RDPP, No. 35(7)/5.

in camera before that committee has reported to the Assembly, nor to a matter that is before a court of law or a quasi-judicial body or that is the subject of an investigation or inquiry if such a reference could be prejudicial to the interests of another person or party. A Member may not speak directly to another Member, impugn the conduct of another Member unless presenting a motion to do so, impute improper motives to another Member or refuse to take a Member at that Member's word. Lastly, no Member may use violent, abusive or insulting language or language that is unbecoming or disrespectful of the Assembly, threaten another Member or utter seditious words (SO 35).

These rules apply only to a Member who has the floor, so for language to be considered unparliamentary, it must have been spoken during a debate.⁵⁵ Standing Order 35 does not, however, give the President authority to call to order Members engaged in a private conversation on the floor or elsewhere.⁵⁶ The same principle applies for language used outside of parliamentary proceedings, such as during a media scrum.⁵⁷ A Member who uses unparliamentary language while not having the floor may nonetheless be called to order under the general power of the President to maintain order and decorum in the Assembly. Moreover, if private conversations on the floor are undermining decorum in the Chamber, the President can apply the rule whereby Members must keep silent unless called upon to speak (SO 32). As regards comments made in committee proceedings, the committee Chair alone has the power to rule on such statements.⁵⁸ However, as is the case for the officer presiding the Assembly, the committee Chair may not comment on language used outside of committee proceedings.⁵⁹

Designating Members by their Titles Only (SO 35(1))

A Member who has been given the floor may not refer to other Members by their names,⁶⁰ even in reference to the past⁶¹ or when citing a newspaper article.⁶² This rule does not, however, apply to references to former parliamentarians.⁶³ Members must speak of their colleagues in the third person, identifying them

55 JD, October 23, 1984, p. 133 (Richard Guay)/RDPP, No. 35(7)/2.

56 JD, October 23, 1984, pp. 130–133 (Richard Guay)/RDPP, No. 35(7)/1; JD, May 11, 1989, pp. 5464–5465 (Pierre Lorrain)/RDPP, No. 35(9)/1.

57 JD, October 20, 2015, pp. 7267–7268 (François Gendron)/RDPP, No. 35(6)/8; VP, October 20, 2015, p. 1522.

58 Ibid.

59 JD, June 6, 1989, pp. 6335–6339 (Pierre Lorrain)/RDPP, No. 35(6)/2.

60 Beauchesne et al., *Beauchesne's Rules & Forms of the House of Commons of Canada*, p. 142.

61 JD, December 5, 1989, pp. 298–299 (Lawrence Cannon)/RDPP, No. 35(1)/1.

62 JD, October 26, 1988, pp. 2757–2758 (Pierre Lorrain); JD, May 3, 1990, pp. 2244–2245 (Jean-Pierre Saintonge); JD, May 8, 1990, pp. 2373–2374 (Jean-Pierre Saintonge).

63 John George Bourinot and Thomas Barnard Flint, *Parliamentary Procedure and Practice in the Dominion of Canada*, 4th ed. (Toronto: Canada Law Book, 1916), p. 356.

either by their electoral division or by their title in the case of the presiding officer, a minister or a House officer. A member who has been given the floor may not mock the title of another Member.⁶⁴

Referring to In Camera Committee Proceedings (SO 35(2))

Members may not refer to the proceedings of a parliamentary committee that is meeting in camera if the committee has not yet reported to the Assembly. According to authorities in parliamentary law, divulging information on in camera committee proceedings could constitute contempt of Parliament.⁶⁵

Referring to a Matter that Is before the Courts (SO 35(3))

Members who have the floor in the Assembly may not refer to a matter that is pending before a court or quasi-judicial body or that is the subject of an investigation or inquiry if doing so could be prejudicial to someone. This is called the sub judice rule, and it applies to any matter that may come before the Assembly, including the text of motions, statements during debates, and oral and written questions.⁶⁶ It also applies to the presentation of petitions.⁶⁷ The sub judice rule applies for as long as the investigation, inquiry or judicial or quasi-judicial proceeding is ongoing⁶⁸ or the time for appeal is still running.⁶⁹

Legislative assemblies voluntarily abide by this rule out of respect for the bench and in the name of fairness, but also in deference to the separation of the powers of State.⁷⁰ The President must apply the rule with caution, however, since, in a way, it restricts Members' important constitutional right of freedom of speech.⁷¹

64 JD, April 9, 1997, p. 6176 (Jean-Pierre Charbonneau); JD, November 8, 2007, p. 1900 (Michel Bissonnet).

65 Thomas Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 25th ed., Mark Hutton, David Natzler, Matthew Hamlyn, Colin Lee, Chloe Mawson, Crispin Poyser, Eve Samson and Kate Lawrence, eds. (London: LexisNexis Butterworths, 2019), para. 15.10; David R. Elder and P.E. Fowler (eds.), *House of Representatives Practice*, 7th ed. (Canberra: Department of the House of Representatives, 2018), pp. 729–730. See Chapter 18, "Parliamentary Committees".

66 JD, April 16, 1996, p. 418 (Jean-Pierre Charbonneau)/RDPP, No. 35(3)/14.

67 JD, April 18, 1991, pp. 7403–7407 (Jean-Pierre Saintonge)/RDPP, No. 62/5; JD, March 18, 1993, pp. 5456–5457 (Jean-Pierre Saintonge)/RDPP, No. 62/6; JD, September 17, 2009, pp. 2993–2994 (Yvon Vallières)/RDPP, No. 62/9.

68 JD, September 23, 2010, p. 7424 (Yvon Vallières)/RDPP, No. 35(3)/19.

69 JD, May 3, 1994, p. 617 (Jean-Pierre Saintonge)/RDPP, No. 35(3)/12; JD, June 1, 2011, p. 2196 (Jacques Chagnon)/RDPP, No. 35(3)/20.

70 JD, April 16, 1996, p. 418 (Jean-Pierre Charbonneau)/RDPP, No. 35(3)/14.; JD, March 24, 2016, pp. 10314–10316 (Jacques Chagnon)/RDPP, No. 35(3)/21; VP, March 24, 2016, pp. 2068–2070. See also: *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)*, [1993] 1 SCR 319, p. 389; *Canada (Auditor General) v. Canada (Minister of Energy, Mines and Resources)*, [1989] 2 SCR 49, pp. 49 and 88.

71 JD, April 16, 1996, p. 418 (Jean-Pierre Charbonneau)/RDPP, No. 35(3)/14.

The application of the sub judice rule is left to the discretion of the President.⁷² However, the President does not always know whether a matter brought up by a Member during a debate is pending before a court or not, or what type of case it might be. This information is highly relevant, for the rule is applied differently depending on whether the case is criminal, civil or quasi-judicial, or whether the matter concerns an inquiry or investigation. In any case, the President has no absolute obligation, and is not required, to be aware of all the pending cases that could be brought up by a Member. Moreover, it is not always easy to determine whether comments made in the Assembly may be prejudicial to someone, and the President is rarely sufficiently aware of the facts to make a fully informed decision on the matter.⁷³

The current practice in the National Assembly and other British-style parliaments is to apply the sub judice rule strictly and absolutely when criminal and penal proceedings are concerned because prejudice is presumed.⁷⁴ Since 1984, the various Presidents of the National Assembly have taken a clear, consistent, unambiguous approach in this regard.⁷⁵

Members are expected to refrain from discussing matters that are before a criminal court, not only to protect the persons who are undergoing trial and stand to be affected whatever its outcome, but also to prevent debates in the Chamber from influencing the course of the trial. Strict application of the sub judice rule in criminal and penal matters ensures the integrity of the judicial process, and this rule cannot be violated under any circumstances since doing so can lead to a stay of proceedings.⁷⁶ This happened in 1982 during the *Vermette* case, when a fiery speech in the Assembly by Premier René Lévesque⁷⁷ led to a stay of proceedings by the Superior Court.⁷⁸ After being upheld in the Court of Appeal,⁷⁹ the stay judgment was struck down by the Supreme Court of Canada,⁸⁰ which ordered that a new trial be held, although that was never done.⁸¹ While the Premier's remarks did not, in the end, directly affect the outcome of the case, they did spark a long judicial process that went all the

72 JD, May 14, 1996, p. 1046 (Jean-Pierre Charbonneau)/RDPP, No. 35(3)/18.

73 Excerpt from the Report of the Special Committee on the Rights and Immunities of Members, *House of Commons Journals*, April 29, 1977, p. 728.

74 JD, April 16, 1996, p. 418 (Jean-Pierre Charbonneau)/RDPP, No. 35(3)/14; JD, June 1, 2011, p. 2196 (Jacques Chagnon)/RDPP, No. 35(3)/20.

75 JD, March 24, 2016, pp. 10314–10316 (Jacques Chagnon)/RDPP, No. 35(3)/21.

76 Ibid.

77 JD, May 5, 1982, pp. 3292–3297.

78 *R. v. Vermette*, [1982] QCCS 1006.

79 *R. v. Vermette*, [1984] QCCA 466.

80 *R. v. Vermette*, [1988] 1 SCR 985.

81 The charges were dropped in 1991.

way to the Supreme Court. Since *Vermette*, the President and other presiding officers of the Assembly have been increasingly vigilant in the application of the sub judice rule to criminal and penal proceedings.

The President explained that the reason one cannot, within the context of parliamentary proceedings, refer to a statement of offence instituting penal proceedings or to a criminal indictment, even if it is public, is that, once that happens, discussion opens on the acts for which charges were laid. This is the heart of the matter. When a question is asked in the House, it starts a parliamentary, and inevitably political, discussion on the subject, and so a case that should be heard by the courts is argued instead on the National Assembly floor, which is precisely what the sub judice rule seeks to prevent.⁸²

On one occasion, a motion that was in follow-up to a Member's question of privilege and dealt with a matter that was pending before a criminal court was placed on the *Order Paper and Notices* and the President allowed it to remain there.⁸³ However, he refused to allow it to be debated until the court had rendered a final judgment.⁸⁴

While a penal or criminal case should not be alluded to directly or indirectly⁸⁵ in the context of parliamentary proceedings, the President, while cautioning the Members to exercise prudence, has in the past allowed oral questions that referred to criminal proceedings to be addressed to a minister since the questions dealt with the Government's actions and not the trial per se.⁸⁶ A committee Chair used the same reasoning when, during the examination of the Ministère de la Justice's annual estimates, a Member of the Official Opposition wished to interrogate the Minister of Justice on the follow-up to the report of a commission of inquiry dealing with the Sûreté du Québec's handling of a matter in which a man was appealing his conviction on murder charges. According to the committee Chair's ruling, referring to the preliminary inquiry was a breach of the sub judice rule since it dealt directly with matters that could be brought up in the appeal. However, questions on the actions taken and decisions made by the Ministère de la Justice following the report by the commission of inquiry were allowed so long as they were not directly related to matters that could be

82 JD, March 24, 2016, pp. 10314-10316 (Jacques Chagnon)/RDPP, No. 35(3)/21.

83 JD, December 7, 1993, pp. 9243-9244 (Jean-Pierre Saintonge)/RDPP, No. 324/2.

84 JD, December 7, 1993, pp. 9250-9251 (Jean-Pierre Saintonge)/RDPP, No. 324/3.

85 JD, March 13, 1984, pp. 5103-5104 (Richard Guay)/RDPP, No. 35(3)/4; JD, April 16, 1996, p. 418 (Jean-Pierre Charbonneau)/RDPP, No. 35(3)/14; JD, June 7, 1996, p. 1880 (Jean-Pierre Charbonneau)/RDPP, No. 35(3)/15; JD, June 1, 2011, p. 2196 (Jacques Chagnon)/RDPP, No. 35(3)/20; JD, March 24, 2016, pp. 10314-10316 (Jacques Chagnon)/RDPP, No. 35(3)/21.

86 JD, June 7, 1996, p. 1880 (Jean-Pierre Charbonneau)/RDPP, No. 35(3)/15.

brought up in appeal.⁸⁷ In another case, a committee Chair ruled that a link between a criminal proceeding and a self-initiated order proposed by a Member would not prevent the order from being carried out unless it touched on the heart of the matter before the courts.⁸⁸

These examples show clearly that the President still has discretionary power in the application of the sub judice rule. In general, just as the courts fully respect the Assembly's autonomy by refraining from intervening in its internal affairs and debates, the Assembly must refrain from broaching criminal and penal matters. This does not in any way prevent Members from questioning the Government on its actions. In other words, it is possible to question the Government on its actions and decisions without addressing those related to individuals subject to criminal or penal charges.⁸⁹

The application of the sub judice rule is less stringent in civil matters given that the possible consequences of comments made in the National Assembly are not as great in such cases as they are in penal and criminal matters. In the past, the President of the National Assembly has therefore ruled that Members may refer to civil lawsuits in a general way but may not make comments nearer to the heart of the issue that may cause prejudice to anyone.⁹⁰ In another instance, however, the President refused to accept a petition because it referred to an application for leave to bring a class action suit that was before a civil court.⁹¹

When a matter before a quasi-judicial body is concerned,⁹² the sub judice rule is applied in the same manner as in civil matters, that is, less rigidly, as the likelihood that comments made in the National Assembly will cause anyone prejudice is not as great as in criminal matters. On one occasion, though, the presentation of a petition was refused by the President because it referred to information in contracts that were the subject of a claim before an administrative tribunal, the Commission d'accès à l'information.⁹³ The President also refused to allow written questions pertaining to those contracts to be placed on the *Order Paper and Notices*.⁹⁴

87 JD, March 20, 1984, pp. 5279–5280 (Richard Guay)/RDPP, No. 35(3)/5.

88 Minutes, December 16, 1999, CI pp. 5–6 (Roger Bertrand)/RDPP (Com. Vol.), No. 35(3)/4.

89 JD, March 24, 2016, pp. 10314–10316 (Jacques Chagnon)/RDPP, No. 35(3)/21.

90 JD, March 20, 1984, pp. 5279–5280 (Richard Guay)/RDPP, No. 35(3)/5; JD, September 16, 1992, pp. 3629–3633 (Michel Bissonnet)/RDPP, No. 35(3)/11.

91 JD, March 18, 1993, pp. 5456–5457 (Jean-Pierre Saintonge)/RDPP, No. 62/6.

92 A quasi-judicial body is a non-judicial entity that can interpret the law, for example, an administrative tribunal.

93 JD, April 18, 1991, pp. 7403–7407 (Jean-Pierre Saintonge)/RDPP, No. 62/5.

94 JD, April 23, 1991, pp. 7527–7532 (Jean-Pierre Saintonge)/RDPP, No. 313/1.

Parliamentary jurisprudence equates coroner's inquests with quasijudicial cases, which is why, there too, the sub judice rule is applied less rigidly than in criminal matters. The President once allowed a question during Oral Questions and Answers related to an ongoing coroner's inquest, while cautioning the Members to be prudent so that their words would be prejudicial to no one.⁹⁵ The same warning was also given before an interpellation on a topic linked to another ongoing coroner's inquest.⁹⁶

The President has also ruled that since the Auditor General has the same powers as commissioners of inquiry, Standing Order 35(3) also applies to the Auditor General's investigations.⁹⁷ That said, remarks made in the Assembly are generally less likely to affect the investigative work done by officials appointed by the Assembly and the risk of causing prejudice is more limited, which is the basis of the sub judice rule. Moreover, since the President is generally not aware of what the various entities are investigating, the rule is difficult to apply. Therefore, to not unduly limit the privilege of Members' freedom of speech, investigations may also, depending on the circumstances, be subject to less rigorous application of the sub judice rule. However, it would be different if the investigations were to lead to the laying of charges or to the issue of statements of offence, as the context would then become criminal or penal, where the sub judice rule must be strictly and absolutely applied since prejudice is presumed.

Standing Order 35(3) also prohibits Members who have the floor from talking about any matter that is the subject of an inquiry. The word "inquiry" here refers to the work of commissions of inquiry rather than to police investigations.⁹⁸ As in civil matters and quasi-judicial cases, the application of the sub judice rule is less strict in inquiries than in criminal matters. Members may thus refer in a general way to matters that are before a commission of inquiry but may not make comments nearer to the heart of the matter that may cause prejudice to an individual or party. In the opinion of the President, it is each Member's individual responsibility to measure the extent of their freedom of speech in the National Assembly.⁹⁹ However, during Question Period, the President and other presiding officers have refused questions alluding to testimony given before a commission of inquiry established by an Order in Council,¹⁰⁰ and ruled out of

95 JD, November 5, 1986, p. 3749 (Pierre Lorrain)/RDPP, No. 35(3)/8.

96 JD, November 22, 2000, pp. 8076–8077 (Claude Pinard)/RDPP, No. 295/2.

97 JD, December 13, 1995, p. 5811 (Roger Bertrand)/RDPP, No. 35(3)/13. See also JD, May 10, 2006, CFP-11 p. 24 (Sam Hamad)/RDPP (Com. Vol.), No. 35(3)/6.

98 JD, December 17, 1975, pp. 2771–2773 (Jean-Noël Lavoie)/RDPP, No. 35(3)/3.

99 JD, September 23, 2010, p. 7424 (Yvon Vallières)/RDPP, No. 35(3)/19.

100 JD, October 31, 1974, pp. 2479–2481 (Jean-Noël Lavoie)/RDPP, No. 35(3)/1.

order motions on testimony given in similar circumstances.¹⁰¹ In both types of cases, the motion and question referred directly to testimony given before an ongoing commission of inquiry. Even if the presiding officer accepts a question related to a matter that is the subject of an inquiry, Standing Order 82 provides that a minister must decline to answer if doing so would contravene the sub judice rule. It is not up to the presiding officer to judge the minister's refusal to answer: the decision is entirely up to the minister.¹⁰²

While the sub judice rule applies to parliamentary proceedings, the President has the discretion to modulate its application. Moreover, the rule cannot prevent the National Assembly from legislating on any matter. The rule must, of course, be complied with during debates, but the Parliament's right to legislate within its spheres of competence may not be restricted. Legislation may even serve to change the reasons given by the court when rendering a decision.¹⁰³

A committee Chair once stated that while the sub judice rule did not seem to prevent an assembly from legislating on any matter it wished, the untimeliness or pointlessness of a legislative intervention, the risk of interference in a pending case and the infringement of certain rights are all reasons that may lead a committee to present an unfavourable report on a private bill.¹⁰⁴ In another case, before the committee began hearing interested parties or undertook the clause-by-clause consideration of a private bill, the committee Chair pointed out that a case pending before the courts, whose purpose was to have the agreement that was the subject of the bill declared null and void, did not preclude the Assembly from continuing its consideration of the bill. Nor could the fact that legal proceedings had been instituted prevent an interested party from answering the questions asked by the Members. In that circumstance, the objective of the committee Chair was to ensure that the Members were sufficiently well-informed to make an enlightened decision as lawmakers.¹⁰⁵

Lastly, the rule may not be used to prevent the Assembly from considering a matter vital to the public interest or to the effective operation of Parliament.¹⁰⁶

In general, the sub judice rule applies absolutely as regards criminal and penal matters but, in other cases, the President tends to apply it flexibly and to favour freedom of speech, provided no prejudice is caused.

101 JD, April 23, 1975, pp. 486–489 (Harry Blank)/RDPP, No. 35(3)/2.

102 JD, September 23, 2010, p. 7424 (Yvon Vallières)/RDPP, No. 35(3)/19.

103 JD, May 25, 2001, p. 1545 (Michel Bissonnet)/RDPP, No. 35(3)/17. See also JD, June 7, 2000, pp. 6664–6666 (Claude Pinard).

104 JD, June 13, 1994, p. CAE-1281 (Jean Garon)/RDPP (Com. Vol.), No. 267/6.

105 JD, June 2, 2011, CAT-9 pp.1–2 (Marie Malavoy)/RDPP (Com. Vol.), No. 35(3)/7.

106 JD, May 14, 1996, p. 1046 (Jean-Pierre Charbonneau)/RDPP, No. 35(3)/18. See also *House of Commons Debates*, March 22, 1983, pp. 24027–24028.

Directly Addressing Another Member (SO 35(4))

At no time may a Member address another Member directly. Members therefore address the President during debates, which makes it more difficult for them to engage in impassioned exchanges or make personal attacks on one another. Members often need to be reminded of this rule and asked to address the President.

Impugning a Member's Conduct (SO 35(5))

A Member who has the floor may not censure the actions of another Member except by a motion impugning that colleague's conduct as a Member of the National Assembly (SO 315). Therefore, a debate on a motion impugning a Member's conduct is the only acceptable forum for disparaging the work or criticizing the behaviour of a Member of the National Assembly, or that of a Member serving as a presiding officer or committee member.¹⁰⁷ Under parliamentary law, impugning a Member's conduct by any other means could constitute contempt of Parliament.¹⁰⁸

When a Member wants to move a motion censuring a colleague on grounds of breach of privilege, the Member must first raise a question of privilege and then announce the intent to move a motion impugning the colleague's conduct (SO 317).¹⁰⁹ Any indictment of a presiding officer's conduct must be made by way of a motion of censure rather than by way of a question of privilege followed by a motion.¹¹⁰

The President has ruled that motions to impugn a Member's conduct may not concern the Member's conduct in a family, social or professional setting. Rather, the focus of such motions must be the Member's conduct as a legislator or, given the evolving role of government administration, as an intermediary between the electorate and the public administration.¹¹¹ Furthermore, it has been ruled that, to be impugned, reprehensible conduct must be both serious and significant.¹¹²

107 JD, April 16, 1985, pp. 3002–3003 (Richard Guay)/RDPP, No. 35(5)/1.

108 JD, October 29, 2009, pp. 3696–3697 (Yvon Vallières)/RDPP, No. 67/57.

109 See Chapter 3, "Parliamentary Privilege".

110 JD, March 14, 1995, pp. 1382–1383 (Roger Bertrand)/RDPP, No. 316(3)/5; JD, June 15, 2001, pp. 2381–2382 (Jean-Pierre Charbonneau)/RDPP, No. 67/47. See also Chapter 3, "Parliamentary Privilege", and Chapter 4, "The Office of President".

111 JD, April 25, 1975, pp. 540–541 (Jean-Noël Lavoie)/RDPP, No. 316(3)/2.

112 JD, December 15, 1975, pp. 2694–2698 (Jean-Noël Lavoie)/RDPP, No. 316(3)/3.

The President has also indicated that one may not attack the conduct of a Member by way of a petition.¹¹³ A petition asking for a minister's resignation for acts committed while he was a Member of the Opposition was declared non-receivable by the President, in particular because the petition attacked the Member's conduct regarding conflicts of interest and incompatibility of duties, subjects that, since the adoption of the *Code of ethics and conduct of the Members of the National Assembly*,¹¹⁴ have been delegated to the Ethics Commissioner.

However, it is important to distinguish between the impossibility of attacking a Member's conduct and the legislative branch's power to exercise control over the executive branch and its management of government activity, a power which is codified in the *Act respecting the National Assembly* (ANA, section 4). So long as a petition targets the conduct or decisions made by minister while exercising ministerial duties, the sole fact that it asks for the minister's resignation would not make it non-receivable on the grounds that it "casts reflections upon" or disparages the minister's conduct.

Furthermore, the President has previously stated that the prohibition against impugning the conduct of a Member other than by a motion and the rule prohibiting a Member from refusing to accept another Member's word are two major principles that are not antithetical.¹¹⁵

The President added the following:

As provided for in Standing Order 315, any Member who wishes to impugn the conduct of some other Member acting in that capacity must make a motion for this purpose. This is a fundamental rule that is justified by the fact that a Member may not use his constitutional privilege of freedom of speech in the Assembly to impugn the conduct of a colleague. However, to question a minister with regard to an act accomplished in his capacity as a member of the Executive Council is not prohibited in the Assembly. On the contrary, ministers are held accountable with regard to the conduct of their government activities. Indeed, we should not confuse the prohibition to question the conduct of a Member of the Assembly acting in that capacity and the accountability required of ministers with regard to acts carried out within the framework of their ministerial duties.

113 JD, October 9, 2014, pp. 2172-2174 (Jacques Chagnon/RDPP, No. 62/10; VP, October 9, 2014, pp. 366-369.

114 *Code of ethics and conduct of the Members of the National Assembly*, CQLR, c. C-23.1.

115 JD, November 21, 2012, pp. 1148-1150 (Jacques Chagnon/RDPP, No. 97/9; VP, November 21, 2012, pp. 143-144.

As for the rule stating that a Member may not refuse to take another Member at his word, this must also be observed by Members in order to avoid their constantly stating that other Members are not telling the truth. However, because a minister makes a statement or answers a question on a matter does not mean that Members may not question him again on these facts or that they may not further investigate a given matter. Arriving at any other conclusion would undermine the fundamental role of controller of the Government's action that has been entrusted to the Assembly.¹¹⁶

Imputing Improper Motives to Members or Refusing to Take Them at Their Word (SO 35(6))

The Standing Order against imputing improper motives to Members or refusing to take them at their word is invoked time and time again by presiding officers during parliamentary debates. Consequently, it has spawned a good deal of jurisprudence.

Generally speaking, this rule bars one Member from accusing another of lying or deliberately misleading the Assembly.¹¹⁷ It would not, however, apply to the assertion that a Member may perhaps have provided incomplete information.¹¹⁸

Because parliamentary debate occurs in a system of adversarial politics in which criticism is expected, the rule that a Member must accept the word of another Member calls for subtle interpretation. Calmly criticizing a Member's statements because one believes them to be inconsistent with reality is not a breach of the rules of debate unless it is insinuated that the statements are intentionally incorrect. To be ruled unparliamentary, words such as "untrue", "false" and "falsehood" must be used by one Member to charge another of deliberately saying untruths.¹¹⁹ In short, a Member who would impute a motive to another Member must tread carefully.¹²⁰

The body of jurisprudence on this subject may seem hesitant, even contradictory, but each case must be examined in its specific context. The general tendency is to denounce as unparliamentary any declaration stating that a Member lied or deliberately misled the Assembly.

116 Ibid.

117 JD, April 11, 1990, pp. 1747-1748 (Jean-Pierre Saintonge)/RDPP, No. 35(6)/4.

118 Ibid.

119 JD, June 22, 1995, pp. 4667-4668 (Roger Bertrand)/RDPP, No. 35(7)/6. See also JD, March 28, 1990, pp. 1420-1421 (Jean-Pierre Saintonge)/RDPP, No. 35(6)/3; JD, April 11, 1990, pp. 1747-1748 (Jean-Pierre Saintonge)/RDPP, No. 35(6)/4.

120 JD, June 6, 1989, pp. 6335-6339 (Pierre Lorrain)/RDPP, No. 35(6)/2.

Presiding officers have also invoked Standing Order 35(6) to bar Members from drawing attention to the absence of another Member with the intention of imputing improper motives to the absentee.¹²¹

That said, it is important to recall that the President has a wide margin of discretion in deciding what does or does not constitute unparliamentary language and is best placed to decide whether the context requires an intervention. If a Member flouts the boundaries of what is permitted, the President will take the initiative to intervene. In grey areas, the President exercises judgment and observes the general atmosphere before determining whether it is necessary or useful to cut a Member off to intervene on a point of order.¹²² Members of the Assembly must also take responsibility for any statements or judgments they make regarding the work of their colleagues.¹²³

Using Violent, Abusive or Insulting Language (SO 35(7))

Violent, abusive or insulting language is not allowed in the National Assembly, no matter who it is being directed at. A distinction must be made, however, between violence and vigour in speech:

[TRANSLATION] The Standing Orders prohibit violent language but speaking violently must not be confused with speaking forcefully. Violent speech is unbridled; it goes too far, is out of control and incoherent, while forceful speech is controlled, tempered, calm and coherent. Speaking with force, passion and energy is allowed, so long as it does not go too far and observes parliamentary proprieties. What the Standing Orders do prohibit is overstepping the boundaries of forceful speaking.¹²⁴

It has been recognized in the National Assembly that Members may speak forcefully in the House.¹²⁵

Members may not use unparliamentary language in relaying someone else's words, even as part of a quote from a newspaper article, for example, because this would be to do indirectly what is forbidden to do directly.¹²⁶ For the same reason, spelling an unparliamentary word rather than saying it is not allowed.¹²⁷

121 JD, May 19, 1999, p. 1619 (Jean-Pierre Charbonneau)/RDPP, No. 35(6)/6; JD, June 10, 2004, CTE-23 p. 11 (Bernard Brodeur)/RDPP (Com. Vol.), No. 35(6)/1.

122 JD, February 22, 2018, p. 18904-18905 (Jacques Chagnon)/RDPP, No. 36/4; VP, February 22, 2018, pp. 4282-4284.

123 JD, October 29, 2013, p. 5211 (Carole Poirier)/RDPP, No. 35(6)/7; VP, October 29, 2013, p. 1119.

124 Geoffrion 1941, SO 285(17), note (note in French only).

125 JD, December 7, 1989, pp. 439-440 (Lawrence Cannon).

126 JD, June 9, 1986, p. 2455 (Jean-Pierre Saintonge)/RDPP, No. 35(7)/3. See also JD, October 23, 1984, pp. 130-133 (Richard Guay)/RDPP, No. 35(7)/1; JD, June 5, 2001, p. 1864 (Jean-Pierre Charbonneau).

127 JD, December 5, 2013, p. 6170 (Carole Poirier).

When one Member brings another's allegedly unparliamentary speech to the attention of the President, the latter has complete discretion in interpreting and characterizing the remarks in question. There are no absolute criteria. The President's decision will depend on the nature of the remarks as well as the context in which they were made.¹²⁸ As these cases often arise during the course of parliamentary proceedings, the context in which the remarks are made can consist in a sudden escalation in the tone and virulence of the terms used on both sides.¹²⁹ This makes it difficult to set out ahead of time which expressions are out of order or to establish precise rules that are applicable in all cases. An expression judged unparliamentary in one context may be acceptable in another. This is why, even though there is a list of remarks declared unparliamentary by the President, it is used for reference purposes only. In other words, a term is not unparliamentary simply because it is on the list and conversely, a term may be unparliamentary even if it is not on the list. The presiding officer must weigh the terms used as well as the context.¹³⁰

Remarks do not have to be directed at a specific Member to be declared unparliamentary. A Vice-President once ruled that remarks made about a parliamentary group may be characterized as unparliamentary because they are insulting to every Member who belongs to that group.¹³¹ The insult or provocation contained in a statement may be less acute or less pronounced when directed at a particular group, but even if a Member uses this indirect route, the presiding officer has discretionary power to define it as inappropriate and unparliamentary.

On another occasion, a Third Vice-President declared inadmissible a motion consisting of insulting language directed towards a person other than a parliamentarian. The Vice-President was of the opinion that the wording used in paragraph 7 of Standing Order 35 meant the Standing Order did not apply solely to remarks directed towards a Member.¹³²

Whenever a Member's remarks are deemed to be unparliamentary and therefore out of order, the President asks the Member to retract them. A mention of the retraction is then recorded in the Votes and Proceedings of the sitting and the term is added to the unparliamentary language lexicon.

128 JD, May 30, 1991, pp. 8602–8603 (Roger Lefebvre)/RDPP, No. 35(7)/4.

129 JD, October 23, 1984, p. 133 (Richard Guay)/RDPP, No. 35(7)/2.

130 JD, June 9, 1986, p. 2455 (Jean-Pierre Saintonge)/RDPP, No. 35(7)/3.

131 JD, May 30, 1991, pp. 8602–8603 (Roger Lefebvre)/RDPP, No. 35(7)/4.

132 JD, November 18, 2014, pp. 2714–2715 (François Gendron)/RDPP, No. 35(7)/7; VP, November 18, 2014, p. 523. Translator's note: the interpretation given by the Third Vice-President is based on the French version of SO 35(7).

Using Language that Is Unbecoming or Disrespectful of the Assembly (SO 35(8))

One of the Assembly's main collective privileges is the power to reprimand for contempt. Contempt can be any act or omission that has the effect of hindering the work of the Assembly or is an affront to its dignity and authority. The dignity of the Assembly is essential to its proper functioning. If acts or omissions that offend that dignity are unacceptable, then it follows that the Members who make up the Assembly may not make rude or disrespectful comments about the Assembly during debate. For example, it is irregular and unparliamentary to say or insinuate that the House is corrupt, that it is dysfunctional as a deliberative assembly or that it has no regard for the rights and liberty of the people. It is forbidden to speak offensively about the House or to attempt to ridicule it.¹³³

Threatening Another Member (SO 35(9))

Under Standing Order 35(9), no Member may threaten another Member during parliamentary proceedings. Nor may a Member be threatened while carrying out parliamentary duties. The *Act respecting the National Assembly* expressly states that such threats could constitute a breach of privilege, in other words, contempt of Parliament.¹³⁴

Uttering Seditious Words (SO 35(10))

Since Members are elected to work for and protect the public interest, it stands to reason that they may not make seditious statements, that is, incite resistance to lawful authority.¹³⁵

11.2.2.2 EXHIBITING OBJECTS

When addressing the Assembly, Members may use pictures, photos or other objects to illustrate their point, so long as certain rules are respected.

Exhibiting objects of any kind used to be prohibited during Oral Questions and Answers since the President felt they might provoke a debate, and debates are not permitted during that stage of the proceedings. Members are now allowed to use visual aids in certain instances, but this is not a right but a privilege granted on a case-by-case basis, as a Vice-President once stated.¹³⁶ The situation has evolved over time and the presiding officer may now allow Members

¹³³ Geoffrion 1941, SO 285(20) and notes 1(a) and (b) (notes in French only).

¹³⁴ See Chapter 3, "Parliamentary Privilege".

¹³⁵ *Merriam-Webster's Collegiate Dictionary*, 11th ed., s.v. "sedition".

¹³⁶ JD, December 9, 1987, p. 10461 (Louise Bégin)/RDPP, No. 239/8; JD, September 13, 1995, p. 4894 (Pierre Bélanger).

to use charts to illustrate their comments even during Oral Questions and Answers, provided that they do not do so excessively¹³⁷ and that the charts are of a reasonable size.¹³⁸ Other types of objects may or may not be permitted, depending on the circumstances. In one instance, the presiding officer allowed a Member to show photos that were directly related to a bill being studied,¹³⁹ but denied permission to a Member who wished to display a photo of another Member.¹⁴⁰ The presiding officer generally seeks to avoid situations where the exhibition of objects may end up making a laughingstock of the Assembly or one of its Members. Therefore, the presentation of an “easy” button parodying an advertisement by an office supplies store was refused during the debate on the opening speech,¹⁴¹ and Members have also been prevented from illustrating their points using a garbage can¹⁴² or a glass jar containing money,¹⁴³ and from using puppets during a debate on the passage in principle of a bill.¹⁴⁴

In one case, the President was asked whether a Member speaking in the Assembly was allowed to exhibit a document containing personal identifying information. The President responded that, since Québec parliamentary law contained no rules specifically regarding privacy, there was no reason to restrict the Member’s right to speak freely and openly in the Assembly. Nevertheless, the President formally expressed the wish that all Members bear in mind the fundamental rights of all Québec citizens when speaking, tabling a document or otherwise acting in Parliament.¹⁴⁵

11.2.2.3 QUESTIONS TO THE PRESIDENT

Under Standing Order 34, Members may ask the President questions on the business or procedure of the Assembly that pertain to parliamentary proceedings. This rule does not allow for questions about the Assembly’s administration, of which the President is the head and therefore responsible, or for questions on

137 JD, November 18, 2004, p. 5723 (Michel Bissonnet); JD, March 24, 2005, p. 7427 (Michel Bissonnet)/RDPP, No. 32/7.

138 JD, December 4, 2014, pp. 3213–3214 (François Gendron).

139 JD, December 9, 1987, p. 10461 (Louise Bégin)/RDPP, No. 239/8.

140 JD, November 14, 2007, p. 2020 (Michel Bissonnet)/RDPP, No. 74/20; JD, March 31, 2015, p. 5214 (François Ouimet); JD, December 9, 2016, p. 13423 (François Ouimet).

141 JD, April 1, 2008, p. 3625 (Marc Picard).

142 JD, April 15, 1997, p. 6244 (Jean-Pierre Charbonneau).

143 JD, May 15, 2019, p. 2798 (Chantal Soucy).

144 JD, March 19, 2019, p. 1057 (Marc Picard).

145 JD, November 13, 1997, pp. 8433–8435 (Jean-Pierre Charbonneau)/RDPP, No. 66/2. See Chapter 3, “Parliamentary Privilege”.

matters within the purview of the Office of the National Assembly.¹⁴⁶ Questions on whether a Member is in a conflict of interest are also not allowed.¹⁴⁷ Furthermore, tradition holds that the President is not required to rule on hypothetical questions of procedure during a sitting.¹⁴⁸

11.2.2.4 INTERRUPTING A MEMBER

No Member may interrupt another Member who has the floor, except to raise a point of order, to call attention to want of quorum or to raise a breach of privilege or contempt (SO 36). A Member may raise a point of order at any time (SO 39), including when another Member has the floor. This is not limited to cases in which the Member is personally concerned, and is not restricted to the House leaders, deputy House leaders and other spokespersons for the parliamentary groups.¹⁴⁹ A Member who is speaking may also be interrupted by another Member wishing to raise want of quorum. In order for a Member to interrupt another Member to raise a point of privilege, however, the breach of privilege or contempt must have just occurred in the Chamber.¹⁵⁰ Otherwise, the intention to raise a point of privilege must be notified to the President in writing no later than one hour before Routine Proceedings (SO 69).¹⁵¹ These are the only times when a Member who has the floor may be interrupted.

It falls to the President to ensure that such interruptions are not used as a stalling tactic, and that their sole purpose is not to impede the speaker. To protect the Members' ability to debate as freely as possible, since raising a point of order too quickly can prevent in-depth debate on an issue, the President has therefore requested that Members avoid systematically intervening as soon as an expression bothers them.¹⁵² Similarly, as concerns quorum, the President

146 JD, December 6, 1984, p. 1437 (Richard Guay)/RDPP, No. 34/2.

147 JD, March 22, 1984, pp. 5401-5402 (Richard Guay)/RDPP, No. 34/1. This is particularly true since the adoption of the *Code of ethics and conduct of the Members of the National Assembly*, which confers on the Ethics Commissioner the exclusive role of conducting inquiries into such matters (*Code of ethics and conduct of the Members of the National Assembly*, ss. 91-94).

148 JD, March 19, 1985, pp. 2484-2485 (Richard Guay)/RDPP, No. 34/3; JD, April 24, 1986, pp. 1013-1014 (Pierre Lorrain)/RDPP, No. 34/5; JD, November 10, 1988, pp. CAS-1964-1965 (Guy Bélanger)/RDPP (Com. Vol.), No. 34/1; JD June 12, 2003, p. 333 (Michel Bissonnet)/RDPP, No. 271/4.

149 JD, June 5, 1995, p. 3445 (Raymond Brouillet)/RDPP, No. 39/1.

150 JD, June 10, 2003, p. 162 (Michel Bissonnet)/RDPP, No. 69/4.

151 See Chapter 3, "Parliamentary Privilege".

152 JD, February 22, 2018, p. 18904-18905 (Jacques Chagnon)/RDPP, No. 36/4; VP, February 22, 2018, pp. 4282-4284.

has noted that a debate held during Business Standing in the Name of Members in Opposition should never be prevented or delayed due to want of quorum since such debates are far too important in parliamentary democracies.¹⁵³

11.2.2.5 POINTS OF ORDER

The President, upon noticing any breach of order, is required to call attention to it immediately (SO 38). However, this rule is applied with a degree of flexibility. If that were not the case, the President would have to intervene too often and so disrupt the proceedings. Thus, when the proceedings are going smoothly and the rights of the Members are respected, the President usually keeps a low profile. That said, any Member may call the President's attention to a breach of order but must do so as soon as the irregularity occurs. Strictly speaking, Members must cite the Standing Order they believe has been violated and keep their comments strictly to the point (SO 39), but in practice, Members typically do not cite the specific Standing Order; they simply describe the breach of procedure.

The President must immediately consider the point of order, unless it is deemed frivolous, baseless and intended merely to hinder the Assembly's proceedings. As a general rule, the President will allow the Member to speak to the point in question and make a few comments, which must be limited to the Standing Order cited and strictly relevant to the point raised (SO 39). A Member may not use the right to speak to a point of order as an opportunity to speak on the substance of the matter that was under discussion when the irregularity occurred.

The President is not required to let speak everyone who wishes to do so but may decide when enough has been heard for an informed ruling on the issue to be made (SO 40). The Standing Orders do not specify a time limit for comments on a point of order, but the time devoted to the matter is usually much shorter than the speaking times generally allowed under the Standing Orders.¹⁵⁴

153 JD, April 18, 2019, pp. 2373–2375 (François Paradis)/RDPP, No. 36/5. In this directive, which the President issued after a sitting needed to be interrupted due to lack of quorum for the debate taking place during Business Standing in the Name of Members in Opposition, the President mentioned that, in such a context, all parliamentary groups should contribute to maintaining quorum to the extent they are able. By appealing to parliamentarians' sense of responsibility to ensure that proceedings and debates on matters under Business Standing in the Name of Members in Opposition run smoothly, the President said that (1) the Government is responsible for maintaining quorum; (2) an opposition group must do everything it can to have as many Members present as possible when one of its Wednesday motions is debated; (3) the Government must ensure quorum for a debate on a matter entered on the *Order Paper and Notices* by an independent Member; and (4) no debate on business entered on the *Order Paper and Notices* by an Opposition Member should be suspended due to want of quorum and prior discussions between the House leaders should be held to prevent this from happening.

154 JD, April 26, 1990, pp. 1900–1903 (Jean-Pierre Saintonge)/RDPP, No. 40/2.

If a Member is interrupted by a point of order, then the time devoted to the point of order is counted in that Member's speaking time.¹⁵⁵ This practice applies to all debates and all Members, regardless of whether they are a member of a parliamentary group or an independent Member.¹⁵⁶ The President must be particularly vigilant when a point of order is raised during an independent Member's speech. Given the limited time at an independent Member's disposal, the time devoted to a point of order will inevitably have an impact on the Member's speaking time, even more so if points of order become tools of parliamentary strategy to interrupt a speaker's flow or rebut arguments.¹⁵⁷

In a limited debate, the time devoted to a point of order is counted in the speaking time of the parliamentary group to which the Member who had the floor belongs. However, if the time required to settle a point of order exceeds the remaining time allotted to that parliamentary group, the extra time cannot be imputed to an opposing parliamentary group, since no Member from that group has yet taken the floor.¹⁵⁸

Deciding when to rule on a point of order is up to the President.¹⁵⁹ immediately after hearing Members speak to it, or after taking it under advisement, if further reflection or research is required. When a point of order is taken under advisement, Members must in no way try to influence the President's decision.¹⁶⁰ Furthermore, when a point of order is raised and taken under advisement during a debate, it is for the President to rule on whether the debate may continue.¹⁶¹

The Standing Orders do not provide for the possibility of tabling notes or documents setting out arguments on a point of order. The President may accept notes, however, once it has been ascertained that they essentially reiterate the arguments presented by the Member in the House. Making new arguments in the notes would deprive a House leader or other Member of the possibility to respond to the arguments, and so is not allowed.¹⁶²

155 JD, December 17, 1987, p. 10969 (Jean-Pierre Saintonge)/RDPP, No. 36/1; JD, June 5, 1986, pp. 2350–2351 (Jean-Pierre Saintonge)/RDPP, No. 209/1. However, in committee proceedings, the time used to state and address a point of order is not deducted from the speaking time of the Member who has the floor (JD, June 10, 2004, CTE-23 p. 37 (Bernard Brodeur)/RDPP (Com. Vol.), No. 209/3).

156 JD, February 22, 2018, p. 18904–18905 (Jacques Chagnon)/RDPP, No. 36/4; VP, February 22, 2018, pp. 4282–4284.

157 Ibid.

158 JD, June 3, 1999, pp. 2187–2191 (Jean-Pierre Charbonneau)/RDPP, No. 36/3.

159 JD, May 30, 1990, pp. 2719–2725 (Jean-Pierre Saintonge)/RDPP, No. 41/1.

160 JD, May 28, 1986, pp. 1864–1867 (Pierre Lorrain)/RDPP, No. 40/1.

161 JD, November 29, 1990, pp. 5464–5465 (Roger Lefebvre)/RDPP, No. 40/3.

162 JD, May 29, 1991, p. 8592 (Jean-Pierre Saintonge)/RDPP, No. 40/4.

The President must state the reasons for the decision whenever issuing a ruling on a point of order. It is well established that generally the President will not interpret the law, except in the case of legal provisions containing rules of procedure. Therefore, it is not the President's place to question the effect of the passage of a bill on the provisions of another law¹⁶³ or to question a bill's constitutionality.¹⁶⁴ Nor does the President or any other presiding officer rule on hypothetical questions.¹⁶⁵ Moreover, the decisions of a committee or of a committee Chair cannot be appealed to the President.¹⁶⁶ Nor may the President interfere in or oversee the organization of committee work, which is under the jurisdiction of the committee Chair.¹⁶⁷ However, for matters concerning all committees, such as the allocation of speaking time, the President has, in the past, made rulings regarding work carried out in committee.¹⁶⁸

The President may rule on points of order or refer them to the Assembly for its decision (SO 41, 1st para.). Although there is only one precedent for the latter case under Standing Order 41,¹⁶⁹ under former Standing Orders there

163 JD, December 20, 1996, pp. 5056–5057 (Jean-Pierre Charbonneau); JD, April 4, 1995, pp. 1905–1906 (Raymond Brouillet)/RDPP, No. 209/2.

164 JD, December 8, 1980, pp. 683–684 (Claude Vaillancourt)/RDPP, No. 193/1. The following rulings from the Chair concern the interpretation of law: JD, October 31, 1979, pp. 3239–3243 (Claude Vaillancourt)/RDPP, No. 239/2; JD, March 28, 1984, pp. 5542–5543 (Richard Guay)/RDPP, No. 316(1)/1; JD, December 20, 1984, pp. 2179–2180 (Richard Guay)/RDPP, No. 223/1; JD, October 22, 1987, pp. 9216–9217 (Pierre Lorrain)/RDPP, No. 77(3)/2; JD, May 26, 1994, pp. 1426–1428 (Jean-Pierre Saintonge)/RDPP, No. 67/33; JD, June 5, 1995, pp. 3429–3430 (Roger Bertrand)/RDPP, No. 233/4; JD, May 25, 2001, p. 1545 (Michel Bissonnet)/RDPP, No. 35(3)/17.

165 JD, March 19, 1985, pp. 2484–2485 (Richard Guay)/RDPP, No. 34/3; JD, April 24, 1986, pp. 1013–1014 (Pierre Lorrain)/RDPP, No. 34/5; JD, November 10, 1988, pp. CAS-1964–1965 (Guy Bélanger)/RDPP (Com. Vol.), No. 34/1; JD June 12, 2003, p. 333 (Michel Bissonnet)/RDPP, No. 271/4.

166 JD, July 4, 1973, pp. 2148–2149 (Jean-Noël Lavoie)/RDPP, No. 2/1; JD, December 18, 1973, pp. 572–575 (Jean-Noël Lavoie)/RDPP, No. 2/2; JD, December 3, 1975, p. 2343 (Jean-Noël Lavoie)/RDPP, No. 2/4; JD, April 16, 1986, pp. 940–943 (Pierre Lorrain)/RDPP, No. 2/6; JD, March 26, 1987, pp. 6402–6403 (Pierre Lorrain)/RDPP, No. 2/8.

167 JD, December 6, 1995, pp. 5472–5473 (Roger Bertrand)/RDPP, No. 2/9; JD, November 12, 2003, pp. 1441–1443 (Christos Sirros)/RDPP, No. 2/10; JD, June 14, 2018, p. 22274 (François Gendron)/RDPP, No. 64.3/1.

168 JD, June 8, 2007, pp. 1187–1188 and 1200 (Michel Bissonnet)/RDPP, No. 285/1; JD, April 3, 2012, pp. 5575–5576 (Jacques Chagnon)/RDPP, No. 285/2; JD, May 7, 2013, pp. 3023–3025 (Jacques Chagnon)/RDPP, No. 132/1.

169 This case concerned the presence of the Canadian flag in the Legislative Council Chamber (JD, November 21, 2012, p. 1124 (Jacques Chagnon)/RDPP, No. 41/4).

were times when the President called on the Assembly to make decisions.¹⁷⁰ Any ruling by the President or the Assembly is final and not open to discussion (SO 41, 2nd para.). The President may choose to rule in public or in private, but private rulings are unusual, and rulings are normally delivered during a sitting of the Assembly.¹⁷¹

11.2.3 THE PRESIDENT'S DISCIPLINARY POWERS

When a Member's conduct is detrimental to order and decorum, the President can call that Member to order. If the Member fails to comply, the President can refuse to give the Member the right to speak, order the Member to withdraw from the Assembly or even expel the Member from the Assembly (SO 42). The President does not have exclusive power in disciplinary matters, however. In fact, since British-style legislative assemblies have the right to govern their affairs free from outside interference, they also have the right to take disciplinary action against their own Members. The National Assembly therefore has full authority to penalize Members for certain acts. These penalties include a reprimand, a penalty set by the Assembly, the reimbursement of any unlawful profit, the reimbursement of any indemnities, allowances or other sums received by the Member while the offence continued, and the loss of one's seat in the House (ANA, s. 134). The following pages will deal exclusively with the President's disciplinary powers.

11.2.3.1 CALL TO ORDER

Whenever necessary, the President may call a specific Member or the entire Assembly to order. This is usually done when Members refuse to remain silent or to take their seats, or when they infringe on another's right to speak, hinder the Assembly's proceedings, use unparliamentary language or refuse to respect the rules of decorum. The President can also call to order a Member who violates the rule on relevance during a debate or refuses to keep to the topic of the motion under discussion.¹⁷²

Members usually agree to comply with the Standing Orders when called to order, retracting any comments the President deems unparliamentary, for example. If Members refuse to comply with a call to order, they open themselves up to disciplinary measures ranging from loss of their right to speak to expulsion from the Assembly.

170 See Chapter 4, "The Office of President".

171 See Chapter 4, "The Office of President".

172 See Chapter 13, "Rules of Parliamentary Debate and Allocation of Debating Time".

11.2.3.2 WITHDRAWAL OF THE RIGHT TO SPEAK

The President can deny a Member who fails to respect two consecutive calls to order the right to speak for the remainder of the sitting (SO 42). The Member is not required to leave the House and may still exercise the right to vote. The loss of the right to speak does not in any way hinder the Member's right to fully participate in the sittings of parliamentary committees.¹⁷³

11.2.3.3 SUSPENSION AND EXPULSION OF MEMBERS

Before being ordered to withdraw from the House, a Member must first have lost the right to speak. If a Member continues to speak despite having lost the right to do so, the President issues a final warning. If the warning goes unheeded, the President may then order the Member to leave the House for the remainder of the sitting (SO 42).¹⁷⁴ The Member who has been ordered to withdraw may not participate in any parliamentary proceedings, including committee sittings. Traditionally, when Members are asked to leave the Assembly, they do so voluntarily. If they do not, the President may have them expelled (SO 43). It is at this point that the Sergeant-at-Arms¹⁷⁵ intervenes.¹⁷⁶

11.2.3.4 SUSPENSION OR ADJOURNMENT OF A SITTING

The President may suspend or adjourn a sitting at any time (SO 44). While this is not a disciplinary power in itself, it is nonetheless one of the main means available to the President for maintaining order and decorum. Thus, should the

173 JD, May 5, 1993, pp. 6209–6210 (Jean-Pierre Saintonge)/RDPP, No. 42/1.

174 To date, the President has ordered a Member to leave the House on only a few occasions. On August 10, 1977, following disruptions on the floor, President Clément Richard ordered an Official Opposition Member to leave the House for wilfully disregarding the fact that his right to speak had been withdrawn. When pronouncing the order, the President asked the Sergeant-at-Arms to expel the Member. Another Member stood to speak, however, and cited the tradition according to which a Member left of his own accord. The President then asked the Member to show himself out, without the Sergeant-at-Arms intervening (JD, August 10, 1977, pp. 2855–2856). Similarly, during the sitting of June 5, 1996, following three calls to order for disrupting the proceedings, the Second Vice-President called for the suspension of a Member of the Official Opposition without having first officially withdrawn his right to speak (JD, June 5, 1996, p. 1785). The most recent case occurred on June 8, 2001, when the same Vice-President, after three consecutive calls to order, ordered another Member of the Official Opposition to leave the Chamber and directed the Sergeant-at-Arms to expel him, without having formally withdrawn his right to speak beforehand. In a ruling made several days later, the President of the Assembly conceded that the Second Vice-President had committed a procedural error in suspending the Member before withdrawing his right to speak. Nevertheless, the President was of the opinion that the Vice-President could not be blamed, given the extremely difficult situation before him (JD, June 12, 2001, pp. 2125–2128 (Jean-Pierre Charbonneau)/RDPP, No. 3/2).

175 See “The Sergeant-at-Arms” in Chapter 4.

176 Geoffrion 1941, SO 76(4).

Members systematically refuse to observe order or should there be disorder in the galleries, the President can always suspend the sitting for however long it takes for calm to be restored, even during a recorded division.¹⁷⁷

When the Assembly adjourns, Members must rise from their seats and remain standing, in silence, until the President has left the Assembly Chamber (SO 31, 3rd para.).

11.3 CONDUCT OF THE PUBLIC

Given their collective parliamentary privilege, legislative assemblies are not accessible of right, and strangers can be expelled from any area of the National Assembly.¹⁷⁸ That said, with the exception of an *in camera* sitting, all sittings of the Assembly are open to the public.¹⁷⁹

As has been mentioned, the public must rise when the President enters at the opening of a sitting and, at the President's signal, observe a moment of reflection along with the Members (SO 31, 1st para.). During the sitting, the audience in the galleries must remain seated and silent and may show neither approval nor disapproval (SO 31, 2nd para.).¹⁸⁰

To avoid hindering the Assembly's proceedings, anyone wearing a distinctive sign will be asked to set it aside. On one occasion, the Third Vice-President asked people in the galleries wearing white scarves, as opposition Members had done a week earlier when calling for a commission of inquiry, to remove them.¹⁸¹

177 JD, May 20, 1998, pp. 11230–11231 (Raymond Brouillet)/RDPP, No. 44/1. See Chapter 4, "The Office of President", and Chapter 9, "The Conduct of a Sitting".

178 See Chapter 3, "Parliamentary Privilege".

179 Although the Assembly's sittings are public, the Assembly may, if necessary, decide to meet *in camera* (SO 29). However, only very compelling situations, such as a breach of state security or of the protection of personal information that might compromise individuals, can be grounds for a motion to meet *in camera*. Otherwise, the Government would be able to make frequent use of the provision to prevent the Opposition from benefiting from the media coverage at the National Assembly (JD, December 15, 1983, pp. 4635 and 4639–4640 (Richard Guay)/RDPP, No. 29/1).

180 There have been incidents in the past where members of the public did not comply with this rule and performed banned actions, such as displaying signs or other objects (JD, November 11, 1986, p. 3836 (Pierre Lorrain)), chanting requests (JD, March 10, 1987, p. 5912 (Pierre Lorrain)), throwing paper (JD, November 26, 2009, p. 4183 (Yvon Vallières)) and paper airplanes (JD, December 1, 2015, pp. 8169–8170 (Jacques Chagnon)), exhibiting one's bare chest and shouting demands (JD, October 1, 2013, p. 4651 (Jacques Chagnon)) and verbally protesting against a bill's passage (JD, February 6, 2015, pp. 3335 and 3343 (François Ouimet)).

181 JD, May 26, 2010, p. 6908 (François Gendron)/RDPP, No. 31/1.

If there is disorder in the galleries, the President may order the disruptive person to leave the House. Security guards ensure that the President's order is carried out. In practice, for most cases of disorder in the galleries, the President suspends the proceedings until calm is restored. The President may also suspend the proceedings until the galleries are emptied. When deemed necessary, the President may order the expulsion of strangers from any area of the Assembly.¹⁸²

At the end of the sitting, members of the public, along with the Members of the Assembly, must, before they leave, rise from their seats and remain standing in their places in silence until the President has left the Chamber (SO 31, 3rd para.).

¹⁸² See Chapter 3, "Parliamentary Privilege".

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- JD, May 20, 1998, pp. 11230–11231 (Raymond Brouillet)/*RDPP*, No. 44/1.
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- JD, October 9, 2014, pp. 2172–2174 (Jacques Chagnon)/*RDPP*, No. 62/10.
- JD, June 14, 2018, p. 22274 (François Gendron)/*RDPP*, No. 64.3/1.
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- JD, October 22, 1987, pp. 9216–9217 (Pierre Lorrain)/*RDPP*, No. 77(3)/2.
- JD, November 21, 2012, pp. 1148–1150 (Jacques Chagnon)/*RDPP*, No. 97/9.
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- JD, December 9, 1987, p. 10461 (Louise Bégin)/RDPP, No. 239/8.
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- JD, April 3, 2012, pp. 5575–5576 (Jacques Chagnon)/RDPP, No. 285/2.
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THE DECISION-MAKING PROCESS

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12

THE DECISION-MAKING PROCESS

The National Assembly makes a vast number of decisions regarding public affairs in Québec. Some of these decisions serve only to express an opinion or intention, while others are enforceable and become orders of the Assembly.

These decisions are made by voting on motions moved by Members. The Standing Orders therefore provide that a Member who wishes to obtain the decision of the Assembly on some matter must do so by means of a motion for that purpose (SO 185). After being debated, the motion is put to a vote and the matter is then decided in the affirmative or negative.

12.1 MOTIONS

A motion is a proposal, made by a Member in accordance with the rules of parliamentary procedure, that the Assembly make a decision on a matter. It is by way of a motion that a Member proposes that the Assembly take some form of action, order some action to be taken, express an opinion on a matter or make a request. As soon as a motion is put to the Assembly by the President,¹ it becomes a matter that must be decided in the affirmative or negative.

If the motion is carried, it becomes an order if it directs a committee, a Member or another person to do something² or a resolution if it expresses an opinion or intention or affirms some fact or principle (SO 186).³ The distinction between an order and a resolution is important, since failure to comply with an order of the

1 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

2 A motion directing a committee to do something becomes an order (JD, March 23, 1995, pp. 1663-1664 (Roger Bertrand)/RDPP, No. 186/2).

3 A motion calling on the Premier to convene a committee is not enforceable, since it expresses a wish (JD, November 27, 1996, pp. 3445-3446 (Claude Pinard)/RDPP, No. 97/6). A motion calling on the Assembly itself to adopt a motion is not enforceable either, since the Assembly cannot be bound for the future (JD, November 5, 2003, p. 1295 (Christos Sirros)/RDPP, No. 197/30).

Assembly or of a committee is a breach of the Assembly's privileges (ANA, s. 55(1)).⁴ In this regard, the President has ruled that the Assembly may make orders only within the ambit of its prerogatives and its authority. Thus, a motion directing the Government to take action in a specific manner in an area falling exclusively within the powers of the executive branch imposes a constraint of a political or moral nature. In other words, it is a wish rather than an order.⁵ The separation of the powers of the State confers distinct and specific roles on the executive and legislative branches. It ensues that, if an issue is governance-related, it will be up to the executive branch to make the decision. The Assembly cannot substitute itself for the executive branch in its role of administrator of the State, nor does it have the power to impose choices on that branch.⁶ The President has indicated, in this regard, that while including "that this motion become an order of the Assembly" in the formulation can certainly help to make a motion clearer, it is not required in order for a motion to become an order. Furthermore, the Assembly has on several occasions carried motions that do not contain this phrase, but nonetheless constitute orders of the Assembly. Conversely, a motion that includes such a phrase but is not worded in such a way as to constitute an order in and of itself will not necessarily become an order.⁷

Moreover, only a minister may, on a motion without notice, propose to discharge or rescind an order or a resolution (SO 186, 2nd para.). Such a motion, when it proposes to discharge or rescind an order for an exceptional procedure, is put to the vote without debate (SO 186, 3rd para.). Otherwise, a debate takes place according to the rules for formal motions. In particular, the Government sometimes resorts to a motion to rescind when it wishes to return to a previous stage in the legislative process or alter a committee's order of reference to hold special consultations on some matter. Regarding a return to a previous stage in the legislative process, a First Vice-President once ruled that carrying a motion to rescind the order for passage of a bill affects only the passage stage of the legislative process.⁸ Thus, the Assembly does not have to redo the previous stages of the legislative process. Regarding rescission, rescinding a committee's order of reference must be the subject of a motion separate from the new motion to refer a matter to committee: the new motion to refer a matter to committee must be preceded by a motion to rescind the original order of reference.⁹

4 JD, April 18, 1984, pp. 5793-5794 (Richard Guay)/RDPP, No. 186/1. See Chapter 3, Subsection 3.4.4.7, "Refusing to Comply with an Order of the Assembly, a Committee or a Subcommittee".

5 JD, February 13, 2013, pp. 1707-1708 (Jacques Chagnon)/RDPP, No. 186/5.

6 JD, October 1, 2014, pp. 2060-2061 (Maryse Gaudreault)/RDPP, No. 146/3.

7 JD, May 23, 2013, p. 3524 (Jacques Chagnon)/RDPP, No. 146/2.

8 JD, November 2, 1999, pp. 3235-3236 (Raymond Brouillet)/RDPP, No. 186/3).

9 JD, December 3, 2002, p. 7976 (Raymond Brouillet)/RDPP, No. 186/4.

Motions are either substantive or formal (SO 187). A substantive motion places a matter before the Assembly; a formal motion relates to procedure or to the way a substantive motion is to be disposed of. Identifying the type of motion is important in the context of debates since Members are granted twice as much speaking time for substantive motions as for formal motions (SO 209).¹⁰ In addition, certain procedures provided for in the Standing Orders apply only to debates on substantive motions.¹¹ For example, only a Member who has moved a substantive motion has a right of reply (SO 215).

10 See Chapter 13, “Rules of Parliamentary Debate and Allocation of Debating Time”.

11 In addition, under Standing Orders 196 and 202, only a substantive motion may be amended or immediately put to a vote. It would seem, however, that the term “substantive motion” is wrongly employed to designate what in previous Standing Orders constituted a “main motion”. Standing Order 56 of the Standing Orders in force from 1972 to 1984 distinguished between seven kinds of motions:

56. The different kinds of motions are:

- (1) Main motions, which are made when there is no question before the Assembly;
- (2) Subsidiary motions, which are made with the purpose of better disposing of a main motion then before the Assembly;
- (3) Incidental motions, which relate to questions arising incidentally on the occasion of a motion then before the Assembly;
- (4) Privileged motions, which, on account of their importance or their urgency, take precedence over any other motion;
- (5) Dilatory motions, whose object is to suspend or to delay the consideration of a matter in progress;
- (6) Substantive motions, which are main motions relating to any matter not already in possession of the Assembly;
- (7) Formal motions, which are main motions consecutive to a resolution or order voted during the same session, or having for their object the carrying through of a matter already before the Assembly.

Amendments and motions to immediately put a question, then known as “motions for the previous question”, were therefore considered subsidiary motions in earlier Standing Orders, that is, motions whose purpose was to dispose of a substantive or formal main motion. The current Standing Orders do away with the concept of main and subsidiary motions, recognizing only two types of motion: substantive and formal. Included in formal motions are what were known in the previous Standing Orders as formal main motions and subsidiary motions. The President has not yet had occasion to rule on how the term “motion de fond” (substantive motion) in the French version of Standing Orders 196 and 203 is to be interpreted. (The English translation does not use the term “substantive motion” in Standing Order 196 or 203.) What can be said with certainty is that, since relatively few substantive motions under Standing Order 187 are likely to be debated in the Assembly, a restrictive interpretation of the term would mean that, in most cases, only want of confidence motions, motions introduced by opposition Members, and the rare motion entered on the *Order Paper and Notices* by the Government could be immediately put to a vote. There would also be fewer opportunities for introducing amendments to substantive motions, since want of confidence motions are not amendable (SO 306.1), whereas opposition motions (SO 98.1) and motions introduced in the course of Routine Proceedings during the period for motions without notice (SO 84.2) cannot be amended without the consent of their mover.

12.1.1 NOTICE

Notice is given to inform Members of the questions to be debated and allow them sufficient time to prepare. Hence, a Member who wishes to make a motion must, except as otherwise provided for by statute or in the Standing Orders, give notice of it on the *Order Paper and Notices* (SO 188). This parliamentary document indicates, among other things, as seen previously,¹² the matters that the Assembly may be called on to debate during a sitting and gives notice of the matters to be considered at subsequent sittings.¹³

Some motions provided for in the Standing Orders do not require notice. These are motions that are unlikely to take Members unawares and can therefore be discussed immediately, without lengthy preparation. Most are formal motions concerning procedure, such as motions to adjourn the debate (SO 100) or the proceedings (SO 105), or concerning the way in which a substantive motion already known to the Members is to be disposed of. In the latter case, the motion may be an amendment (SO 196), a hoist motion (SO 240) or a motion to divide a bill (SO 241). A motion by the Government House Leader to introduce an exceptional procedure for the consideration of a matter does not require notice (SO 182).¹⁴

Similarly, in 2000, the President ruled that Standing Order 188 does not apply to motions introduced during extraordinary sittings—which may be called in the middle of summer or during the holiday season when the Assembly does not normally sit—because notice cannot be given as the Order Paper is not published during those periods.¹⁵

In addition, it should be recalled that during Routine Proceedings a period is devoted to motions without notice (SO 53 (7)). During that time, any Member may present a motion without notice (SO 84.1),¹⁶ but only with the unanimous consent of the Assembly. In practice, even though notice is not given, the content of the motion is often submitted beforehand to the House leaders and independent Members so they can make well-informed decisions as to whether debate on the motion should proceed. Also, motions relating to the proceedings of the Assembly that may, under a statute or the Standing Orders, be moved without notice are often moved during that period (SO 84). It is important to note, however, that when a statute or the Standing Orders provide that a motion is without notice, the motion may be presented at times other than the period devoted to motions without notice.

12 See Chapter 9, Section 9.4.1, Subsection 9.4.1.1, “Notices”.

13 JD, May 9, 1990, p. 2474 (Jean-Pierre Saintonge)/RDPP, No. 194/1.

14 See Chapter 16, “Exceptional Procedures”.

15 JD, March 21, 2000, pp. 5068–5071 (Jean-Pierre Charbonneau).

16 See Chapter 9, “The Conduct of a Sitting”.

12.1.2 MOVING A MOTION

A motion is usually moved by the Member who gave notice of it, but another Member may move the motion on behalf of the Member who gave notice with the latter's permission.¹⁷ However, a motion originating from a minister or the Premier, may be moved only by a minister (SO 189).¹⁸

Certain motions may be moved only by the Government House Leader. These motions are most often procedural. Other motions must be moved by a minister. For example, a motion to discharge or rescind an order or a resolution cannot be moved by a deputy Government House Leader, unless that person also happens to be a minister (SO 186, para. 2). For the most part, unless the motion merely expresses a general idea or an abstract opinion on the matters, motions that must be moved exclusively by a minister are those with financial repercussions: the Standing Orders provide that only a minister may introduce a motion to appropriate public funds, impose a charge on taxpayers, remit a debt due to the State or alienate State-owned property (SO 192). The following four criteria were established by a Second Vice-President to determine whether a motion has the effect of appropriating public funds: (1) Is the motion enforceable? (2) Does it have a direct impact on spending? (3) Is it expressed in general terms? (4) Is the amount of the expenditure specified? Under these criteria, a motion will be considered to have financial impact only if it explicitly calls for budget expenditures: it must have a direct impact on the Consolidated Revenue Fund. This means that a motion may require the commitment of public funds for its application without expressly committing public funds itself.¹⁹

12.1.3 FORM AND CONTENT

Motions must be in writing, except those with terms that do not vary (SO 190). Invariable motions include the motion the Premier moves at the end of the opening speech calling on the Assembly to approve the Government's general policy (SO 45) and the motion the Minister of Finance moves at the end of the budget speech asking the Assembly to approve the Government's budgetary policy (SO 271). In fact, most invariable motions are procedural, for example, the motion to adjourn the proceedings (SO 105), the motion to adjourn the debate (SO 100) and the motion proposing that the Assembly resolve itself into a Committee of the Whole (SO 108). Requiring all other motions to be in writing allows the President to determine whether they are in order and the Assembly to be sure it has the exact wording of the question it is debating.

17 There is no particular formality provided for in the Standing Orders for one Member to replace another. The Member who speaks on behalf of the mover of a motion generally simply mentions that the latter's permission has been given. (See JD, May 9, 2018, p. 2158).

18 See Chapter 13, Subsection 13.2.1.1, "Substantive Motions and Formal Motions".

19 JD, October 17, 2001, p. 2752 (Claude Pinard)/RDPP, No. 192/3. See Chapter 14, "The Legislative Process" and Chapter 15, "The Budget Process".

By Assembly custom, motions may be drafted in French or English, according to their author's choice. Once a motion has been carried, it is translated into the other language for publication in the *Votes and Proceedings*, in accordance with section 133 of the *Constitution Act, 1867*.²⁰ However, motions subject to notice are translated for the *Order Paper and Notices* because it is published in both French and English.

Motions must not recite the grounds on which they are based or any arguments. Otherwise, they will be declared out of order (SO 191), even if the grounds or arguments appear in a quotation.²¹ There are some exceptions: motions stating a grievance introduced during the debate on the opening speech (SO 50) or the debate on the budget speech (SO 274) may briefly state the grounds on which they are based (SO 191, 2nd para.). This codifies a 1997 ruling by a Vice-President. The same is true for want of confidence motions introduced during these two major debates or at another time during a session (SO 50, 274 and 303.1).²² However, the prohibition against including arguments applies to these motions as well.²³

The distinction between grounds and arguments is not always an easy one to make. According to a 1999 ruling, both grounds and arguments imply the existence of two statements, one explaining or justifying the other.²⁴ However, this does not help distinguish between the two notions. In a 1997 ruling, the President described grounds as a psychological motive, a reason to act. The President also deemed that when words such as "considering" and "whereas" appear in a motion, they clearly indicate a recital of grounds.²⁵ However, "argument" is defined as "a reason given in proof or rebuttal" and as a proof for or against a proposition.²⁶ In a past precedent, this led the Third Vice President to define "argument" as being anything that tends to support the conclusion sought by a motion.²⁷ Similarly, in another decision, a Second Vice-President

20 JD, March 21, 2000, pp. 5073–5074 (Jean-Pierre Charbonneau)/RDPP, No. 185/1.

21 JD, September 23, 2014, pp. 1809–1810 (Maryse Gaudreault)/RDPP, No. 191/5.

22 JD, May 22, 1997, pp. 6887–6888 (Claude Pinard)/RDPP, No. 304/2.

23 For examples of want of confidence motions containing arguments, see JD, April 8, 1998, p. 10713 (Jean-Pierre Charbonneau)/RDPP, No. 274/2; JD, June 11, 2003, p. 291 (François Gendron)/RDPP, No. 191/3.

24 JD, November 10, 1999, pp. 3443–3444 (Jean-Pierre Charbonneau)/RDPP, No. 97/7. In this instance, the essence of the motion was that the Government "immediately put an end to the wasting of taxpayers' money". The President ruled that the word "wasting" did not in itself constitute an argument or grounds supporting the statement.

25 JD, November 10, 1999, p. 3428 (Jean-Pierre Charbonneau).

26 *Merriam-Webster's Collegiate Dictionary*, 11th ed., s.v. "argument" and *Le Petit Robert, Dictionnaire alphabétique et analogique de la langue française*, s.v. "argument".

27 JD, June 11, 2003, p. 291 (François Gendron)/RDPP, No. 191/3. See also the ruling in which very similar wording that included "thus putting his credit rating at risk" was declared to be out of order (JD, April 21, 2015, p. 5706 (François Ouimet)/RDPP, No. 191/6).

ruled out of order a motion reproaching the Government for failing to appoint a Minister of the Status of Women, “thus imposing a thirty-year setback upon the women of Québec”, wording which, in the Second Vice-President’s view, constituted an argument.²⁸ On the other hand, another motion that called on the Government to set up a commission of public inquiry that would have a mandate to “break the law of silence which reigns in the network of long-term care homes” was ruled in order. The First Vice-President who was presiding the debate ruled that the words in the above-cited phrase could not be considered as tending to explain or justify the conclusion sought in the motion, since they formed part of the conclusion.²⁹ As to the logic that justifies prohibiting the inclusion of grounds or arguments in the text of motions, a Second Vice-President, when ruling on the admissibility of a motion containing both grounds and arguments, explained that it is during the debate that these considerations may be expressed. The motion in question set out the reasons that differentiated two situations and arguments supporting the assertion that they were different.³⁰

Needless to say, a motion that brings a matter before the Assembly must not contain unparliamentary language, that is, words or expressions that are prohibited in parliamentary debate (SO 35).³¹ For example, a want of confidence motion introduced during the debate on the budget speech censured the Government for “not having negotiated in good faith”. The presiding officer ruled that the motion tended to impute improper motives to a Member, which is contrary to Standing Order 35(6).³² In the same vein, a motion containing insulting language will be declared out of order because it is not consistent with the spirit of Standing Order 35(7).³³

12.1.4 ADMISSIBILITY

The President must reject notices and motions that contravene the Standing Orders,³⁴ but may correct their form to render them admissible (SO 193). The President may also note irregularities in a motion that, on the face of it, contains defects of form or content.³⁵ However, the President may agree to have a motion entered on the Order Paper, but subsequently find it out of order.³⁶ In fact, an irregularity in any part of a motion may be raised by any Member at any time

28 JD, September 23, 2014, pp. 1809–1810 (Maryse Gaudreault)/RDPP, No. 191/5.

29 JD, April 21, 2004, p. 4189 (Christos Sirros)/RDPP, No. 191/4.

30 JD, September 23, 2014, pp. 1809–1810 (Maryse Gaudreault)/RDPP, No. 191/5.

31 Geoffrion 1941, SO 150.

32 JD, March 29, 2006, p. 972 (William Cusano)/RDPP, No. 193/8.

33 JD, November 18, 2014, pp. 2714–2715 (François Gendron)/RDPP, No. 35 (7)/7.

34 JD, June 29, 1973, pp. 1947–1948 (Jean-Noël Lavoie); JD, December 22, 1988, p. 4619 (Pierre Lorrain)/RDPP, No. 188/1; JD, September 20, 1995, p. 5151 (Roger Bertrand)/RDPP, No. 193/6.

35 JD, March 14, 1990, p. 1087 (Jean-Pierre Saintonge).

36 JD, April 23, 1991, p. 7547 (Jean-Pierre Saintonge)/RDPP, No. 193/4.

before the motion is put to a vote.³⁷ The President even once allowed a point of order raised by the Government House Leader on the admissibility of a Wednesday motion prior to the holding of the deferred vote on the motion.³⁸ An irregularity in any part of a motion invalidates the motion in its entirety.³⁹

When exercising the power to correct an irregular motion, the President must adhere strictly to interventions regarding the form of the motion. For example, an obvious grammatical error in the text of motions to be entered on the Order Paper can be corrected. Conversely, since an argument contained in the text of a motion cannot be considered a defect in form, the President cannot change the text of a motion containing arguments in order to render it admissible.⁴⁰ Likewise, in the case of a motion to divide a bill, the President may not alter the distribution of the sections.⁴¹ Given that the primary purpose of such motions is to redistribute bill sections to create new bills, and that doing so changes the content of the bills, the President would be altering the substance of the motion.⁴²

When deciding on a motion's admissibility, the President must rule solely on the basis of the admissibility criteria.⁴³ It is not the President's role to judge the accuracy or truthfulness of the facts stated in the motion,⁴⁴ or their pertinence.⁴⁵

If, as sometimes happens, part of a motion lapses in the course of proceedings, the motion is rendered irregular in its entirety (SO 194). A motion is said to have lapsed when it becomes clear that it has become inapplicable,⁴⁶ for example, a motion was ruled to have lapsed because it had been put to the Assembly to give an order of reference to a committee, but it had not been carried by the

37 Ibid.; JD, June 3, 1999, pp. 2164–2165 (Raymond Brouillet)/RDPP, No. 193/7; JD, June 16, 1999, pp. 2675–2677 (Jean-Pierre Charbonneau)/RDPP, No. 182/15; JD, December 17, 1997, pp. 9645–9646 (Claude Pinard)/RDPP, No. 100/6; JD, May 15, 2013, p. 3283 (Carole Poirier)/RDPP, No. 252/6; RDPP, No. 146/3.

38 JD, November 10, 1999, pp. 3443–3444 (Jean-Pierre Charbonneau)/RDPP, No. 97/7.

39 Geoffrion 1941, SO 157.

40 JD, March 23, 1999, pp. 735–736 (Jean-Pierre Charbonneau); JD, April 8, 1998, p. 10713 (Jean-Pierre Charbonneau)/RDPP, No. 274/2; JD, June 11, 2003, p. 291 (François Gendron)/RDPP, No. 191/3.

41 See Chapter 14, “The Legislative Process”.

42 JD, June 3, 1998, pp. 11650–11651 (Claude Pinard)/RDPP, No. 241/11.

43 JD, May 19, 1999, p. 1615 (Raymond Brouillet)/RDPP, No. 197/26.

44 JD, March 28, 1984, pp. 5555–5557 (Richard Guay)/RDPP, No. 193/2; JD, May 19, 1999, p. 1615 (Raymond Brouillet)/RDPP, No. 197/26; JD, March 16, 2005, p. 7116 (François Gendron)/RDPP, No. 97/8.

45 JD, November 9, 2005, p. 10048 (François Gendron)/RDPP, No. 197/43.

46 JD, June 16, 1999, pp. 2675–2677 (Jean-Pierre Charbonneau)/RDPP, No. 182/15; JD, June 16, 1999, pp. 2698–2699 (Raymond Brouillet).

deadline for the committee to execute the order of reference.⁴⁷ In another case, because of its wording, a motion to suspend the rules of procedure was declared to have lapsed when it could not be carried on the day it was moved.⁴⁸ In contrast, a motion is not considered to have lapsed simply because it deals with the same subject as a motion previously carried by the Assembly.⁴⁹ Upon ascertaining that a motion has lapsed, the President must strike it from the Order Paper even if the motion has been put to the Assembly for discussion.⁵⁰

12.1.5 WITHDRAWAL

The mover of a motion, or another Member with the mover's permission, may ask for the withdrawal of the motion (SO 195).

If the motion has not yet been proposed to the Assembly, it may be withdrawn on a written request to the Secretary General or on an oral request to the President (SO 195, 2nd para.). When a written request for withdrawal is received, the President gives notice of this during the Information on the Proceedings of the Assembly period and the withdrawal is recorded in the *Votes and Proceedings*.⁵¹

However, once the motion has been put to the Assembly for discussion, its withdrawal is subject to debate. The mover of the motion then has 10 minutes of speaking time, as does a representative of each parliamentary group. The mover may then speak for five minutes in reply. However, a motion to withdraw a motion to introduce an exceptional procedure is voted on without debate (SO 195, 3rd para.).⁵²

Under Standing Order 188, motion that has been put to the Assembly for discussion can be withdrawn only if notice to that effect is given on the Order Paper,⁵³ unless the motion itself did not require notice. In line with this, a motion without notice for the withdrawal of a motion to adjourn the debate was ruled in order by a Vice-President.⁵⁴ If notice had been required, the right to withdraw the motion would have been merely theoretical, since the debate on the motion for adjournment would have already been over by the time notice was entered on the Order Paper. This holds for all motions that do not require notice under the Standing Orders. In the case in question, the Vice-President further stated

47 JD, May 9, 1990, p. 2474 (Jean-Pierre Saintonge)/RDPP, No. 194/1; JD, December 14, 1984, pp. 1829–1832 (Jean-Pierre Jolivet).

48 JD, June 11, 1996, p. 1999 (Jean-Pierre Charbonneau).

49 JD, May 22, 1997, p. 6887–6888 (Claude Pinard)/RDPP, No. 304/2.

50 JD, May 9, 1990, p. 2474 (Jean-Pierre Saintonge)/RDPP, No. 194/1.

51 VP, February 10, 2015, p. 693.

52 See Chapter 16, "Exceptional Procedures".

53 JD, May 12, 1988, pp. 964 and 967–971 (Pierre Lorrain)/RDPP, No. 195/1.

54 JD, June 19, 1992, pp. 2817–2824 (Roger Lefebvre)/RDPP, No. 195/2.

that a motion to withdraw a withdrawal motion is inadmissible, considering that the repetitive nature of such an exercise would cast ridicule on the Assembly and prevent the debate from taking place.⁵⁵

12.2 DEBATE

If a motion is in order, the President proposes the question to the Assembly in the very terms used in the motion. The Assembly is then duly seized of the motion, which may then be debated. Members taking part in the debate may decide to bring forward certain formal motions on how to go about disposing of the substantive motion under discussion. These formal motions arising out of the main motion are called incidental motions. Examples include moving an amendment or subamendment to a motion, a motion to divide a complicated question, a motion for an immediate vote (a previous question motion) and a motion to adjourn the debate. Since these motions may be proposed during the debate, they do not require notice.

12.2.1 AMENDMENTS

Except where otherwise provided, substantive motions may be amended (SO 196).⁵⁶ Consequently, any Member who is not the mover of a motion under consideration⁵⁷ and who is entitled to speak to the motion⁵⁸ may move an amendment. Amendments do not require notice but must be submitted to the President upon being moved (SO 198).

If the President deems a motion to amend in order, debate on the main motion is interrupted and the amendment is debated until it is disposed of by the Assembly. Debate then resumes on the main motion, as amended or not, and a further amendment may be moved (SO 199). However, the procedure is different for amendments moved in the context of debates on a motion without notice moved under Standing Order 84.1 or on a motion debated during Business Standing in the Name of Members in Opposition. In these cases, not only is permission of the motion's mover necessary to amend the motion, but if the motion's mover does give permission, the debate will be on both the amendment and the main motion (SO 84.2 and 98.1).

55 Ibid.

56 To know which motions are substantive motions, see Section 12.1, "Motions", note 11.

57 Geoffrion 1941, SO 170. However, during the clause-by-clause consideration of a bill, the bill's sponsor may propose an amendment.

58 See Chapter 13, "Rules of Parliamentary Debate and Allocation of Debating Time".

12.2.1.1 ADMISSIBILITY CRITERIA FOR AMENDMENT MOTIONS

To be ruled in order, an amendment must be relevant to the subject matter of the main motion and be consistent with its principle. It may only strike out, add or substitute words (SO 197). In addition, the President must consider criteria arising from jurisprudence relating to the receivability of amendments. For example, an amendment motion must not set aside,⁵⁹ repudiate,⁶⁰ alter⁶¹ or contradict⁶² the principle of the main motion. In one instance, a motion was ruled to be out of order even though it set aside only one element of the main motion's principle.⁶³ In another decision, the amendment motion, which completely set aside the second component of a main motion containing two components, was ruled inadmissible.⁶⁴

In addition, an amendment motion cannot introduce a new principle, that is, another subject that could, in and of itself, be a separate motion.⁶⁵ However, an amendment may attenuate⁶⁶ or clarify⁶⁷ the main motion; it may also expand

59 JD, December 3, 1975, pp. 2352–2356 (Jean-Noël Lavoie)/RDPP, No. 197/2; JD, May 16, 1979, p. 1281 (Clément Richard)/RDPP, No. 197/6; JD, March 2, 1982, pp. 2154–2158 (Jean-Pierre Jolivet)/RDPP, No. 197/7; JD, May 5, 1983, pp. 910–914 (Réal Rancourt)/RDPP, No. 197/11; JD, May 28, 1986, p. 1903 (Jean-Pierre Saintonge)/RDPP, No. 197/12; JD, April 4, 1990, pp. 1597–1598 (Lawrence Cannon)/RDPP, No. 197/15; JD, October 29, 2003, p. 1165 (François Gendron)/RDPP, No. 197/29; JD, November 10, 2004, p. 5551 (François Gendron)/RDPP, No. 197/33; JD, October 25, 2006, p. 2914 (William Cusano)/RDPP, No. 197/46; JD, October 24, 2007, p. 1620 (Fatima Houda-Pepin)/RDPP No. 197/48).

60 JD, April 4, 1990, pp. 1597–1598 (Lawrence Cannon)/RDPP, No. 197/15; JD, May 1, 1991, pp. 7624–7627 (Michel Bissonnet)/RDPP, No. 197/17; JD, May 4, 1994, p. 715 (Michel Tremblay)/RDPP, No. 197/20; JD, November 22, 2000, p. 8057 (Michel Bissonnet)/RDPP, No. 197/27; JD, November 5, 2003, p. 1295 (Christos Sirros)/RDPP, No. 197/30; JD, November 24, 2004, p. 5819 (Diane Leblanc)/RDPP, No. 197/35.

61 JD, November 9, 1977, pp. 4018–4020 (Louise Cuerrier)/RDPP, No. 197/4; JD, April 26, 1978, pp. 1153–1155 (Jean-Guy Cardinal)/RDPP, No. 197/5; JD, March 18, 1992, pp. 12033–12044 and 12050 (Roger Lefebvre)/RDPP, No. 197/18; JD, October 27, 1993, p. 8280 (Michel Bissonnet)/RDPP, No. 197/19; JD, November 22, 2000, p. 8057 (Michel Bissonnet)/RDPP, No. 197/27; JD, March 24, 2004, pp. 3201–3202 (François Gendron)/RDPP, No. 197/31; JD, November 2, 2005, p. 9885 (Diane Leblanc)/RDPP, No. 197/42.

62 JD, March 18, 1992, pp. 12033–12044 and 12050 (Roger Lefebvre)/RDPP, No. 197/18; JD, November 22, 2000, p. 8057 (Michel Bissonnet)/RDPP, No. 197/27.

63 JD, October 25, 2006, p. 2914 (William Cusano)/RDPP, No. 197/46.

64 JD, October 24, 2007, p. 1620 (Fatima Houda-Pepin)/RDPP, No. 197/48.

65 JD, November 13, 1996, p. 3122 (Claude Pinard)/RDPP, No. 197/23; JD, October 8, 2014, p. 2157 (François Gendron)/RDPP, No. 197/52.

66 JD, May 1, 1991, p. 7624–7627 (Michel Bissonnet)/RDPP, No. 197/17; JD, March 18, 1992, pp. 12033–12044 and 12050 (Roger Lefebvre)/RDPP, No. 197/18; JD, October 27, 1993, p. 8280 (Michel Bissonnet)/RDPP, No. 197/19; JD, October 29, 1997, p. 8097 (Jean-Pierre Charbonneau)/RDPP, No. 197/24; JD, March 9, 2005, pp. 7001–7002 (François Gendron)/RDPP, No. 197/36; JD, March 16, 2005, p. 7131 (François Gendron)/RDPP, No. 197/37; JD, April 20, 2005, p. 7749 (François Gendron)/RDPP, No. 197/38.

67 JD, October 27, 1993, p. 8280 (Michel Bissonnet)/RDPP, No. 197/19.

the scope of the main motion⁶⁸ and broaden the debate,⁶⁹ so that changes, even major changes, are made to the main motion, enabling more Members to support it.⁷⁰

Moreover, an amendment may make major changes to a motion so long as it does not repudiate, alter or set aside the motion's principle.⁷¹ However, it is not the business of the presiding officer to determine whether the amendment is so far-reaching in its implications that, once carried, it could lead the mover to vote against the motion,⁷² nor should the presiding officer be concerned with the intentions of the mover of the amendment⁷³ or with the political significance that parliamentary groups may assign to the words of a motion.⁷⁴ The presiding officer must stick strictly to the text of the motion and the admissibility criteria developed by jurisprudence.

Lastly, it goes without saying that only a minister may move an amendment having financial repercussions.

12.2.1.2 DETERMINING THE PRINCIPLE

To rule on whether a motion to amend is admissible, the President must first determine the principle of the main motion.⁷⁵ It is important here not to confuse the principle of the motion with the aim sought.⁷⁶ For example, in one case a

68 JD, March 24, 2004, p. 3209 (François Gendron)/RDPP, No. 197/32; JD, March 9, 2005, pp. 7001-7002 (François Gendron)/No. 197/36; JD, April 20, 2005, p. 7749 (François Gendron)/RDPP, No. 197/38; JD, November 2, 2005, p. 9885 (Diane Leblanc)/RDPP, No. 197/42; JD, October 25, 2006, p. 2914 (William Cusano)/RDPP, No. 197/45.

69 JD, October 26, 1977, pp. 3701-3704 (Jean-Guy Cardinal)/RDPP, No. 197/3; JD, March 2, 1982, pp. 2154-2158 (Jean-Pierre Jolivet)/RDPP, No. 197/7; JD, March 17, 1982, pp. 2567-2568 (Jean-Pierre Jolivet)/RDPP, No. 197/8; JD, October 21, 1987, pp. 9201 and 9204-9206 (Jean-Pierre Saintonge)/RDPP, No. 197/13; JD, April 4, 1990, pp. 1597-1598 (Lawrence Cannon)/RDPP, No. 197/15; JD, October 27, 1993, p. 8280 (Michel Bissonnet)/RDPP, No. 197/19; JD, May 4, 1994, p. 715 (Michel Tremblay)/RDPP, No. 197/20; JD, November 22, 2000, p. 8057 (Michel Bissonnet)/RDPP, No. 197/27; JD, November 17, 2004, pp. 5659-5660 (William Cusano)/RDPP, No. 197/34.

70 JD, May 25, 1988, pp. 1460-1465 (Jean-Pierre Saintonge)/RDPP, No. 197/14; JD, April 4, 1990, pp. 1597-1598 (Lawrence Cannon)/RDPP, No. 197/15; JD, May 4, 1994, p. 715 (Michel Tremblay)/RDPP, No. 197/20.

71 JD, May 16, 1979, p. 1281 (Clément Richard)/RDPP, No. 197/6; JD, October 17, 2001, pp. 2765 and 2780-2781 (Jean-Pierre Charbonneau)/RDPP, No. 197/28; RDPP, No. 197/36; JD, June 9, 2005, p. 9146 (William Cusano)/RDPP, No. 197/40; JD, October 31, 2007, p. 1733 (Jacques Chagnon)/RDPP, No. 197/49.

72 JD, April 26, 1978, pp. 1153-1155 (Jean-Guy Cardinal)/RDPP, No. 197/5; JD, October 17, 2001, pp. 2765 and 2780-2781 (Jean-Pierre Charbonneau)/RDPP, No. 197/28.

73 JD, November 7, 2007, p. 1874 (Marc Picard)/RDPP, No. 197/50.

74 JD, October 31, 2007, p. 1733 (Jacques Chagnon)/RDPP, No. 197/49.

75 JD, October 8, 2014, p. 2157 (François Gendron)/RDPP, No. 197/52.

76 JD, November 5, 2003, p. 1295 (Christos Sirros)/RDPP, No. 197/30.

Wednesday motion was moved calling for the creation of a select parliamentary committee for the purpose of examining the consequences of the demographic shock facing Québec. The Vice-President who was presiding at that point ruled inadmissible an amendment recommending that the question be studied by an existing parliamentary committee. The presiding officer saw the principle of the main motion as being the creation of a select committee to study the issue concerned, a principle which was repudiated by the amendment.⁷⁷

Furthermore, given that an amendment may cause certain terms of a motion to be changed without changing its principle,⁷⁸ the distinction between a motion's terms⁷⁹ and its principle is important. The principle is an essential component of a motion.⁸⁰ For instance, the President ruled that an amendment to the following motion was in order: "That the National Assembly demand that the Parti Québécois government act immediately to counteract poverty, in particular . . . by re-establishing no-cost medication for all recipients of social welfare as well as for senior citizens receiving the income supplement." The amendment motion proposed that the words "by re-establishing no-cost" be replaced by the words "by progressively reducing the cost of". The President ruled that the motion to amend was not contrary to the principle of the motion, which was to counteract poverty, even though it toned down certain of the motion's terms, such as the re-establishment of no-cost medication.⁸¹

12.2.1.3 EXAMPLES OF THE APPLICATION OF ADMISSIBILITY CRITERIA

Many of the rulings on the admissibility of amendments have been made during the debates on business standing in the name of Members in opposition, commonly called "Wednesday motions". Under the 2009 parliamentary reform, it is no longer possible to amend a Wednesday motion except with the consent of its mover (SO 98.1). Even though the admissibility criteria for amendments to Wednesday motions were greatly tightened up in the years before the reform,⁸² they are still relevant when determining whether an amendment to a motion is admissible.

77 Ibid.

78 JD, June 2, 2005, p. 8940 (François Gendron)/RDPP, No. 197/39; JD, June 13, 2005, p. 9288 (Diane Leblanc)/RDPP, No. 197/41; JD, May 14, 2008, p. 4161 (Jacques Chagnon)/RDPP, No. 197/51.

79 JD, October 17, 2001, pp. 2765 and 2780–2781 (Jean-Pierre Charbonneau)/RDPP, No. 197/28.

80 JD, September 19, 1995, pp. 5127–5128 (Raymond Brouillet)/RDPP, No. 197/22.

81 JD, October 17, 2001, pp. 2765 and 2780–2781 (Jean-Pierre Charbonneau)/RDPP, No. 197/28.

82 JD, November 24, 2004, p. 5819 (Diane Leblanc)/RDPP, No. 197/35. A 2007 ruling stated that when in doubt about an amendment to a Wednesday motion, the presiding officer was obliged to declare the motion out of order (JD, November 7, 2007, p. 1874 (Marc Picard)/RDPP, No. 197/50).

In the case of one motion, a Second Vice-President declared inadmissible an amendment proposing to replace the word “withdraw” with regard to a rate hike request by the words “review the pertinence of”.⁸³ In the view of the Second Vice-President, adopting the amendment might have had the effect of maintaining the conclusion sought by the main motion, but it might also have had the opposite effect, that is, of repudiating the principle of the motion. In another case, the same Vice-President ruled against an amendment proposing to implement school tax hikes progressively since the principle of the main motion was that the Government forgo the hikes altogether. The Vice-President considered that the proposed amendment changed the conditions under which the hikes would be made while not necessarily forgoing them. Consequently, what was at stake was not merely the terms of the motion, but rather an element that ran counter to the principle of the motion itself.⁸⁴

In the same vein, the presiding officer ruled out of order an amendment to a motion calling upon the federal government to pay an amount to correct the fiscal imbalance. The amendment sought to replace the amount, which had already been determined by Québec’s Finance Minister, by another amount, yet to be determined. The presiding officer ruled that this was contrary to the main motion.⁸⁵ In another instance, an amendment proposing that an amount for reinvestment in health and social programs be spread over two years instead of one, as proposed by the main motion, met with the same fate. The presiding officer ruled that the amendment would have had the effect of modifying the main motion, whose principle was to invest the amount for a single fiscal year.⁸⁶ However, another amendment to the same motion proposing that the words “, while recognizing the reinvestment in 2003–2004,” be added was judged in order since it was not considered contrary to the principle of the main motion, even though it broadened its scope.⁸⁷

An amendment proposing to replace the words “demand”⁸⁸ and “order”⁸⁹ by “request” and “ask” was considered in order, since it did not run counter to the principle of the motion. In addition, an amendment that replaced a specific deadline by the words “as expeditiously as possible” was deemed in order

83 JD, November 24, 2004, p. 5819 (Diane Leblanc)/RDPP, No. 197/35.

84 JD, November 1, 2006, p. 3014 (Diane Leblanc)/RDPP, No. 197/47.

85 JD, March 16, 2005, p. 7131 (François Gendron)/RDPP, No. 197/37.

86 JD, March 24, 2004, pp. 3201–3202 (François Gendron)/RDPP, No. 197/31.

87 JD, March 24, 2004, p. 3209 (François Gendron)/RDPP, No. 197/32.

88 JD, May 12, 1982, pp. 3477–3480 (Jean-Pierre Jolivet)/RDPP, No. 197/10; JD, May 24, 1995, p. 2993 (Raymond Brouillet)/RDPP, No. 197/21; JD, May 5, 1999, pp. 1294 and 1299–1300 (Michel Bissonnet)/RDPP, No. 197/25; JD, October 17, 2001, pp. 2765–2781 (Jean-Pierre Charbonneau)/RDPP, No. 197/28.

89 JD, April 20, 2005, p. 7749 (François Gendron)/RDPP, No. 197/38.

because, though it toned down the main motion,⁹⁰ it did not change its principle. The same held true for amendments that replaced “urgently” by “expeditiously”, and “immediately” by “as soon as possible”.⁹¹

Furthermore, an amendment that replaced “immediately concentrate its efforts” by “carry on its constant efforts” was ruled in order since the nature of the motion remained unaltered and only the way of qualifying the efforts changed.⁹² However, in the case of the following Wednesday motion: “That the National Assembly ensure that the Québec Government actually give the Régie de l’énergie the necessary independence in the fulfillment of its initial mandate”, an amendment motion was ruled out of order because it proposed that the words “Québec Government actually give” be replaced by “Government continue to grant”. The presiding officer ruled that this ran counter to the principle of the main motion. Indeed, the words “actually give” implied an absence of independence, whereas the proposed amendment denied this affirmation by implying that such independence already existed. The presiding officer ruled that the amendment was to be distinguished from previous motions to amend that had been declared in order and whose purpose had been to change an action to be taken into an action to be continued: in the amendment under consideration, the main motion clearly implied a total absence of action.⁹³

12.2.2 SUBAMENDMENTS

Any Member speaking to an amendment may propose a subamendment. Subamendments are moved and debated one at a time and are subject to the same rules as amendments (SO 200). Thus, a subamendment must not set aside, repudiate, alter or contradict the principle of the amendment motion.⁹⁴ A subamendment must relate exclusively to the amendment concerned and not to the main motion.⁹⁵ Since its purpose is to amend an amendment, a subamendment must not broaden the scope of the amendment⁹⁶ but must

90 Ibid.

91 JD, October 29, 2003, p. 1165 (François Gendron)/RDPP, No. 197/29; JD, October 25, 2006, p. 2914 (William Cusano)/RDPP, No. 197/46.

92 JD, November 9, 1977, pp. 4018–4020 (Louise Cuerrier)/RDPP, No. 197/4. See also JD, October 21, 1987, pp. 9201 and 9204–9206 (Jean-Pierre Saintonge)/RDPP, No. 197/13; JD, October 17, 2001, pp. 2765 and 2780–2781 (Jean-Pierre Charbonneau)/RDPP, No. 197/28.

93 JD, May 19, 1999, p. 1615 (Raymond Brouillet)/RDPP, No. 197/26.

94 JD, November 17, 2004, pp. 5665–5666 (William Cusano)/RDPP, No. 200/9.

95 JD, November 14, 1979, pp. 3636–3637 (Claude Vaillancourt)/RDPP, No. 200/5.

96 JD, December 20, 1973, pp. 767–768 (Jean-Noël Lavoie)/RDPP, No. 200/4; JD, April 4, 1990, pp. 1612–1613 and 1620 (Lawrence Cannon)/RDPP, No. 200/7.

rather address matters not taken up in it.⁹⁷ A subamendment must not constitute a repetition of the main motion.⁹⁸ However, the President traditionally enjoys a degree of latitude when ruling on the admissibility of subamendments.⁹⁹

Members cannot move subamendments to their own amendments. This follows from the fact that the mover of an amendment is not granted speaking time when the amendment is debated, and therefore has no opportunity to introduce a subamendment. However, there is nothing in the Standing Orders or doctrine to prevent the mover of the main motion from moving a subamendment. The Standing Orders make no provision for amending a subamendment.¹⁰⁰

It should be noted that subamendments are voted on before amendments, and amendments before the main motion (SO 201).

Under the 2009 parliamentary reform, subamendments are not permitted during a debate on a motion entered on the Order Paper by an opposition Member (SO 98.1) or on a motion introduced in the course of Routine Proceedings during the time set aside for motions without notice (SO 84.2).

12.2.3 MOTIONS TO DIVIDE

A substantive motion that contains more than one principle or proposition capable of standing on its own may be divided on a motion without notice (SO 205). A motion to divide must specify how the question is to be divided, and is ruled out of order unless the following four conditions are met: (1) the motion being divided must be a substantive motion; (2) it must contain more than one principle; (3) each principle must be capable of standing as a proposition on its own; and (4) the motion to divide must indicate how the division is to be made (SO 205). If the motion is ruled in order by the President and subsequently adopted by the Assembly, each part of the divided motion becomes a separate motion.

Motions to divide tend to foster freedom of expression since they enable Members to speak to each of the propositions. The President's role is therefore confined to ensuring that the conditions set out in Standing Order 205 are met. Assembly precedent has determined that the word "principle", when applied to a motion, should be given a more restricted meaning than the words "subject", "purpose" or "object".¹⁰¹ It is clear, in any case, that the principle is an essential element of a motion or bill, whereas a motion's terms are ancillary elements.¹⁰²

97 JD, December 19, 1973, pp. 698–700 (Jean-Noël Lavoie)/RDPP, No. 200/2.

98 JD, December 19, 1973, pp. 689–691 (Jean-Noël Lavoie)/RDPP, No. 200/1; JD, November 27, 1991, pp. 10903–10914 and 10935–10936 (Roger Lefebvre)/RDPP, No. 200/8.

99 JD, December 19, 1973, pp. 704–708 (Jean-Noël Lavoie)/RDPP, No. 200/3.

100 JD, December 4, 1995, pp. 5364–5365 (Pierre Bélanger).

101 JD, March 21, 1990, pp. 1205–1215 (Jean-Pierre Saintonge)/RDPP, No. 205/1.

102 JD, June 3, 1998, pp. 11650–11651 (Claude Pinard)/RDPP, No. 241/11.

On being ruled in order by the President, a motion to divide may be debated for two hours before being put to a vote (SO 206). This debate has precedence over the debate on the original motion (SO 208).

If the motion is negatived, debate on the original motion resumes at the stage it had reached before the motion to divide was proposed. If the motion to divide is carried, each part of the divided question becomes a motion in itself to be discussed and voted on separately, following the order of appearance in the original motion (SO 207). It should be noted that in practice, motions to divide a substantive motion are rarely proposed,¹⁰³ whereas motions to divide a bill are more frequent (SO 241).¹⁰⁴

12.2.4 THE PREVIOUS QUESTION

If no amendments to a motion are before the Assembly, any Member who has the floor may move that the question on the main motion be put immediately (SO 202). The purpose of such a motion, known as the “previous question”, is to prematurely cut off debate on the motion under consideration. As with all incidental motions introduced in the course of the debate on a motion, a Member who wishes to move an immediate vote on the question must do so while speaking to the motion under consideration. Consequently, a Member who has already spoken to the motion may not subsequently move the previous question, but may speak to the previous motion if it is moved by another Member.

A previous question motion may be rejected out of hand if the President judges that the debate on the motion under consideration¹⁰⁵ has not been unduly long, or that cutting off debate would infringe Members’ rights (SO 203). Since the motion effectively inhibits Members’ freedom of expression, it must be used “sparingly and solely in extreme cases”.¹⁰⁶ If the debate is proceeding at a normal pace, the President must reject the motion.

The mover of the previous question is granted 10 minutes of speaking time, as is a representative of each parliamentary group; the mover may then speak for five minutes in reply. The motion may not be amended (SO 202 and 204).

If the previous question motion is carried, the main motion is voted on immediately, without amendment or debate.

103 The last motion to divide a substantive motion under Standing Order 205 was in March 1990.

104 See Chapter 14, “The Legislative Process”.

105 The French version of Standing Order 203 refers to the debate on the “motion de fond”, or substantive motion, which has led some committee Chairs to rule that only a substantive motion can give rise to a previous question (JD, June 11, 1986, pp. CE-542-544 (Michel Bissonnet)/RDPP (Com. Vol.), No. 202/2; JD, June 11, 1986, p. CE-573 (Robert Thérien); JD, December 6, 1988, pp. CET-1422-1423 (Jean Audet). It seems likely that the words “motion de fond” were used wrongly to designate “motion principale” (main motion). For further information, see Footnote 11 in Section 12.1, “Motions”.

106 JD, November 30, 2001, p. 4139 (Claude Pinard)/RDPP, n°202/2.

In practice, the previous question is rarely used.¹⁰⁷ However, it was introduced during a debate on business standing in the name of Members in opposition.¹⁰⁸ The ruling of the Vice-President in that instance seems to confirm that, subject to Standing Orders 202 and 203, such a motion may be brought forward in the course of any debate, including one on business standing in the name of Members in opposition.¹⁰⁹ The presiding officer nonetheless plays an important role in ensuring that abuses do not occur and that Members' rights are not infringed upon by a majority that cuts off debate without good reason.

12.2.5 MOTIONS TO ADJOURN THE DEBATE

A motion to adjourn the debate may also be moved without notice, at any time during a sitting, by a Member speaking to the motion under consideration. However, no subsequent motion to adjourn may be moved during the same sitting except by a minister or a deputy Government House leader (SO 100). This means that only one Member who is neither a minister nor a deputy Government House leader may move a motion to adjourn during any given debate. However, if a debate takes place over several sittings, one motion to adjourn may be moved per sitting provided it is done by a Member not having already done so for the same debate in a previous sitting.

Since an adjournment must be moved while the Member is speaking to the motion being debated, a Member who sits down after speaking to the main motion may not then make a motion to adjourn the debate.¹¹⁰ Even though ministers, including the Government House Leader or a deputy Government House leader, may move for adjournment more than once in the course of the same debate, they too are subject to the rule that no Member may move adjournment unless still entitled to speak to the motion under consideration. Thus, a minister or deputy House leader who has already spoken to the main motion has no special privilege in this instance and, consequently, may not ask to take the floor again, during the same debate, to move an adjournment of the debate.¹¹¹

107 No motion on the previous question has been moved since November 29, 2001 (See VP, November 29, 2001, p. 692).

108 See Chapter 9, "The Conduct of a Sitting".

109 JD, May 22, 1991, pp. 8386–8390 (Roger Lefebvre)/RDPP, No. 202/1. In this instance, the debate on a bill had begun the previous Wednesday and was to be continued. The previous question was moved by the Official Opposition House Leader, which is probably why the Vice-President declared it in order. If the motion had been moved by a Member from the Government party, it would likely have been ruled out of order.

110 JD, December 17, 1987, p. 10985 (Jean-Pierre Saintonge)/RDPP, No. 100/3.

111 JD, December 17, 1997, pp. 9645–9646 (Claude Pinard)/RDPP, No. 100/6.

Although a motion to adjourn may not be moved more than once during the same debate, except by a minister or a deputy Government House leader, it remains that such a motion may be moved in the context of each separate debate. Accordingly, a motion to adjourn moved during a debate on an incidental motion introduced within a broader debate on the adoption of the principle of a bill—a hoist motion, for instance—does not preclude another motion to adjourn being moved when the debate on the adoption of the principle is resumed.¹¹² Moreover, the debating time allotted for a motion to adjourn is added to, and does not reduce, the time set aside for a limited debate.¹¹³

A Member who requests the floor for the sole purpose of moving a motion to adjourn the debate, without addressing the main motion under consideration, is not considered to have spoken to the main motion. This derives from Standing Order 102, which states that a Member whose motion adjourns a debate is entitled to be heard first when the debate is resumed if the motion to adjourn is carried. If the debate is adjourned before the Member begins to address the motion, the Member may choose to defer the address to a later stage of the debate; if adjourned after the Member has begun, the Member must continue the address immediately upon resumption of the debate, or the address is considered to have been concluded. Consequently, a minister or deputy Government House leader who has not spoken to the motion under consideration may introduce more than one motion to adjourn the debate, provided their address is deferred each time to the resumption of the debate. It is not uncommon for the Government House Leader or a deputy Government House leader to adjourn a debate several times, even in the course of a single sitting, since the Government House Leader is entitled, during the same sitting, to recall an item of business on which the debate has just been adjourned.¹¹⁴

A motion to adjourn can be debated briefly (SO 101) but not amended (SO 100). The mover of the motion has 10 minutes' speaking time, as does a representative of each parliamentary group.¹¹⁵ A difficulty arises, however, if the mover of the motion has taken the floor as the representative of a parliamentary group, since if the same person takes both roles, any other Member from the same group is prevented from speaking to the matter.¹¹⁶ The mover of the motion is entitled to speak for five minutes in reply before the President puts the motion to a vote. If the motion is carried there is then no business formally before the Assembly, and another matter may be debated or the sitting may be adjourned.

112 JD, December 1, 1986, p. 4503 (Jean-Pierre Saintonge)/RDPP, No. 100/2; JD, December 8, 2005, p. 10859 (William Cusano).

113 JD, December 15, 2003, p. 2676 (Michel Bissonnet)/RDPP, No. 210/5.

114 JD, June 7, 1995, pp. 3717–3722 (Raymond Brouillet)/RDPP, No. 100/5.

115 JD, December 1, 1986, pp. 4505–4506 (Jean-Pierre Saintonge)/RDPP, No. 101/2.

116 JD, December 7, 1978, pp. 4438–4443 (Clément Richard)/RDPP, No. 101/1.

If the motion to adjourn the debate is negated, debate resumes on the main motion for which adjournment was proposed. If the Member who moved the adjournment motion had already begun speaking to the main motion prior to the vote, then that Member must continue speaking, otherwise the address will be deemed concluded. If the address had not begun, the Member may defer the right to speak (SO 102).

A motion to adjourn the debate can be moved with regard to any debate, without exception, on either government or opposition business.¹¹⁷

12.3 VOTING

Questions brought before the Assembly are decided by a vote (SO 219, 1st para.) for which a quorum is required (SO 219, 2nd para.). Moreover, when a vote is taking place, the President cannot suspend or adjourn the sitting until the result has been declared (SO 103, 2nd para.).

Under Standing Order 220, voting is carried out either by a show of hands or by a recorded division. When a motion is debated in the House, the President must ensure that the debate has ended and that all Members who wish to speak to the matter under consideration have done so before proceeding with a vote.¹¹⁸ In the case of a limited debate, the President must ensure that the allotted time has expired.

Before a motion is put to a vote, it is read aloud by the President (SO 221).¹¹⁹ If an amendment to a motion is to be voted on and the text has not been distributed to the Members beforehand, the President reads the original motion, followed by the amendment and then the motion as it will read, if amended (SO 222). The same procedure is followed for any subamendment. It should be noted that, when a vote is held, the French and English versions of a motion cannot be considered separately as they are one and the same document.¹²⁰

12.3.1 VOTE BY SHOW OF HANDS

A vote by a show of hands does not require that Members actually raise their hands to indicate their agreement or disagreement with a motion. Once the motion has been read, the President asks whether it is carried. If no Member verbally opposes the carrying of the motion, the President declares the motion

117 JD, March 27, 1991, pp. 7236 and 7240–7241 (Jean-Pierre Saintonge)/RDPP, No. 97/5.

118 JD, June 14, 1993, pp. 7630–7633 (Roger Lefebvre)/RDPP, No. 219/1.

119 Under Standing Order 190, a motion must be in writing unless its terms are invariable. If the motion read by the presiding officer differs from the written text of the motion presented to the Assembly, the latter takes precedence (JD, June 20, 2001, p. 2537 (Raymond Brouillet)/RDPP, No. 221/1; JD, June 20, 2001, pp. 2616–2617 (Claude Pinard)).

120 JD, October 23, 1990, pp. 4563–4565 (Jean-Pierre Saintonge)/RDPP, No. 226/1.

carried. If opposition is expressed, the President determines whether the yeas or the nays are in the majority, and immediately declares the motion carried or negatived, as applicable. If the President notes that a majority of Members is in favour of the motion, the President will so indicate by announcing that the motion was carried by the majority. Parliamentary parlance also uses the phrase “carried on division” to indicate that some Members were not in favour of the motion that was carried. In practice, it is the House leaders or their deputies who inform the President of whether the parliamentary groups they represent support the motion.

A vote by a show of hands is comparable to an anonymous vote, since the names of the Members who are for and against are not recorded in the *Votes and Proceedings*. A Member may nonetheless require that his or her abstention or dissent, or the absence of unanimity, be recorded in the *Votes and Proceedings* (SO 228). Members who wish to do so must rise in turn and mention the fact without further comment.¹²¹

12.3.2 RECORDED DIVISIONS

For a recorded division to take place, five Members must request it (SO 220). If the request for a recorded division is made by the House leader or deputy House leader of a parliamentary group, it is traditionally assumed to enjoy the support of five of the Members of that group who are present. If the request is made by an independent Member, the current practice is for the President to accept the request if there are five independent Members present who agree with the request.¹²²

The vote is announced by division bells sounded throughout the precinct of the Assembly,¹²³ at which point any committee proceedings in progress are suspended (SO 224, 1st para.).

The President puts the question to a vote when of the opinion that sufficient time has elapsed (SO 224, 2nd para.).¹²⁴ By parliamentary tradition, no vote is held as long as one of the whips remains standing—an indication that the whip’s group is not ready to vote—but the decision to hold the vote is nonetheless at the President’s discretion.¹²⁵

121 JD, December 14, 2004, p. 6762 (François Gendron)/RDPP, No. 228/1.

122 JD, November 18, 2004, pp. 5732–5733 (William Cusano)/RDPP, No. 220/5.

123 This must be done for each recorded division, even when a number of divisions are called consecutively, the presiding officer having ruled that Standing Order 224 must be applied in its entirety (JD, June 22, 1992, pp. 2989–2990 (Roger Lefebvre)/RDPP, No. 224/2).

124 JD, May 10, 1990, p. 2505 (Jean-Pierre Saintonge)/RDPP, No. 83/1. The time allowed by the President may vary depending on the circumstances.

125 JD, March 21, 1985, pp. 2608–2611 (Richard Guay)/RDPP, No. 224/1.

A recorded division takes place as follows: The President reads the motion aloud (SO 221), and then directs the yeas, then the nays, and lastly the abstentions to rise in their places (SO 226). Members rise to vote one by one in a predetermined order.¹²⁶ A Table officer calls out each Member's last name and riding as they rise in succession.

The Standing Orders say little about the conduct of a recorded division, and do not specify the voting order—yeas, nays, abstentions—or the order in which the various parliamentary groups and independents are to be called upon to vote. The former Standing Orders were more precise in these matters and continue to provide the basis for current practice: the leader of the parliamentary group whose Member authored the motion is the first to rise, followed immediately by the House leader, and then each Member from the group rises individually, proceeding row by row; after that, the other parliamentary groups in favour of the motion vote in the same fashion, in the order dictated by their numerical importance in the House. Independent Members vote one after another since they are physically grouped together in the House. Once the groups in favour of the motion have expressed their vote, the independent Members in favour of the motion may rise in their turn. The same procedure is then followed for votes against and for abstentions. This procedure is followed both in matters proposed by the Government and in those proposed by the Official Opposition.

Although the President has never ruled on the matter, in the case of a motion for a division introduced by an independent Member, the order of the vote is generally as follows: first, the independent Member who moved the motion; second, the parliamentary groups voting with that Member; and lastly, the remaining independents. This procedure is followed for all three voting possibilities—for, against, abstention. Hence, where a motion by an independent Member results in a recorded division, the independent Members, unlike the Members belonging to a parliamentary group, do not all vote one after the other.

The Members present in the House must vote in one of the three ways provided for in the Standing Orders, but there is no sanction for failing to do so.¹²⁷

During a recorded division, Members may neither enter the House after the question on the motion has been put nor leave the House before the result is announced (SO 225). By custom, however, Members who arrive late may participate in the vote with the unanimous consent of the Assembly. Once consent is granted, the President invites the Members concerned to take their places, then proceeds as above, asking yeas, nays and abstentions to rise in their places.

126 See Appendix I, "Order of the Vote During a Recorded Division—42nd Legislature".

127 JD, November 20, 1990, pp. 5172–5176 (Jean-Pierre Saintonge)/RDPP, No. 226/2.

Members who do not wish to express an opinion may leave the House before the motion is put to a vote, that is, before the motion has been fully read.¹²⁸

Members may not speak during a division except to raise a point of order or privilege (SO 227) and must remain seated until the result of the vote is announced.

When all Members have voted, the Secretary General communicates the result to the President, who proclaims it to the House (SO 226, 2nd para.). Once the result is announced, the President may not change it without the unanimous consent of the Members.¹²⁹ However, the Secretary General may correct any errors in the computation of votes, unless the correction changes the result.¹³⁰ The names of the Members are recorded in the *Votes and Proceedings*, according to how they voted (yea, nay or abstention).

12.3.3 DEFERRED DIVISIONS

At the Government House Leader's request, the President may defer a recorded division until a later time in the sitting day or to Routine Proceedings of the next sitting day (SO 223, 1st para.).

Routine Proceedings include a specific time to hold divisions that were deferred at a previous sitting (SO 53(6) and 83). Such votes take place immediately following Oral Questions and Answers, at a time when most Members are present in the House. Five minutes before the deferred recorded division is to be taken, the division bells are sounded throughout the precinct of the Assembly.¹³¹

Since Standing Order 223 also provides that the Government House Leader may request that a recorded division be deferred until later the same sitting day, logically, (although the President has never had to rule on this question) that division could take place at a time other than during Deferred Divisions, which is a component of Routine Proceedings at the beginning of each Assembly sitting. If a recorded division could not be deferred to some other time, there would be no point in the Standing Orders allowing the Government House Leader to request the deferral of a recorded division until later in a sitting during Routine Proceedings. Therefore, subject to a different interpretation by the President, the following is an explanation of how a recorded vote could be deferred until later in the day during Routine Proceedings: First, the vote would have to take place at a time when no other business is before the Assembly. Second, at the time the deferred division is announced, the time for the new vote would have to be sufficiently precise so that Members could know when it is to be held. In all cases, under Standing Order 224, the division bells must ring five minutes before the deferred vote is held. A typical scenario would be a request to defer a division on a matter

128 JD, April 22, 1998, p. 10858 (Jean-Pierre Charbonneau)/RDPP, No. 225/1.

129 JD, March 13, 1991, pp. 6971-6973 (Jean-Pierre Saintonge)/RDPP, No. 226/3.

130 Geoffrion 1941, SO 307.

131 See Chapter 9, "The Conduct of a Sitting".

being debated on a Wednesday morning during Orders of the Day. A request to defer a recorded division until after the Business Standing in the Name of Members in Opposition period would meet the above-mentioned criteria.

Under the second paragraph of Standing Order 223, only two types of motions may not be deferred: a motion for adjournment and a motion for the previous question to be now put. All other motions, including want of confidence motions,¹³² may be the object of a deferral. Business having precedence is no exception,¹³³ for Standing Order 223 makes no distinction between business having precedence and other business. Deferral of a division allows another matter to be brought before the Assembly. Indeed, the possibility of deferring a vote is provided for in the Standing Orders not to prevent the Assembly from functioning, but rather to promote the smooth running of its business by allowing all Members to be present to vote following Question Period.¹³⁴ However, once deferred to a future sitting, the vote cannot under any circumstance be deferred again.¹³⁵

It is also with this in mind that the President once ruled that a deferred division is considered to have taken place at the sitting during which the motion was first put to the vote. The ruling prevented the deferral of the vote from having an impact on the validity of the order given to a committee to hear a minister on a given date.¹³⁶ Without this presumption, the order given by the motion would have been considered invalid since Standing Order 164, which provides that a committee wishing to hear a minister must notify the minister not less than 15 days in advance, and that requirement would not have been met.

Although the President has the discretionary power to reject a motion to defer (SO 223), that power seems to never have been exercised.¹³⁷ However, the President has ruled that if simply deferring a division had the effect of turning a valid motion into an invalid one, then such a deferral would certainly have to be refused.¹³⁸

132 JD, June 18, 1985, pp. 4781–4784 (Richard Guay)/RDPP, No. 223/2; JD, May 20, 1999, pp. 1700–1701 (Michel Bissonnet).

133 JD, November 22, 2001, p. 3839 (Claude Pinard)/RDPP, No. 223/4. In this instance, following the debate on the budget speech, the Official Opposition House Leader objected to deferring the vote on the want of confidence motions introduced during the debate and on a motion of the Minister of Finance to have the Assembly approve the Government's budgetary policy. In his view, since the debate on the budget speech was business having precedence, no further matter could be considered until the Assembly had dealt with those motions.

134 Ibid. Although Standing Order 223 states that a division may be deferred to any time during the sitting, most if not all deferred divisions take place during Routine Proceedings, at the time provided for that purpose at the end of Oral Questions and Answers (SO 53 (6)).

135 JD, May 13, 2010, p. 6717 (Fatima Houda-Pepin)/RDPP, No. 223/6.

136 JD, November 28, 2013, p. 5975 (Jacques Chagnon)/RDPP, No. 223/8.

137 JD, June 18, 1985, pp. 4781–4784 (Richard Guay)/RDPP, No. 223/2; JD, May 30, 1996, pp. 1517–1518 (Raymond Brouillet).

138 JD, November 14, 2013, pp. 5668–5669 (Jacques Chagnon)/RDPP, No. 223/7.

12.3.4 REQUIRED MAJORITY

Barring an explicit provision to the contrary, questions brought before the Assembly are decided by a simple majority vote.¹³⁹ This principle is set out in section 49 of the *Constitution Act, 1867*, which applies to the Assembly by virtue of section 87 of that Act.¹⁴⁰

As previously stated, the President does not participate in the discussions of the Assembly and may vote only to break a tie (SO 4). For decisions being taken by majority vote, when there is a tie in a recorded division, the President has the casting vote.¹⁴¹

Some motions require the support of a qualified majority to be adopted. For example, some statutes specify that a motion to appoint¹⁴² or dismiss¹⁴³ a person must be carried by a two-thirds majority of the National Assembly. This means

139 JD, June 2, 1998, p. 11564 (Jean-Pierre Charbonneau)/RDPP, No. 219/2.

140 Sections 49 and 87 of the *Constitution Act, 1867*, read as follows:

49. Questions arising in the House of Commons shall be decided by a Majority of Voices other than that of the Speaker, and when the Voices are equal, but not otherwise, the Speaker shall have a Vote.

87. The following Provisions of this Act respecting the House of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say, — the Provisions relating to the Election of a Speaker originally and on Vacancies, the Duties of the Speaker, the Absence of the Speaker, the Quorum, and the Mode of voting, as if those Provisions were here re-enacted and made applicable in Terms to each such Legislative Assembly.

141 See Chapter 4, “The Office of President”.

142 *Act respecting Access to documents held by public bodies and the Protection of personal information*, CQLR, c. A-2.1, s. 104; *Act respecting the Autorité des marchés publics*, CQLR, c. A-33.2.1, s. 4; *Charter of Human Rights and Freedoms*, CQLR, c. C-12, art. 58; *Code of Ethics and Conduct of the Members of the National Assembly*, CQLR, c. C-23.1, s. 62; *Act respecting the Director of Criminal and Penal Prosecutions*, CQLR, c. D-9.1.1, s. 2; *Election Act*, CQLR, c. E-3.3, ss. 478, 526 and 531; *Public Service Act*, CQLR, c. F3.1.1, ss. 106 and 122; *Anti-Corruption Act*, CQLR, c. L-6.1, ss. 5 and 35.8; *Police Act*, CQLR, c. P-13.1, s. 56; *Public Protector Act*, CQLR, c. P-32, s. 1; *Lobbying Transparency and Ethics Act*, CQLR, c. T-11.011, s. 33; *Auditor General Act*, CQLR, c. V-5.01, s. 7.

143 *Act respecting Access to documents held by public bodies and the Protection of personal information*, s. 107; *Code of Ethics and Conduct of the Members of the National Assembly*, s. 66; *Act respecting the Director of Criminal and Penal Prosecutions*, s. 6; *Election Act*, ss. 480 and 530; *Public Service Act*, s. 108; *Anti-Corruption Act*, ss. 5.2.1 and 35.11; *Police Act*, s. 56.5; *Public Protector Act*, s. 3; *Lobbying Transparency and Ethics Act*, s. 34; *Auditor General Act*, s. 13.

two-thirds of all Members, not just those present for the vote. A recorded division is the only way to ascertain whether such a motion is carried.¹⁴⁴

In addition to these cases, a report by the Ethics Commissioner recommending the application of a sanction against a Member or another person must be adopted by a two-thirds majority of the House.¹⁴⁵

Furthermore, extending a legislature's duration beyond the maximum term requires a vote in the House and the extension must not be subject to opposition expressed by the votes of more than one-third of the Assembly's members.¹⁴⁶

12.3.5 FREE VOTES

Sometimes Members belonging to the same parliamentary group may vote freely without having to adhere to party lines. This is referred to as a free vote.¹⁴⁷ However, as a general rule, Members are expected to "toe the party line". Thus, Members belonging to the same parliamentary group normally share a common position and are expected to vote accordingly. Note that a free vote is different from a case where it was not initially set out that Members could vote differently from the rest of their parliamentary group, but one or more Members do so anyway. In the case of a free vote, it is agreed in advance that all Members of a parliamentary group may vote according to their beliefs. A free vote may be allowed by one or more parties, or by all parties.

The 2009 parliamentary reform introduced provisions to the Standing Orders relating to the Assembly's confidence in the Government. For instance, Standing Order 303.1 specifies which types of votes the Assembly may use to raise a question of confidence in the Government. One of the aims of these provisions was to promote free votes. It was thought that clearly specifying which votes

144 JD, December 18, 1987, pp. 11027-11028 (Pierre Lorrain)/RDPP, No. 220/1. For example, the second paragraph of section 1 of the *Public Protector Act* stipulates that the appointment of a Public Protector must be "approved by two-thirds of the members of the National Assembly". It should be noted that the wording is "two-thirds of the members", not "two-thirds of the votes cast". "Two-thirds of the members" refers to the composition of the Assembly on the day the motion is voted on, and should not be taken as two-thirds of the seats. If one of the 125 seats is vacant, the motion must be agreed to by two-thirds of the 124 Members. In fact, the motion must be approved by at least two-thirds of the Members. Therefore, where two-thirds of the Members is a decimal number, the result must be rounded up. For example, if there are 125 Members, two-thirds is 83.33, which means that 84 Members have to agree to the motion for it to be carried.

145 *Code of Ethics and Conduct of the Members of the National Assembly*, s. 104.

146 *Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c. 11 (reprinted in R.S.C. 1985, App. II, No. 44), s. 4.

147 "Free vote" is defined as "a vote by Members of parliament in which they can vote according to their own beliefs rather than following the policy of their political party" in the online Oxford Canadian Dictionary: <https://www.oxfordlearnersdictionaries.com/definition/english/free-vote>.

are confidence questions would signal that a negative result would not bring down the Government in the case of votes that are not confidence questions. That said, in addition to the cases set out in the Standing Orders, the Government may itself state that a particular vote is a confidence question.¹⁴⁸

Despite the amendments made to the Standing Orders, few votes have been publicly stated as being free votes. The few examples include the free vote held on Bill 204, *An Act concerning the multi-functional amphitheatre of Ville de Québec* during the 39th Legislature,¹⁴⁹ and the voting during consideration of Bill 52, *An Act respecting end-of-life care*.¹⁵⁰ In March 2016, the Leader of the Second Opposition Group was also quoted numerous times by the media as saying that he would allow Members from his parliamentary group to vote “according to their conscience” with regard to Bill 64, *Firearms Registration Act*.¹⁵¹

148 See Chapter 7, “Ministerial Responsibility and the Assembly’s Confidence in the Government”.

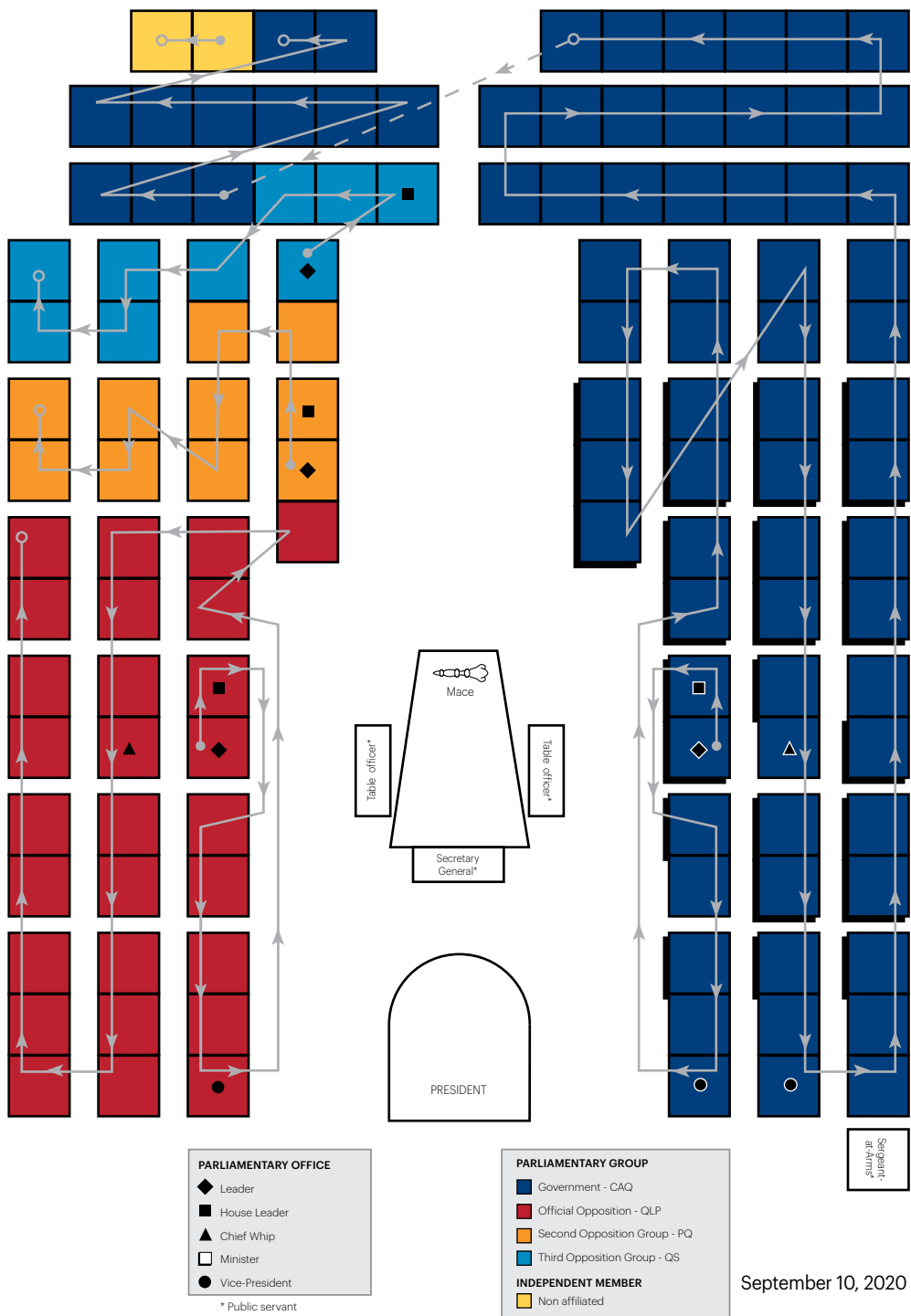
149 The Official Opposition House Leader had announced that she would allow a free vote on this bill. Thus, on September 20, 2011, during the vote on the passage of the principle of the bill, eight Members of the Official Opposition group voted against it and four abstained (VP, September 20, 2011, p. 478). The next day, September 21, 2011, when the bill was passed, nine Members from the Official Opposition party voted against it and five abstained (VP, September 21, 2011, p. 491).

150 In June 2013, the Official Opposition House Leader announced through the media that he would allow Members belonging to the Official Opposition group to vote freely on this bill. During the Deferred Divisions period of the October 29, 2013 sitting, when voting on passage of the bill’s principle, 25 Members of the Official Opposition and one Member of the Second Opposition Group voted against the bill (VP, October 29, 2013, p. 1116). When consideration of Bill 52, *An Act respecting end-of-life care*, resumed at the beginning of the 41st Legislature, the former Official Opposition House Leader, who had become the Premier, repeated several times in the House and to the media that he would allow Members of the parliamentary group forming the Government to vote according to their conscience with respect to the bill. During the vote on the bill’s passage, at the June 5, 2014 sitting, 22 Members of the Government party voted against it (VP, June 5, 2014, p. 114).

151 During the vote on passage of the bill’s principle at the May 10, 2016 sitting, three Members from the Second Opposition Group voted against it and one abstained (VP, May 10, 2016, p. 2228). Then, during the vote on the bill’s final passage at the June 9, 2016 sitting, seven Members of the Second Opposition Group voted against it (VP, June 9, 2016, pp. 2437–2438).

APPENDIX I ORDER OF THE VOTE DURING A RECORDED DIVISION—42ND LEGISLATURE

42ND LEGISLATURE, 1ST SESSION



September 10, 2020

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- JD, March 2, 1982, pp. 2154–2158 (Jean-Pierre Jolivet)/*RDPP*, No. 197/7.
- JD, March 17, 1982, pp. 2567–2568 (Jean-Pierre Jolivet)/*RDPP*, No. 197/8.
- JD, May 12, 1982, pp. 3477–3480 (Jean-Pierre Jolivet)/*RDPP*, No. 197/10.
- JD, May 5, 1983, pp. 910–914 (Réal Rancourt)/*RDPP*, No. 197/11.
- JD, May 28, 6, p. 1903 (Jean-Pierre Saintonge)/*RDPP*, No. 197/12.
- JD, October 21, 1987, pp. 9201 and 9204–9206 (Jean-Pierre Saintonge)/*RDPP*, No. 197/13.
- JD, May 25, 1988, pp. 1460–1465 (Jean-Pierre Saintonge)/*RDPP*, No. 197/14.
- JD, April 4, 1990, pp. 1597–1598 (Lawrence Cannon)/*RDPP*, No. 197/15.
- JD, May 1, 1991, pp. 7624–7627 (Michel Bissonnet)/*RDPP*, No. 197/17.
- JD, March 18, 1992, pp. 12033–12044 and 12050 (Roger Lefebvre)/*RDPP*, No. 197/18.
- JD, October 27, 1993, p. 8280 (Michel Bissonnet)/*RDPP*, No. 197/19.
- JD, May 4, 1994, p. 715 (Michel Tremblay)/*RDPP*, No. 197/20.
- JD, May 24, 1995, p. 2993 (Raymond Brouillet)/*RDPP*, No. 197/21.
- JD, September 19, 1995, pp. 5127–5128 (Raymond Brouillet)/*RDPP*, No. 197/22.
- JD, November 13, 1996, p. 3122 (Claude Pinard)/*RDPP*, No. 197/23.
- JD, October 29, 1997, p. 8097 (Jean-Pierre Charbonneau)/*RDPP*, No. 197/24.
- JD, May 5, 1999, p. 1294 and 1299–1300 (Michel Bissonnet)/*RDPP*, No. 197/25.
- JD, May 19, 1999, p. 1615 (Raymond Brouillet)/*RDPP*, No. 197/26.
- JD, November 22, 2000, p. 8057 (Michel Bissonnet)/*RDPP*, No. 197/27.

- JD, October 17, 2001, pp. 2765 and 2780–2781 (Jean-Pierre Charbonneau)/*RDPP*, No. 197/28.
- JD, October 29, 2003, p. 1165 (François Gendron)/*RDPP*, No. 197/29.
- JD, November 5, 2003, p. 1295 (Christos Sirros)/*RDPP*, No. 197/30.
- JD, March 24, 2004, pp. 3201–3202 (François Gendron)/*RDPP*, No. 197/31.
- JD, March 24, 2004, p. 3209 (François Gendron)/*RDPP*, No. 197/32.
- JD, November 10, 2004, p. 5551 (François Gendron)/*RDPP*, No. 197/33.
- JD, November 17, 2004, pp. 5659–5660 (William Cusano)/*RDPP*, No. 197/34.
- JD, November 24, 2004, p. 5819 (Diane Leblanc)/*RDPP*, No. 197/35.
- JD, March 9, 2005, pp. 7001–7002 (François Gendron)/*RDPP*, No. 197/36.
- JD, March 16, 2005, p. 7131 (François Gendron)/*RDPP*, No. 197/37.
- JD, April 20, 2005, p. 7749 (François Gendron)/*RDPP*, No. 197/38.
- JD, June 2, 2005, p. 8940 (François Gendron)/*RDPP*, No. 197/39.
- JD, June 9, 2005, p. 9146 (William Cusano)/*RDPP*, No. 197/40.
- JD, June 13, 2005, p. 9288 (Diane Leblanc)/*RDPP*, No. 197/41.
- JD, November 2, 2005, p. 9885 (Diane Leblanc)/*RDPP*, No. 197/42.
- JD, November 9, 2005, p. 10048 (François Gendron)/*RDPP*, No. 197/43.
- JD, October 25, 2006, p. 2914 (William Cusano)/*RDPP*, No. 197/45.
- JD, October 25, 2006, p. 2914 (William Cusano)/*RDPP*, No. 197/46.
- JD, November 1, 2006, p. 3014 (Diane Leblanc)/*RDPP*, No. 197/47.
- JD, October 24, 2007, p. 1620 (Fatima Houda-Pepin)/*RDPP*, No. 197/48.
- JD, October 31, 2007, p. 1733 (Jacques Chagnon)/*RDPP*, No. 197/49.
- JD, November 7, 2007, p. 1874 (Marc Picard)/*RDPP*, No. 197/50.
- JD, May 14, 2008, p. 4161 (Jacques Chagnon)/*RDPP*, No. 197/51.
- JD, October 8, 2014, p. 2157 (François Gendron)/*RDPP*, No. 197/52.
- JD, December 19, 1973, pp. 689–691 (Jean-Noël Lavoie)/*RDPP*, No. 200/1.

- JD, December 19, 1973, pp. 698–700 (Jean-Noël Lavoie)/*RDPP*, No. 200/2.
- JD, December 19, 1973, pp. 704–708 (Jean-Noël Lavoie)/*RDPP*, No. 200/3.
- JD, December 20, 1973, pp. 767–768 (Jean-Noël Lavoie)/*RDPP*, No. 200/4.
- JD, November 14, 1979, pp. 3636–3637 (Claude Vaillancourt)/*RDPP*, No. 200/5.
- JD, April 4, 1990, pp. 1612–1613 and 1620 (Lawrence Cannon)/*RDPP*, No. 200/7.
- JD, November 27, 1991, pp. 10903–10914 and 10935–10936 (Roger Lefebvre)/*RDPP*, No. 200/8.
- JD, November 17, 2004, pp. 5665–5666 (William Cusano)/*RDPP*, No. 200/9.
- JD, May 22, 1991, pp. 8386–8390 (Roger Lefebvre)/*RDPP*, No. 202/1.
- JD, November 30, 2001, p. 4139 (Claude Pinard)/*RDPP*, No. 202/2.
- JD, June 11, 1986, pp. CE-542–544 (Michel Bissonnet)/*RDPP* (Com. Vol.), No. 202/2.
- JD, March 21, 1990, pp. 1205–1215 (Jean-Pierre Saintonge)/*RDPP*, No. 205/1.
- JD, December 15, 2003, p. 2676 (Michel Bissonnet)/*RDPP*, No. 210/5.
- JD, June 14, 1993, pp. 7630–7633 (Roger Lefebvre)/*RDPP*, No. 219/1.
- JD, June 2, 1998, p. 11564 (Jean-Pierre Charbonneau)/*RDPP*, No. 219/2.
- JD, December 18, 1987, pp. 11027–11028 (Pierre Lorrain)/*RDPP*, No. 220/1.
- JD, November 18, 2004, pp. 5732–5733 (William Cusano)/*RDPP*, No. 220/5.
- JD, June 20, 2001, p. 2537 (Raymond Brouillet)/*RDPP*, No. 221/1.
- JD, June 18, 1985, pp. 4781–4784 (Richard Guay)/*RDPP*, No. 223/2.
- JD, November 22, 2001, p. 3839 (Claude Pinard)/*RDPP*, No. 223/4.
- JD, May 13, 2010, p. 6717 (Fatima Houda-Pepin)/*RDPP*, No. 223/6.
- JD, November 14, 2013, pp. 5668–5669 (Jacques Chagnon)/*RDPP*, No. 223/7.
- JD, November 28, 2013, p. 5975 (Jacques Chagnon)/*RDPP*, No. 223/8.
- JD, March 21, 1985, pp. 2608–2611 (Richard Guay)/*RDPP*, No. 224/1.
- JD, June 22, 1992, pp. 2989–2990 (Roger Lefebvre)/*RDPP*, No. 224/2.
- JD, April 22, 1998, p. 10858 (Jean-Pierre Charbonneau)/*RDPP*, No. 225/1.

- JD, October 23, 1990, pp. 4563–4565 (Jean-Pierre Saintonge)/RDPP, No. 226/1.
- JD, November 20, 1990, pp. 5172–5176 (Jean-Pierre Saintonge)/RDPP, No. 226/2.
- JD, March 13, 1991, pp. 6971–6973 (Jean-Pierre Saintonge)/RDPP, No. 226/3.
- JD, December 14, 2004, p. 6762 (François Gendron)/RDPP, No. 228/1.
- JD, June 3, 1998, pp. 11650–11651 (Claude Pinard)/RDPP, No. 241/11.
- JD, May 15, 2013, p. 3283 (Carole Poirier)/RDPP, No. 252/6.
- JD, April 8, 1998, p. 10713 (Jean-Pierre Charbonneau)/RDPP, No. 274/2.
- JD, May 22, 1997, pp. 6887–6888 (Claude Pinard)/RDPP, No. 304/2.

- Québec. National Assembly. “Vote libre” (free vote, unwhipped vote), in the *Encyclopedia of Québec Parliamentarism*, Québec, Assemblée nationale du Québec. Online: <http://assnat.qc.ca/en/patrimoine/lexique/documents-dont-la-loi-prescrit-le-depot.html>.

■ CHAPTER 13

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13 RULES OF PARLIAMENTARY DEBATE AND ALLOCATION OF SPEAKING TIME



According to parliamentary doctrine, debate begins in the Assembly once a question proposed by a Member has been read aloud by the President,¹ and ends once the question has been put to a vote.² Debates are subject to what

1 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

2 JD, December 16, 1992, pp. 4817–4819 (Roger Lefebvre)/RDPP, No. 22/1. Quoting Arthur Beauchesne, Alistair Fraser, William Foster Dawson and John A. Holtby, *Beauchesne's Rules and Forms of the House of Commons of Canada, with Annotations, Comments and Precedents*, 6th ed. (Toronto: Carswell, 1989), p. 135; Thomas Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings, and Usage of Parliament*, 25th ed., Mark Hutton, David Natzler, Matthew Hamlyn, Colin Lee, Chloe Mawson, Crispin Poyser, Eve Samson and Kate Lawrence, eds. (London: LexisNexis Butterworths, 2019), para. 21.7.

are called the “rules of parliamentary debate”. As seen in Chapter 3, even though the constitutional privilege of freedom of speech is a Member’s most recognized and fundamental right, it is nevertheless circumscribed by these rules, among other things.³

The rules of parliamentary debate are vital for the Assembly to be able to exercise in an orderly fashion the role the Constitution confers on it in the organization of the State. They are designed to guarantee the Members’ right to speak, while helping proceedings progress and preventing immoderation.

The rules of parliamentary debate define what may be said and which Members may speak during a debate, as well as when and how long they may speak. Every debate in the Assembly takes place within an established temporal framework, with some debates being subject to less restrictive rules than others.

This chapter will begin with a general overview of the rules of parliamentary debate not specifically examined in any other chapter, and then present the allocation of speaking time during National Assembly debates.

13.1 RULES OF PARLIAMENTARY DEBATE

13.1.1 SPEAKING ORDER

In order to speak during a debate in the Assembly, a Member must obviously first be entitled to do so. As a general rule, any Member may express an opinion on a given subject. However, as we will see in Section 13.2, the temporal framework for certain debates does not always allow every Member to speak during a given debate.

Members who wish to speak during a debate must rise to ask the President for permission to do so (SO 33).⁴ If several Members rise at the same time, the President determines which Member will be given the floor. However, should the Member who moved the motion rise to speak, the floor must first be given to that Member. Generally, the floor is granted to the first Member the President sees rise.⁵ In practice, however, other rules are also taken into consideration, such as the rule of rotation among the parliamentary groups and the principle of alternation between speakers for and speakers against.⁶

3 See Chapter 3, Subsection 3.3.1.2, “The Second Limitation: The Rules of Parliamentary Debate”.

4 JD, June 7, 1979, p. 1809 (Louise Guerrier)/RDPP, No. 33/2.

5 JD, November 26, 1974, pp. 2954–2955 (Jean-Noël Lavoie)/RDPP, No. 33/1; JD, May 10, 1990, pp. 2547–2548 (Michel Bissonnet)/RDPP, No. 33/5.

6 JD, June 7, 1979, p. 1809 (Louise Guerrier)/RDPP, No. 33/2; JD, October 24, 1979, pp. 3121–3122 (Clément Richard)/RDPP, No. 33/3; JD, December 13, 1984, p. 1779 (Réal Rancourt)/RDPP, No. 33/4.

Under the rule of rotation, a representative from each political party is entitled to speak at the beginning of a debate. Then, in accordance with established tradition, the principle of alternation between speakers in favour of and those against the motion comes into play. That being said, the President is not bound by the rule of rotation or the principle of alternation, which are meant as guidelines.⁷ No one but the President may determine the order of interventions and such decisions may not be questioned.⁸

13.1.2 LANGUAGE OF DEBATE

Under section 133 of the *Constitution Act, 1867*,⁹ either French or English may be used in debates.¹⁰ Members occasionally briefly use a language other than French or English during debate; for example, when a motion is moved to draw attention to an event that is particularly significant for a nation or people whose main language is neither French nor English. Although such brief interventions have historically been tolerated, the practice poses two problems: first, what is said is generally incomprehensible to most Members, including the President; and second, such statements are difficult to transcribe into the *Journal des débats* (Hansard). As a result, the *Journal des débats* generally simply notes that the Member spoke in a language other than French or English.¹¹ This is why such languages should only be used exceptionally and sparingly.

7 For example, the decision as to whether to apply either of these principles is affected by the composition of the Assembly: Where there are two parliamentary groups, i.e. one forming the Government and the other forming the Official Opposition, the President may choose to apply the principle of alternation. However, in the past, in a minority government situation with three parliamentary groups, the President chose the rule of rotation instead. See Chapter 11, Subsection 11.2.2, “Addressing the Assembly”.

8 JD, October 24, 1979, pp. 3121–3122 (Clément Richard)/RDPP, No. 33/3.

9 *Constitution Act, 1867* (*British North America Act, 1867*) (UK), 30 & 31 Vict., c. 3, reprinted in RSC 1985, App. II, No. 5.

10 Section 133 states that “either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses . . . The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages”.

11 For examples, see JD, October 2, 2019, p. 4372; JD, April 16, 2019, p. 2316; JD, December 5, 2018, p. 250; JD, December 4, 2018, p. 183; JD, June 15, 2018, pp. 22356, 22360 and 22362; JD, May 1, 2018, p. 21404; JD, March 13, 2018, p. 18938. Occasionally, a few words of greeting in a language other than French or English may be transcribed verbatim in the *Journal des débats* (see, for example, JD, February 6, 2020, p. 6301; JD, April 10, 2018, p. 21092). See Chapter 9, Subsection 9.4.3, “The *Journal des débats*”.

13.1.3 RULE OF RELEVANCE

The relevance of a speech in the Assembly is evaluated differently depending on the type of debate being held. Barring a different rule in the Standing Orders for a specific type of debate, the general rule on relevance is that “speeches shall be directed only to the matter under discussion” (SO 211). The purpose of this rule is to prevent Members from unduly straying from the subject under debate.

However, the Standing Orders contain special provisions with respect to the application of the rule of relevance to opening speech debates, budget speech debates, and debates on a bill’s passage in principle. In the case of opening speech debates and budget speech debates (SO 50 and 239), the Standing Orders allow Members to touch on any matter.

With regard to the debate on a bill’s passage in principle, Standing Order 239 states that “the debate shall be limited to the expediency, principles, and merits of the bill and to alternative means of achieving its purpose”. However, jurisprudence dictates that the rule of relevance must be interpreted broadly during this debate.¹² Thus, members are free to analyze a bill as they see fit,¹³ provided their remarks concern the purpose of the bill and the means of achieving that purpose, and not issues that are not at the heart of the bill.¹⁴ For example, a Vice-President once stated that he could not allow the debate to be broadened to include a whole set of Acts under the responsibility of the minister moving the passage in principle of a bill or to cover the general administration of the law.¹⁵

Generally speaking, the rule of relevance is not applied rigorously. If a Member’s remarks have no direct or indirect bearing on the question before the Assembly, the President asks the Member to return to the topic at hand. Usually, only excessive digressions are disallowed and, in case of doubt, the rule is interpreted in favour of the person speaking.¹⁶ All in all, it is difficult to establish criteria that apply in every circumstance. Each intervention by a Member is unique, and it is up to the President to decide on the relevance of remarks, keeping in mind the basic principles mentioned above, the content of the bill in question, where applicable, and the particular context of the debate.

12 JD, November 17, 2005, pp. 10274–10275 (William Cusano)/RDPP, No. 211/5. According to this decision, the rule of relevance is to be interpreted even more broadly in the case of debate on the passage in principle of a bill giving effect to the budget speech as it may not be possible for the President to assess whether a Member’s remarks relate to the content of the bill, given its scope.

13 JD, June 4, 1986, pp. 2226–2227 (Jean-Pierre Saintonge)/RDPP, No. 239/4.

14 JD, April 7, 1976, pp. 404–406 (Jean-Noël Lavoie)/RDPP, No. 239/1; JD, December 5, 1986, p. 4844 (Jean-Pierre Saintonge)/RDPP, No. 239/6.

15 JD, December 8, 1987, p. 10395 (Jean-Pierre Saintonge)/RDPP, No. 239/7.

16 JD, November 17, 2005, pp. 10274–10275 (William Cusano)/RDPP, No. 211/5; JD, June 4, 1986, pp. 2226–2227 (Jean-Pierre Saintonge)/RDPP, No. 239/4.

13.1.4 QUOTING FROM A DOCUMENT

Any Member may ask a minister who has quoted from a document during parliamentary proceedings, even if only in part, to table the document immediately (SO 214). The documents a minister could be required to table under Standing Order 214 include official documents belonging to the State, correspondence between public servants and other documents of a similar nature.¹⁷ However, a minister may read from personal notes without being required to table them, as this does not constitute quoting from a document.¹⁸

Quoting from a document is understood to mean sharing an excerpt from it. Consequently, a minister is not required to table a document referred to but not actually quoted from.¹⁹ Moreover, only ministers can tell the President whether they have indeed quoted from a document,²⁰ and the President must take their word for it (SO 35 (6)). It would not be practical for the President to have to analyze a minister's documents whenever a Member alleges the minister has quoted from a document while the latter claims to have merely referred to it. In practice, it is not unusual for a minister to refer to written information while speaking in the Assembly.

Nevertheless, ministers may refuse to table a document they have quoted from if they consider that it would not be in the public interest to do so (SO 214). The President must record the refusal but has no power to compel the minister to table the document. On the other hand, if the minister agrees to table it, the Members must take the minister's word that the document actually is the document quoted from.²¹ The minister may identify the document on tabling it, provided this is done quickly and does not involve reading the document in its entirety.²²

Members who are not ministers may quote from documents in a speech. However, the Standing Orders contain no specific rule governing such situations. The Members cannot therefore be required to table a document and, as is the case for any other document, may only table it with the consent of the Assembly.²³ This is also the case for ministers wishing to table a document from

17 JD, March 24, 1976, p. 150 (Jean-Noël Lavoie)/RDPP, No. 214/1; JD, March 7, 1978, pp. 290–291 (Jean-Guy Cardinal)/RDPP, No. 214/3.

18 JD, May 21, 1986, pp. 1700–1701 (Pierre Lorrain)/RDPP, No. 214/6; JD, June 9, 1998, p. 11756 (Jean-Pierre Charbonneau).

19 JD, February 13, 1979, pp. 5609–5611 (Clément Richard)/RDPP, No. 214/4; JD, May 30, 1985, pp. 3952–3954, 3958–3959 and 3988–3989 (Richard Guay)/RDPP, No. 214/5; JD, November 29, 2011, p. 3487 (Jacques Chagnon)/RDPP, No. 214/9.

20 JD, June 3, 1999, p. 2177 (Claude Pinard)/RDPP, No. 214/8.

21 JD, December 1, 1977, pp. 4444–4445 (Clément Richard)/RDPP, No. 214/2.

22 JD, June 18, 1990, pp. 3478–3479 (Jean-Pierre Saintonge)/RDPP, No. 214/7.

23 JD, April 17, 1991, pp. 7377–7379 (Jean-Pierre Saintonge).

which they have quoted but which no other Member has requested to be tabled. Standing Order 59 allows ministers to table any document they consider to be of public interest at the stage of Routine Proceedings reserved for the presentation of papers. However, a minister who wishes to table a document during a debate must first obtain the Assembly's consent.²⁴

13.1.5 EXPLANATIONS ON A SPEECH

Members who feel their intervention during a debate has been misunderstood or misquoted may provide a very brief explanation of what they said. They must do so immediately after the remarks to which they are responding (SO 212).²⁵ The explanation must not introduce any new element nor provoke debate (SO 212, 2nd para.). Moreover, the explanation may not concern a document referred to by the Member, as Standing Order 212 only permits explanations regarding speeches made.²⁶

The provision that permits Members to provide brief explanations applies to all debates, including debates upon adjournment.²⁷ However, no such explanations may be given during Question Period or after an answer to a question taken as notice, as this provision applies only to debates.²⁸

Explanations must be limited to a speech made during the same debate and may not pertain to a prior debate.²⁹ Moreover, as we have just seen, Standing Order 212 requires that explanations be provided immediately after the remarks to which they relate. This means that, although debates normally close with a reply, if it is during such a reply that Members perceive that their remarks have been misunderstood or misquoted, they may still provide an explanation.³⁰

Standing Order 212 specifies that such explanations must be very brief, which implies very short speaking times. It is up to the President to determine how much time is actually allotted.³¹

24 JD, May 25, 2007, pp. 845–847 (Michel Bissonnet)/RDPP, No. 271/5; JD, November 7, 2000, p. 7674 (Jean-Pierre Charbonneau).

25 Members who feel their remarks have been misunderstood or misquoted must not interrupt the Member who has the floor but must wait until the Member has finished speaking (JD, December 11, 1996, p. 4216 (Claude Pinard)/RDPP, No. 212/6).

26 JD, June 14, 1984, p. 7064 (Richard Guay)/RDPP, No. 212/3.

27 JD, May 16, 1995, pp. 2757–2758 (Raymond Brouillet)/RDPP, No. 212/5.

28 JD, March 13, 1984, p. 5108 (Richard Guay)/RDPP, No. 212/2; JD, November 19, 1986, pp. 4132–4133 (Pierre Lorrain)/RDPP, No. 212/4; JD, May 16, 1995, pp. 2757–2758 (Raymond Brouillet)/RDPP, No. 212/5.

29 JD, December 7, 1981, pp. 932–934 (Claude Vaillancourt)/RDPP, No. 212/1; JD, May 23, 2000, pp. 6092–6093 (Claude Pinard).

30 JD, May 16, 1995, pp. 2757–2758 (Raymond Brouillet)/RDPP, No. 212/5.

31 Ibid.

13.1.6 QUESTIONS REGARDING A SPEECH

Any Member may request permission to ask a question of a Member who has just finished speaking. Both the question and the answer must be concise (SO 213). A Member who wishes to ask a question must request that the President enquire whether the other Member agrees to take the question. The latter is free to accept or decline, and refusal may not be disputed. The President must see to it that the rule of conciseness is observed to avoid launching a new debate.

A Member may ask a question of any other Member, even one belonging to the same parliamentary group.³² More than one Member may request leave to address a question to a Member who has just finished speaking, but each Member is limited to one question.³³ As the Standing Orders do not otherwise limit this right, every Member could theoretically rise in turn to ask a question. However, while the President has never had to rule on such a matter to date, it is worth mentioning that it has been ruled that the President may intervene if repeated use of the same procedure would make a mockery of the Assembly.³⁴

Like Standing Order 212, discussed in Subsection 13.1.5 above, Standing Order 213 applies only in the context of a debate.³⁵ It may therefore be invoked during debates upon adjournment, but not during Question Period, since the latter is not considered a debate.³⁶

13.2 ALLOCATION OF SPEAKING TIME

The most significant restrictions placed on the privilege of freedom of speech by the rules of parliamentary debate are without question the limits on the speaking time available to Members during debates. There is a set temporal framework for every debate held in the Assembly, with some debates being subject to stricter rules than others. The Standing Orders prescribe three main models for the allocation of speaking time during debates.

32 JD, June 8, 2000, p. 6782 (Claude Pinard)/RDPP, No. 213/2.

33 Ibid. On December 13, 2004, in response to a motion without notice to acknowledge the anniversary of the passage by unanimous consent, two years prior, of the *Act to combat poverty and social exclusion*, each Member from the parliamentary group forming the Official Opposition asked, in turn, a question under Standing Order 213 (JD, December 13, 2004, pp. 6660–6694).

34 JD, June 19, 1992, pp. 2817–2824 (Roger Lefebvre)/RDPP, No. 195/2.

35 JD, April 18, 1996, pp. 449–450 (Jean-Pierre Charbonneau)/RDPP, No. 213/1.

36 JD, May 16, 1995, pp. 2757–2758 (Raymond Brouillet)/RDPP, No. 212/5.

First, a set amount of speaking time may be allocated to each Member on an individual basis. The overall length of the debate is thus determined by the number of Members who wish to speak. This is the general rule.

Second, speaking time can also be organized on a collective basis, with an overall time envelope for the entire debate. Such “limited debates”, as they are called, normally do not allow all Members to speak.

Third, the Standing Orders allocate specific speaking times for certain debates or speeches, considerably limiting the length of such debates and specifically designating who may speak. This mainly concerns debates on procedure—also called “very limited debates”—and speeches that are not necessarily part of a debate.

This chapter addresses only the general framework for the allocation of speaking time in the National Assembly. It does not deal with every specific type of debate or speech provided for in the Standing Orders. Specific cases will be examined in other chapters on the rules of procedure concerning the relevant debates. However, the Standing Orders that specifically govern the allocation of speaking time are the best introduction to the subject.

13.2.1 GENERAL RULE

13.2.1.1 SUBSTANTIVE MOTIONS AND FORMAL MOTIONS

The general rule regarding speaking time is set out in Standing Order 209. According to this rule, unless otherwise provided, no Member may speak twice to any question before the Assembly. A Member may speak for no more than 10 minutes to a formal motion and no more than 20 minutes to any other matter. However, the mover of a motion, the Premier and the other parliamentary group leaders, or their representatives, may speak for up to one hour each to a substantive motion and up to 30 minutes each to a formal motion.

The Member in whose name a motion stands, that is, the one who placed notice of the motion on the Order Paper (SO 189), is considered the mover or initiator of the motion. With the initiator’s permission, another Member may move the motion on the initiator’s behalf. If the initiator is the Premier or a minister, the initiator may only be represented by a minister.³⁷ If the initiator is not a minister, the representative may be any other Member, including a minister.

37 Thus, in a debate, a minister may not be replaced by a parliamentary assistant. Section 25 of the *Act respecting the National Assembly*, CQLR, c. A-23.1, specifies that a parliamentary assistant may replace a sitting minister only during Question Period (JD, October 16, 1990, pp. 4426–4427 (Michel Bissonnet)/RDPP, No. 253/4).

The Premier and the other parliamentary group leaders may be represented by any other Member if they did not move the motion under discussion. In practice, this means that the *longer* speaking time to which the Premier or the parliamentary group leader is entitled is transferred to another Member, allowing that Member to have more speaking time than would otherwise be permitted.

The representation rule benefits mostly the opposition groups. Typically, the critic for the portfolio under consideration is the Member who represents the party leader, but this is not a requirement under the Standing Orders. Nothing prevents a Member who is not a critic for the matter at hand from speaking as a representative of the party leader.³⁸ Critics are normally assumed to be acting as a representative of their party leader, while other Members need simply state on taking the floor that they are representing their party leader for the question under discussion. Government Members seldom speak on behalf of the Premier, even though they too are entitled to do so. When they do, they are given the same speaking time as the mover of the motion or the sponsor of the bill under consideration, since the leader of a parliamentary group has the same speaking time as the mover of a motion in a debate.³⁹ This ensures different points of view are given a fair hearing.

When a Member uses the speaking time reserved for the party leader, it is customary to also allow the latter to speak to the motion at hand. However, the leader's speaking time must not exceed that to which the Member would normally have been entitled, that is, 10 minutes for a formal motion or 20 minutes for any other matter (SO 209).

13.2.1.2 AMENDMENT MOTIONS

Unless otherwise provided, any substantive motion may be amended (SO 196). An amendment motion is a question in itself. It is a formal motion and, as such, gives rise to a debate for which time is divided up according to Standing Order 209—the mover of the motion and the parliamentary group leaders, or their representatives, are each entitled to 30 minutes while other Members are only allowed 10 minutes. However, in accordance with a principle of parliamentary law applied in many British-type parliaments, movers of an amendment motion do not have the right to speak during the debate on that motion. They are considered to have already spoken to the amendment motion when

38 JD, October 27, 2004, pp. 5371 and 5374 (François Gendron)/RDPP, No. 209/3.

39 For example, at the committee report stage, even if the minister who introduced the bill has spoken, Standing Order 209 allows a government Member to speak for up to 30 minutes on behalf of the Premier (JD, March 25, 1987, pp. 6346–6348 (Jean-Pierre Saintonge)/RDPP, No. 253/3).

they introduced the amendment during their address on the main motion.⁴⁰ This principle does not, however, apply during the clause-by-clause consideration of bills in committee.⁴¹

Under Standing Order 209, which stipulates that Members may speak only once to a given question, a Member who has already spoken may not speak again to move an amendment motion; the time to do so would have been during the Member's address on the main question. However, Members who have already spoken to a motion may intervene in the debate on an amendment motion moved by another Member. Conversely, as an amendment motion is a question in itself, Members who have spoken only to the amendment motion may speak to the main motion when the debate on the latter resumes.

Subamendments may be moved to any amendment, provided each subamendment is disposed of before another is moved. They are subject to the same rules as amendments (SO 200). The mover of an amendment motion may not speak to the motion and may therefore not propose a subamendment to it. On the other hand, nothing prevents the mover of the main motion from rising to propose a subamendment. As is the case for an amendment motion, the mover of a subamendment motion may not speak during the debate on it.

13.2.1.3 RIGHT OF REPLY

In addition to any other right of reply provided for in the Standing Orders, a Member who has moved a substantive motion⁴² is entitled to give a reply (SO 215) that may last no more than 20 minutes unless otherwise provided (SO 216).

40 JD, April 4, 1995, pp. 1905–1906 (Raymond Brouillet)/RDPP, No. 209/2; JD, June 7, 1993, p. 7207 (Michel Bissonnet)/RDPP, No. 241/6.

41 See Subsection 13.2.1.4, "Speaking Time and the Legislative Process"; Chapter 18, Subsection 18.2.2.3, "The Decision-Making Process"; and Chapter 19, Section 19.1, "Clause-by-Clause Consideration of Bills".

42 Standing Order 187 defines a "substantive motion" as a motion that places some matter before the Assembly for its decision. There seems to be some confusion, in certain Standing Orders, between a substantive motion and what was referred to in the former Standing Orders as a main motion (see footnote 10 of Chapter 12, "The Decision-Making Process"). However, in current practice, unless otherwise expressly provided in the Standing Orders, only the mover of a substantive motion within the meaning of Standing Order 187 has a right of reply. Geoffrion's Standing Order 267 and Standing Order 101(a) in force from 1972 to 1984 also provided for a right of reply for the mover of a substantive motion.

The reply concludes the debate (SO 218), which is why it is not possible, at this stage, to move a motion such as an amendment to the motion being debated.⁴³ The reply constitutes the last intervention before the vote; it gives the mover an opportunity to respond to everyone who spoke during the debate in order to convince them to vote in favour of the motion.⁴⁴

The right of reply to a substantive motion belongs to the Member who actually moved the motion. This means that, in the case of a motion moved by a representative, the representative is the one entitled to exercise the right of reply. Conversely, if the motion was not moved by a representative, the reply cannot be given by a representative either.⁴⁵ However, given the constitutional principle of ministerial responsibility, the reply to a motion moved by a Premier or a minister can be given by another minister.⁴⁶

13.2.1.4 SPEAKING TIME AND THE LEGISLATIVE PROCESS

With a few exceptions, speaking times during the various stages of the legislative process are determined by the general rules mentioned above.

When debating the passage in principle of a public bill, Members are granted the same speaking time as is prescribed for a debate on a substantive motion (SO 239). However, at the committee report stage, the prescribed speaking times are the same as those for a debate on a formal motion, with the difference that the minister or Member who introduced the bill may comment for up to five minutes after each speech (SO 253). There is a particular time frame for the final passage of a bill. For such a debate, a Member's speaking time is limited to 10 minutes but the minister or Member who introduced the bill and the parliamentary group leaders, or their representatives, may speak for up to one hour each. The minister or Member who introduced the bill is then entitled to address the Assembly in reply for up to 20 minutes (SO 256).

During the consideration of bills in committee,⁴⁷ the committee members are allocated a specific amount of speaking time for preliminary remarks as well as for preliminary motions. Then, during the main stage in the process, the clause-by-clause consideration of the bill, they are entitled to speak as often as they wish, for a total of no more than 20 minutes, to each section, paragraph and subparagraph of the bill, to each amendment and subamendment, and to each

43 JD, November 22, 2000, p. 8059 (Michel Bissonnet)/RDPP, No. 215/1.

44 Geoffrion 1941, SO 268.

45 JD, October 30, 2003, pp. 1238–1239 (Diane Leblanc)/RDPP, No. 215/2.

46 Ibid.

47 See Chapter 19, Section 19.1, "Clause-by-Clause Consideration of Bills".

section being amended or inserted in an existing Act (SO 245). The minister or Member who introduced the bill may respond for an additional five minutes each time another Member speaks (SO 246).

Thus, the allocation of speaking time in committee does not follow the general principle set out in Standing Order 209, according to which a Member may speak only once to a given question. Given the very nature of committee mandates, remarks in committee, unlike speeches in the Assembly, are made in the form of exchanges or discussions.⁴⁸ This is true not only during clause-by-clause consideration of bills, but also during other committee proceedings, though the rules governing the allocation of speaking time may vary from one mandate to another. Standing Order 209 remains a rule of principle applicable to parliamentary committees in cases where no other provision prescribes special rules.⁴⁹

In the case of private bills, both the examination process and the allocation of speaking time differ somewhat from those for public bills. At both the passage in principle and final passage stages of the bill, Members may speak for no more than 10 minutes each, but the Member who introduced the bill and the parliamentary group leaders are entitled to up to 30 minutes each (SO 269). Since the Standing Orders grant parliamentary group leaders specific speaking time for private bills, but do not provide them with the possibility of being replaced by a representative, it has been ruled that the speaking time of any opposition group critic is limited to 10 minutes for such debates.⁵⁰ Contrary to the procedure for public bills, the report of the committee that examined a private bill is voted on immediately after being tabled in the Assembly, without first being debated (SO 267). However, the allocation of speaking time for the consideration of private bills by a committee is the same as that prescribed for public bills (SO 267 and 245).

13.2.2 LIMITED DEBATES

According to the general rule mentioned above, the only time limit set for debates is the individual speaking times specified in the Standing Orders. In principle, debates have no predetermined length and conclude when no more Members wish to speak or once all have done so.

48 For the same reason, time spent on a point of order in committee is not subtracted from the speaking time of the Member who has the floor, contrary to the rule normally applied in the Assembly (JD, June 10, 2004, CTE-23 p. 37 (Bernard Brodeur)/RDPP (Com. Vol.), No. 209/3).

49 See Chapter 18, "Parliamentary Committees".

50 JD, November 15, 1990, pp. 5105-5106 (Roger Lefebvre)/RDPP, No. 269/1.

The Standing Orders also provide for certain time-limited debates, called “limited debates” in parliamentary jargon (SO 210). Instead of an individual speaking time for each Member, a collective time envelope is allotted to all the Members as a group. The President divides up the time among the parliamentary groups and independent Members after a meeting with the House leaders.

Normally, the House leaders establish the allocation of speaking time by consensus. At the meeting between the President and the House leaders, a number of aspects are discussed.

First, the President and the House leaders may determine the length of the reply to be made by the mover of the motion, so as to ensure that the mover will have enough speaking time.

Second, they must determine the amount of time to be granted to independent Members. The prevailing practice thus far has been to allocate a collective time envelope to the independent Members, leaving them to divide it up among themselves. This does not pose a problem when they are all from the same political party. If this is not the case, a specific speaking time may be assigned to each independent Member or to those affiliated with the same political party.⁵¹

Third, they decide how the parliamentary groups will share the remaining time allotted to the limited debate. The composition of the Assembly is especially important and must be taken into account at this stage. When there are only two parliamentary groups, the time is usually divided equally between them. However, when there are more than two parliamentary groups, the time tends

51 At the beginning of the 39th Legislature, a collective time envelope for limited debates was allocated to the independent Members as a group, regardless of political affiliation. When the Action démocratique du Québec (ADQ) was recognized as a parliamentary group on April 21, 2009, the allocation of speaking time for limited debates was set out in a document tabled at that time and adopted by the Assembly (“Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature”, Sessional Paper No. 246-20090421, April 21, 2009 (VP, April 21, 2009, p. 214), Appendix III). This document provided a time envelope for the independent Members for each type of limited debate. As there was only one independent Member at the time, the entire envelope was available to that Member. After two Members from the Second Opposition Group decided to sit as independents, it was ruled that speaking times for the two new independent Members would be determined based on the time allocated to the Members from the Second Opposition Group. This was done in particular to protect the rights of the Member who was already sitting as an independent (JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/RDPP, No. 74/22). During the 41st Legislature, the President again divided up the speaking time among the independent Members differently depending on whether they were still affiliated with the political party they represented when they were elected or rather had become independents after leaving their parliamentary group (JD, September 15, 2015, p. 6802 (Jacques Chagnon); JD, February 7, 2017, p. 13517 (Jacques Chagnon); JD, June 13, 2017, p. 16806 (Maryse Gaudreault)). See Chapter 5, “Parliamentary Groups and Independent Members” and its Appendix VI, “Allocation of Speaking Time”.

to be divided up in proportion to each group's representation in the Assembly. Indeed, as the President noted in a ruling, if each Member were to speak for the entire time allocated to that Member in an unlimited debate organized on an individual basis, speaking time would necessarily end up being divided up proportionally among the parliamentary groups, and there is therefore no reason things should be otherwise in the case of limited debates.⁵²

Fourth, they may decide whether the time not used by the parliamentary groups or the independent Members will be redistributed. Unless they expressly agree that the unused time is not to be redistributed, the President will take the initiative to do so to promote discussion.⁵³ As, generally speaking, not all Members are able to speak in a limited debate, the President must ensure that the time allotted for the debate is used up in its entirety to allow as many Members as possible to be heard, regardless of the speaking times determined beforehand with the House leaders.

Fifth, they must determine whether the time given to individual speakers will be limited. If not, each parliamentary group must decide how to divide up the envelope of time allocated to it. It has been ruled that the organization of limited debates is not subject to Standing Order 209, and is therefore not bound by the limits on speaking times prescribed for substantive or formal motions.⁵⁴

If the House leaders cannot agree, it is up to the President to allocate the speaking time. In such cases, the President must promote discussion on the motion by recognizing any Member who wishes to speak. In order to allow the participation of as many Members as possible, it has been ruled that each such intervention is to be limited to 10 minutes.⁵⁵ Over the past decade, the President has developed the practice of tabling charts detailing the allocation of speaking time for the majority of limited debates, at the beginning of each legislature and whenever necessary due to changes in the Assembly's composition.⁵⁶ This has greatly simplified the management of such debates.

The Standing Orders provide for four types of limited debates based on debate length. First, there are two-hour limited debates, which are the norm since, unless otherwise provided, the Standing Orders provide that limited debates

52 JD, May 10, 2007, p. 69 (Michel Bissonnet)/RDPP, No. 50/3. This ruling was made during the debate on the opening speech of the 1st Session of the 38th Legislature. Subsequently, during the same legislature, the President decided to apply the objective criterion of proportionality to all limited debates (JD, June 20, 2007, p. 1365 (Jacques Chagnon)/RDPP, No. 210/6; JD, June 19, 2007, p. 1286 (Marc Picard)/RDPP, No. 289/1).

53 JD, June 3, 1986, p. 2137 (Louise Bégin)/RDPP, No. 210/2.

54 JD, March 21, 1990, p. 1249 (Jean-Pierre Saintonge)/RDPP, No. 210/4.

55 JD, June 3, 1986, p. 2137 (Louise Bégin)/RDPP, No. 210/2.

56 See Chapter 5, Appendix VI, "Allocation of Speaking Time".

are to last no more than two hours (SO 210).⁵⁷ Second, there are one-hour limited debates⁵⁸ and five-hour limited debates.⁵⁹ Third, the Standing Orders provide for two *extended limited debates*, which are especially important: the opening speech debate (SO 50)⁶⁰ and the budget speech debate (SO 272).⁶¹ Fourth, there are two limited debates that have no set length: debates on business standing in the name of Members in opposition (SO 97) and debates on want of confidence motions (SO 306). While the Standing Orders do specify the precise time at which each of these debates is to end, it is not possible to pinpoint the exact length of debates qualified as limited debates of indeterminate length or debates ending at a set time, in contrast to the limited debates mentioned above, which have a set length.⁶²

During a limited debate of fixed length, the time spent on a motion to adjourn the debate is not counted in the time set aside for the limited debate.⁶³ Nor is the time spent on a point of order.⁶⁴ Thus, in the case of a two-hour limited debate, the debate ends when two hours, counting only the time used for the Members' remarks, have elapsed. In contrast, limited debates of indeterminate

57 The Standing Orders provide for the following two-hour limited debates: causes for which the Assembly has been summoned and motions to appoint the hours during which extraordinary sittings shall be held (SO 27), urgent debates (SO 91), debates on committee reports containing recommendations (SO 95), adjournments for more than 15 days (SO 107), motions to introduce an exceptional procedure (SO 182), hoist motions (SO 240), motions to divide a bill (SO 241) and reports from committees having examined estimates (SO 288).

58 The Standing Orders currently provide for two limited debates not exceeding one hour each: referral of any matter to a committee (SO 146) and referral of a bill to a committee at the introduction stage for special consultations (SO 235). Moreover, when the Assembly is summoned to an extraordinary sitting for the consideration of more than one matter, each motion to introduce an exceptional procedure is discussed in a limited debate not exceeding one hour (SO 27.1). Similarly, in the case of an exceptional legislative procedure, a time envelope of one hour each is reserved for consideration of the committee's report (SO 257.1(3)) and debate on the motion for the passage of the bill (SO 257.1(4)).

59 The debate on passage in principle of a bill for which an exceptional procedure has been introduced is a five-hour debate (SO 257.1(1)). The report of the Commission de la représentation électorale on electoral division boundaries is also the subject of a five-hour debate in the Assembly or, if the Assembly is not sitting, in the Committee on the National Assembly (*Election Act*, CQLR, c. E-3.3, s. 28).

60 See Chapter 6, "Legislatures, Sessions and Sittings".

61 See Chapter 15, "The Budget Process".

62 For example, debates on business standing in the name of Members in opposition, which take place on Wednesdays from 3 p.m. to 5 p.m. according to the Standing Orders, are sometimes considerably shortened due to a debate on business having precedence that spills over into this time slot. Debates on business standing in the name of Members in opposition have therefore been known to last less than an hour (VP, April 14, 2010, p. 1180; VP, May 2, 2012, p. 1201; VP, November 14, 2012, p. 91; VP, April 5, 2017, p. 3274; VP, April 11, 2018, p. 4443) and even as little as 15 minutes (VP, March 28, 2012, p. 1065).

63 JD, December 15, 2003, p. 2676 (Michel Bissonnet)/RDPP, No. 210/5.

64 Ibid.

length, which end at a set time, may not extend beyond the time indicated in the Standing Orders. Therefore, the time spent on a motion to adjourn the debate or on a point of order is subtracted from the total time envelope for the debate and, consequently, from the parliamentary groups' remaining time.

13.2.3 “VERY LIMITED DEBATES” AND TIME-LIMITED STATEMENTS

The Standing Orders also provide for certain debates or statements with particular speaking-time limits that do not follow the general rule set out in Standing Order 209 or the rules relating to limited debates. Some of these debates are known as “very limited debates”, due to the time limits placed on them. The debates and statements in question include statements by Members (SO 54.3), statements by ministers (SO 55 and 56), speeches on a motion regarding the conduct of a Member of Parliament (SO 319), debates upon adjournment (SO 310) and certain procedural debates.⁶⁵

The Standing Orders refrain from limiting the speaking time for certain interventions. They simply state that the President may allow *a few* arguments on a point of order (SO 40) and provide for *brief* or *concise statements* or *explanations* when a Member raises a point of privilege (SO 68) or gives a personal explanation (SO 71), or when amendments are referred to a Committee of the Whole at the passage stage of a bill (SO 257). Finally, the Standing Orders allow *very brief* explanations by Members who feel they have been misunderstood or misquoted in a debate (SO 212).⁶⁶

65 The procedural debates in question deal with motions to meet in camera (SO 29), motions to adjourn the debate (SO 100 and 101), motions to adjourn the proceedings (SO 105 and 106), motions to withdraw (SO 195), motions to put a question to an immediate vote (SO 202 and 204) and motions to refer to a select committee a bill that falls within the terms of reference of more than one committee (SO 261).

66 The President once determined that [TRANSLATION] “even if the speaking time granted to a Member under Standing Order 212 is not specified, it is necessarily very short. In fact, this is the only Standing Order that uses the expression ‘very briefly’. Other Standing Orders merely require explanations to be brief . . . This nevertheless remains a matter open to interpretation by the President” (JD, May 16, 1995, pp. 2757-2758 (Raymond Brouillet)/RDPP, No. 212/5).

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■ CHAPTER 14

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14

THE LEGISLATIVE PROCESS

Although the role that Members of the National Assembly have as overseers of government activity has increased in importance in recent decades, the consideration of bills continues to be one of the main duties that they exercise during parliamentary debates.

That said, while Members play a major role in the process leading up to the passage of a bill, they are not the only actors. Most bills tabled in the Chamber originate with the Government. This means that before being submitted to the National Assembly, a bill must make its way through the government administration and thereby complete the governmental phase of the legislative process. The drafting and tabling of a bill are part of the legislative process, as the Supreme Court has recognized.¹ However, the government phase of the legislative process is not the subject of this chapter.

Legislative authority ultimately resides with Parliament, that is, with both the National Assembly and the Lieutenant-Governor. The *Act respecting the National Assembly*² stipulates that the Parliament of Québec, made up of the Lieutenant-Governor and the National Assembly, exercises legislative power (ANA, ss. 2 and 3) and that laws are adopted by the National Assembly and assented to by the Lieutenant-Governor (ANA, s. 29).

14.1 INITIATIVE IN LEGISLATIVE MATTERS

It was pointed out in Chapter 2 that there is no hard and fast separation between the executive and legislative branches of government in Québec, where the Government forms an integral part of the legislative power. Parliamentary law provides various means of oversight, control, contact and constraint between the National Assembly and the Government. One way the Government exercises

1 Reference Re Canada Assistance Plan (BC), [1991] 2 SCR 525, at 559; Mikisew Cree First Nation v. Canada (Governor General in Council), 2018 SCC 40, [2018] 2 SCR 765, at para. 34 ff.

2 *Act respecting the National Assembly*, CQLR, c. A-23.1, ss. 2, 3 and 29.

control over the National Assembly is by determining the order of business in the House. The only time opposition Members may determine what will be debated is during Wednesday sittings between 3:00 p.m. and 5:00 p.m.

Since the Government controls the Assembly's order of business, it decides which bills the Assembly will study during a sitting. While any Member may propose that the Assembly take a bill under consideration,³ without the consent of the Government, there is no guarantee that the bill will be studied by the Assembly. There is even less hope of such a bill ever being passed, whether the Government has a majority in the House or not.⁴ Moreover, only the Government may introduce a bill with financial implications. This also considerably reduces the power of initiative of private Members.

In short, while Members of the National Assembly enjoy freedom of speech during parliamentary debates, this does not mean they have absolute power to initiate new legislation. In fact, as noted in Chapter 3, the privilege of freedom of speech may be limited by the rules of parliamentary debate. In legislative matters, freedom of speech enables Members to openly criticize the content of the bills submitted to the Assembly for examination and to propose any amendment they see fit.

14.1.1 GOVERNMENT CONTROL OVER THE ASSEMBLY'S ORDER OF BUSINESS

Standing Order 96 provides that the Government House Leader indicates which business standing on the Order Paper will be debated during Orders of the Day, except during the period reserved for Business Standing in the Name of Members in Opposition, and subject to any business having precedence. It is also the Government that decides which bills will be studied during a session and the order in which they will be dealt with. Therefore, a Member who introduces a bill has no guarantee that it will be passed or even considered by the Assembly. However, a Member in opposition who introduces a bill can push it

3 Ibid., s. 30.

4 Statistics on this point are revealing. During the 34th Legislature, the Assembly passed 369 public bills introduced by the Government and only 7 introduced by private Members; in the 35th Legislature, it passed 308 public bills introduced by the Government and 11 introduced by private Members; during the 36th Legislature, the Assembly passed 305 public bills introduced by the Government and 13 introduced by private Members; in the 37th Legislature, it passed 167 government bills and 5 private Members' bills; during the 38th Legislature, the Assembly passed 72 government bills and 2 private Members' bills, despite the context of a minority Government; during the 39th Legislature, the Assembly passed 162 government bills and 2 private Members' bills; during the 40th Legislature, it passed 42 government bills but none by private Members; in the 41st Legislature, the Assembly passed 145 government bills and 4 private Members' bills.

through the various stages leading to adoption on Wednesdays during the debates on Business Standing in the Name of Members in Opposition (SO 97 ff.),⁵ subject, of course, to a vote in the Assembly.

14.1.2 THE CROWN'S FINANCIAL INITIATIVE

Any Member may introduce a bill. However, legislative initiative is limited by the principle of the financial initiative of the Crown, according to which only the Government may introduce bills with a financial incidence. In this way, the Crown, on the advice of its ministers, informs the Assembly of the Government's financial requirements. This principle, on which Québec's financial procedure is based, has roots in British-style government as it has evolved over the years.⁶

The principle of financial initiative led to a ruling by the President⁷ that a Member cannot introduce a bill whose effect is to limit the Government in carrying out its budgetary expenditures by setting in advance the amount of the deficit allowed in its future ongoing operations. The President ruled that such a bill would infringe the financial initiative of the Crown, since it would set a limit on the sums involved in future recommendations by the Crown. The President also specified that the Assembly's oversight is not to be exercised *a priori* or at the beginning of the budgetary process. The executive and the National Assembly each have a specific and decisive role to play in drawing up the State's annual budget.⁸

Only the Crown, represented by its ministers, has the authority to estimate the amounts needed for the functioning of the State, to propose how the funds required to finance its operations will be collected and to appropriate public

5 See Chapter 9, Subsection 9.2.2.5, "Business Standing in the Name of Members in Opposition".

6 JD, December 16, 1991, pp. 11643–11647 (Jean-Pierre Saintonge)/RDPP, No. 233/2. See also Thomas Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 25th ed., Mark Hutton, David Natzler, Matthew Hamlyn, Colin Lee, Chloe Mawson, Crispin Poyser, Eve Samson and Kate Lawrence, eds. (London: LexisNexis Butterworths, 2019), para. 33.2.

7 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

8 JD, December 16, 1991, pp. 11643–11647 (Jean-Pierre Saintonge)/RDPP, No. 233/2; JD, April 7, 2004, pp. 4044–4045 (Michel Bissonnet)/RDPP, No. 279/2. See Chapter 15, "The Budget Process".

funds. In other words, only ministers can submit to the Assembly a proposal on how amounts will be collected and spent. The Assembly must then decide whether to approve the proposal.⁹

RECOMMENDATION OF THE LIEUTENANT-GOVERNOR

Statement by a minister in the Assembly:

[TRANSLATION] “Mr. President, the Honourable Lieutenant-Governor has read the bill and recommends that it be studied by the National Assembly.”

The financial initiative of the Crown finds its basis in sections 54 and 90 of the *Constitution Act, 1867*.¹⁰ Under these sections, the Assembly may not pass a bill appropriating public revenue or imposing a tax unless the Lieutenant-Governor has first recommended that the House do so. However, section 54 does not specify the procedure applicable to this recommendation. The procedure was a formal one in the Assembly under the Geoffrion Standing Orders in effect between 1941 and 1972.¹¹ Since then, the Assembly has dropped this formality and adopted a more flexible procedure: the recommendation is given by a

9 The Vice-President of the Assembly declared out of order a proposal submitted at the report stage to amend a bill because the amendment ran counter to the principle of the financial initiative of the Crown. Bill 34, *An Act to repeal the Act to establish a special Olympic fund and to amend other legislative provisions*, stipulated that the sums accumulated in the special Olympic fund would be paid into the Consolidated Revenue Fund. The amendment introduced by a Member of the Official Opposition proposed instead to pay the amounts in question into the “[TRANSLATION] Sports and Physical Activity Development Fund and to provincial training centres, community recreational centres, sport federations and recreation groups” (JD, November 29, 2007, p. 2340 (Fatima Houda-Pepin)/RDPP, No. 252/3. See also JD, June 11, 2018, p. 22096 (Maryse Gaudreault)/RDPP, No. 252/14; JD, May 16, 2013, pp. 3344–3346 (Carole Poirier)/RDPP, No. 252/8; JD, May 15, 2013, pp. 3290–3291 (Carole Poirier)/RDPP, No. 252/7; JD, May 15, 2013, p. 3283 (Carole Poirier)/RDPP, No. 252/6).

10 *Constitution Act, 1867 (British North America Act, 1867)* (UK), 30 & 31, Vict., c. 3, reprinted in RSC 1985, App. II, No. 5:

54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

This section is applicable to the National Assembly under section 90 of the *Constitution Act, 1867*:

90. The following Provisions of this Act respecting the Parliament of Canada, namely, — the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the Disallowance of Acts, and the Signification of Pleasure on Bills reserved, — shall extend and apply to the Legislatures of the several Provinces as if those Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of One Year for Two Years, and of the Province for Canada.

11 Geoffrion 1941, SO 548 ff.

minister and the President must take the minister on faith when such a declaration is made.¹² A presiding officer also ruled that while the royal recommendation is usually given to the Assembly by the sponsoring minister at the beginning of the debate on passage in principle, there is no firm obligation to do so.¹³

The Crown's financial initiative is also enshrined in section 30 of the *Act respecting the National Assembly*: "Any Member may present a bill. However, only a minister may present a bill having as its object the commitment of public funds, the creation of a charge on the taxpayers,¹⁴ the remission of a debt owing to the Province or the alienation of property owned by the Province." Moreover, Standing Order 192 establishes the same rule for motions. In terms of the legislative process, this means that a Member who is not a minister may not present a bill or an amendment with a financial incidence.

Thus, to determine whether a bill must be presented by a minister following a recommendation, the presiding officer must first decide whether it serves one of the purposes mentioned in section 54 of the *Constitution Act, 1867* or in section 30 of the *Act respecting the National Assembly*. In this connection, the President was once required to decide what is meant by the commitment of public funds and the remission of a debt owing to the State.

In a ruling made in 1995, the President recalled the four criteria identified by parliamentary jurisprudence to determine whether a motion or a bill commits public funds:

[TRANSLATION] Is the motion binding? Does it have a direct effect on public expenditure? Is it expressed in general terms? Are figures given for the expenditure?

It may be concluded from the above that a motion or a bill must explicitly commit budgetary appropriations in order to be equated with the commitment of public funds, that is, the motion or bill must have a direct effect on the Consolidated Revenue Fund. On the other hand, a bill can require the commitment of public funds for its administration without expressly committing those funds itself. The introduction of such a bill would not be reserved exclusively for a minister of the Crown, since the public funds required could be

12 JD, December 3, 1990, p. 5537 (Jean-Pierre Saintonge)/RDPP, No. 179 (1)/1.

13 JD, June 4, 2002, p. 6565 (Raymond Brouillet)/RDPP, No. 179 (1)/4.

14 *Act respecting the National Assembly*, s. 30. Any motion that may impose a tax or a tax increase is considered a motion resulting in a charge upon the people (Geoffrion 1941, SO 155, note 4 (note in French only)). See also Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, para.33.5: "The term 'charge upon the people' now primarily covers taxes or duties, the proceeds of which are payable into the Consolidated Fund."

secured through another measure, whether legislative or budgetary. It is that measure that would be considered a financial initiative of the Crown.¹⁵

Based on the criteria of a direct effect on the Consolidated Revenue Fund, the President ruled that a bill that reduces certain fees payable to the State does not commit public funds. While recognizing that such a reduction could have an incidence on the State's revenues, the President was of the opinion that the incidence was indirect and approximate. By the same token, the President ruled that a reduction in fees payable to the State did not constitute a remission of a debt toward the State. A remission is a legal act by which a creditor frees a debtor from an obligation. It seemed evident in the eyes of the President that the reduction of certain fees payable to the State through a bill passed in the Assembly does not free a debtor from an obligation toward the State.¹⁶

15 JD, June 5, 1995, pp. 3429–3430 (Roger Bertrand)/RDPP, No. 233/4. Using those criteria, the President ruled that the principle of the financial initiative of the Crown did not prevent a private Member from introducing Bill 196, *An Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi*. The Official Opposition House Leader argued otherwise, stating that according to the Minister of Finance's budget speech, tax credits could be granted for investments in the Fonds de développement. The President stated that the presiding officer was not required to verify whether measures related to Bill 196 and announced in the most recent budget would result in the commitment of public funds, nor was the presiding officer responsible for seeking out other legislative provisions whose purpose was to commit the public funds that would be required for the administration of Bill 196. The presiding officer's sole responsibility in such cases was to rule on whether the actual purpose of the bill was to commit public funds. The President concluded that Bill 196 did not contain any section that, if adopted, would result in the commitment of public funds or, in fact, any section that explicitly committed budgetary appropriations. For the same reasons, the President ruled that the principle of the financial initiative of the Crown was not infringed by the introduction of Bill 191, *An Act to amend the Automobile Insurance Act*. This bill amended the *Automobile Insurance Act* to ensure that the premiums paid under the public auto insurance scheme would be used exclusively for the purposes for which they were collected. The bill was also intended to guarantee that any amount paid into the Consolidated Revenue Fund by the Société de l'assurance automobile du Québec (SAAQ) for the cost of ambulance or health services following a car accident would be based on the actual cost of those services. Lastly, the bill would allow the SAAQ to maintain a stabilization fund that reflected its actual financial requirements. The President ruled that the bill had no direct effect on the Consolidated Revenue Fund and that there was no need to look into the financial incidence Bill 191 might have once adopted (JD, June 19, 1996, p. 2546 (Jean-Pierre Charbonneau)).

16 JD, December 8, 1999, pp. 4135–4136 (Jean-Pierre Charbonneau)/RDPP, No. 233/6. The President ruled that the principle of the Crown's financial initiative did not prevent a private Member from introducing Bill 390, *An Act to amend the Act respecting the Ministère du Revenu with regard to the recovery of an amount under a fiscal law*. The bill limited the recovery charges on the unpaid balance of a tax debt to \$100, whereas the provision then in force set the maximum amount at \$10,000. In the same vein, the President deemed that a bill that created a refundable tax credit neither constituted a commitment of public funds nor a remission of a debt toward the State. In its opinion, although such a refundable tax credit would inevitably affect the State's expenditures and income in the future, the impact would be indirect and uncertain (JD, November 4, 2008, p. 5356 (François Gendron)/RDPP No. 233/7).

14.2 TYPES OF BILLS

In addition to the rules regarding legislative initiative, parliamentary law sets out a certain procedural framework for the content of bills.

Section 133 of the *Constitution Act, 1867* states that the laws of the Québec Legislature—the Parliament of Québec—must be printed and published in both English and French,¹⁷ and section 31 of the *Act respecting the National Assembly* states that the enacting formula is to read: “The Parliament of Québec enacts as follows:”.

Furthermore, the Standing Orders provide for two types of bills: public bills and private bills. A public bill is of public and general interest, and it may be the expression of a government policy or simply the expression of a rule affecting most or all of the members of the general public. A private bill deals with matters of interest or benefit to one or more persons. The Standing Orders define a private bill as a bill relating to private or local matters (SO 264, 1st para.).

In theory, a bill containing provisions that in essence characterize a private bill cannot be introduced as a public bill and vice versa.¹⁸ In practice, however, it is not always easy to distinguish between the two types of bills.¹⁹ For example, certain laws concerning a municipality or a large group have been introduced and passed in the National Assembly as public bills, while at other times such laws were introduced as private bills. In any case, to date, the President of the National Assembly has not had to rule on the matter.

17 For the Supreme Court, this means that laws must be enacted in both languages (*Re Manitoba Language Rights*, [1985] 1 SCR 721; *Québec (Attorney General) v. Blaikie*, [1979] 2 SCR 1016). In addition, the *Charter of the French language* provides that “legislative bills shall be printed, published, passed and assented to in French and in English, and the statutes shall be printed and published in both languages” and that “the French and English versions of the [laws and regulations] are equally authoritative” (*Charter of the French language*, CQLR, c. C-11, s. 7). It is standard procedure at the National Assembly to publish bills in both languages, but the amendments proposed during the legislative process may be introduced in French or English, according to the sponsor’s preference. As soon as they are adopted in committee or in the Assembly, they are translated into the other language so that the amended bill is available in French and English before it receives royal assent, which closes the legislative process (JD, December 11, 1996, pp. 4208–4209 (Raymond Brouillet)/RDPP, No. 252/1).

18 “A bill introduced as a private bill cannot be proceeded with as a public bill; likewise, a bill introduced as a public bill cannot be proceeded with as a private bill” (Geoffrion 1941, SO 594(3)). In the comments (in French only) to this provision, Geoffrion explains that, when a bill that should be introduced as a public bill is in fact introduced as a private bill, the President may declare it to be irregular.

19 “Considerable difficulties often arise in determining whether a bill is public, private or hybrid” (Erskine May, *Erskine May’s Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, para. 42.2).

Aside from the theoretical differences, there are major distinctions to be made between public bills and private bills in terms of parliamentary procedure, in both the way they are introduced and the way the Assembly studies them.

14.2.1 PUBLIC BILLS

Since public bills involve the general public interest, they are usually introduced by a minister of the Government—even though, as previously mentioned, any Member may introduce a bill that does not have a financial incidence (ANA, s. 30).

The President of the National Assembly has ruled that, in keeping with usage and the arrangement of the Standing Orders, a bill may be introduced only by a single Member or a single minister.²⁰ Again according to custom, bills introduced in the Assembly by a minister are numbered from 1 through 189, and are entered on the Order Paper under “Government Bills”, while public bills introduced by private Members are numbered 190 through 199 and 390 through 399, and listed in the Order Paper under the heading “Private Members’ Public Bills”. Subsequent bills follow a similar rule: government bills are numbered 400 through 489, and private Members’ public bills are numbered 490 through 499, and so on.

20 JD, December 19, 1980, p. 1204 (Claude Vaillancourt)/RDPP, No. 232/1. However, the following bills were introduced jointly by several Members by leave of the Assembly to depart from Standing Order 185. On December 15, 1999, the Assembly passed Bill 198, *An Act to proclaim Holocaust-Yom Hashoah Memorial Day in Québec*, on a joint motion by two Members. Note that it was the motion to pass the bill that was jointly moved and not the bill itself (VP, December 15, 1999, p. 752). Moreover, on April 24, 2001, Bill 191, *An Act to proclaim Armenian Genocide Memorial Day* was introduced in the Assembly. On March 29, 2001, with consent to depart from Standing Order 193, the Assembly had adopted a motion allowing the bill to be introduced by two Members (see VP, March 29, 2001, pp. 37–38). On November 20, 2002, the Member for Marguerite-D’Youville, François Beaulne, introduced Bill 394, *An Act to proclaim Tartan Day*. He indicated at that time that the bill was co-sponsored by the Member for Jacques-Cartier, Geoffrey Kelley (JD, November 20, 2002, p. 7670). This simple mention did not require setting aside the Standing Orders. During the 41st Legislature, two bills were introduced jointly: Bill 7, *An Act to ratify the agreement relating to the conduct of proceedings in the National Assembly and in parliamentary committees as well as to parliamentary offices and budgetary aspects for the duration of the 41st Legislature*, (VP, June 12, 2014, p. 156) and Bill 52, *An Act respecting end-of-life care*, which was introduced after a motion without notice was carried (VP, May 22, 2014, pp. 19–20). Two bills were also introduced jointly during the 42nd Legislature: Bill 4, *An Act to ratify the Agreement relating to the concept of parliamentary group, to the conduct of proceedings in the Assembly and in parliamentary committees as well as to budgetary aspects for the duration of the 42nd Legislature* (VP, December 7, 2018, p. 115) and Bill 19, *An Act to amend the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly following the adoption of certain fiscal measures by the Parliament of Canada* (VP, May 15, 2019, p. 681).

If a bill is introduced by a Member who subsequently becomes a minister, the change of status has no effect on the legislative process. A Vice-President of the Assembly once specified that the presiding officer need not intervene if a minister wishes to retain sponsorship of a bill, nor judge whether the bill in question need be considered a government bill. The presiding officer must only evaluate whether the introduction and consideration of the bill comply with the legislative rules of parliamentary procedure.²¹ In addition, the presiding officer does not in any way intervene in the development of a bill before it is introduced in the Assembly.

Public bills must be accompanied by explanatory notes (SO 233),²² with the exception of appropriation bills, which enable the Government to appropriate sums voted by the Assembly and which follow separate rules. For instance, they are introduced without notice and passed during the same sitting, without debate (SO 263).

14.2.2 PRIVATE BILLS

Private bills concern private or local interests. They are introduced by a Member at the request of an interested person (SO 264). For example, private bills are often designed to provide an individual, body or locality with rights, privileges or the ability to do something or correct a situation that cannot be otherwise dealt with.

Since private bills do not in principle stem from a government or parliamentary initiative, but rather from the initiative of the people interested in the bill's passage, formalities found in the Rules for the Conduct of Proceedings must be completed before a private bill is introduced in the Assembly.

First, the bill must be deposited with the Law Clerk (RCP 33), accompanied by a notice stating the name of the Member who is to introduce it and by a copy of every document mentioned in the bill and of every other relevant document (RCP 34, 1st para.). In the case of a municipality governed by the *Cities and Towns Act*, the *Québec Municipal Code* or a special charter, the bill must also be accompanied by the certified true copy of the resolution authorizing its introduction (RCP 34, 2nd para.). As will be discussed below, not all bills introduced during a sessional period may be passed within that period (RCP 35). As a result, in order to get a private bill passed during a given period, the interested person must make sure it is deposited before the date provided for the start of that period under the Standing Orders.²³

21 JD, April 14, 2005, p. 7689 (William Cusano)/RDPP, No. 232/2.

22 JD, May 30, 1989, p. 6116 (Jean-Pierre Saintonge)/RDPP, No. 233/1.

23 See Chapter 6, "Legislatures, Sessions and Sitings".

Additionally, even if a private bill concerns private or local interests, any person who informs the Law Clerk that they have an interest in the bill and wish to make submissions with respect to it may be heard during the bill's consideration so that the Assembly can consider the interests of third parties, including anyone who could be affected by the passage of the bill (RCP 39 and 40). For that reason, the Rules for the Conduct of Proceedings stipulate that the person who requests the adoption of a private bill, i.e. the applicant, must publish a notice of introduction of the bill in the *Gazette officielle du Québec* and have a notice appear once per week, for four consecutive weeks, in a newspaper in the applicant's judicial district. The notice must describe the purpose of the bill and state that anyone who has any reason to intervene during the process must so inform the Law Clerk (RCP 36 and 37). Before the bill is introduced, the Law Clerk sends the President a report stating whether the notice was drafted and published in accordance with the Rules (RCP 38).

Lastly, any Member of the National Assembly may sponsor a private bill (ANA, s. 30; SO 264). It is parliamentary custom that ministers do not initiate or promote private bill legislation;²⁴ but a minister whose area of responsibility is affected by the subject of the bill is often consulted in the drafting of the bill, in particular to ensure that the bill is in keeping with government policy. Moreover, the motion to send the bill to committee usually states that the minister concerned will sit on the committee.

A Member who sponsors a private bill is not answerable for its content and does not necessarily endorse its provisions (RCP 33). Other than depositing the bill with the Law Clerk, the Member's role is essentially limited to introducing the bill in the Assembly. The Member may also participate in the work of the standing committee since a bill's sponsor is automatically a member of the committee responsible for the bill's clause-by-clause consideration (SO 125). However, it is the minister responsible for the subject of the bill who, in practice, leads the proceedings in committee.

It is the custom in the Assembly to number private bills from 200 through 389. They are entered on the Order Paper under the heading "Private Bills". Private bills include a preamble setting out the facts on which they are founded, but explanatory notes are not necessary (SO 266).

24 Arthur Beauchesne, Alistair Fraser, William Foster Dawson and John A. Holtby, *Beauchesne's Rules and Forms of the House of Commons of Canada*, 6th ed. (Toronto: Carswell, 1989), p. 287.

14.3 LEGISLATIVE PROCEDURE

There are essentially five stages in the consideration of a bill by the National Assembly: introduction, passage in principle, committee stage, report stage and passage (SO 229).

Each stage ends with a vote by the Members and must be held at a separate sitting. Nevertheless, a bill may be passed in principle and considered in committee during the same sitting and, if clause-by-clause consideration is entrusted to the Committee of the Whole, its report may be adopted without waiting for the next sitting (SO 230).²⁵

A question of privilege raised regarding a bill does not prevent the bill from being introduced²⁶ or the legislative process from running its course,²⁷ even if the President deems the question admissible.

Although every bill, public or private, goes through the same stages, the procedure may vary, depending on the type of bill.

14.3.1 STAGES IN THE ADOPTION OF A PUBLIC BILL

A Member who wants to introduce a bill must give notice to that effect by entering the title of the bill on the Order Paper (SO 232, 2nd para.) not later than the day before its introduction (SO 232, 1st para.). The Member may then introduce the bill as early as the sitting following the one where the bill was entered on the Order Paper. On the sitting day that the Member wishes to introduce the bill, the Member must send a copy of it to the President one hour before Routine Proceedings begin (SO 232).²⁸

25 See Chapter 17, "Committees of the Whole".

26 JD, June 2, 2010, pp. 7004-7005 (Yvon Vallières)/RDPP, No. 67/58. However, the President once asked a minister to postpone the introduction of two bills so that, before deciding whether to take the bills under consideration, the Members could be apprised of the President's ruling on a question of privilege concerning the bills (JD, November 14, 2007, pp. 2008-2010 (Michel Bissonnet)/RDPP, No. 67/56). See also JD, June 12, 2014, p. 1487 (Jacques Chagnon); JD, June 13, 2014, pp. 1542-1544 (Jacques Chagnon)/RDPP, No. 67/65.

27 JD, April 24, 1990, pp. 1789-1790 (Jean-Pierre Saintonge)/RDPP, No. 244/1; JD, December 8, 1999, p. 4188 (Jean-Pierre Charbonneau)/RDPP, No. 147/1. See Chapter 4, Subsection 4.2.1.4, "Protecting the Privileges of the Assembly and its Members".

28 This provision allows the President to be informed of the content of a bill before its introduction in the Assembly, in particular to make sure that a bill submitted by a Member does not contravene the Crown's financial initiative (JD, December 16, 1991, pp. 11643-11647 (Jean-Pierre Saintonge)/RDPP, No. 233/2). The President once used this provision to rule on a question of privilege against a minister accused of unveiling a bill before its introduction in the National Assembly (JD, November 15, 2006, pp. 3324-3325 (Michel Bissonnet)/RDPP, No. 67/55).

Part 6	
NOTICES	
I.	NOTICES PREVIOUSLY GIVEN
	Government Bills
(a)	9 June 2020 An Act to recognize and support caregivers and to amend various legislative provisions – <i>Minister Responsible for Seniors and Informal Caregivers</i>
	Private Members' Public Bills
(b)	5 June 2020 An Act to establish Pharma-Québec – <i>Member for Jean-Lesage</i>
	Private Bills
II.	NOTICES APPEARING FOR THE FIRST TIME
(aa)	An Act to amend the Public Service Act and other provisions – <i>Minister Responsible for Government Administration and Chair of the Conseil du trésor</i>
(bb)	An Act to modernize legislative provisions as regards the protection of personal information – <i>Minister Responsible for Democratic Institutions, Electoral Reform and Access to Information</i>
(cc)	An Act to authorize the holder of a restaurant sales liquor permit to sell, for takeout or delivery, spirit-based alcoholic beverages – <i>Member for Marie-Victorin</i>

While a bill is on the Order Paper but has not been introduced, it can be withdrawn upon a simple oral request to the President or upon a written request to the Secretary General of the Assembly (SO 195, 2nd para.).²⁹ However, although no decision has been rendered by the President in the matter, based on precedent, once a bill has passed one or more stages in its consideration, in order for the bill to be withdrawn from the Order Paper, separate motions appear to be required to rescind the orders adopted at each stage the bill has passed.³⁰

Note that during Routine Proceedings a minister may table a draft bill with a view to referring it for public consultations and later introducing a bill in the National Assembly.³¹ Since this is not a legislative bill but a simple government document,

29 JD, November 26, 1992, p. 3851 (Jean-Pierre Saintonge)/RDPP, No. 195/3.

30 VP, June 14, 2002, p. 1238.

31 The expressions “white paper” and “green paper” are sometimes used. According to Jean-Charles Bonenfant’s definition, a white paper is “[TRANSLATION] a government document concerning a matter of public interest. It presents the problem, the objectives that may be followed with respect to the matter, the means that may be used and, lastly, the Government’s preferred option”. It is different from a green paper in that the latter does not indicate the Government’s preferred option. In a context where the goal of such a document is to lead to public consultations being held in a parliamentary framework, it is generally tabled in the Assembly.

it is not part of the legislative process. Accordingly, no notice is entered on the Order Paper, and, for this reason, the draft bill is presented during “Presenting Papers” under Routine Proceedings, not during “Introduction of Bills”.

Lastly, presiding officers have ruled that a minister must be present in the House when a Government House Leader or a Deputy Government House Leader calls for a debate on a stage of a government bill during Orders of the Day.³² However, the minister’s presence is not required for the entire duration of the debate or when the question is put on the motion. While it is not necessarily desirable for no minister to be present in the House during consideration of a bill, nothing in the Standing Orders prohibits it. In fact, once the debate has begun, the Assembly is considered to be seized of the matter and, strictly in terms of parliamentary procedure, nothing then obligates a minister to be present.³³

14.3.1.1 INTRODUCTION

The first stage in the consideration of a bill is its introduction (SO 229), referred to as the “First Reading” in the former Standing Orders. It takes place during Routine Proceedings, under “Introduction of Bills”. At that stage, the Member introduces a bill by either reading or summarizing the explanatory notes that accompany it. The notes must give a brief description of the purpose of the bill but should not present any reasons or arguments (SO 233).³⁴

That said, Standing Order 233 does not give the presiding officer the power to verify whether the explanatory notes effectively summarize the purpose of a bill. It is not up to the presiding officer to check the explanatory notes against the content of the bill any more than it is up to the presiding officer, rather than the Assembly, to decide on the veracity of a motion. Instead, the presiding officer must presume that the purpose of the bill is in fact set out in the notes.³⁵

Once the explanatory notes have been read, the presiding officer asks the Assembly if it agrees to consider the bill. The motion that leave be granted to introduce the bill in the Assembly is decided without debate (SO 234). The content of the bill becomes public only if the Assembly adopts that motion. As seen in Chapter 9, it is rare that the Assembly refuses to consider a bill.

32 JD, December 16, 1992, pp. 4828–4829 (Jean-Pierre Saintonge)/RDPP, No. 35 (6)/5; JD, June 3, 2019, pp. 3113–3114 (Marc Picard)/RDPP, No. 189/1.

33 Ibid.

34 Nowhere do the Standing Orders state the consequences of failing to comply with Standing Order 233. It is therefore up to the presiding officer to rule on the matter. In 1997, the President asked the Government House Leader to change the explanatory notes of a bill the Leader had introduced because they contained a reason for its introduction. (JD, March 21, 1997, pp. 5448–5449 (Jean-Pierre Charbonneau)/RDPP, No. 233/5). Similarly, in 2001, having noticed that the explanatory notes for a bill introduced by the Minister of State for Municipal Affairs and Greater Montréal included reasons and arguments, the President asked the Minister to change them (JD, May 15, 2001, p. 1204 (Jean-Pierre Charbonneau)).

35 JD, December 16, 1993, pp. 9837–9838 (Jean-Pierre Saintonge)/RDPP, No. 233/3.

14.3.1.2 REFERRAL FOR CONSULTATION

Once the Assembly agrees to consider a bill, a motion may refer the bill to committee so that the persons and organizations who wish to make their views known may be consulted.

A motion for consultation may be moved at different times during the legislative process. Under Standing Order 235, it may be moved without notice by the Government House Leader immediately after the Assembly has agreed to consider a bill. According to that provision, such a motion, which may provide for a general consultation or for special consultations, is decided without debate. However if, contrary to the Standing Orders concerning special consultations (SO 170 to 173), the terms of the consultation (choice of organizations, date and length of hearings, etc.) are not determined by the committee,³⁶ the debate, which lasts no more than one hour, takes place immediately (SO 235, 2nd para.).

The way of proceeding specified in Standing Order 235 applies only to the introduction stage. In practice, bills are increasingly referred to committee for consultation at another stage, either during the debate at the passage-in-principle stage or at the clause-by-clause consideration stage. It should be noted that it was not the Assembly's intention, in adopting the provisions related to special or general consultations, to limit the Assembly's power of referral for consultation of a bill by ensuring consultations might be proposed only at the bill's introduction.

Therefore, in accordance with Standing Order 146, which allows the Assembly to refer any matter to committee for examination, it is possible to move a motion to hold consultations on a bill at the passage-in-principle stage or at another stage of study. Referral to committee by the Assembly under this Standing Order is done through a motion by the Government House Leader or by an opposition Member under Business Standing in the Name of Members in Opposition.

In principle, notice of any such motion by the Government House Leader must first be given in the *Order Paper and Notices*.³⁷ The motion cannot be amended, but can be discussed in a limited debate for up to one hour (SO 146). However, in most cases, the Government House Leader's motions are moved, by leave of all the Members of the Assembly, during Routine Proceedings when motions may be presented without prior notice (SO 84.1). In such cases, the motion is often adopted without debate, having been the subject of prior negotiations among the parliamentary groups and independent Members.

36 JD, November 15, 2000, pp. 7898-7899 (Jean-Pierre Charbonneau)/RDPP, No. 235/1.

37 JD, May 23, 2001, p. 1421 (Jean-Pierre Charbonneau)/RDPP, No. 235/2.

Once the consultations a committee was mandated to hold are finished, it reports to the Assembly (SO 174). The committee report is not subject to a vote. Standing Order 236 provides that the report of the committee that held consultations according to the procedure provided for in Standing Order 235 must be tabled for the bill examination process to continue. In the same vein, bills may be referred for consultation under Standing Order 146 and, in accordance with Standing Order 174, a committee must table its report upon concluding its consideration of any matter. Relying on this reasoning, a presiding officer once ruled that the examination of a bill could not proceed before the tabling of the committee report on the consultations³⁸ held under a motion for consultation moved under Standing Order 146 or 235.

Lastly, it should be noted that the presiding officer does not need to rule on the Government House Leader's decision to move that consultations on a bill be held or not. In one decision, a Vice-President stated that the presiding officer must demonstrate restraint and, to that end, need not rule on decisions made by the Government House Leader's in the exercise of the latter's power related to holding special or general consultations.³⁹

14.3.1.3 PASSAGE IN PRINCIPLE

Passage in principle, corresponding to the "Second Reading" in the former Standing Orders, is the second stage in the examination of a bill (SO 229) and cannot take place during the sitting day on which the bill was introduced (SO 230).

The debate on the passage in principle of a bill is entered in Orders of the Day for the sitting following either the bill's introduction or the tabling of the committee report after consultations (SO 236).⁴⁰ However, it may begin no earlier than one week after the bill is introduced (SO 237). This is in order to give the Members sufficient time to prepare and thus ensure the quality of the work done in Parliament.⁴¹ There are two exceptions to this rule, however, to avoid paralyzing parliamentary business. First, during the first week of the sitting periods in February and September and during extraordinary sittings, the rule is not applied (SO 237, 2nd para.). The term "week" has been interpreted to mean a period of seven consecutive days, no matter on what day it begins. As a result, the debate on the passage in principle of all the bills introduced during the first

38 JD, June 1, 2006, pp. 2008–2009 (Diane Leblanc)/RDPP, No. 147/3.

39 JD, November 9, 2006, p. 3240 (Diane Leblanc)/RDPP, No. 235/3.

40 JD, December 2, 1996, pp. 3544–3545 (Claude Pinard)/RDPP, No. 236/1.

41 JD, March 21, 1991, pp. 7163–7164 (Roger Lefebvre)/RDPP, No. 237/1.

week of parliamentary business in February or September may begin in the same week, including during the following Tuesday, as long as the required interval between the other stages of examination of each bill has passed (SO 230).⁴²

Second, if the bill is referred to committee for consultation and the committee's report recommends that it be reprinted, the debate cannot begin until the third sitting following the one at which the reprinted text is tabled (SO 238).⁴³

Unless at least five Members object, the Government House Leader may move, without notice or debate, that the question for the passage in principle of a bill be decided without debate (SO 242). Needless to say, such a motion may not be made once the debate on passage in principle has begun. Moreover, the presiding officer has no discretionary power in this area, given the wording of the Standing Order, which provides an objective criterion for the inadmissibility of the motion, namely, that it be opposed by five Members. However, this procedure has rarely been used in the Assembly. There is almost always a debate on the passage in principle of a bill, although the debate may sometimes be very short.

The debate on passage in principle must be limited to the expediency, principles and merits of the bill and to alternative means of achieving its purpose (SO 239). In other words, the general relevance rule stated in Standing Order 211 does not apply here.⁴⁴ Within the limits set in the Standing Orders, the relevance of a speech on the passage in principle of a bill must be interpreted very broadly and, in borderline cases, it must be interpreted in favour of the Member who

42 Ibid. Logically, the term "week" used in the first paragraph of Standing Order 237 should be interpreted in the same way. Thus, were a bill to be introduced on a Tuesday, the debate on the passage in principle could not begin before the Wednesday of the following week, the week having begun on the day after the bill was introduced. This interpretation is in keeping with the method for computing time limits provided for in the *Code of Civil Procedure*, which states that the day on which the period starts is not counted, but the day on which it ends is (*Code of Civil Procedure*, CQLR, c. C-25.01, a. 83).

43 The minister who introduced the bill may also move that it be reprinted (SO 255). These are the only two circumstances under which the Standing Orders provide for the reprinting of a bill (JD, June 11, 1980, pp. 6080–6081 (Clément Richard)/RDPP, No. 238/1; JD, June 10, 1996, pp. 1929–1930 (Claude Pinard)/RDPP, No. 238/3). The bill need not be reintroduced in either case, even if the reprinted text contains new principles (JD, December 9, 1982, pp. 6709–6710 (Claude Vaillancourt)/RDPP, No. 238/2). If a bill is reprinted under other circumstances, it must be reintroduced under a new number (JD, June 11, 1980, pp. 6080–6081 (Clément Richard)/RDPP, No. 238/1).

44 See Chapter 13, "Rules of Parliamentary Debate and Allocation of Speaking Time".

has the floor.⁴⁵ However, unwarranted digressions are forbidden and, although Members may broach certain general principles, they must return to the content and purpose of the bill and the means to achieve that purpose.⁴⁶

The mover of the motion, the Premier and the other leaders of parliamentary groups or their representatives each have one hour's speaking time. The other Members may speak for 20 minutes. No Member may speak more than once, except the mover, who has a right of reply (SO 239 and SO 209). When no one else wishes to take the floor, the presiding officer puts the motion to a vote.

HOIST MOTION

A motion to pass a bill in principle cannot be amended. There is, however, one exception to this rule: a hoist motion, which is in fact an amending motion to defer the passage in principle of a bill within a fixed period. The wording of the main motion under debate being "That the bill do now pass in principle", the hoist motion moves the replacement of "now" by the desired deferral period. However, in accordance with section 5 of the *Constitution Act, 1982*,⁴⁷ under which the Assembly must sit at least once every 12 months, no motion can be intended to delay the examination of a bill for a period exceeding a one-year term or the remainder of the legislature, if less than one year remains.⁴⁸

No more than one hoist motion can be made over the course of the debate on the passage in principle of a bill. However, if a hoist motion is withdrawn, it is considered to have never been made, thus allowing another hoist motion to be presented.⁴⁹

45 JD, June 4, 1986, pp. 2226–2227 (Jean-Pierre Saintonge)/RDPP, No. 239/4.

46 JD, November 17, 2005, pp. 10274–10275 (William Cusano)/RDPP, No. 211/5. The rule on relevance in debate is interpreted even more broadly during passage in principle of a bill following a budget speech since the presiding officer cannot always link the Member's comments to the content of the bill, which is often sweeping in scope. Nonetheless, the presiding officer must ensure that digressions are not unwarranted and that they have to do with budget-related matters.

47 *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c. 11, reprinted in RSC 1985, App. II, No. 44.

48 JD, December 14, 1977, pp. 4750–4751 (Louise Cuerrier)/RDPP, No. 240/2.

49 JD, November 28, 1972, pp. 2799–2800 (Denis Hardy)/RDPP, No. 240/1.

If the hoist motion is declared receivable, it is the subject of a limited debate and no subamendment may be made (SO 240). As in the case of a motion to divide a bill, the mover is not allowed to speak during the limited debate following the introduction of the motion.⁵⁰ In fact, the mover is considered to have spoken to it when the main motion was made.

Additionally, as with any other motion, the hoist motion may be the subject of a motion to adjourn the debate (SO 100). The vote on a hoist motion may also be deferred (SO 223).

MOTION TO DIVIDE A BILL

When a bill contains more than one principle, the Member who has the floor may move that the bill be divided into several bills. If the motion is deemed admissible and then carried, each part of the bill referred to in the motion becomes a separate bill. This type of motion may be made only once,⁵¹ unless it is made by a minister.⁵²

The motion cannot be amended, and it is discussed during a limited debate (SO 241). The presiding officer rules on its admissibility after examining the bill to determine whether it contains more than one principle. In addition to the criteria in Standing Order 205 for determining whether a motion to divide a bill is admissible, other criteria establishing whether a bill contains more than one principle have evolved out of jurisprudence. First, if the different parts of the bill constitute a fraction of a larger whole or principle, then the bill is not considered to contain more than one principle. Second, a distinction must be made

50 JD, June 8, 1995, pp. 3782–3783 (Pierre Bélanger)/RDPP, No. 241/8; JD, October 22, 1986, p. 3412 (Jean-Pierre Saintonge)/RDPP, No. 240/4. Since the mover of a hoist motion does not have the right to speak, usage demands that the first person to speak to the motion be a member of a different parliamentary group. However, the presiding officer is not bound by this tradition and may give the floor to the first Member to rise. If no Member of the government party rises, the presiding officer cannot oblige anyone to speak to the motion (JD, June 7, 2000, pp. 6676–6677 (Michel Bissonnet)/RDPP, No. 240/5).

51 However, the presiding officer has on occasion accepted a motion to divide a bill, despite a previous motion having been deemed inadmissible (JD, May 27, 2004, pp. 4727, 4733, 4734, 4743 and 4744; JD, December 7, 2004, pp. 6465, 6468, 6473, 6477 and 6478).

52 In the vast majority of cases, motions to divide a bill are moved by a Member in opposition, but a minister can also move to divide a government bill. For example, on March 23, 2010, Robert Dutil, Minister of Revenue, on behalf of Claude Béchar, Minister responsible for Canadian Intergovernmental Affairs and the Reform of Democratic Institutions, moved that Bill 78, *An Act to amend the Election Act with regard to electoral representation and political party financing rules and to amend other legislative provisions* be divided into two bills: the first entitled *An Act to amend the Election Act with regard to electoral representation* and the second entitled *An Act to amend the Election Act with regard to political party financing rules and to amend other legislative provisions*. The motion was declared in order, debated and adopted. Two days later, the Minister introduced bills 92 and 93 pursuant to the motion to divide the bill.

between the essence and the mechanics or procedures of a bill.⁵³ A principle is an essential element of a bill, whereas the mechanics are simply incidental to the principle.⁵⁴ Furthermore, it should not be concluded that a bill contains more than one principle just because it comprises various mechanics.⁵⁵ Similarly, it should not be concluded that the principles that would result from a division are mere mechanics just because they can be grouped under a single theme.⁵⁶

The President can also consider other elements. For instance, although the explanatory notes have no legal value in identifying the principles of a bill,⁵⁷ they may nevertheless indicate the existence of more than one principle.⁵⁸ In one ruling, the presiding officer found that appending the text of an entire bill to another bill spoke volumes, and pointed out the difficulties of application created by this type of drafting.⁵⁹ Moreover, the presiding officer has addressed, in the same way, bills containing one or more sections that each enact an entire Act.⁶⁰ It should be noted that compliance with legislative drafting rules does not ensure that a bill contains only one principle.⁶¹

The principle or principles contained in a bill must not be confused with the field it concerns. To frame the concept of principle in that way would prevent the division of most bills, because they each apply to a specific field.⁶²

53 JD, December 3, 1990, p. 5612 (Roger Lefebvre)/RDPP, No. 241/4.

54 JD, June 3, 1998, pp. 11650–11651 (Claude Pinard)/RDPP, No. 241/11. Under this criterion, the President decided that the creation of an organization was not simply a procedure, but a new principle that could be the subject of a separate bill. (JD, June 12, 1985, pp. 4532–4540 (Richard Guay)/RDPP, No. 241/1).

55 JD, May 21, 1986, pp. 1685–1689 and 1722 (Louise Bégin)/RDPP, No. 241/3.

56 JD, December 3, 1992, p. 4152 (Roger Lefebvre)/RDPP, No. 241/5; JD, February 24, 2015, pp. 3776–3777 (Maryse Gaudreault)/RDPP, No. 241/25; JD, April 12, 2017, pp. 15883–15884 (Maryse Gaudreault)/RDPP, No. 241/30.

57 JD, June 12, 1985, pp. 4532–4540 (Richard Guay)/RDPP, No. 241/1.

58 JD, June 1, 1995, pp. 3306–3307 (Raymond Brouillet)/RDPP, No. 241/7; JD, April 12, 2017, pp. 15883–15884 (Maryse Gaudreault)/RDPP, No. 241/30.

59 JD, May 18, 2011, pp. 2008–2009 (Fatima Houda-Pepin)/RDPP, No. 241/23. In this particular case, the motion was intended to divide Bill 10, *An Act respecting mainly the implementation of certain provisions of the Budget Speech of 17 March 2011 and the enactment of the Act to establish the Northern Plan Fund* into two separate bills. One of the arguments provided by the Deputy Government House Leader against the motion to divide was that the bill formed a whole since it followed from the budget speech, and that dividing it would be to run counter to the Government's budgetary policy adopted by the Assembly. The Vice-President rejected that argument, ruling that it could not be used to determine whether the motion was receivable and that there was no obligation for all the measures announced in the budget speech to be included in a single bill.

60 JD, April 15, 2015, pp. 5486–5487 (François Gendron)/RDPP, No. 241/26; JD, November 3, 2015, pp. 7558–7559 (François Ouimet)/RDPP, No. 241/27; JD, September 29, 2016, pp. 12072–12073 (Maryse Gaudreault)/RDPP, No. 241/29.

61 JD, June 12, 1985, pp. 4532–4540 (Richard Guay)/RDPP, No. 241/1.

62 JD, December 11, 2007, pp. 2513–2514 (Fatima Houda-Pepin)/RDPP, No. 241/22.

Furthermore, when determining the principle or principles of a bill, the President need not consider the importance given to certain parts of the bill, nor evaluate whether one part of the bill is incidental to another.⁶³ The presiding officer should not seek to clarify the legislator's intention, but should simply read the text, without trying to interpret it⁶⁴ and without seeking to determine all the possible consequences of applying the bill once it has been passed.⁶⁵ That being said, the presiding officer must necessarily analyze the provisions of the bill to determine whether they contain one or more principles. To do so, the presiding officer must, in particular, rely on the provision stating the bill's purpose, if the bill has such a provision.⁶⁶

A bill that amends a number of laws does not necessarily contain more than one principle.⁶⁷ By definition, an omnibus bill amends a number of Acts (SO 258 and SO 259).⁶⁸

To determine whether an omnibus bill may be subject to a motion to divide, the Standing Orders divide this type of bill into three categories: a series of amendments that embody only one principle that are made to one or more statutes (SO 260(1)); a series of amendments to a single statute that embodies only one principle (SO 260(2)); and, for a statute that contains more than one principle, a series of amendments to a part of the statute that embodies a single principle (SO 260(3)).

Moreover, the fact that a bill contains more than one principle does not necessarily mean that it can be divided. The following conditions have also been established by parliamentary jurisprudence: each part of the divided bill must be able to stand on its own; each part of the divided bill must be more than a mere procedure; each bill resulting from the division must be a coherent

63 JD, June 3, 1998, pp. 11650–11651 (Claude Pinard)/RDPP, No. 241/11.

64 JD, December 11, 1997, p. 9417 (Claude Pinard)/RDPP, No. 241/10; JD, May 18, 2011, pp. 2008–2009 (Fatima Houada-Pepin)/RDPP, No. 241/23; JD, March 15, 2016, pp. 8984–8985 (François Gendron)/RDPP, No. 241/28.

65 JD, June 7, 2000, pp. 6702–6703 (Claude Pinard)/RDPP, No. 241/12; JD, November 7, 2006, pp. 3133–3134 (François Gendron)/RDPP, No. 241/21.

66 JD, November 6, 2014, p. 2563 (François Gendron)/RDPP, No. 241/24.

67 All of the amendments to a law may, however, constitute one principal (JD, June 13, 1985, pp. 4596, 4609 and 4610 (Réal Rancourt)/RDPP, No. 241/2; JD, February 27, 2019, pp. 910–911 (Chantal Soucy)/RDPP, No. 241/32).

68 An "omnibus bill" is a bill introduced by the Government or a minister for the sole purpose of making a number of minor, technical, corrective or consequential amendments to statutes that fall within the area of competence of two or more committees or of a single committee (SO 258 and 259).

whole,⁶⁹ independent from the rest⁷⁰. If a motion to divide a bill does not satisfy all these conditions, the President cannot invoke Standing Order 193 to correct the situation by moving clauses from one bill to another, since that would amount to a substantive change.⁷¹ The President cannot make changes to the substance of a bill. In accordance with Standing Order 193, changes must be limited to form, and the modification of certain sections referred to in a motion to divide is not a correction of form.⁷² Parliamentary jurisprudence has established that, in a motion to divide, the sections of a bill cannot be rewritten in order to render the motion admissible, with the exception of the section relating to the coming into force of the bill.⁷³

It is nonetheless possible to cut some words from a section provided that they are transposed integrally into the other proposed bill.⁷⁴

The presiding officer must determine the admissibility of the motion to divide on the sole basis of the contents of the motion.⁷⁵ It is not the presiding officer's prerogative to interpret the mover's intentions. Consequently, the motion must specify how the elements of the bill are to be redistributed so that the texts of the proposed bills are clear.⁷⁶

The repetition of certain clauses in two proposed bills does not affect the motion's admissibility. A clause may appear in two different bills if it concerns mechanics or procedures that are compatible with the principle of each.⁷⁷ It

69 JD, June 9, 1986, pp. 2442–2443 (Louise Bégin)/RDPP, No. 240/3; JD, December 4, 1997, p. 9138 (Claude Pinard)/RDPP, No. 241/9; JD, June 3, 1998, pp. 11650–11651 (Claude Pinard)/RDPP, No. 241/11; JD, December 11, 2007, pp. 2513–2514 (Fatima Houda-Pepin)/RDPP, No. 241/22. For a bill resulting from the division to be considered coherent, it must, in particular, comprise all the sections related to the principles it contains (JD, October 26, 2017, p. 17677 (Maryse Gaudreault)/RDPP, No. 241/31).

70 JD, May 27, 2004, pp. 4733–4734 (François Gendron)/RDPP, No. 241/16; JD, December 7, 2004, p. 6468 (François Gendron)/RDPP, No. 241/18.

71 JD, June 3, 1998, pp. 11650–11651 (Claude Pinard)/RDPP, No. 241/11.

72 JD, May 27, 2004, pp. 4743–4744 (François Gendron)/RDPP, No. 241/17; JD, February 24, 2015, pp. 3776–3777 (Maryse Gaudreault)/RDPP, No. 241/25.

73 A motion to divide that adapts the section relating to the coming into force of the resulting bills would be in order (JD, May 27, 2004, pp. 4743–4744 (François Gendron)/RDPP, No. 241/17; JD, December 9, 2005, p. 10933 (Diane Leblanc)/RDPP, No. 241/19).

74 JD, June 5, 2006, pp. 2112–2113 (François Gendron)/RDPP, No. 241/20.

75 JD, May 27, 2004, pp. 4733–4734 (François Gendron)/RDPP, No. 241/16.

76 JD, November 7, 2006, pp. 3133–3134 (François Gendron)/RDPP, No. 241/21.

77 JD, November 29, 2000, p. 8259 (Raymond Brouillet)/RDPP, No. 241/13.

has on several occasions been recognized that a section relating to the coming into force of a bill can be included in two or more bills resulting from a division,⁷⁸ provided that it does not refer to provisions contained in only one of them.⁷⁹

When a motion to divide is declared in order by the presiding officer, it gives rise to a limited debate before the debate on passage in principle may continue. If the motion to divide is carried, the bills that result from the division must again be placed on the Order Paper at the introduction stage.

The mover of a motion to divide, like the mover of a motion to amend or defer a bill, is not entitled to speak during the limited debate that the motion is the subject of.⁸⁰ Nor may the mover speak when the debate resumes on passage in principle. The mover is deemed to have moved the motion to divide during the address in which it was introduced.⁸¹

Lastly, as with the debate on a hoist motion, the first person to speak to a motion to divide is generally a member of a different parliamentary group than the one that moved the motion. Furthermore, as with a hoist motion, a motion to divide may be the subject of a motion to adjourn the debate (SO 100) and of a request to defer the vote (SO 223).

14.3.1.4 COMMITTEE STAGE

Following the passage in principle of a bill, the Government House Leader moves without notice to send the bill to the competent standing committee or to the Committee of the Whole for clause-by-clause consideration.⁸² This motion is not debated (SO 243).

Passage in principle and clause-by-clause consideration may take place during the same sitting (SO 230). Depending on the motion referring the bill, clause-by-clause consideration may be carried out by the Committee of the Whole or by the competent standing committee. In the latter case, the committee is convened by the Government House Leader during Routine Proceedings at the time set aside for notices of proceedings in committee. If the Assembly is not sitting, the committee is convened by its Chair on a written notice from the Government

78 JD, May 26, 2004, p. 4647 (François Gendron)/RDPP, No. 241/15; JD, May 27, 2004, pp. 4743–4744 (François Gendron)/RDPP, No. 241/17.

79 JD, May 27, 2004, pp. 4733–4734 (François Gendron)/RDPP, No. 241/16.

80 JD, June 7, 1993, p. 7207 (Michel Bissonnet)/RDPP, No. 241/6.

81 JD, May 22, 2001, p. 1371 (Raymond Brouillet)/RDPP, No. 241/14.

82 In the case of an omnibus bill that falls within the area of competence of more than one committee, the Government House Leader may move that the bill be referred to a select committee, the Committee of the Whole or the competent standing committee that the Government House Leader designates for clause-by-clause consideration (SO 261). If the bill falls within the area of competence of a single committee, it is sent to that committee following passage in principle (SO 262).

House Leader (SO 147). A committee cannot be convened ahead of time.⁸³ Consequently, the Government House Leader cannot convene the competent parliamentary committee for clause-by-clause consideration of a bill until the bill is passed in principle. In addition, according to a ruling made in 2000, the Assembly must give its consent for the Government House Leader to give notices on committee business during Orders of the Day.⁸⁴ Therefore, although Standing Order 230 stipulates that passage in principle of a bill and its clause-by-clause consideration may take place on the same sitting day, the provision has become for all intents and purposes inapplicable, since Assembly sittings always begin with Routine Proceedings. Once a bill has been passed in principle, the committee may only be convened at the following sitting unless, of course, the bill is referred to the Committee of the Whole for clause-by-clause consideration.⁸⁵

The motion to refer a bill to committee takes effect only once the first notice has been given by the Government House Leader. Once the motion has been moved, a Member has until the time the first notice is given to raise a question on the committee's competence. Afterward, the motion to refer is presumed to be in order.⁸⁶ To determine whether the bill was referred to the right committee, the presiding officer relies on Standing Order 118, which establishes the areas of competence of the sectorial standing committees.

During clause-by-clause consideration of a bill,⁸⁷ the committee examines each of the bill's sections and discusses its details. According to custom, this stage begins with preliminary remarks, followed by preliminary motions and clause-by-clause consideration.⁸⁸ During preliminary motions, the committee may notably decide to hold special consultations within the terms of its order of reference. Then clause-by-clause consideration typically takes place in the following order: clauses as printed, postponed clauses, new clauses, schedules as printed, new schedules, preamble and title.⁸⁹

83 JD, April 26, 1990, pp. 1889–1897 (Jean-Pierre Saintonge)/RDPP, No. 85/2.

84 JD, May 24, 2000, pp. 6127–6128 (Jean-Pierre Charbonneau)/RDPP, No. 147/2.

85 At the time the 2000 decision was rendered, Routine Proceedings during regular hours began at 2:00 p.m. (SO 52, 1985). It was therefore possible for a bill to be passed in principle in the morning during Orders of the Day, then for the Government House Leader, at the time set aside for notices of proceedings in committee during Routine Proceedings, to present an oral motion to convene the competent standing committee that same day for clause-by-clause consideration. However, this was impossible during extended hours, because Routine Proceedings were at the very beginning of the sitting. Since September 2009, the provision is no longer applicable because each sitting of the Assembly begins with Routine Proceedings (SO 52).

86 JD, June 10, 1992, pp. 2119–2122 and 2165–2172 (Jean-Pierre Saintonge)/RDPP, No. 243/1.

87 See Chapter 19, Section 19.1, Subsection 19.1.1, "Public Bills".

88 JD, December 10, 1992, pp. 4575–4579 (Maurice Richard)/RDPP, No. 244/2.

89 JD, June 4, 1999, p. 2258 (Michel Bissonnet)/RDPP, No. 244/6.

After a bill has been referred to a standing committee for clause-by-clause consideration or while a committee carries that work out, the Assembly, on the Government's initiative, may be called upon to vote on two motions: a motion to adopt an agreement as to when the committee should table its report before the Assembly or, if no such agreement has been reached, a closure motion stating when the committee must end its proceedings. This generally occurs when the Government believes that a standing committee's examination of a bill is dragging on. The Government is completely free in this matter since the Standing Orders do not specify how soon either of these motions may be made.

The first motion is presented after the President has convened the parliamentary group House leaders at the request of the Government House Leader and an agreement is reached between them (SO 249). The Government House Leader may make the request even if the competent committee has not been convened to examine the bill.⁹⁰ Before the motion is presented, the President informs the Assembly that the House leaders have reached an agreement (SO 249). The Government House Leader then moves without notice that the Assembly adopt the agreement and make it an order. The motion is put to a vote immediately, without debate (SO 250).

If no agreement is reached, the President informs the Assembly to that effect (SO 249). The Government House Leader may then introduce a closure motion specifying when the committee must interrupt its proceedings and report to the Assembly (SO 251). In essence, the matter is withdrawn from the committee and referred back to the Assembly by means of a report. The motion may be made regardless of the committee's progress; it is an exceptional measure available only to the Government House Leader.⁹¹ It takes the form of a formal motion without notice that cannot be amended and will be debated at a subsequent sitting. The wording of the motion is printed in the *Order Paper and Notices* for the next sitting. In addition to the speaking times provided in the Standing Orders for a formal motion (SO 209), the Government House Leader is entitled to speak for 10 minutes in reply at the conclusion of the debate (SO 251). It should be noted, however, that the closure motion has not been used for a long time.⁹²

Rather, the Government uses the exceptional procedure provided in Standing Order 182 when it wants to put a stop to the proceedings of a committee.⁹³ The two procedures cannot be used for the same bill. The Standing Orders

90 JD, June 15, 1990, pp. 3447–3448 (Lawrence Cannon)/RDPP, No. 249/1.

91 JD, December 12, 1990, pp. 6254–6255 (Jean-Pierre Saintonge)/RDPP, No. 251/4.

92 The last closure motion was made on November 28, 1996, to interrupt proceedings relating to Bill 130, *An Act respecting administrative justice*. The motion, introduced by the Government House Leader, was adopted on December 9, 1996.

93 See Chapter 16, "Exceptional Procedures".

stipulate that, if a closure motion has been carried, no motion to introduce an exceptional procedure may be made (SO 251, 2nd para.).

The report of a committee following clause-by-clause consideration of a bill is tabled at the appropriate stage of Routine Proceedings (SO 53(3)(b)) by the committee Chair or a committee member named by the Chair (SO 61). The report contains the minutes of the committee proceedings and the text of the bill as adopted by the committee (SO 248). Since the content of the report is specifically outlined in Standing Order 248, it would seem that conclusions and recommendations under Standing Order 176 are excluded.

If clause-by-clause consideration takes place in a Committee of the Whole, the report consists of the text of the bill as adopted by the committee (SO 248). In this case, the committee Chair makes an oral report to the President of the Assembly once the bill has been fully considered (SO 110). The report is then put to the vote without debate and the passage of the bill is set for a subsequent sitting (SO 248).⁹⁴

14.3.1.5 CONSIDERATION OF THE COMMITTEE'S REPORT

When clause-by-clause consideration of a bill takes place in a sectorial standing committee, the Assembly may consider the committee's report at the sitting following its tabling (SO 253). Thus, the rule according to which each stage of the examination of a bill must take place at a separate sitting is observed (SO 230). The report cannot be considered the day it is tabled, even if the committee stage took place during a previous sitting, because Members have until 10:00 p.m. on the day the report is tabled to send any amendments they wish to move to the office of the Secretary General. The President then decides whether the amendments are in order⁹⁵ and makes a selection in order to prevent repetition. The Secretary General immediately sends copies to the House leaders. It is also customary in the Assembly to send copies to independent Members. No subamendments are accepted (SO 252).

Amendments that do not respect the general criteria for admissibility are declared out of order. Amendments are also deemed out of order if they run counter to the principle of a bill or are equivalent to its rejection,⁹⁶ if they concern areas outside the scope of the bill or are unrelated to its subject,⁹⁷ or

94 See Chapter 17, "Committees of the Whole". Since the report is put to the vote without debate, Standing Order 252, under which Members have until 10:00 p.m. on the day of the tabling of the report to hand in any amendments they wish to make, does not apply (JD, December 21, 1988, pp. 4548-4552 (Louise Bégin)/RDPP, No. 248/1).

95 For more information, see Chapter 12, "The Decision-Making Process".

96 JD, May 27, 2015, p. 6396 (Maryse Gaudreault)/RDPP, No. 252/10.

97 JD, March 21, 2017, p. 14195 (Maryse Gaudreault)/RDPP, No. 252/11; JD, June 14, 2017, p. 16858 (François Ouimet)/RDPP, No. 252/13.

if they propose to include a new principle in the bill.⁹⁸ Furthermore, amendments are deemed out of order if they are repetitive or handed in after the deadline (SO 252). However, amendments rejected or declared out of order in a parliamentary committee may still be considered admissible.⁹⁹

The speaking times for the report stage are the same as those for a formal motion. Moreover, the minister or Member who introduced the bill may speak for up to five minutes after each speech (SO 253 and SO 209).¹⁰⁰ There is no right of reply.¹⁰¹

Before the debate is held, the President organizes the taking of the vote on the proposed amendments following a meeting with the House leaders (SO 253). Once the debate is over, the amendments are put to the vote one after another, in the manner determined by the President. The amendments are grouped together to reduce the number of votes to be taken.¹⁰² The amendments adopted are integrated into the report, on which the House then votes (SO 254).¹⁰³

98 JD, November 30, 2011, pp. 3543–3544 (François Ouimet)/RDPP, No. 252/4; JD, May 15, 2013, pp. 3290–3291 (Carole Poirier)/RDPP, No. 252/7; JD, December 2, 2014, pp. 3082–3083 (François Gendron)/RDPP, No. 252/9; JD, May 31, 2017, p. 16585 (Maryse Gaudreault)/RDPP, No. 252/12.

99 JD, October 19, 2006, pp. 2813–2814 (François Gendron)/RDPP, No. 252/2; JD, May 15, 2013, pp. 3290–3291 (Carole Poirier)/RDPP, No. 252/7; JD, June 14, 2018, p. 22299 (Maryse Gaudreault)/RDPP, No. 257.6/1. Nothing prevents the Assembly from reversing a decision made in committee. Since a committee is in fact an extension of the Assembly, the power exercised in committee does not limit the Assembly's power of amendment. The Assembly is free to reject amendments made by the committee and to adopt amendments rejected by the committee. The presiding officer of the Assembly is not bound by the decisions made in parliamentary committees regarding an amendment's receivability.

100 Further to a ruling, the minister is not limited to commenting on a speech that a Member has just completed, but may comment on all the proceedings of the committee, provided the rule of relevance is heeded (JD, March 14, 1984, pp. 5174–5175 and 5177 (Jean-Pierre Jolivet)/RDPP, No. 253/1).

101 JD, March 25, 1987, p. 6346 (Jean-Pierre Saintonge)/RDPP, No. 253/2.

102 The amendments are put to a vote without being read (JD, October 5, 2017, pp. 17399–17400 (Maryse Gaudreault)/RDPP, No. 254/3).

103 The vote on the amendments and that on the report constitute an indivisible whole. Therefore, deferral of the vote on a first group of amendments automatically results in a deferral of the vote on the other amendments and the vote on the report (JD, June 13, 1995, pp. 4078–4080 (Pierre Bélanger)/RDPP, No. 254/1). Furthermore, if the committee has not completed clause-by-clause consideration of the bill, the vote on the amendments is followed by the vote on the elements of the bill that were not adopted and then by the vote on the report: [TRANSLATION] "Once the amendments have been adopted, the Assembly votes on the entire bill as amended, before voting on the report. The vote on the clauses of a bill as amended is an integral part of the legislative process, giving effect, in what will become a statute, to the new version of the clauses voted on by the Assembly" (JD, December 13, 1996, pp. 4402–4403 (Jean-Pierre Charbonneau)/RDPP, No. 254/2). In that instance, the clause-by-clause consideration of Bill 130, *An Act respecting administrative justice*, had not been completed since it was subject to a closure motion.

A minister who believes a bill should be reprinted, given the amendments made to it, may make a motion without notice to that effect. The motion is decided without debate (SO 255). The purpose of the motion is to have the amendments incorporated into the text of the bill under consideration so that it will be more coherent and therefore easier for the Members to understand during the final stage of the legislative process, that is, the passage of the bill.

14.3.1.6 PASSAGE

The last stage of consideration of a bill is its passage, previously referred to as the “Third Reading”. Under Standing Order 230, the passage of a bill must take place during a separate sitting following the report stage.

However, a bill introduced after November 15 or after May 15 cannot be passed during the same sitting period (SO 22), except with the unanimous consent of the Members,¹⁰⁴ although this provision does not apply to an appropriation bill, which must be introduced and passed during the same sitting (SO 263).¹⁰⁵

The debate on the motion to pass a bill is limited to the content of the bill and the motion may not be amended (SO 256). However, during the debate, the bill’s sponsor may move without notice that the bill be referred to a Committee of the Whole for consideration of the amendments identified by the sponsor. This is the last opportunity to make amendments to a legislative text. The debate on this motion is limited to a brief explanation by its sponsor and short comments from a representative of each parliamentary group. The motion is then put to a vote immediately, without the possibility of amendment (SO 257). If the motion is carried, the Government House Leader must move that the Assembly resolve itself into a Committee of the Whole (SO 108).

It is up to the presiding officer of the Assembly, and not the Member chairing the Committee of the Whole, to rule on the admissibility of amendments. Otherwise the Committee might find itself with a mandate to deal with amendments that are out of order and therefore non-existent.¹⁰⁶ In the same vein, the presiding officer once ruled that, at the passage stage of a bill, the Committee of the Whole may consider only those amendments handed in by the bill’s

104 JD, December 16, 1992, pp. 4817–4819 (Roger Lefebvre)/RDPP, No. 22/1.

105 JD, May 16, 2001, p. 1273 (Michel Bissonnet)/RDPP, No. 288/1.

106 JD, June 14, 1993, pp. 7677–7678 (Roger Lefebvre). Despite this ruling, the Vice-President once ruled on the receivability of an amendment after the Assembly was resolved into a Committee of the Whole (JD, December 3, 2014, p. 3141 (Maryse Gaudreault)/RDPP, No. 257/2). In that case, it would have been difficult for opposition Members to raise the admissibility of the amendment earlier since they had not read the amendment until that time.

sponsor that have been declared in order by the presiding officer of the Assembly.¹⁰⁷ The Committee of the Whole must limit itself to considering the amendments proposed (SO 257, 2nd para.).

Speaking times during the debate on the passage of a bill are as follows: one hour each for the Member who introduced the bill and the leaders of the parliamentary groups or their representatives, and 10 minutes each for other Members. The sponsor is also entitled to a 20-minute reply (SO 256).

14.3.2 STAGES IN THE ADOPTION OF A PRIVATE BILL

Private bills are governed by the same rules as public bills, with a few explicit exceptions. For instance, a Member who wishes to introduce a private bill at the request of an interested party must give notice on the Order Paper no later than the day preceding the introduction of the bill¹⁰⁸ and give the President a copy of the bill before the sitting at which it is to be introduced (SO 264).

In January of each year, the Law Clerk publishes in the *Gazette officielle du Québec* the rules governing private bills set out in the Standing Orders and the Rules for the Conduct of Proceedings (RCP 41).

14.3.2.1 INTRODUCTION

Like a public bill, a private bill is introduced at the appropriate time during Routine Proceedings (SO 53(2)). However, the Member who introduces a private bill (the bill's sponsor) does not say anything at this stage. Instead, immediately before the bill is introduced, the President summarizes the content of the Law Clerk's report and tables the report (SO 265), and then calls a vote on the motion to introduce the bill in the Assembly.

Once the motion has been carried, unlike a public bill which must first be passed in principle, a private bill is referred to committee on a motion without notice by the Government House Leader. The motion is put to a vote without debate (SO 267).

107 JD, June 17, 1996, p. 2403 (Raymond Brouillet)/RDPP, No. 257/1.

108 Further to a decision in 1992, so long as a bill has not been introduced in the Assembly, the bill's sponsor can have it withdrawn from the Order Paper by sending a request in writing to the Secretary General. In the case of a private bill, it is not sufficient for the applicant or the applicant's lawyer to sign a request to have the bill withdrawn from the Order Paper. The Member who gave the notice must also request the bill be withdrawn (JD, November 26, 1992, p. 3851 (Jean-Pierre Saintonge)/RDPP, No. 195/3). On October 17, 2006, Third Vice-President François Gendron informed the Assembly that the private bill entitled *An Act respecting Ville de Saint-Jérôme* that had been placed on the Order Paper on May 10, 2006, in the name of Lucie Papineau, Member for Prévost, had been withdrawn at her request (VP, October 17, 2006, p. 498).

14.3.2.2 CONSULTATION OF INTERESTED PARTIES AND CLAUSE-BY-CLAUSE CONSIDERATION

For a private bill, this stage is equivalent to the clause-by-clause consideration of a public bill in committee, with the addition of consultation of interested parties. These two components will be described in turn and in detail in Chapter 19.¹⁰⁹ Here we will simply specify that this stage of the examination of a private bill must take place during a different sitting than the one where it was introduced (SO 230). In fact, it can take place no sooner than seven days after the bill is introduced, since the clerk of the parliamentary committee must convene the interested parties not less than seven days before the bill is to be considered in committee (RCP 40). The persons convened are those who have already informed the Law Clerk of their reasons for wishing to speak to the bill (RCP 39).

14.3.2.3 TABLING AND ADOPTING THE REPORT

There are special rules governing committee reports on private bills. The committee reports to the Assembly through its Chair or a committee member named by the Chair (SO 61) at the time set aside for this purpose during Routine Proceedings. The report is put to the vote immediately without debate (SO 267, 2nd para.). The Chair must therefore ask the Assembly to adopt the committee's report immediately after it has been tabled. This moves the bill on to the next stage in the legislative process and also prevents the presentation of amendments to the committee report. It should be noted that this is not the case, however, for public bills, where amendments may be presented after the report from the committee that carried out clause-by-clause consideration is tabled, in accordance with Standing Order 252.

14.3.2.4 PASSAGE IN PRINCIPLE

The motion to pass a private bill in principle is dealt with at a subsequent sitting (SO 268). Speaking times are as follows: 30 minutes each for the sponsoring Member and the leaders of the parliamentary groups, and 10 minutes each for other Members (SO 269).¹¹⁰

In fact, debates on the passage in principle of a private bill are not very long, since Members have had an opportunity to express their opinions before the competent committee after hearing the applicant of the bill and the other interested parties. The passage in principle of a private bill cannot be deferred through a hoist motion, and there can be no motion to divide (SO 268).

¹⁰⁹ See Chapter 19, Subsection 19.1.2, "Private Bills".

¹¹⁰ According to Standing Order 269, only the sponsor and the leaders of parliamentary groups have 30 minutes to speak to the bill. The representative of the Official Opposition has only 10 minutes to speak (JD, November 15, 1990, pp. 5105–5106 (Roger Lefebvre)/RDPP, No. 269/1).

14.3.2.5 PASSAGE

After a private bill has been passed in principle, it goes on to the passage stage since it is not referred to committee for a second time. This stage takes place during the same sitting as that in which it is passed in principle, unless five Members object (SO 268).

Speaking times are the same as those for passage in principle, that is, 30 minutes each for the sponsoring Member and the leaders of the parliamentary groups, and 10 minutes each for other Members (SO 269).

However, the sponsoring Member may move that the bill be referred to the Committee of the Whole so that amendments identified by that Member may be considered (SO 268 and SO 257). The rules set out in Standing Order 257 apply.

A private bill deposited with the Law Clerk during a sessional period as defined in Standing Order 19 cannot be passed during that same period (RCP 35). For example, if a bill is deposited with the Law Clerk in October, it cannot be passed until the sessional period beginning in February. Furthermore, private bills are also subject to the rule providing that a bill introduced after November 15 or after May 15 may not be passed during the same sessional period (SO 22).

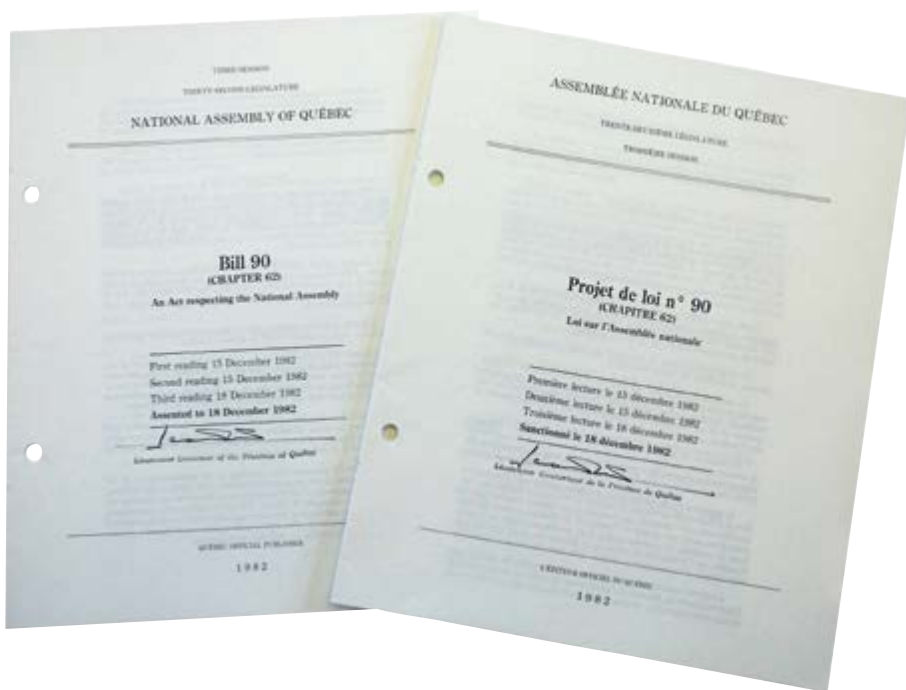
14.3.3 ASSENT TO A BILL



All bills adopted by the National Assembly must be assented to by the Lieutenant-Governor in order to become laws with effect in Québec (ANA, s. 29; *Constitution Act, 1867*, ss. 55 and 90). The procedure is simple. On instructions from the office of the Government House Leader, a bill that has been passed is sent to the Lieutenant-Governor's office and assented to during a short ceremony. The Lieutenant-Governor signs the official copy of the bill as adopted,

and the Secretary General then certifies that the Assembly passed the bill on a given date. As soon as a bill has been assented to, the Secretary General writes in the date of assent. This entry becomes a part of the statute (ANA, s. 32). The statute then comes into force based on its provisions.¹¹¹

¹¹¹ An Act comes into force on the thirtieth day after it is assented to, unless otherwise provided by law (*Interpretation Act*, CQLR, c. I-16, s. 5).



The presiding officer informs the Assembly of the date and time of assent to the bills, and the bills assented to are listed in the *Votes and Proceedings*.¹¹²

In the absence of the Lieutenant-Governor, the administrator of the province assents to bills.¹¹³ In such a case, the ceremony is carried out in the sole presence of the Secretary General or the Secretary General's representative.

The Secretary General has custody of the originals of Acts. In the event of the loss or destruction of an original, the Secretary General replaces it with a certified true copy, which from then on serves as the original (ANA, s. 33).

As soon as an Act is assented to, the Secretary General sends a certified true copy to the Québec Official Publisher for printing (ANA, s. 35). Every year, the Québec Official Publisher publishes a compilation of all statutes assented to during the preceding year (ANA, s. 36). The Secretary General gives a copy of

112 The House secretariat is responsible for preparing the originals of the bills to be assented to and their amendments, and for organizing the assent ceremonies. Upon agreement with the office of the Government House Leader, the secretariat contacts the office of the Lieutenant-Governor to set the date and time of the ceremony and to determine the list of guests to be invited.

113 Under section 67 of the *Constitution Act, 1867*, "The Governor General in Council may from Time to Time appoint an Administrator to execute the Office and Functions of Lieutenant Governor during his Absence, Illness, or other Inability."

the annual compilation of statutes to the Lieutenant-Governor and to the Registrar of Québec (ANA, s. 38). The Secretary General must also provide printed copies of all Acts, free of charge, to the Lieutenant-Governor, the government departments and the public bodies referred to in the third paragraph of section 37 of the *Act respecting the National Assembly*, according to the rules determined by the Office of the Assembly (ANA, s. 37, 2nd para.).¹¹⁴

The Secretary General, or the person designated by the Secretary General for that purpose, supplies a certified true copy of any Act, bearing the Secretary General's seal (ANA, s. 34), to any person who requests one, upon payment of the fee fixed by by-law of the Office of the Assembly (ANA, s. 39). A copy of an Act certified true by the Secretary General, or the person designated for that purpose, or the text of an Act published by the Québec Official Publisher, is authentic and constitutes proof of its content (ANA, s. 40).

In closing, it is important to note that, although the expressions “public bill” and “private bill” are used in parliamentary procedure, under section 39 of the *Interpretation Act* a statute is public unless it has been declared private. In fact, any bill passed by the Assembly—whether public or private—becomes a public statute once assented to, unless it contains a specific provision stating that it is a private statute. In practice, no statutes have been declared private in Québec. The distinction is not simply academic since, according to section 39 of the *Interpretation Act*, everyone is required to take notice of public statutes, but private statutes must be pleaded.

114 The Office of the National Assembly establishes by by-law the conditions and procedures for printing, publication and distribution of the statutes, the copies of the annual compilation of the statutes, the bills and other parliamentary documents (ANA, s. 37, 1st para.).

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- JD, June 17, 1996, p. 2403 (Raymond Brouillet)/RDPP, No. 257/1.
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- JD, June 14, 2018, p. 22299 (Maryse Gaudreault)/RDPP, No. 257.6/1.
- JD, November 15, 1990, pp. 5105–5106 (Roger Lefebvre)/RDPP, No. 269/1.
- JD, April 7, 2004, pp. 4044–4045 (Michel Bissonnet)/RDPP, No. 279/2.
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■ **CHAPTER 15**
THE BUDGET PROCESS

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THE BUDGET PROCESS

In a British-style parliamentary democracy, the Crown alone initiates all public expenditure. Acting on the advice of its ministers, the Crown exposes its financial needs to the House, but may spend toward those needs only once the House has considered them and passed a government bill earmarking or “appropriating” the requisite funds.¹ This harks back to earlier days when the Sovereign had to seek the approval of Parliament in order to be granted funds for the Crown’s activities.² The historical relationship between Government and Parliament as regards financial matters may be summarized as follows:

It was a central factor in the historical development of parliamentary influence and power that the Sovereign was obliged to obtain the consent of Parliament (and particularly of the House of Commons as representatives of the people) to the levying of taxes to meet the expenditure of the State. But the role of Parliament in respect of State expenditure and taxation has never been one of initiation: it was for the Sovereign to request money and for the Commons to respond to the request. The development of responsible government and the assumption by the Government of the day of the traditional role and powers of the Crown in relation to public finance have not altered this basic constitutional principle: the Crown requests money, the Commons grant it, and the Lords assent to the grant. In more modern terms, the Government presents to the House of Commons its detailed requirements for the financing of the public services; it is for the Commons, acting on the sole initiative of ministers, first to authorise the relevant expenditure (or “Supply”) and, second, to provide through

1 JD, December 16, 1991, pp. 11643–11647 (Jean-Pierre Saintonge)/RDPP, No. 233/2.

2 JD, June 5, 1995, pp. 3429–3430 (Roger Bertrand)/RDPP, No. 233/4; JD, June 19, 1996, p. 2546 (Jean-Pierre Charbonneau); JD, December 8, 1999, pp. 4135–4136 (Jean-Pierre Charbonneau)/RDPP, No. 233/6.

taxes and other sources of public revenue the ‘Ways and Means’ deemed necessary to meet the Supply so granted.³

The financial initiative of the Crown—that is to say, the Government—is entrenched in sections 54 and 90 of the *Constitution Act, 1867*,⁴ and embodied in parliamentary procedure, with the Crown laying financial measures before the House and the House adopting or rejecting them. Consequently, only a minister may introduce a bill (ANA, s. 30, 2nd para.) or move a motion (SO 192) that has a financial impact, meaning one that commits public funds, imposes a charge on taxpayers, remits a debt owed to the Crown or disposes of property owned by the Crown.

This is how the President of the Assembly⁵ described the budget process in a 2018 ruling:

[TRANSLATION] The Assembly’s fundamental role in the budget process is inherent in the British-style parliamentary system. Indeed, the Executive and the Parliament have a decisive role to play in drawing up the State’s annual budget. On that topic, the Constitution provides that only the Crown may recommend that the Assembly adopt financial measures. The Assembly must examine the measures and then grant or refuse to grant the appropriations requested by the Government. This role falls within the scope of the Assembly’s power of oversight with respect to any action by the Government or its departments or bodies. If the Assembly approves the estimates, it

3 Thomas Erskine May, *Erskine May’s Treatise on the Law, Privileges, Proceedings, and Usage of Parliament*, 25th ed., Mark Hutton, David Natzler, Matthew Hamlyn, Colin Lee, Chloe Mawson, Crispin Poyser, Eve Samson and Kate Lawrence, eds. (London: LexisNexis Butterworths, 2019), par. 33.2. See also Chapter 14, “The Legislative Process”.

4 *Constitution Act, 1867 (British North America Act, 1867)* (UK), 30 & 31 Vict., c. 3, reprinted in RSC 1985, App. II, No. 5. These sections read as follows:

54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

90. The following Provisions of this Act respecting the Parliament of Canada, namely, — the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the Disallowance of Acts, and the Signification of Pleasure on Bills reserved, — shall extend and apply to the Legislatures of the several Provinces as if those Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of One Year for Two Years, and of the Province for Canada.

5 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

passes an appropriation Act. Such an Act is binding on the Executive, which is responsible for implementing it in keeping with the State's financial management legal framework, of which the Act is a part.⁶

The legislative and executive branches of the State have very specific roles to play in drawing up and approving the Government's budgetary policy. The Government is responsible for drawing up the policy and has complete latitude at that stage of the budget process. The Government's policy directions are then subjected to the parliamentary oversight exercised by the Assembly, which examines and approves the budgetary policy. The vote on the budgetary policy is of such importance that it constitutes a matter of the Assembly's confidence in the Government.⁷

In terms of timeline, the budget process involves two stages every fiscal year. First, the Minister of Finance presents a budget speech, in which the Government broadly outlines its budgetary policy, that is, its financial needs and the means by which it plans to meet them. This constitutes the starting point, as it were, of the budget process.

Then, the Government tables an expenditure budget that sets out annual budget estimates, which leads to Parliament passing bills to grant appropriations. This stage basically constitutes the conclusion of the budget process. There are two types of legislative authority to authorize government spending: continuing appropriations and annually voted appropriations. As will be discussed later, supplementary appropriations may also be requested during the fiscal year.

In short, the budget process as it exists today is the mechanism by which the Government submits its budgetary policy and estimates of expenditure to the National Assembly for approval and seeks authorization to collect the sums required to cover these expenditures.

Constitutional Acts and Acts governing Québec's financial administration provide that the revenues collected by the State are paid into a single Consolidated Revenue Fund, out of which are taken the funds necessary for paying the expenses authorized by Parliament.⁸ There are, however, a few exceptions to that rule, as certain state entities, such as state-owned bodies and enterprises, have their own sources of revenue, which are subject to separate rules.⁹ In addition,

6 JD, April 12, 2018, pp. 21178–21180 (Jacques Chagnon)/RDPP, No. 67/75.

7 See Chapter 7, "Ministerial Responsibility and the Assembly's Confidence in the Government".

8 *Constitution Act, 1867*, ss. 102, 103, 106 and 126; *Financial Administration Act*, CQLR, c. A-6.001, s. 5.1.

9 See Pierre Issalys and Denis Lemieux, *L'Action gouvernementale: précis de droit des institutions administratives*, 4th ed. (Cowansville: Éditions Yvon Blais, 2020), pp. 1157ff.

certain Acts and orders establish entities designated as “special funds”. These are accounts that are separate from the Consolidated Revenue Fund and dedicated to a specific purpose.¹⁰ Despite being separate, these funds are established by law or are under the authority of an Act, and are therefore subject to parliamentary oversight in the same way as other types of expenses. They must, for example, be granted legislative authorization to collect or disburse sums on an ongoing or annual basis.¹¹

15.1 THE BUDGET SPEECH AND THE BUDGET SPEECH DEBATE¹²

While the budget estimates provide a picture of the amounts the Government plans to spend in a given fiscal year, the budget speech outlines the State’s financial situation and presents a forecast of the Government’s financial needs and the resources required to meet these needs. It presents, in a way, the financial framework that guides the Government’s actions and is a statement of its policy directions concerning economic, taxation, budget and financial matters.¹³ However, in practice, the budget speech is more than that. Since parliamentary procedure does not dictate what a budget speech must contain, the budget speech is often used by the Government as a political vehicle to get certain messages across to the public by announcing, among other things, its main priorities, its strategies for debt management, investments or fiscal measures, and the establishment of certain programs. In addition to providing a sort of overview of projected public expenditures and revenues for a given fiscal year, the budget speech is often also an opportunity for the Government to announce its budget priorities and its strategies for social and economic development. In certain cases, the policy directions and measures unveiled in the budget speech are immediately applicable, even though legislative amendments will be required later to validate their implementation.¹⁴

10 See, for example, the *Act to reduce the debt and establish the Generations Fund*, CQLR, c. R-2.2.0.1, ss. 2ff.; *Act respecting the Ministère du Développement durable, de l’Environnement et des Parcs*, CQLR, c. M-30.001, ss. 15.1ff.

11 *Financial Administration Act*, ss. 5.2 and 5.3.

12 See Appendix I to this chapter, “Steps Involved in the Budget Speech and the Budget Speech Debate”.

13 *Act respecting the Ministère des Finances*, CQLR, c. M-24.01, s. 4(1).

14 See, for example, *An Act respecting mainly the implementation of certain provisions of the Budget Speeches of 17 March 2016, 28 March 2017, 27 March 2018 and 21 March 2019*, SQ, 2020, c. 5; *An Act to give effect mainly to fiscal measures announced in the Budget Speech delivered on 17 March 2016*, SQ, 2017, c. 1; *An Act respecting mainly the implementation of certain provisions of the Budget Speech of 26 March 2015*, SQ, 2016, c. 7; *An Act mainly to implement certain provisions of the Budget Speech of 4 June 2014 and return to a balanced budget in 2015-2016*, SQ, 2015, c. 8.

To that end, after the budget speech motion has been carried, a bill is introduced to give effect to the budget measures that require legislative provisions for their implementation. Depending on the number and complexity of the measures, the bill giving effect to the budget speech may be introduced at a much later date.¹⁵

According to Dussault and Borgeat,

[A rule], based on tradition, requires that fiscal measures announced in the budget speech take effect from the date mentioned in the speech, which may be the date the speech is delivered or some other date, even where Bills introduced in support of these measures will be passed and given royal assent at a later date. In other words, the levying of taxes begins even before the enabling legislation has been enacted; a retroactive provision implements the principle.¹⁶

The introduction of a bill giving effect to the budget speech falls under the Crown's initiative, and the President may not interfere in the process leading to its introduction.¹⁷

Unlike certain other legislatures, Québec has no law requiring the Government to present a new budget for every fiscal year. However, the Standing Orders require, strictly for parliamentary oversight purposes, that a budget speech be presented before the budget estimates are passed every fiscal year. Standing Order 288 provides that, before the estimates can be carried for a fiscal year, the Assembly must first vote on the motions stating a grievance and want of confidence motions moved during the budget speech debate and on the motion by the Minister of Finance proposing that the Assembly approve the Government's budgetary policy.¹⁸ This is why the budget speech is usually given in the spring and generally coincides with the tabling of the annual estimates. Although the Standing Orders require that a budget speech be presented for every fiscal year, they set no requirements as to when the speech is to be

15 As an example, Bill 41, *An Act respecting mainly the implementation of certain provisions of the Budget Speeches of 17 March 2016, 28 March 2017, 27 March 2018 and 21 March 2019*, which, as its name indicates, concerned several measures contained in different budgets, was introduced on October 31, 2019, and passed on March 17, 2020.

16 René Dussault and Louis Borgeat, *Administrative Law: A Treatise*, trans. M. Rankin and D. Breen, 2nd ed., Vol. 2 (Toronto: Carswell, 1988), p. 395.

17 JD, May 25, 2007, pp. 845-847 (Michel Bissonnet)/RDPP, No. 271/5. The President was answering a question from the House Leader of the Second Opposition Group as to whether it was possible to require that such a bill be introduced concurrently with the presentation of the budget speech.

18 JD, November 7, 2001, pp. 3494-3495 (Jean-Pierre Charbonneau)/RDPP, No. 278/1.

delivered or what it must contain.¹⁹ In other terms, more than one budget speech may be presented for any fiscal year and the content of a budget is not limited to a single fiscal year but may cover several.²⁰

15.1.1 THE BUDGET SPEECH

The budget speech and the ensuing debate may last no more than 25 hours: 15 for proceedings in the Assembly, and 10 for proceedings in the Committee on Public Finance. Both the speech and the debate in the Assembly fall under business having precedence (SO 272).

The budget speech may be presented at any time during Orders of the Day. It cannot, therefore, be given during committee consideration of the annual estimates, as Routine Proceedings are the only business taken up by the Assembly until the committees have finished their work. It may be presented before or after committee consideration of the estimates,²¹ but must be presented before the Assembly votes on the committee reports en bloc and on the resulting appropriation bill (SO 288). As will be discussed later, before voting on the budget estimates, the Assembly must first vote on any motions moved during the budget speech debate and on the motion by the Minister of Finance for approval of the Government's budgetary policy.

No notice is published in the Order Paper before the budget speech is presented, as no practice, custom or regulatory provision requires such a notice.²² However, considering the importance of the event, the scheduled date and time of the budget speech is usually widely announced by the media as soon as the information is released by the Government. As the budget speech falls under business having precedence within the meaning of Standing Order 87(4), any debate in progress at the time the budget speech is to be given is usually automatically adjourned.²³ The same is true when the Government House Leader requests the suspension of proceedings, in a case where a debate has not yet ended,²⁴ until the budget speech has been given.

¹⁹ Ibid.

²⁰ In 2001, for example, the Minister of Finance presented two budgets, the first on March 29, 2001, and the second on November 1, 2001. The latter budget, presented in the wake of the tragic events that took place on September 11 in the United States, contained measures for the 2001–2002 fiscal year and a budget statement for the 2002–2003 fiscal year. It was followed on March 19, 2002, by a supplementary budget statement. See Subsection 15.1.3, "Supplementary Budget Statements".

²¹ JD, April 30, 1986, pp. 1035–1036 (Pierre Lorrain)/RDPP, No. 282/1.

²² JD, April 30, 1987, pp. 7010–7016 (Pierre Lorrain)/RDPP, No. 271/1.

²³ VP, February 20, 2014, p. 1467; VP, March 21, 2019, p. 365.

²⁴ VP, June 4, 2014, p. 105; VP, March 10, 2020, p. 1825.

According to a long-standing practice, during the budget speech, the Minister of Finance tables budget papers containing additional information on the announced measures. However, the Minister may table these papers only if the Assembly consents to a departure from Standing Order 53, according to which papers are to be presented only when the appropriate item of business is called during Routine Proceedings. Failing such consent, it would not be possible for the budget papers to be tabled during the budget speech, although this would not prevent the Minister of Finance from tabling them at the next sitting, during Routine Proceedings. According to the President, not tabling the budget papers immediately in no way affects the procedure set out in the Standing Orders, which only requires that the Minister of Finance conclude the budget speech with a budget motion, that is, a motion proposing that the Assembly approve the Government's budgetary policy. It is not a matter of parliamentary procedure but rather the prerogative of the Minister to decide when budget papers should be tabled, and if the Minister requests to table such papers, it is up to the Members to decide whether to give their consent.²⁵

After giving the budget speech, the Minister of Finance moves the budget motion. Standing Order 271 allows the Minister no leeway as to the wording of this motion and, as it is always worded the same way, it does not need to be put in writing (SO 190).²⁶ This partly explains why it cannot be amended even though it is a substantive motion: a Member of the National Assembly could not, by way of an amending motion, enjoy more leeway than the Minister of Finance.²⁷ Nothing in the Standing Orders allows Members to move to amend the budget motion. Instead, Standing Order 274 allows Members to move motions stating a grievance or want of confidence motions. As the President explained in a directive issued in 2007, if there had been any intent to provide for motions amending the budget motion, the Standing Order would not have authorized another type of motion concurrently.²⁸

25 JD, May 25, 2007, pp. 845–847 (Michel Bissonnet)/RDPP, No. 271/5.

26 JD, June 3, 1993, pp. 7059–7064 (Jean-Pierre Saintonge)/RDPP, No. 271/2.

27 Ibid.

28 JD, May 25, 2007, pp. 845–847 (Michel Bissonnet)/RDPP, No. 271/5. This directive was rendered in a minority government context. The President was answering questions raised the day before by the House Leader of the Second Opposition Group. Among other things, the House Leader wanted to know whether, during the budget speech debate, the Government or the Opposition could move amendments and, if so, how this could be done. The President answered in the negative, adding that it was up to the Government, if it wished to make amendments, to determine what other procedural means were available. In light of this directive, the Minister of Finance made a statement in the House on June 1, 2007, on the Government's budget policy. The same day, the Minister tabled supplementary estimates for the fiscal year ending March 31, 2008 in response to a request made by the Second Opposition Group (VP, June 1, 2007, pp. 115–116).

The Minister of Finance may speak for up to two hours. The finance critic for each parliamentary group in opposition is allocated 10 minutes immediately after the budget speech to comment on it (SO 271).

It is customary to prohibit points of order or privilege before²⁹ or during³⁰ the budget speech. A point of order may, however, be allowed once the budget speech has been delivered, and the same holds for a point of privilege raised under the first paragraph of Standing Order 69,³¹ provided it concerns circumstances that have just arisen in the House, that is, within the Assembly precinct, and is not about leaked information, as both doctrine and precedents have confirmed that budget leaks do not fall under parliamentary privilege.³² The custom whereby the budget speech is to be prepared in total secrecy is a political convention based essentially on the principles of fairness and justice. The main purpose of this convention is to prevent anyone from using sensitive confidential information for illicit gain:

[TRANSLATION] The drafting of fiscal laws consistent with the Government's decisions on economic and budgetary policies is the responsibility of the legislative drafters and experts at the Ministère des Finances. The drafting process is strictly confidential. This convention of budget secrecy is essential to prevent anyone from using confidential information for lucrative financial transactions, to the detriment of the public treasury and less well-informed taxpayers. Tradition holds that amendments to Acts establishing taxes and border levies as well as many charges contemplated by the Government are to be revealed only in the budget speech, by the Minister of Finance. However, budget secrecy is now and again relaxed to allow the public, or at least certain sectors of society more directly affected, to contribute ideas for certain changes to tax legislation.³³

29 JD, April 30, 1987, pp. 7010–7016 (Pierre Lorrain)/RDPP, No. 271/1.

30 JD, June 12, 2003, pp. 330–331 (Michel Bissonnet)/RDPP, No. 271/3.

31 Ibid. Another ruling made the same day specified that a point of order on a matter arising during the budget speech could be raised only after the comments of the Official Opposition finance critic (JD, June 12, 2003, p. 333 (Michel Bissonnet)/RDPP, No. 271/4).

32 JD, June 12, 2003, pp. 330–331 (Michel Bissonnet)/RDPP, No. 271/3. According to the same ruling, if a minister is tied to an alleged budget leak, paragraph 3 of Standing Order 316 cannot be cited as the appropriate grounds for raising a point of privilege, as it is meant for impugning the conduct of a Member of the National Assembly in that capacity, that is, in the performance of the Member's parliamentary functions, not the Member's ministerial functions. In the President's opinion, a want of confidence motion seemed to be the only procedural means available to assign blame to a minister for a budget leak.

33 Issalys and Lemieux, *L'Action gouvernementale: précis de droit des institutions administratives*, p. 803.

The stringent enforcement of the budget secrecy convention is based on the equally fundamental parliamentary principle that the Government's broad policies must be presented to the Members in the House before they are made public.³⁴

Detailed information is, however, provided to several persons behind closed doors on the day the budget speech is given before it is actually given in the House. This highly confidential exercise is strictly regulated to keep the information secret before it is officially unveiled. This part of the process is not actually governed by parliamentary procedure, but it is customary for the critics of the respective parliamentary groups to be invited to the closed-door session so they can examine the budgetary policy. This gives them a better idea of what it contains and helps them prepare the responses they must give after the budget speech has been delivered by the Minister of Finance.

15.1.2 THE BUDGET SPEECH DEBATE

The budget speech debate begins at the second sitting after the presentation of the budget speech (SO 273). The two-day interval is meant to give opposition Members time to take a closer look at the budget speech before debating it in the Assembly and, especially, to give the representative of the Official Opposition the time to prepare his or her speech. Standing Order 273 stipulates that the debate begins with this speech, which may last up to two hours.

As mentioned previously, the budget speech and the ensuing debate fall under business having precedence (SO 87(4), 87(5) and 272). Committee proceedings are suspended during the budget speech and during the speeches by the representatives of the opposition groups (SO 87, 2nd para.).

The debate unfolds in three stages: the first occurs in the Assembly, the second before the Committee on Public Finance and, finally, the third back in the Assembly. The first stage consists in a limited debate that ends no later than 13 hours and 30 minutes after the Minister of Finance begins the budget speech. Generally, after the representatives of the parliamentary groups in opposition have spoken and having conferred with the House leaders, the President divides the time allocated for the limited debate among the parliamentary groups, with due regard for independent Members (SO 210).

34 JD, June 12, 2003, pp. 330–331 (Michel Bissonnet)/RDPP, No. 271/3. On this matter, the Speaker of the Legislative Assembly of Ontario found the presentation of the budget outside the House, in a car parts plant, to be a *prima facie* case of contempt, as the Government had indicated that its doing so was motivated by a desire to have “a direct conversation with the people of Ontario” (Legislative Assembly of Ontario, *Official Report of Debates* (Hansard), May 8, 2003, pp. 230–234 (Gary Carr)).

Each Member may speak only once but is free to speak on any topic. While speaking, a Member may move a motion stating a grievance or a want of confidence motion. Such motions require no prior notice and may not be amended (SO 274).

When no more Members wish to speak or 13 hours and 30 minutes have passed since the Minister of Finance began the budget speech, the debate is suspended in the National Assembly. It is subsequently resumed by the Committee on Public Finance no later than on the next sitting day (SO 275).³⁵ This part of the debate gives Members the opportunity to discuss the Government's budgetary policy and the state of public finances with the Minister and serves as one of the quarterly meetings the Committee is required to hold in order to examine these points (SO 292).

The Committee Chair reports to the Assembly during the next period of Routine Proceedings held after the conclusion of the debate in committee (SO 276).

The debate then resumes in the Assembly after the Orders of the Day are called, with a 30-minute speech by the representative of the Official Opposition,³⁶ and ends with a one-hour reply by the Minister of Finance.

Once the debate is over, the President puts the question on the following motions, in order: the motions stating a grievance and want of confidence motions moved by the Members during the debate in the Assembly, and the motion moved by the Minister of Finance for the approval of the Government's budgetary policy (SO 277). As seen in Chapter 7, the vote on the Government's budgetary policy constitutes a matter of the Assembly's confidence in the Government.

If the vote on the motions stating a grievance or want of confidence motions is still in progress at the time the sitting is to be suspended or adjourned, the sitting continues until the Assembly has voted on the motion moved by the Minister of Finance, in accordance with Standing Order 103.³⁷

15.1.3 SUPPLEMENTARY BUDGET STATEMENTS³⁸

Besides the budget speech, another vehicle the Government may use to submit its budgetary policy to the Assembly is the supplementary budget statement the Minister of Finance may present under Standing Order 278.

35 See Chapter 19, "Committee Mandates".

36 On several occasions, with the Assembly's unanimous consent, the representative of the Second Opposition Group or the Third Opposition Group has spoken, for 10 minutes, before the representative of the Official Opposition (JD, April 21, 2015, pp. 5698–5700; JD, April 12, 2016, pp. 10551–10553; JD, April 11, 2017, pp. 15800–15802; JD, April 17, 2018, pp. 21217–21219; JD, April 9, 2019, pp. 2138–2141).

37 JD, April 4, 2012, pp. 5634–5637; JD, April 9, 2019, pp. 2153–2159.

38 See Appendix II to this chapter, "Steps Involved in a Supplementary Budget Statement".

As its name indicates, a supplementary budget statement supplements a budget speech for a given fiscal year. The fact that the Government may make such a statement does not prevent it from presenting another budget when it sees fit. This statement should be perceived not as a limitation on the constitutional principle of the Government's financial initiative but rather as a more flexible alternative to a budget speech when, during a budget year, the Government simply wishes to add something to the budget.³⁹

The rules that apply to the budget speech and the ensuing debate also apply to supplementary budget statements. As is the case for the budget speech, a supplementary budget statement and the ensuing debate are considered to be business having precedence (SO 278, 2nd para., 87(4) and 87(5)). Committee proceedings are suspended during the statement by the Minister of Finance and during the speeches given by the representatives of the opposition groups (SO 278, 2nd para., and 87, 2nd para.). The debate begins at the second sitting after the supplementary statement with a speech by the representative of the Official Opposition (SO 278, 2nd para., and 273), except that the time allocated for the statement and the debate is 12 hours and 30 minutes, broken down into 7 hours and 30 minutes in the Assembly⁴⁰ and 5 hours in the Committee on Public Finance,⁴¹ and the speaking time available to the Minister of Finance and the opposition finance critics is reduced by half (SO 278).

15.2 APPROPRIATIONS⁴²

Now that we have seen the procedure governing the presentation of the budget speech and the approval of the Government's budgetary policy by the Assembly, we will turn to the consideration and approval of the expenditure budget, also called the "appropriations".

As previously stated, Parliament uses two types of legislative authority to authorize government spending: continuing appropriations and annual appropriations.

39 JD, November 7, 2001, pp. 3494-3495 (Jean-Pierre Charbonneau)/RDPP, No. 278/1. The Government presented two budgets in 2001, the first in March and the second in November. The Official Opposition House Leader argued that, as the latter budget pertained to both the state of the economy in 2001-2002 and its impact on public finance and the budget for 2002-2003, the first part of the budget speech was in fact a supplementary budget statement that should have been the subject of a separate debate lasting 12 hours and 30 minutes. The President rejected this argument, stating that initiative in financial matters rests with the Government, that the primacy of the Executive in the preliminary stage of the budget process is absolute and that it was therefore not up to the President to determine whether part of a budget speech should have been delivered as a supplementary statement.

40 See, for example, VP, March 21, 2002, pp. 899-900.

41 See, for example, Minutes, March 26, 2002, CFP-52 p. 39.

42 See Appendix III to this chapter, "Steps Involved in the Consideration and Adoption of the Annual Budget Estimates".

15.2.1 CONTINUING APPROPRIATIONS

Also called “statutory appropriations”, continuing appropriations do not have to be voted annually by the Assembly since they have already been authorized on a permanent basis by an Act. This is in some ways an exception to the general rule:

[TRANSLATION] The use of continuing appropriations within federal and provincial governments’ departments and bodies is an example of a relaxing of the usual budget rules. Continuing appropriations are used to bypass the consequences entailed by the annuality rule, under which any unused appropriations expire at the end of a fiscal year. As continuing appropriations are provided for in certain Acts, they do not need to be voted annually but are still submitted in budget documents. They constitute a reliable and steady source of revenue as long as the Act providing for them is not amended.⁴³

Continuing appropriations usually concern activities or charges which the legislator has chosen to make permanent or long-lasting.⁴⁴

These appropriations are generally provided for in Acts applicable to specific domains of the State. This allows the sums necessary for the purposes of the activities governed by those Acts to be drawn from the Consolidated Revenue Fund.

Appropriations for the National Assembly are a case in point. Section 126 of the *Act respecting the National Assembly*⁴⁵ provides that “the sums required for the carrying out of this Act shall be taken out of the Consolidated Revenue Fund”. The related estimates are therefore not put to a vote each year. The Assembly’s budget estimates and supplementary budget estimates are nevertheless prepared by the President, in consultation with the Office of the National Assembly. The latter is then responsible for analyzing and approving them (ANA, s. 125).

Although continuing appropriations are not put to a vote each year, the Members are informed, through the expenditure budget tabled before Parliament, of the annual amount concerned, as expressly required under the *Public Administration Act*.⁴⁶

43 Issalys and Lemieux, *L’Action gouvernementale: précis de droit des institutions administratives*, p. 1169.

44 Dussault and Borgeat, *Administrative Law: A Treatise*, p. 314.

45 *Act respecting the National Assembly*, CQLR, c. A-23.1.

46 Section 47 of the *Public Administration Act*, CQLR, c. A-6.01, reads as follows:

47. The estimates shall show separately the statutory appropriations that do not require an annual vote by Parliament, the appropriations which are already or are to be authorized for a period of more than one year, and the appropriations which must be authorized annually by a vote of Parliament.

15.2.2 ANNUAL APPROPRIATIONS

The Assembly examines the estimates of expenditure for which the Government must request appropriations on an annual basis. These estimates are called “annual estimates” in parliamentary language.

As the President explained in a 2005 ruling,⁴⁷ the Government and the Parliament each have a role to play in the budget process. The Government has full leeway at the preliminary stage of the budget process, which means it decides the amount of the estimates it will submit to the Assembly and when it will submit them. Once the estimates have been submitted to the Assembly, the latter’s role is to examine them and decide whether to grant the corresponding appropriations in an appropriation bill.

A basic rule stipulates that no amount may be taken out of the Consolidated Revenue Fund without prior legislative authorization.⁴⁸ A few days after handing down the previously cited ruling, the President stated that, although the Assembly has no role in the preparation of budget estimates, it takes centre stage as soon as the estimates are tabled.⁴⁹ Therefore, ignoring the Assembly’s role in the examination and approval of annual estimates would be tantamount to denying the Assembly’s fundamental role as the overseer of public finances and of the Government, which could, at first glance, constitute a contempt of Parliament.⁵⁰

Consideration of the budget estimates by the National Assembly is therefore an important exercise in parliamentary oversight. It gives the Members the opportunity to scrutinize the various items of all government budget programs and question the ministers responsible on the administration of these programs.

47 JD, March 17, 2005, p. 7180 (Michel Bissonnet)/RDPP, No. 279/3.

48 This rule is set out in sections 27 and 28 of the *Financial Administration Act*:

27. No payment out of the Consolidated Revenue Fund may be made except on the requisition of a minister, a deputy minister, a chief executive officer, or a member of the personnel of or a holder of a position within the department or body concerned or another department or body who has been authorized for that purpose. The requisition must be made in the form prescribed by the Conseil du trésor and be submitted with the documents determined by the Conseil du trésor.

28. No requisition for payment may be made unless the person making the requisition certifies that there is legislative authority for making the payment and that

(1) the amount claimed is a lawful charge against an appropriation;
(2) the amount claimed is due for the discharge of an obligation that has been validly assumed or in return for the performance of an obligation that has been performed in accordance with the conditions attached to it; and
(3) the requisition for payment and the applicable terms and conditions are consistent with the rules established by the Conseil du trésor.

49 JD, March 21, 2005, pp. 7242–7244 (Michel Bissonnet)/RDPP, No. 279/4.

50 JD, March 21, 2005, p. 7246 (Michel Bissonnet)/RDPP, No. 279/5; JD, April 12, 2018, pp. 21178–21180 (Jacques Chagnon)/RDPP, No. 67/75.

The annual expenditure budget or annual estimates, described in detail in a series of documents published in several volumes,⁵¹ are normally tabled at a sitting occurring before April 1, the first day of the new fiscal year,⁵² during the stage of Routine Proceedings reserved for presenting papers, and must be accompanied by a message from the Lieutenant-Governor recommending them for consideration by the National Assembly, as required under section 54 of the *Constitution Act, 1867*. This royal recommendation is not required, however, for documents of an explanatory nature that do not contain measures subject to that section and that are usually tabled with the estimates.⁵³ Although the Act does not specify when the latter documents are to be tabled, it is preferable, for parliamentary oversight purposes, that all information relating to the expenditure budget for the fiscal year be made available at the time the estimates are tabled.⁵⁴



51 See, for example, VP, March 10, 2020, pp. 1811–1812.

52 Section 84 of the *Financial Administration Act* provides that “the fiscal year of the Government shall begin on 1 April in one year and end on 31 March in the next year”.

53 JD, March 30, 2001, pp. 513–515 (Jean-Pierre Charbonneau)/RDPP, No. 279/1.

54 JD, April 16, 2013, pp. 2460–2461 (Claude Cousineau)/RDPP, No. 279/6.

The usual procedure is for interim supply estimates to be considered and adopted in Committee of the Whole, after which the main estimates are referred to the standing committees for detailed consideration (SO 283). The National Assembly then passes an appropriation bill authorizing the Government to draw from the public treasury, up to specified limits (SO 263 and 288). In the course of the fiscal year, the Government may also table supplementary estimates, which, like interim supply estimates, are considered in Committee of the Whole.

15.2.2.1 CONSIDERATION OF INTERIM SUPPLY ESTIMATES

As mentioned earlier, consideration of the budget estimates begins, if necessary, with the adoption of interim supply estimates during a meeting of the Committee of the Whole.⁵⁵ As the Government's fiscal year comes to a close, the National Assembly may pass an interim supply bill granting funds to cover one-quarter of the main estimates for the new fiscal year. The Standing Orders require that consideration of interim supply estimates be attended to before April 1, the first day of the new fiscal year (SO 280), and specify that this business has precedence.⁵⁶ Subject to business having greater precedence, the interim supply estimates can be considered at any sitting between the time the annual estimates are tabled and April 1; the date, time and procedure for considering these estimates are specified in the motion without notice moved by the Government House Leader. Normally, the interim supply estimates are considered at the sitting held after the annual estimates are tabled. As the latter estimates are often tabled on the day the budget speech is given, consideration of the interim supply estimates in Committee of the Whole usually occurs at the sitting held between the budget speech and the beginning of the budget speech debate.

However, in some cases, such as when the Assembly is dissolved and a general election is called, it may not be possible for the Assembly to convene and adopt interim supply estimates before April 1. The Government may then order a special warrant under section 51 of the *Public Administration Act* to cover its current expenses. Under that section, when the National Assembly is adjourned for a recess of 20 days or more and an unforeseen expenditure not provided for by Parliament must urgently and immediately be made for the public good, the

55 See Chapter 17, "Committees of the Whole".

56 The consideration of interim supply estimates became business having precedence under the 2009 parliamentary reform. It now ranks fifth in order of precedence, after the budget speech and the replies by the parliamentary group leaders or their representatives, but before resumption of the debate on the budget speech (SO 87(4.1)). Formerly, consideration of interim supply estimates could be postponed as various items of business had precedence, including resumption of the debate on the opening speech of the session, resumption of the debate on the budget speech and, of course, a want of confidence motion moved by an opposition Member. But as consideration of interim supply estimates has had precedence over these items of business since 2009, there is now little chance of delay.

Government may order that a special warrant be prepared to authorize the outlay of the necessary funds.⁵⁷ Section 52 of the *Public Administration Act* stipulates that a special warrant is an appropriation for the fiscal year in which it is issued. That is why special warrants need not be voted on by the National Assembly and the amounts authorized by them need not be included in the total estimates set out in the appropriation bill to be introduced before and passed by the Assembly. A form of after-the-fact accounting is nonetheless required under section 92 of the *Financial Administration Act*.⁵⁸

Since special warrants are an exception to the principle of prior legislative authorization, their issue falls under the financial initiative of the Government. That is why, in a 2004 directive,⁵⁹ the President stated that he did not have the authority to rule on their validity or expediency,⁶⁰ but that he did have concerns about anything that could diminish the Assembly's role in the oversight of public

57 Section 51 of the *Public Administration Act* reads as follows:

51. Where the National Assembly is not in session by reason of a scheduled adjournment of at least 20 days and an unforeseen expenditure for which provision has not been made by Parliament is urgently and immediately required for the public good, the Government may, upon the report of the Chair of the Conseil du trésor and of the Minister of Finance that there is no legislative provision under which payment of the unforeseen expenditure may be authorized and the report of the minister responsible that the payment is urgently required in the public interest, order a special warrant to be prepared authorizing payment of the amount it considers necessary; the warrant shall be signed by the Lieutenant-Governor and the amount shall be placed by the Minister of Finance in an account established for that purpose.

58 Section 92 of the *Financial Administration Act* reads as follows:

92. The comptroller of finance shall prepare a statement of any report and special warrant issued pursuant to section 51 of the Public Administration Act (chapter A-6.01) and the corresponding expenditures and other costs.
The statement shall be tabled in the National Assembly by the minister who reported the urgency of the situation not later than the third day after resumption.

59 JD, April 7, 2004, pp. 4044–4045 (Michel Bissonnet)/RDPP, No. 279/2. In this particular instance, a special warrant had been issued by the Government on February 25, 2004, to provide for its expenditures from April 1 to May 31, 2004. On March 31, 2004, the President took under advisement a request from the Official Opposition House Leader for a directive about the validity of the warrant and its impact on the consideration of the budget estimates by the Assembly. Later in the same sitting, the Assembly, after considering one-quarter of the estimates for the 2004–2005 fiscal year, passed an appropriation bill that cancelled the February 25 warrant. Even though the Official Opposition House Leader's request became moot as a result, the President still felt a response was in order because of the importance of the issues it raised.

60 To justify the special warrant, the Government said that it was waiting for the federal budget to be presented on March 24 to see what impact that budget would have on Québec's budget and that it would not, in the Government's view, be possible to adopt interim supply estimates by April 1, 2004. Immediately after the directive was read in the House, the Official Opposition House Leader raised another point of order about the reason given by the Government (JD, April 7, 2004, pp. 4045–4046). The Official Opposition House Leader argued that the Assembly was sovereign and that its proceedings could in no way be subject to the proceedings of another assembly. The President acknowledged this but reiterated that he did not have the authority to rule on the legality or expediency of the special warrant or on the reason cited by the Government to justify its issue (JD, April 23, 2004, pp. 4325–4326 (Michel Bissonnet)).

expenditures. The President cautioned that special warrants are exceptional measures and should not replace the process described in the Standing Orders for considering and adopting estimates, a process that also applies to interim supply estimates. According to the President, examining estimates and granting the necessary appropriations for the proper functioning of the State is one of the central roles of the Assembly and its Members, and this role must be preserved.

That being said, as noted by the President, the Standing Orders do not require the Assembly to adopt interim supply estimates.⁶¹ Since 1984, there have been three instances of the budget estimates being referred to the standing committees immediately after being tabled, without the Assembly first adopting interim supply estimates. In all three cases, a general election had just been held and it would have been impossible to adopt interim supply estimates before April 1 because the Assembly was dissolved at the time.⁶²

61 JD, April 7, 2004, pp. 4044–4045 (Michel Bissonnet)/RDPP, No. 279/2.

62 The three instances referred to here occurred in 2003, 2007 and 2014. On March 11, 2003, the Chair of the Conseil du trésor tabled the estimates for the fiscal year ending March 31, 2004. In the same sitting, the Minister of Finance delivered the budget speech. The next day, the Assembly was dissolved without having considered the interim supply estimates and a general election was called. On March 31, 2003, the Government, on the grounds that the situation was urgent, issued an Order in Council for the preparation of two special warrants in accordance with section 51 of the *Public Administration Act*, the first to cover the expenditures to be incurred before the end of the 2002–2003 fiscal year and the second to cover slightly more than one-twelfth of the appropriations, other than continuing appropriations, for each program in the expenditure budget tabled for the fiscal year ending March 31, 2004. A third special warrant was issued on April 16, 2003, for the month of May 2003. The Quebec Liberal Party won the April 14 general election and formed a new majority government. On May 28, 2003, to cover its expenditures for the month of June, the new government issued a special warrant representing one-twelfth of the appropriations, other than continuing appropriations, for each program in the expenditure budget tabled for the fiscal year ending March 31, 2004. On June 13, 2003, the Chair of the Conseil du trésor tabled the estimates for the fiscal year ending March 31, 2004, in the National Assembly; immediately afterward, the estimates were referred to the standing committees on a motion by the Government House Leader (VP, June 13, 2003, p. 64). On February 20, 2007, the Assembly, on the Premier's request, convened for an extraordinary sitting so that the Minister of Finance could deliver the budget speech. The next day, the Assembly was dissolved and a general election was called. The same day, the Government issued a special warrant authorizing an amount to cover its administration from April 1, 2007. The Quebec Liberal Party won the general election held on March 26, 2007, and formed a new minority government. The first sitting of the 1st Session of the 38th Legislature was held on Tuesday, May 8, 2007. On May 24, 2007, the Government House Leader, on behalf of the Chair of the Conseil du trésor, tabled the budget estimates for the fiscal year ending March 31, 2008, and, immediately afterward, moved that they be referred to the standing committees (VP, May 24, 2007, pp. 72–73). Finally, on February 20, 2014, the Minister of Finance delivered the budget speech. At the end of the sitting, the Assembly adjourned its proceedings until March 11 for two weeks of riding work. On March 5, the Assembly was dissolved and a general election called. On March 26, 2014, a special warrant was issued for the Government's administration from April 1, 2014, covering three months. After a majority government formed by the Quebec Liberal Party was elected on April 7, 2014, the 1st Session of the 41st Legislature began on May 20, 2014. On June 4, 2014, the Minister responsible for Government Administration and Ongoing Program Review and Chair of the Conseil du trésor tabled the estimates for the fiscal year ending March 31, 2015. The Government House Leader then moved that they be referred to the standing committees, in accordance with Standing Order 281 (VP, June 4, 2014, p. 102).

Even when the Assembly is sitting, the Government may, for one reason or another, wish to postpone the tabling of annual budget estimates, in which case adopting one-quarter of them before April 1 becomes unfeasible. This is what occurred in 2005, when the Government moved to suspend certain rules of procedure in order to allow the Assembly to consider and adopt, before April 1, the estimates of expenditure for the Government's administration from April 1 to June 30, 2005, even though it had not yet tabled its annual budget estimates for the new fiscal year.⁶³ The President held the procedure proposed in the motion to be valid nonetheless, since the Assembly's role in the budget process remained intact given that it would still have the opportunity to consider and then adopt or reject the estimates. The President acknowledged that the proposed procedure was a departure from standard practice, yet felt it was not up to the President but rather to the Assembly to rule on the Government's decision, through the vote on the Government's motion to suspend certain rules of procedure.⁶⁴ This motion, called a "motion to suspend rules of procedure" no longer exists; it has been replaced by the "motion to introduce an exceptional procedure".⁶⁵

63 On March 17, 2005, when the Chair of the Conseil du trésor tabled the estimates of expenditure for public administration from April 1 to June 30, 2005, the Official Opposition House Leader raised a point of order, arguing that the Government could not table the estimates for only part of the fiscal year as this prevented the Assembly from voting on all of the Government's projected expenditures for the coming year. The Deputy House Leader of the Official Opposition added that the procedure went against section 45 of the *Public Administration Act*, under which the Chair of the Conseil du trésor must table in the National Assembly the budget estimates for the government departments and bodies for the purpose of establishing the appropriations required during the fiscal year. The President rejected both arguments, stating that the Government has full leeway at the preliminary stage of the budget process and that it is therefore the Government's prerogative to decide the amount of the estimates it will submit to the Assembly and when it will submit them. The President went on to explain that the President's role is to safeguard the Assembly's role and that it was therefore not up to him to interpret the law or to rule on or give an assessment of the document that had been tabled (JD, March 17, 2005, p. 7180 (Michel Bissonnet)/RDPP, No. 279/3).

64 JD, March 21, 2005, pp. 7242-7244 (Michel Bissonnet)/RDPP, No. 279/4. In this particular case, the budget estimates for the fiscal year ending March 31, 2006, were tabled on April 21, 2005, the very day of the budget speech. Immediately afterward, the Assembly carried a motion without notice moved by the Government House Leader that the estimates, except those for the National Assembly, be referred to the standing committees for consideration (VP, April 21, 2005, pp. 1444-1445).

65 See Chapter 16, "Exceptional Procedures", and its Appendix I, "From the Motion to Suspend Rules of Procedure to the Motion to Introduce an Exceptional Procedure".

The Government may also, for any reason, decide to table the annual estimates earlier, so that they can be considered and adopted, and the resulting appropriation bill passed, before April 1 of the following fiscal year.⁶⁶ In such a case, tabling interim estimates serves no purpose, as all the annual estimates for the fiscal year have already been adopted by the beginning of that year.

Debate on the interim supply estimates in Committee of the Whole may last up to five hours. The debate may focus on just those estimates or encompass all the estimates the Government wishes the Assembly to adopt (SO 280).

The budget programs to be examined and the timetable for deliberations between Members and the ministers responsible for the administration of these various programs are generally determined beforehand by means of an agreement between the parliamentary groups. This agreement is then endorsed by the National Assembly and becomes an order. As the President once recognized,⁶⁷ such a special order takes precedence over any provision of the Standing Orders that it departs from implicitly.⁶⁸ For example, if a special order specifies that a debate between a minister and the members of the Committee of the Whole is to last two hours, the debate continues for two hours, regardless of the time at which the sitting should normally be suspended or adjourned under the Standing Orders, unless the special order provides otherwise.⁶⁹

66 That is what happened in 2012, when the new minority Parti québécois government, elected in the September 4 general election, chose to deliver its first budget speech on November 20 and table the budget estimates for the 2013-2014 fiscal year on December 6, 2012 (VP, November 20, 2012, pp. 129-130; VP, December 6, 2012, pp. 231-232). Consideration of the estimates took place during the first two weeks of February 2013, which made it possible to conclude the budget process at the February 21 sitting with the limited debate on all the reports by the committees that had considered the budget estimates for the fiscal year ending March 31, 2014, and the passage of *Appropriation Act No. 1, 2013-2014* (VP, February 21, 2013, pp. 318-320).

67 JD, March 3, 1999, pp. 22-23 (Jean-Pierre Charbonneau)//RDPP, No. 18/1.

68 Geoffrion 1941, SO 218:

1. The suspension of any rule may be explicit.

2. It may also follow from the vote of any order which prescribes a course of action inconsistent with such rule, or from the carrying out, without any special authorization, of any act that departs from such rule.

69 For example, the motion carried on Monday, March 30, 2015, did not provide that the Assembly would pursue the consideration of interim estimates, as was planned for that sitting, beyond the hour of adjournment of the proceedings. However, it did provide that, "notwithstanding the hour of adjournment of the proceedings pursuant to Standing Order 20, the Assembly shall be permitted to continue its proceedings on Tuesday, 31 March 2015, if necessary, to complete the consideration of and concurrence in Interim Supply and passage of the subsequent appropriations bill" (VP, March 30, 2015, pp. 909-910). In fact, consideration of interim estimates, started during the March 30 sitting, was concluded the next day, on March 31, 2015 (VP, March 31, 2015, pp. 921-922).

If any aspects of the consideration of interim supply estimates are not provided for in the special order, the Standing Orders contain no further guidelines on the subject. To determine speaking times for Members and ministers, the President may draw from the rules for limited debates in the House or for consideration of the main estimates by the standing committees, or refer to the rules for consideration of supplementary estimates.⁷⁰

Once the time allocated for debate is up, the Chair of the Committee of the Whole puts one-quarter of the main estimates for the new fiscal year, considered as a unit, to a vote. The Committee of the Whole then reports to the National Assembly, which puts the report and the resulting interim supply bill to a vote without debate (SO 281).

With the money thus supplied, the Government is able to meet its obligations until the annual estimates are adopted.

15.2.2.2 CONSIDERATION OF ANNUAL ESTIMATES IN COMMITTEE

Immediately after the Assembly has passed the interim supply bill, the Government House Leader moves to refer the main estimates to the standing committees for consideration. This motion is moved without notice and is not debated (SO 281). The standing committees concerned are the nine sectorial committees, each of which is responsible for certain sectors of state activity (SO 119(2)).

Although interim supply estimates are not considered and adopted, as there is no obligation under the Standing Orders for the Assembly to adopt any, the Government House Leader moves, under Standing Order 281, that the annual estimates be referred to the standing committees for consideration. Precedents⁷¹ show that this motion is moved immediately after the budget estimates are tabled by the Chair of the Conseil du trésor (the Treasury Board), as is the case when the interim supply estimates (SO 280) or supplementary estimates (SO 289) are referred to the Committee of the Whole.⁷²

Consideration of the main estimates by the standing committees may start no earlier than 15 days after the estimates are tabled (SO 282), to give Members time to become familiar with the details of the Government's budget proposals and thus exercise better parliamentary oversight. Consideration of the main estimates in committee may last up to 200 hours, with no more than 20 hours allocated for the estimates of any one government department (SO 283). The standing committees consider the estimates that are relevant to their respective areas of competence over 10 consecutive sittings held from Monday to Friday.

70 See Subsection 15.2.4, "Supplementary Estimates".

71 VP, June 13, 2003, p. 64; VP, May 24, 2007, p. 73; VP, June 4, 2014, p. 102.

72 See, for example, VP, March 10, 2020, p. 1812.

During this period, the committees keep the same extended hours as during the last two weeks of a sessional period, and the National Assembly limits its activities to Routine Proceedings (SO 282). Members can thus devote the greater part of their time to consideration of the main estimates in committee. The fact that the House may take up only Routine Proceedings should not be interpreted to mean that it is obliged to meet in order to do so while the estimates are going through committee consideration or that the standing committees may not meet to consider the estimates when the House is not sitting.⁷³

The fact that Orders of the Day are not taken up precludes debates in the House, except during the stage of Routine Proceedings reserved for motions without notice, including debates on business having precedence, such as the opening speech debate. However, the opening speech debate does not lose its status as business having precedence as defined in the Standing Orders, and it must be given precedence as soon as the Assembly can once again take up Orders of the Day, after consideration of the main estimates has been completed.⁷⁴ There are also no debates upon adjournment while the committees consider the estimates, as they fall under Orders of the Day.⁷⁵

73 JD, June 11, 2003, pp. 257–258 (François Gendron)/RDPP, No. 282/3. In this particular case, a general election was held on April 14, 2003, and the 1st Session of the 37th Legislature opened on June 4, 2003. On June 6, the Official Opposition House Leader asked the President whether the standing committees could be convened to meet in July to consider the budget estimates, even though, according to Standing Order 19, the House does not ordinarily meet at that time. Although the question was hypothetical, the President felt a response was in order because of the importance of the subject. In the ruling handed down on June 11, the President pointed out that section 13 of the *Act respecting the National Assembly* allows the committees to meet even when the Assembly is not sitting. The President went on to establish that the committees could consider budget estimates at any time of the year and that their doing so did not oblige the House to meet to take up Routine Proceedings. The budget estimates for the fiscal year ending March 31, 2004, were tabled on June 13, 2003, and were considered in committee from July 2 to 15. Likewise, for the 2014–2015 fiscal year, after the 1st Session of the 41st Legislature began on May 20, 2014, the budget estimates were tabled at the June 4, 2014 sitting. The estimates were then examined by the standing committees from June 19 to July 2, 2014, a period during which the Assembly was not sitting, in accordance with the parliamentary calendar set out in Standing Order 19 for its proceedings. Lastly, the Assembly was summoned for an extraordinary sitting on July 3 to complete the budget process.

74 JD, April 24, 2001, pp. 1038–1043 (Jean-Pierre Charbonneau)/RDPP, No. 282/2.

75 JD, May 24, 1990, p. 2693 (Jean-Pierre Saintonge)/RDPP, No. 308/2; JD, April 15, 1986, p. 924 (Pierre Lorrain); JD, April 24, 2001, pp. 1038–1039 (Jean-Pierre Charbonneau).

Before the committees start their work, the President must hold a meeting with the House leaders of the parliamentary groups to discuss how consideration of the main estimates is to be organized (SO 285).⁷⁶ At this meeting, the House leaders generally work out an agreement on such points as how the 200 hours allocated for consideration of the main estimates will be divided among the committees, when the committees will meet, what estimates will be examined, and which ministers and opposition critics will speak. The President then informs the Assembly of the agreement and generally adds that another such meeting will be held, if necessary, to work out other details.

The principle of ministerial accountability allows the Government to propose any minister it chooses to defend its estimates. Consequently, it is reasonable to assume that “the minister called upon to defend his estimates” referred to in Standing Order 287 does not necessarily have to be the minister responsible for the estimates under consideration but could be the minister named in the agreement made by the House leaders under Standing Order 285.

Whatever the case, the Assembly has determined in the Standing Orders that the preferred means of organizing committee consideration of the estimates is to bring the House leaders together and have them reach agreements. The committee Chairs must therefore apply the terms of these agreements and consult with the House leaders if any problems arise in doing so. As will be discussed in Chapter 19, the Government is given some latitude to make changes in the calendar for the consideration of the estimates, but only with the agreement of all Members.⁷⁷

During committee consideration, the estimates are put to a vote. The Standing Orders do not spell out how the vote is to be held but do specify that Members may approve, reduce or negative estimates (SO 288). The reason neither a committee nor the National Assembly may increase estimates is a logical extension of the principle of the Crown’s financial initiative, under which only the Government may ask for funds out of the public purse by exposing its financial needs and laying them before the Assembly for consideration. The Assembly may not initiate financial measures and may not, therefore, move to increase the estimates proposed by the Government.

76 In 2007, the President of the Assembly cited this responsibility set out in Standing Order 285 as grounds for allocating the speaking time between the three parliamentary groups elected to the House for the 38th Legislature (JD, June 8, 2007, pp. 1187–1188 and 1200 (Michel Bissonnet)/RDPP, No. 285/1. See Chapter 19, Section 19.2, “Examination of the Estimates of Expenditure”.

77 JD, May 2, 2017, p. 16051 (François Ouimet)/RDPP, No. 282/6.

15.2.2.3 VOTING OF APPROPRIATIONS BY THE NATIONAL ASSEMBLY

Once the standing committees have considered the estimates, they submit all their reports to the National Assembly together at the same sitting. The reports are discussed at the next sitting in a limited two-hour debate during which, in keeping with the principle of the Crown's financial initiative, only a minister may move an amendment to reinstate estimates that were reduced or negatived in committee (SO 288).⁷⁸ This limited debate falls under business having precedence (SO 87(6)) and deals with all the Government's budget estimates and with the committee reports en bloc.⁷⁹

After first voting on the want of confidence motions and motions stating a grievance moved during the budget speech debate and on the motion of the Minister of Finance to approve the Government's budgetary policy (SO 288), the Assembly votes on any amendments to the estimates, then on all the reports together, amended or not, and finally on the resulting appropriation bill.

The procedure for introducing appropriation bills differs from that for introducing other public bills. The Chair of the Conseil du trésor is not required to rise in the House to introduce an appropriation bill and need only transmit the bill. Under current procedure, it is the presiding officer's role to inform the Assembly of the motion to pass the bill⁸⁰ right after the committee reports have been concurred in. An appropriation bill may be introduced without notice and does not require explanatory notes (SO 263). The Assembly carries out the introduction, passage in principle and passage of the bill all at once.

Voting on the committee reports may be postponed to the next sitting, under Routine Proceedings. In such a case, after the vote, the Assembly must wait until it takes up Orders of the Day before it can go ahead with the introduction, passage in principle and passage of the appropriation bill.⁸¹ These three stages are indivisible and so must take place at the same sitting. That is why Standing

78 The estimates have been negatived in committee on two occasions. The first occurred on May 9, 1985, when the Committee on Institutions negatived a program. On May 21, 1985, the Assembly carried a motion moved by the Government House Leader with the unanimous consent of the Members to allow the Committee's report on the estimates to be amended to include the negatived program (VP, May 21, 1985, p. 310). The second occurred on April 25, 1989, when a committee negatived two of the programs in the estimates of the Ministère des Finances. On May 11, 1989, the Assembly carried a motion by the Government House Leader to suspend certain rules of procedure to allow the joint report of the committees to be amended on a motion without notice by a minister (VP, May 11, 1989, pp. 830–831). In light of these two cases, the Assembly adopted a permanent amendment to Standing Order 288 on November 21, 1991, that allows a minister to propose amendments in order to reinstate budget estimates that were reduced or negatived in committee.

79 JD, June 1, 1984, p. 6616 (Jean-Pierre Jolivet)/RDPP, No. 211/1.

80 JD, December 11, 2003, p. 2548 (Diane Leblanc)/RDPP, No. 263/1.

81 JD, May 17, 2001, p. 1299 (Jean-Pierre Charbonneau)/RDPP, No. 288/3.

Order 22, which prohibits a bill introduced after May 15 or November 15 in a sessional period from being passed in that same sessional period, does not apply to appropriation bills.⁸² Moreover, all of these stages are taken without debate and do not qualify as business having precedence, unlike the limited debate that follows the tabling of the committee reports.⁸³

15.2.3 APPROPRIATIONS FOR THE NATIONAL ASSEMBLY

As mentioned in subsection 15.2.1, under section 126 of the *Act respecting the National Assembly*, appropriations for the National Assembly are continuing appropriations and therefore do not need to be voted each year.⁸⁴ The Office of the National Assembly is responsible for approving them. Consideration of the Assembly's estimates provides an opportunity for the Members to question the President on the Assembly's management and on the support provided to the Members by the Assembly's administrative services. It also gives the President the opportunity to communicate information to the Members and comment on the Assembly's management.

The exercise described above takes place once consideration of the estimates for the government departments has been completed, during a meeting of the Committee of the Whole devoted to considering the estimates for the National Assembly. This meeting, which usually takes place on the day the parliamentary committees' reports are tabled, has precedence (SO 286). Despite that status, practice shows that a motion by the Government House Leader is necessary for the Assembly to resolve itself into a Committee of the Whole (SO 108). When Orders of the Day start, the presiding officer declares that the Assembly must

82 JD, May 16, 2001, p. 1273 (Michel Bissonnet)/RDPP, No. 288/1.

83 JD, May 17, 2001, p. 1281 (Raymond Brouillet)/RDPP, No. 288/2. For instance, after a limited debate on the reports from the committees following their consideration of the main estimates, the President put the reports to a vote. As a recorded division was requested, the vote was deferred to Routine Proceedings at the next sitting. The Official Opposition House Leader objected to the Assembly moving on to other business on the grounds that the introduction and passage of the appropriation bill had precedence. The President dismissed this objection and ruled that only the limited debate on the committee reports had precedence.

84 JD, April 30, 1996, p. 526 (Raymond Brouillet)/RDPP, No. 286/1. This seems to explain why, from 1997 to 2009 inclusively, with the Assembly's consent, the Committee of the Whole never convened to consider the estimates for the National Assembly. Similarly, for the 2014–2015 fiscal year, when a general election was held on April 7, 2014, consideration of the estimates for the Assembly was replaced, with the unanimous consent of the Assembly, by the tabling, by President Jacques Chagnon at the July 3, 2014 extraordinary sitting (VP, July 3, 2014, p. 195), of an explanatory document entitled *Les crédits de l'Assemblée nationale – Budget 2014-2015 de l'Assemblée nationale*, which set out the Office of the National Assembly's decisions relating to budget matters for that period.

resolve itself into a Committee of the Whole to consider the estimates for the Assembly, then gives the floor to the Government House Leader, who presents his or her motion.⁸⁵

The resulting meeting of the Committee of the Whole is usually chaired by the Assembly's First Vice-President. The President, accompanied by the Assembly's senior management, takes a seat on the side of the Chamber where the Government usually sits to defend the estimates for the Assembly before the parliamentarians. The whips of the parliamentary groups—who generally take part in this exercise—as well as any other Member who wishes to intervene sit on the other side of the Chamber, that is, on the opposition's side, a rare occurrence for Members of the parliamentary group forming the Government.

The Standing Orders do not specify the time allocated for consideration of estimates for the Assembly, but Members usually agree to limit it to two hours,⁸⁶ although there have been cases where it lasted three hours.⁸⁷ The President's preliminary remarks usually last 20 minutes⁸⁸ and the rest of the time is generally divided between the parliamentary groups and any independent Members, as is the case for a limited debate of the same duration. This time is used in blocks of up to 10 minutes, including the President's answers, until all speaking time has been used up. At the end of the Committee of the Whole meeting, the estimates for the Assembly are not put to a vote. The Committee simply reports to the Assembly, which does not vote on the report.

15.2.4 SUPPLEMENTARY ESTIMATES⁸⁹

The Government may submit a supplementary expenditure budget to the National Assembly for consideration at any time during the fiscal year. The "supplementary estimates" in this budget are intended to cover expenditures not foreseen in the initial budget estimates or to meet needs that require more appropriations than anticipated.

85 See, for example, JD, May 7, 2019, p. 2501.

86 VP, May 11, 2010, p. 1284; VP, May 3, 2011, pp. 226–227; VP, May 1, 2012, p. 1186; VP, February 20, 2013, p. 303; VP, May 6, 2015, p. 1106; VP, April 27, 2016, p. 2193; VP, May 10, 2017, p. 3415; VP, May 7, 2019, p. 616; VP, June 4, 2020, p. 2039.

87 From 1991 to 1996, consideration of the estimates for the Assembly lasted three hours (JD, April 9, 1991, p. 7301; JD, April 14, 1992, p. 581; JD, April 8, 1993, p. 6004; JD, April 26, 1994, p. 457; JD, April 27, 1995, p. 2113; JD, April 30, 1996, p. 520). In 2018, it was limited to two hours twelve minutes (VP, May 3, 2018, p. 4557).

88 VP, May 11, 2010, p. 1284; VP, May 3, 2011, pp. 226–227; VP, February 20, 2013, p. 304; VP, May 10, 2017, p. 3415; VP, May 3, 2018, p. 4557; VP, May 7, 2019, p. 616; VP, June 4, 2020, p. 2039. However, the President's preliminary remarks lasted 30 minutes in 2016 (VP, April 27, 2016, p. 2193) and 35 minutes in 2015 (VP, May 6, 2015, p. 1106). Their length was not specified for 2012 (VP, May 1, 2012, p. 1186).

89 See Appendix IV to this chapter, "Steps Involved in the Consideration and Adoption of Supplementary Estimates".

Supplementary estimates laid before the National Assembly are considered in Committee of the Whole, on a motion of the Government House Leader moved without notice and decided without debate (SO 289). The Standing Orders contain no specific guidelines as to how consideration of the supplementary estimates is to be organized. All Standing Order 290 stipulates is that a representative of each parliamentary group may speak for up to 20 minutes at the opening of proceedings and that the representative of the Government may speak for up to 20 minutes in reply.⁹⁰ As is the case for interim supply estimates, certain procedural aspects may be decided beforehand by means of an agreement between the parliamentary groups, which is then set out in a special order made by the National Assembly⁹¹ that has precedence over any provision of the Standing Orders that it departs from implicitly.⁹²

Unless the National Assembly issues an order⁹³ specifying which ministers are to speak on the estimates, no particular minister can be required to attend proceedings to consider supplementary estimates. The choice of a minister to defend these estimates is left to the Government's discretion, as Standing Order 290 specifies only that a representative of the Government may speak.⁹⁴ The minister may be accompanied by public servants, who speak only with the minister's and the Committee of the Whole's consent. Opposition Members may have advisers on hand.⁹⁵

Consideration of the supplementary estimates in Committee of the Whole may not run more than eight hours (SO 291). The Committee of the Whole used to wait until the end of proceedings to vote on the estimates for each government department in turn before voting on all the supplementary estimates,⁹⁶ unless

90 On December 12, 1995, as the time allocated for consideration of the supplementary estimates had been divided into eight 60-minute segments, the Chair of the Committee of the Whole likewise divided the 20 minutes allocated by Standing Order 290 for preliminary comments and for the reply into eight segments (JD, December 12, 1995, p. 515 (Raymond Brouillet)).

91 See, for example, VP, December 3, 2020, pp. 2819–2821.

92 JD, December 11, 2003, p. 2547 (Diane Leblanc)/RDPP, No. 291/1. See Subsection 15.2.2.1, "Consideration of Interim Supply Estimates".

93 Unless the Assembly gives its unanimous consent, a motion for the organization of the proceedings of a Committee of the Whole may not be moved without notice (JD, December 12, 1994, pp. 481–484 (Roger Bertrand)/RDPP, No. 290/1).

94 Ibid.

95 JD, May 24, 2001, pp. 1470–1471 (Raymond Brouillet).

96 Under this practice, the Committee of the Whole found itself deciding the same question twice, which was fine when all the estimates were adopted but became a problem when some estimates were not, as on December 6, 2002. Since the estimates for Program 1 of the Ministère des Relations avec les citoyens et de l'Immigration had been rejected on a standing vote, the Committee of the Whole could not then vote on all the supplementary estimates without ending up with contradictory votes. The same problem could be encountered in the case of the detailed consideration of a bill, but the Chair of the Committee of the Whole ruled in 1999 that it served no purpose for the Committee to vote on a bill as a whole after having adopted each of its constitutive elements (JD, June 4, 1999, p. 2258 (Michel Bissonnet)/RDPP, No. 244/6).

a vote was demanded at the end of a given debate.⁹⁷ Now it seems customary for the Chair to put the estimates for a particular program to a vote immediately after they have been discussed.⁹⁸ After all discussions have been concluded, the Chair calls a vote on any estimates not yet addressed.

Once the estimates have been fully considered, the Committee of the Whole reports to the Assembly, which votes, without debate, on the report and on the resulting appropriation bill (SO 291). As there is no debate on the report, it stands to reason that no motions are allowed to amend its contents, contrary to what Standing Order 288 provides, namely, that a minister may move an amendment to reinstate estimates that have been reduced or negatived in committee. Consequently, as soon as the Committee of the Whole submits its report to the Assembly, the President puts it to a vote. If the motion to concur in the report is carried, the resulting bill must contain all the estimates carried by the Committee of the Whole and omit any that were negatived.⁹⁹ As for an annual appropriation bill, the Assembly votes on the introduction, passage in principle and passage of the supplementary estimates bill all at once.

In addition to the procedure set out in the Standing Orders for the consideration of supplementary estimates, the *Public Administration Act* and the appropriations Acts themselves provide more limited mechanisms, authorized beforehand by Parliament, that give the Executive a degree of latitude as to how the voted amounts are used.¹⁰⁰

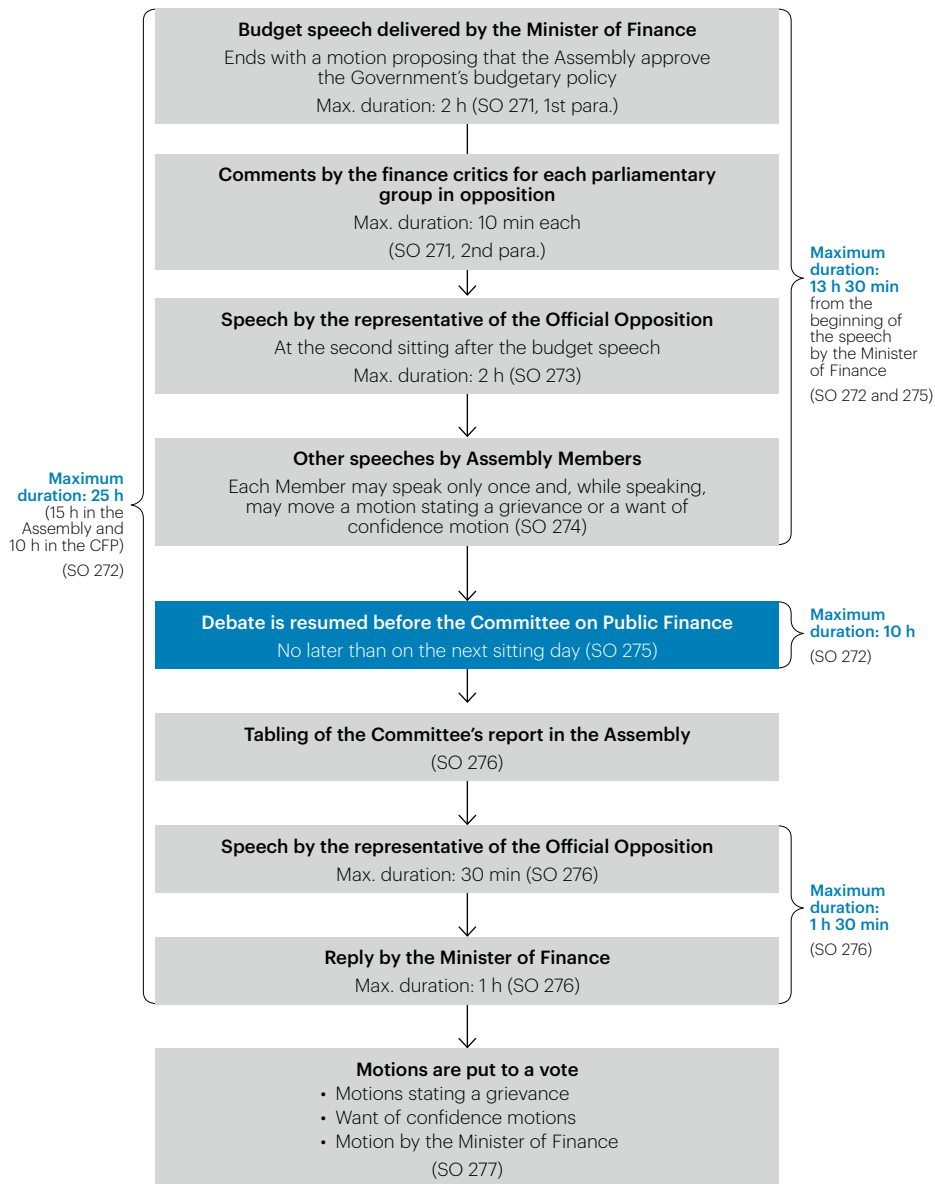
97 On December 12, 2001, an Official Opposition Member moved that the committee vote on the estimates for the Ministère de l'Emploi et de la Solidarité sociale immediately after they were discussed. The estimates were passed on division (JD, December 12, 2001, p. 4576).

98 A Committee of the Whole may decide to discuss the estimates in general rather than the estimates for a given program. No vote is taken in such cases. Also, the members of the Committee of the Whole may agree to vote on all the estimates for a given government department rather than on the estimates for each program. In such a case, the vote would normally be taken at the end of the discussion concerning that government department. Moreover, a special order made by the Assembly may set out how the vote is to be held.

99 On December 6, 2002, after a discussion between opposition Members and the Minister of State for Population, Regions and Native Affairs on the estimates for Program 1 of the Ministère des Relations avec les citoyens et de l'Immigration, a standing vote was taken and the estimates were negatived by the Committee of the Whole. On December 10, after the eight hours allocated for consideration of the supplementary estimates, the Chair of the Committee of the Whole reported to the Assembly that [TRANSLATION] "the Committee of the Whole has considered the Supplementary Estimates #1 for the fiscal year ending 31 March 2003 and concurred in them, excluding the estimates relating to Program 1 of the Ministère des Relations avec les citoyens et de l'Immigration". The Assembly immediately voted on and concurred in the report and went on to introduce, pass in principle and pass Bill 150, *Appropriation Act No. 3, 2002-2003*, which contained only those estimates that had been adopted in committee (JD, December 10, 2002, pp. 8227-8228).

100 JD, April 12, 2018, pp. 21178-21180 (Jacques Chagnon)/RDPP, No. 67/75.

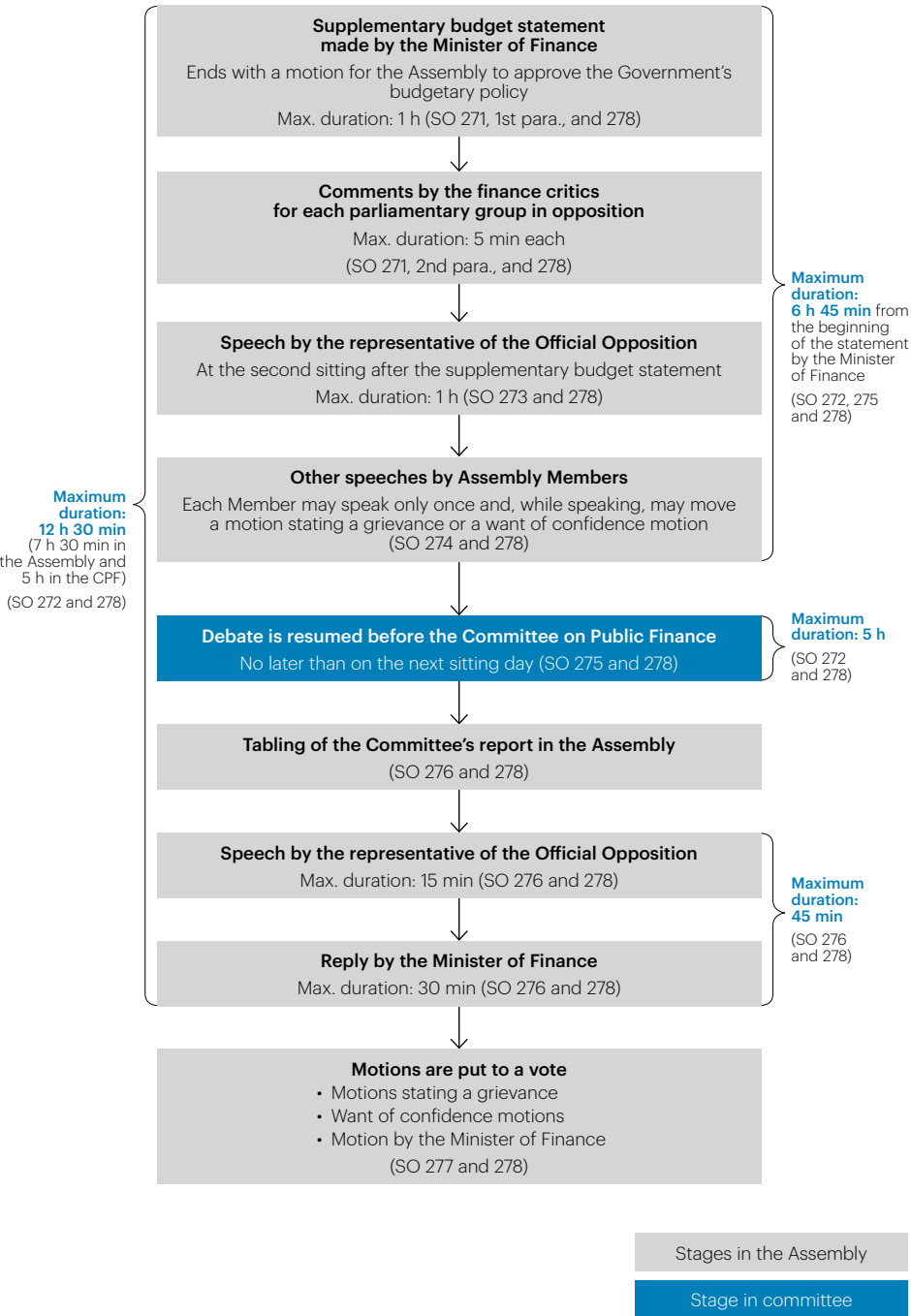
APPENDIX I STEPS INVOLVED IN THE BUDGET SPEECH AND THE BUDGET SPEECH DEBATE



Stages in the Assembly
Stage in committee

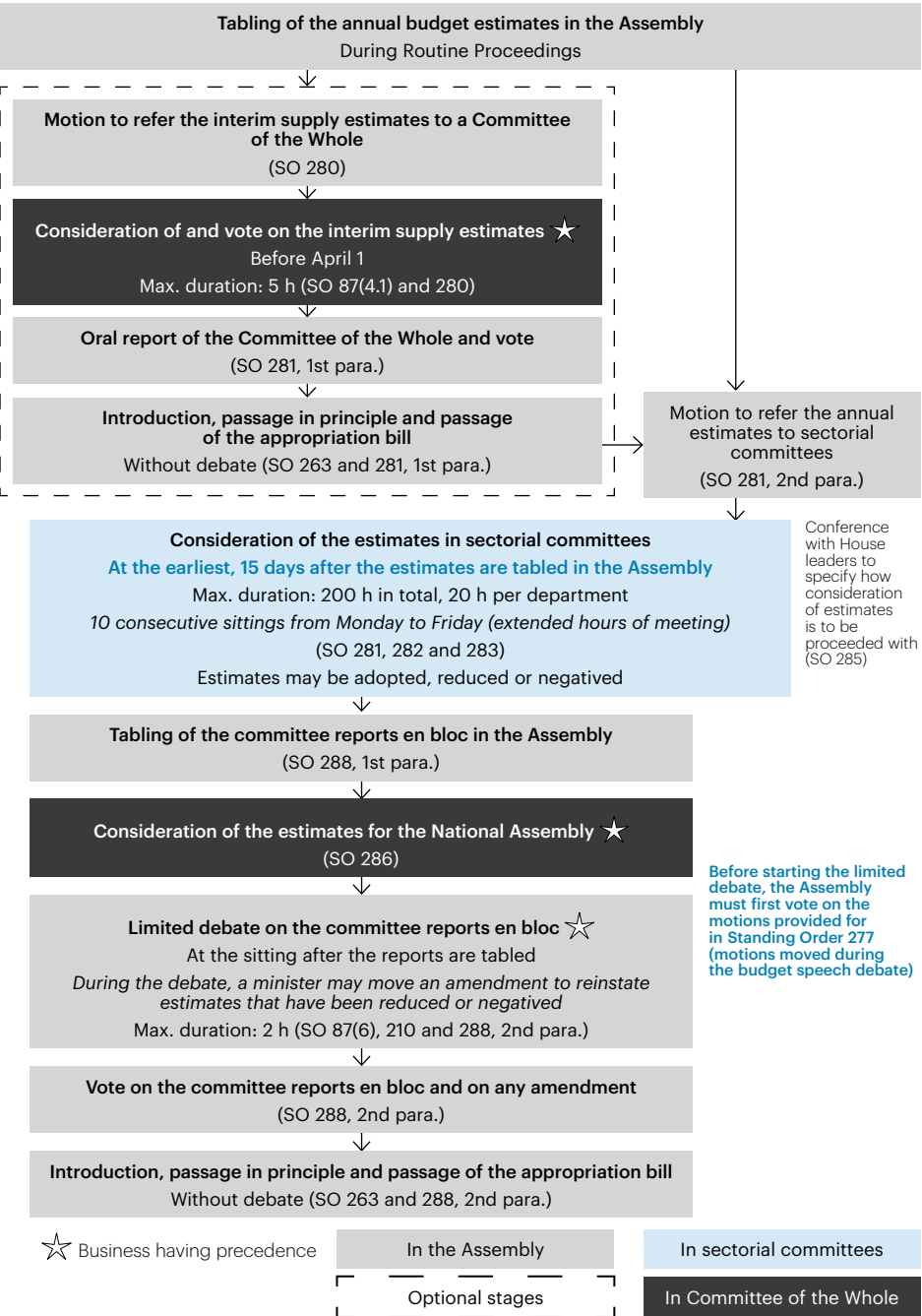
Note: Both the budget speech and the ensuing debate in the National Assembly fall under business having precedence (SO 87(4), 87(5) and 272).

APPENDIX II STEPS INVOLVED IN A SUPPLEMENTARY BUDGET STATEMENT



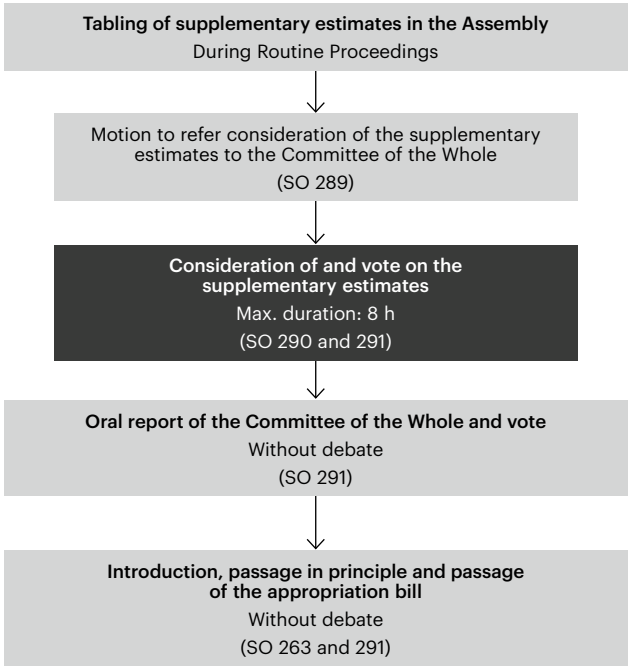
Note: Both a supplementary budget statement and the ensuing debate in the Assembly fall under business having precedence (SO 87(4), 87(5), 272 and 278).

APPENDIX III STEPS INVOLVED IN THE CONSIDERATION AND ADOPTION OF THE ANNUAL BUDGET ESTIMATES



Note: The tabling of the annual estimates must be accompanied by a message from the Lieutenant-Governor recommending them for consideration by the National Assembly (*Constitution Act, 1867*, s. 54).

APPENDIX IV STEPS INVOLVED IN THE CONSIDERATION AND ADOPTION OF SUPPLEMENTARY ESTIMATES



In the Assembly

In Committee of the Whole

Note: The tabling of supplementary estimates must be accompanied by a message from the Lieutenant-Governor recommending them for consideration by the National Assembly (*Constitution Act, 1867*, s. 54).

Unlike certain stages in the consideration of annual estimates, consideration of supplementary estimates does not fall under business having precedence (SO 87).

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■ **CHAPTER 16**
EXCEPTIONAL PROCEDURES

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16

EXCEPTIONAL PROCEDURES

As the presiding officer of the National Assembly, the President¹ must maintain a balance between two fundamental principles stemming from the British parliamentary tradition: the need to allow the majority to conduct public affairs in an orderly manner and the need to protect the minority's right to express itself. For this, the President's primary role is to apply and interpret the rules governing procedure in the Assembly.

The sources of Assembly procedure are, in addition to those provided for in the Constitution and according to the order determined by Standing Orders 179 and 180, the statutes, the Standing Orders and the Rules for the Conduct of Proceedings, the orders made by the Assembly and, if need be, the Assembly's precedents and customs.²

Although certain rules of procedure are established by law, the majority are set out in the rules that the Assembly itself has adopted by virtue of its ability to govern its internal affairs without outside interference. Since these are rules that only the Assembly has the power to enforce, they must be followed unless the Assembly decides otherwise in the circumstances. This chapter will examine the various exceptional procedures possible. The Assembly may simply decide to disregard certain rules by unanimous consent; it may also amend the applicable rules temporarily by a special order or suspend the application of the rules for the consideration of a matter by means of a motion to introduce an exceptional procedure (SO 182 to 184.2).

1 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

2 See Chapter 2, "The Foundations of Parliamentary Procedure".

16.1 UNANIMOUS CONSENT

As already seen in Chapter 2, the Assembly's rules of procedure contained in the Standing Orders and the Rules for the Conduct of Proceedings are permanent orders of the Assembly. As such, these rules apply automatically and the President must enforce them. However, the Assembly may choose to depart from them by unanimous consent of its Members. This is a quick way to modify an existing order while the Assembly is sitting.

Unanimous consent makes it possible to set aside certain provisions of the rules of procedure to facilitate or accelerate the conduct of the Assembly's proceedings. Parliamentarians often use this procedure when they consider that the usual rules are not relevant or necessary in a given situation. Unanimous consent is an important and well-established practice in Québec political life. But despite its importance, there is little case law on this parliamentary mechanism, since measures taken in the House by unanimous consent do not constitute parliamentary precedents. There is only one provision in the Standing Orders that deals expressly with the possibility of requesting unanimous consent in the House: Standing Order 84.1 allows the Assembly to debate a motion by unanimous consent, even if prior notice of the motion was not given in the Order Paper as required by Standing Order 188. The Standing Orders and the Rules for the Conduct of Proceedings also contain three other provisions pertaining to unanimous consent in the context of committee proceedings. This context will be examined in Subsection 16.1.3.

16.1.1 USE OF UNANIMOUS CONSENT

When the Assembly wishes to override certain rules of procedure by unanimous consent, the President must directly ascertain that all Members present agree, without exception.³ Thus, if the President notes that one or a number of Members present refuse to agree to the request, it cannot be followed up on. No debate is allowed regarding the reasons for the refusal and the parliamentarians who have refused to give their consent cannot be identified.⁴

Consent is a prerogative of the Members: it is up to them, not the parliamentary groups, to give their consent. An agreement between the House leaders setting the conditions for a debate without the Assembly being informed would not

3 JD, May 13, 1987, pp. 7562-7564 (Pierre Lorrain)/RDPP, No. 223/3; JD, May 9, 2012, p. 6107 (François Ouimet)/RDPP, No. 84.1/6.

4 JD, February 26, 2015, p. 3911 (François Ouimet)/RDPP, No. 84.1/8.

be binding on the Assembly, since the conditions must be known and consented to by every Member present.⁵

It is important that consent be requested for a specific purpose so that all Members may express their acquiescence with full knowledge of the facts, in particular if the request for unanimous consent involves very specific conditions.⁶

In addition, it may be necessary to specify the terms of the request for consent, such as the duration of the effects of the proposed consent. As consent may be requested to address an immediate need or an act performed in the past, its effects may be limited to the period of time required to examine the matter for which consent was requested; the effects may also cover only a portion of that period⁷ or even extend beyond the period.⁸

Since unanimous consent requires the concurrence of all the Members, it does not disrupt the political balance that must exist when the Assembly examines a matter. In practice, therefore, unanimous consent is often preceded by intense negotiations between parliamentary groups and independent Members. As a result, the last sitting days before the long adjournment at the end of a sessional period are always characterized by considerable effervescence. Without the unanimous consent of the Members, a large number of bills could not be passed.⁹

5 JD, November 1, 2006, p. 3028 (Michel Bissonnet)/*RDPP*, No. 84.1/4. As consent is a prerogative of the Members and not the parliamentary groups, the consent of all the Members from a group to debate a motion moved during Motions Without Notice cannot be presumed from the sole fact that such a motion is moved by one Member from that group.

6 JD, November 21, 2012, pp. 1123–1124 (Jacques Chagnon)/*RDPP*, No. 84.1/7.

7 For example, in committee, consent may be given, in specific circumstances, for the duration of a sitting or for the duration of a mandate. A committee Chair once ruled that unless it was clear that consent was given at the beginning of a sitting to allow a public servant to take part for the duration of the sitting, leave of the committee had to be requested every time the minister wanted the public servant to speak (JD, November 22, 2000, CAT-60 p. 14 (Yvon Vallières)/*RDPP* (Com. Vol.), No. 246/4).

8 In certain circumstances, consent may have effect for a very long period. For example, during the 38th Legislature, the President of the Assembly, with leave of the Assembly to override Standing Order 301 on the allocation of speaking time during an interpellation, set the order of speeches for the interpellations of the entire legislature (JD, October 25, 2007, p. 1679 (Michel Bissonnet)/*RDPP*, No. 301/1). The calendar of certain parliamentary years has also been modified by unanimous consent of the Assembly (VP, May 31, 2016, p. 2344; VP, June 9, 2017, p. 3566; VP, June 15, 2018, p. 4827; VP, May 15, 2019, p. 683; VP, June 5, 2020, p. 2051).

9 In legislative matters, the most frequent reasons for departing from rules of procedure are the introduction of a bill without proper notice (SO 232), the passage of a bill introduced after the deadline (SO 22) and the completion in one sitting of several stages in the consideration of a bill (SO 230). Outside the realm of legislative procedure, the most common departures from the rules are the tabling of documents by a minister outside the time reserved for it under Standing Orders 53 and 59, the tabling of documents by a private Member (SO 59), the tabling of a committee's report outside the time reserved for it under Standing Orders 53 and 61, and the extension of a sitting beyond the time set for suspension or adjournment (SO 20 and 21).

That being said, the question arises as to whether it is possible for Members who were present when a request for consent was made to withdraw their consent, or whether it is possible for Members who join the parliamentary deliberations after consent was given to object to the previously granted departure from the Standing Orders. As seen earlier, when a request for unanimous consent is made to the Assembly, the President must ensure that all Members present at the time the request is made give their consent, and the consent must be specific enough for the Members to assess its scope. Therefore, once consent is granted for the examination of a matter, it should not be possible to withdraw it later, for example, because the debate on the matter covered by the consent is not going to a Member's liking.¹⁰ When a request for consent is submitted to the Assembly, each Member present is responsible for assessing, at that precise moment, the consequences of giving consent. Unless unanimous consent is obtained once again to go back on the decision, the consent remains valid for the purposes for which it was given. Unanimous consent leads to a new order that may be changed only by using the regular procedure, unless there is new unanimous consent.

16.1.2 LIMITS TO UNANIMOUS CONSENT

There are very few limits placed on the use of unanimous consent. Since the Assembly establishes its own rules of procedure and has sole authority to enforce them, it follows that only the Assembly can limit the use of this mechanism.

Aside from rules of procedure established by law, which cannot be overridden by the Assembly by unanimous consent unless a legislative provision allows it,¹¹ the Assembly may, in principle, disregard any rule set out in a Standing Order. But how far can it go? Can the President's powers under the Standing Orders be limited by unanimous consent given that one of the President's main functions is to enforce those very Standing Orders (SO 2(3))?

For example, under the Standing Orders, the President must rule on the admissibility of every motion moved in the Assembly. Thus, Standing Order 193 states that the President must rule out of order any motion or notice of motion that is contrary to the Standing Orders, and Standing Order 198 provides that the President must determine the admissibility of amendment motions. Could the Assembly set aside these duties in order to allow a motion that fails to meet

10 "Once granted, leave cannot be withdrawn" (David R. Elder and Peter E. Fowler, eds., *House of Representatives Practice*, 7th ed. (Canberra: Department of the House of Representatives, 2018), p. 501).

11 For example, section 22.3 of the *Act respecting the Ministère des Relations internationales*, CQLR, c. M-25.1.1, provides that "unless the Assembly, with the unanimous consent of its members, decides otherwise, the motion [of the Minister of International Relations proposing that an important international commitment be approved or rejected] shall be the subject of a two-hour debate that may not begin before the lapse of 10 days after the tabling of the commitment."

the criteria set out by the Standing Orders and parliamentary jurisprudence? At first glance, overriding Standing Orders 193 and 198 appears conceivable, since, in theory at least, they are no different from other rules of procedure. However, overriding a Standing Order that confers a power on the President is tantamount to departing from Standing Order 2(3), which sets out the President's general power to enforce the Standing Orders.

The President has never officially ruled on the Assembly's right to allow, by unanimous consent, a motion that does not meet the admissibility criteria set out in the Standing Orders.¹² However, the President once stated that the consent provided for in Standing Order 84.1 could not be requested to debate a motion that had just been declared out of order.¹³ In other rulings, the President also recognized that it was possible, by means of a motion to suspend the rules of procedure,¹⁴ to suspend the application of Standing Order 197, under which every amendment must be relevant to the subject matter of the main question and must not reverse its principle,¹⁵ as well as part of the first paragraph of Standing Order 244, which provides that any amendments proposed to a bill must be relevant to its subject matter and consistent with its nature and purpose.¹⁶ Since it was possible in these cases to suspend these provisions by such a motion, one may well wonder whether they could also be suspended with the unanimous consent of the Members of the Assembly. Be that as it may, such an action by the Assembly would not constitute an attack on the prerogatives of the President, but rather on the rules the President must enforce. As has been done in the past, to make a motion admissible by unanimous consent, the Assembly could simply choose to authorize the Member to present a new motion that satisfies the admissibility criteria.¹⁷

12 However, even though it was not a ruling per se, the Assembly, at the President's request, consented to rendering admissible certain irregular amendments (JD, June 13, 1995, p. 4002).

13 JD, September 23, 2014, pp. 1809–1810 (Maryse Gaudreault)/RDPP, No. 191/5. Likewise, it is not possible to present a petition declared out of order by the President. See Chapter 8, Subsection 8.2.1, "Rules Governing All Petitions".

14 Since that time, the motion to suspend rules of procedure has been replaced by the motion to introduce an exceptional procedure. For more details on this subject, see Appendix I to this chapter, "From the Motion to Suspend Rules of Procedure to the Motion to Introduce an Exceptional Procedure".

15 JD, December 14, 2004, pp. 6731–6733 (Michel Bissonnet).

16 JD, December 15, 2003, pp. 2667–2669 (Michel Bissonnet)/RDPP, No. 180/2.

17 Since 1998, the Assembly's consent has been obtained several times during the debate on the Opening Speech and the debate on the Budget Speech to allow the presentation of a corrected version of a want of confidence motion that had been declared out of order (VP, April 8, 1998, p. 1923; VP, March 23, 1999, p. 87; VP, March 27, 2001, p. 18; VP, June 11, 2003, p. 44; VP, June 16, 2003, pp. 71–72; VP, March 21, 2006, p. 52; VP, April 2, 2009, pp. 145–146; VP, April 7, 2009, pp. 175–176). Yet, on April 21, 2010, after ruling four motions stating a grievance moved by opposition Members out of order, a Vice-President requested leave of the Assembly to substitute four differently worded motions, but leave was refused (VP, April 21, 2010, pp. 1209–1210).

In any case, since the President's primary responsibility is to ensure that the Assembly's rules of procedure are observed, the President must strive to avoid taking the initiative with regard to unanimous consent. While of course required to take note of the common will of the Members to override certain rules, the President may go one step further and seek to understand the intent underlying such a request, and then propose, if possible, a procedure that complies with the rules of procedure and would produce the same result.

16.1.3 UNANIMOUS CONSENT IN PARLIAMENTARY COMMITTEE

As just seen, the Assembly may depart from its rules of procedure by unanimous consent since it has exclusive power to establish those rules and sole authority to enforce them—with the exception, of course, of rules of procedure provided by law. In other words, Members may decide to adopt a procedure that contradicts a provision of the Standing Orders because the provision was adopted by the Members themselves. But do parliamentary committees have the right to use unanimous consent to override the rules of procedure governing their proceedings?¹⁸

Two Standing Orders and a provision of the Rules for the Conduct of Proceedings expressly allow committees to use unanimous consent to depart from a rule. Thus, under Standing Order 144, a committee may change the schedule of its proceedings in order to continue to sit past the normal suspension or adjournment time.¹⁹ Standing Order 144 also provides that a committee that is to hold a deliberative meeting may decide to meet before the scheduled starting time. Under Standing Order 155, a committee may use the same procedure to disregard the rules pertaining to the allocation of speaking time. Lastly, the second paragraph of Rule 23 of the Rules for the Conduct of Proceedings mentions that, with the unanimous consent of the committee members, the notice of convocation and order of business for a meeting for the examination of financial commitments, and the financial commitment documents themselves, may be forwarded to the parties concerned less than 15 days beforehand.

¹⁸ See Chapter 18, Section 18.2, "Committee Proceedings and Procedures".

¹⁹ In contrast, a committee may not change its hours of meeting without the unanimous consent of its members (JD, September 22, 1986, pp. CET-557-560 and 591-592 (Jean-Pierre Charbonneau)/RDPP (Com. Vol.), No. 144/1). In the case in point, during a deliberative meeting held prior to special consultations, the committee had taken a vote to adopt an order of business determining the length of each hearing and providing that proceedings would continue beyond the time set for their adjournment. It was decided that the total length of each hearing could be determined under Standing Order 171 but that the hours during which the committee could meet could not be changed unless unanimous consent was obtained under Standing Order 144.

Do the three provisions just discussed provide the only opportunities for a committee to override the Standing Orders by unanimous consent? Can the 10 to 12 Members who sit on a parliamentary committee disregard rules adopted by the whole Assembly? A strict, theoretical interpretation of these rules would likely lead to the conclusion that it is not possible for committees to override any rule other than those expressly set out in Standing Orders 144 and 155 and Rule 23 of the Rules for the Conduct of Proceedings.

In practice, however, this is not quite true, due to the context in which parliamentary committee proceedings generally take place. Proceedings in parliamentary committee consist mainly in the detailed examination of various matters. Even though the rules of procedure are paramount in ensuring that this proceeds in an orderly fashion, they may not be suited to the committee's needs in particular cases. Unanimous consent then becomes a useful and flexible means of adapting the rules to actual situations. The risk of abuse of this power is limited by the fact that consent requires the concurrence of all the committee members without distinction.

As in the Assembly, when unanimous consent is requested, the Committee Chair must ensure that the subject of the request is specific enough to allow the scope of the consent to be measured, thus enabling the committee members to fully understand what they are consenting to.²⁰

It is also essential to note that a committee cannot, by unanimous consent, set aside an order of the Assembly directing it to do something. Nor can a committee unanimously consent to allowing a Member to become a temporary member of the committee with voting rights. Only the National Assembly and the Committee on the National Assembly have the power to change a committee's membership and allow a Member to sit and vote on a committee.²¹

16.2 SPECIAL ORDER OF THE ASSEMBLY

Although unanimous consent suffices to override a rule of procedure, in certain cases the Members of the Assembly wish to go beyond a mere departure from the Standing Orders and establish a new temporary procedure. In other words,

²⁰ See footnote 6.

²¹ JD, December 10, 1997, CE-53 p. 1 (Jeanne Blackburn)/RDPP (Com. Vol.), No. 132/2. However, a Member who is not a member of any committee may, of right, take part in the proceedings of a committee, without the right to vote. A Member who already sits on a committee may participate in the proceedings of another committee, but without the right to vote or move motions, with leave of that committee. For more information on these subjects, see Chapter 18, Subsection 18.2.1.7, "Participation of Other Members".

they wish to replace certain permanent orders of the Assembly by temporary orders applicable during the examination of a particular matter or during any other period specified in the motion.

A special order can also be used to establish a new procedure that is not provided for in the permanent rules of procedure. One of the best examples of a special order, usually agreed on by the Government and opposition Members, is a special order establishing the terms for the examination of interim supply estimates.²² Parliamentarians have also used this procedure to speed up the consideration of bills²³ or respond to an important event or to a case of *force majeure*.²⁴

Under Standing Order 188, motions to establish special orders require prior notice on the Order Paper. However, such motions are often presented without prior notice because, with a few rare exceptions, they are moved in response to a sudden, unexpected situation. In such cases, unanimous consent is required in order, among other things, to override Standing Order 188.

Occasionally, a new procedure may conflict with a Standing Order that has not been overridden by unanimous consent. In such a case, the procedure established by special order of the Assembly must be given precedence. In fact, a special order adopted by the Assembly has priority over the permanent order that it implicitly departs from.

22 Such an agreement must be ratified by the Assembly on a motion by the Government House Leader. It then becomes a special order having precedence over any provision of the Standing Orders, in particular with regard to the Assembly's schedule. See for example: VP, March 30, 2015, pp. 909–910; VP, March 22, 2016, pp. 2037–2039; VP, March 28, 2017, pp. 3216–3218; VP, March 27, 2018, pp. 4377–4379; VP, March 21, 2019, pp. 357–359; VP, March 10, 2020, pp. 1813–1815.

23 See, for example, the consideration of Bill 90, *An Act to amend the Act respecting off-highway vehicles* (VP, December 16, 2004, pp. 1541–1542), Bill 52, *An Act respecting end-of-life care* (VP, May 22, 2014, pp. 19–20), Bill 17, *An Act respecting remunerated passenger transportation by automobile* (VP, October 10, 2019, pp. 1200–1201), and Bill 72, *An Act to amend various legislative provisions concerning mainly bodies in the field of public safety* (VP, December 11, 2020, pp. 2947–2948). In such circumstances, the Assembly agrees to set aside the usual rules applicable at the various stages of a bill's consideration in order to proceed more quickly. Such cases differ from the adoption of an exceptional legislative procedure, which forces the acceleration of a bill's consideration without the consent of all Members, since such a procedure requires only a simple majority vote to be adopted. See Section 16.3, "Motion to Introduce an Exceptional Procedure".

24 See, for example, the special order adopted following cancellation of the May 9, 2017 sitting due to heavy flooding (VP, May 10, 2017, pp. 3410–3411) and the special orders adopted in the context of the COVID-19 pandemic (VP, March 17, 2020, pp. 1869–1875; VP, May 13, 2020, pp. 1882–1903; VP, September 15, 2020, pp. 2145–2150; VP, October 20, 2020, pp. 2439–2445).

16.3 MOTION TO INTRODUCE AN EXCEPTIONAL PROCEDURE

Whether given to set aside a rule in a specific case or to allow a special order to be adopted, unanimous consent is a means of departing from rules of procedure that requires a favourable environment and total agreement on the part of all the Members. Since parliamentary proceedings take place in the context of an adversarial political system, it is not always possible to obtain such consent. The Standing Orders therefore provide for a motion to introduce an exceptional procedure, by which the Government may override certain permanent rules of procedure and introduce other rules that will apply until the Assembly completes the examination of a given matter.²⁵ This exceptional procedure only requires a simple majority in order to be adopted.

We will now examine the various rules governing motions to introduce an exceptional procedure, from the time they are moved to their effects after being carried.

16.3.1 MOVING THE MOTION

Under Standing Order 182, the Government House Leader may, without notice, move a motion to introduce an exceptional procedure for the consideration of a matter whether or not the matter is already on the Order Paper. Since the motion does not require prior notice, it may be introduced either at the stage of Routine Proceedings set aside for motions without notice or during Orders of the Day.²⁶ Each such motion may introduce an exceptional procedure to deal with one matter at a time. The motion is discussed in a limited debate,²⁷ but it may neither be amended nor divided.

25 For the history of this motion, see Appendix I, “From the Motion to Suspend Rules of Procedure to the Motion to Introduce an Exceptional Procedure”.

26 JD, December 19, 1988, pp. 4324–4332 (Pierre Lorrain)/RDPP, No. 84/7. However, as seen in Chapter 6, if such a motion is moved during an extraordinary sitting, it must be moved at the stage of Routine Proceedings reserved for motions without notice, and it must be preceded by a motion to determine the time frame for the extraordinary sitting or sittings that specifies the matters for which the Assembly has been summoned (SO 26.1, 1st para.). The reasons for summoning the Assembly, the motion setting the time frame and the motion to introduce an exceptional procedure are then the subject of a single limited debate, which is subject to Standing Order 210. See Chapter 6, Subsection 6.3.2.2, “Conduct of Extraordinary Sitings”.

27 This debate is limited to two hours (SO 182 and 210), unless the Assembly has been summoned for extraordinary sittings for the consideration of more than one matter. In such a case, each subsequent motion to introduce an exceptional procedure after the first such motion is debated for up to one hour (SO 27.1). See also: JD, June 15, 2019, pp. 3694–3696 (François Paradis)/RDPP, No. 26.1/4. On one occasion, a motion to introduce an exceptional procedure was carried without debate (JD, June 10, 2016, pp. 11749–11750).

If the motion to introduce an exceptional procedure pertains to a matter not entered on the Order Paper, it must be accompanied by the text of the motion or bill concerned, as applicable (SO 184).²⁸ Since a bill becomes public once distributed, Standing Order 182 is a departure from the rule that a bill cannot be made public until the Assembly has decided to take it up.²⁹ In addition, under Standing Order 184 only the bill must be distributed: even if a document is referred to in the bill, its distribution is not required.³⁰

Until it is carried, a motion to introduce an exceptional procedure may be the subject of a withdrawal motion. In contrast to the general rule, a motion to withdraw a motion to introduce an exceptional procedure is to be put to a vote without debate (SO 195, 3rd para.).

16.3.2 CONTENT AND ADMISSIBILITY OF THE MOTION

Since a motion to introduce an exceptional procedure may concern only the consideration of a single matter, it may not propose a special procedure for the consideration of more than one matter³¹ or provide that two matters will be considered on an alternating basis.³² Moreover, a motion to introduce an exceptional procedure may not be moved if the Assembly has already taken up a matter covered by such a motion.³³

If the purpose of the motion is to allow consideration of a bill, Standing Order 184.1 provides that the exceptional legislative procedure provided for in Standing Orders 257.1 to 257.10 is to be followed. If the purpose of the motion is to allow consideration of another motion, it must specify the duration of the debate on that motion, failing which Standing Order 209 applies.³⁴

The motion does not have to list the rules that are to be suspended.³⁵ The elements that could be set out in the motion include sitting times, the voting procedure, and any other rule the Government House Leader may wish to apply, provided that the rule is not incompatible with the Standing Orders that relate

28 JD, March 21, 2000, pp. 5068–5071 (Jean-Pierre Charbonneau).

29 JD, December 17, 1996, pp. 4682–4683 (Jean-Pierre Charbonneau).

30 JD, March 21, 1997, pp. 5445–5446 (Jean-Pierre Charbonneau).

31 A bill constitutes one matter, regardless of the number of principles it may contain (JD, April 20, 2015, p. 5573 (Jacques Chagnon)/RDPP, No. 182/31).

32 JD, June 15, 2019, pp. 3694–3696 (François Paradis)/RDPP, No. 26.1/4.

33 However, the Standing Orders provide for what happens if, during an extraordinary sitting, at the conclusion of a first exceptional procedure, the Assembly is called on to examine another matter by way of such a procedure (SO 27.1).

34 Since coming into force, the motion to introduce an exceptional procedure has been used mainly to implement the exceptional legislative procedure. It was also used once to conclude the consideration of annual appropriations. (VP, July 3, 2014, pp. 199–200).

35 JD, June 11, 2002, pp. 6794–6795 (Raymond Brouillet)/RDPP, No. 182/23; JD, October 18, 2010, pp. 1632–1633 (Yvon Vallières)/RDPP, No. 26.1/2.

to the exceptional procedure (SO 182, 3rd para.). For instance, the motion could say that the Assembly may sit regardless of the hours determined for the suspension and the adjournment of the sitting.³⁶

The President does not have to rule on the advisability of moving a motion to introduce an exceptional procedure with respect to a bill, even when the bill proposes to amend an Act that the Members view as fundamental. The Standing Orders make no distinction as to the nature of the bills that may be covered by such a motion.³⁷

Moreover, it is not up to the President to rule on the legality of the provisions contained in a bill that is the subject of such a motion, nor on the legal effects of the bill or its conformity with other legislative provisions. The President's only role is to determine whether the motion satisfies the procedural requirements set out in the Standing Orders.³⁸ It is not incumbent on the President to interpret legal rules other than those that concern parliamentary procedure.³⁹

It is also not incumbent on the President to interfere in the content of a bill or to ensure that the French and English versions of a bill coincide. The President's responsibility is rather to enforce the rules of parliamentary procedure, while the Members of the Assembly are responsible for seeing that the texts of the bills on which they vote are in agreement.⁴⁰

16.3.3 DEBATE ON THE MOTION AND EFFECTS ONCE CARRIED

As seen earlier, only one motion to introduce an exceptional procedure may be before the Assembly at any one time (SO 182, 4th para.). The limited debate on such a motion has precedence over the items of business listed in the first paragraph of Standing Order 87 (SO 184.2, 1st para.). If debate on the motion has not concluded at the time set for the adjournment of the sitting, it is continued at the next sitting,⁴¹ and no other matter may be debated in the meantime.

As soon as the motion to introduce an exceptional procedure is carried, the Standing Orders incompatible with the procedure set out in the motion are implicitly suspended for the purpose of considering the matter covered by the motion, subject to the Standing Orders relating to the exceptional procedure (SO 182, 3rd para.). The President once recognized, for instance, that if there is

36 JD, April 20, 2015, p. 5573 (Jacques Chagnon)/RDPP, No. 182/31.

37 JD, June 18, 1998, pp. 12112–12113 (Claude Pinard).

38 Ibid.

39 JD, December 14, 2004, pp. 6731–6733 (Michel Bissonnet).

40 JD, July 2, 1999, p. 2885 (Jean-Pierre Charbonneau)/RDPP, No. 182/17.

41 JD, December 16, 2003, pp. 2698–2699 (Michel Bissonnet)/RDPP, No. 51/1.

a conflict between the motion and the Standing Orders relating to the timetable and calendar of the Assembly, the latter are automatically suspended once the motion is carried.⁴²

As was the case for limited debate on the motion to introduce an exceptional procedure, the debate on the matter covered by the procedure has precedence over the items of business listed in the first paragraph of Standing Order 87 (SO 184.2, 1st para.).

Despite Standing Order 100, under which a Member may propose adjournment of a debate, only a minister or a deputy Government House Leader may propose adjournment of the debate on a matter that is the subject of a motion to introduce an exceptional procedure. Since the Assembly cannot take up any other business before the conclusion of the exceptional procedure (SO 184.2, 3rd para.), it also cannot begin or continue the consideration of any other business, even if a motion to adjourn the debate is carried. In order to move on to the consideration of other business, the Assembly must first carry a motion without notice to rescind the exceptional procedure. The same applies to moving a new motion to introduce an exceptional procedure. The rescission motion, which may be moved only by a minister, is put to a vote without debate (SO 186, 3rd para.).

16.3.4 IMPLEMENTATION OF THE EXCEPTIONAL LEGISLATIVE PROCEDURE

Standing Orders 257.1 to 257.10 set out a particular exceptional procedure that provides a predetermined framework for the consideration of bills: the exceptional legislative procedure. This procedure applies when the purpose of the motion is to introduce an exceptional procedure to allow the consideration of a bill (SO 184.1).

The exceptional legislative procedure may be introduced with regard to any bill at any stage (SO 257.1), except a bill that has been the subject of a closure motion, which may not be the subject of a motion to introduce an exceptional procedure (SO 251).

The exceptional legislative procedure determines the duration of debate at each of the stages in the consideration of a bill not previously completed in the manner specified in the Standing Orders. Five hours are allotted for the debate on passage in principle, excluding the time elapsed before the motion was carried but including any debate on a motion to divide the bill (SO 257.1(1)). If such a motion is ruled in order, the debate continues both on the motion to divide the bill and on the principle of the bill. If the motion to divide the bill is

42 JD, October 18, 2010, pp. 1632-1633 (Yvon Vallières)/RDPP, No. 26.1/2; JD, June 15, 2019, pp. 3694-3696 (François Paradis)/RDPP, No. 26.1/4.

carried, then, as provided for in Standing Order 241, the bills resulting from the division must be placed on the Order Paper again at the introduction stage (SO 257.2).

Five hours are allotted for clause-by-clause consideration in committee (SO 257.1(2)), and the bill is considered in a Committee of the Whole (SO 257.4, 1st para.).⁴³ If the bill has already reached the clause-by-clause consideration stage in a standing committee when the motion to introduce an exceptional procedure is carried, that committee must immediately interrupt its proceedings and report to the Assembly within the hour.⁴⁴ The Assembly's proceedings are suspended until the expiry of this period.⁴⁵ The committee's report is tabled on resumption of Assembly proceedings (SO 257.3, 1st para.). It consists of the text of the bill at the stage reached when the committee interrupted its proceedings as well as the minutes of those proceedings, and states whether the committee had completed consideration of the bill. If not previously completed, consideration is resumed in a Committee of the Whole (SO 257.3, 2nd para.), with the examination in numerical order of the sections not previously adopted, including those whose consideration had been suspended by the committee. If consideration of a section was in progress when the standing committee stopped its work, the speaking time already used up for that section is disregarded when consideration of the section is resumed in Committee of the Whole. Likewise, if the standing committee was debating an amendment not yet adopted, the amendment must be re-introduced during consideration of the section being amended.

At the end of the five-hour period provided for clause-by-clause consideration, the Committee of the Whole interrupts its proceedings and reports to the Assembly (SO 257.4, 2nd para.). The Committee report consists of the text of the bill at the stage it had reached when the Committee interrupted its

43 Any preliminary motion proposing to hear a group is inadmissible if moved during the clause-by-clause consideration of a bill in a Committee of the Whole under an exceptional legislative procedure (JD, February 27, 2017, pp. 13982–13983 (François Gendron)/RDPP, No. 244/8).

44 However, if the standing committee has not begun the clause-by-clause consideration of the bill, it is not required to table a report in the Assembly to give an account of the progress of its proceedings, since there were no such proceedings. Thus, immediately after the motion setting the time frame, if applicable, and the motion to introduce an exceptional procedure have been carried, the Assembly may resolve itself into a Committee of the Whole without a suspension to allow the tabling of the committee's report (JD, December 9, 2013, p. 6272).

45 The Assembly's proceedings may, however, resume before the expiry of the one-hour period if the report is ready to be tabled before that period expires. (See, for example: JD, April 20, 2015, pp. 5593–5594; JD, December 9, 2016, p. 13409; JD, June 15, 2019, p. 3721; JD, June 16, 2019, p. 3826; JD, December 7, 2019, p. 6112; JD, February 7, 2020, p. 6355). In one case, the Assembly, with the Members' consent, did not even suspend its proceedings at all in order to table the committee's report (JD, February 6, 2015, p. 3314).

proceedings as well as the minutes of those proceedings, and states whether the Committee completed consideration of the bill (SO 257.5). Assembly proceedings are then adjourned.

Members have one hour to send the office of the Secretary General a copy of any amendments they intend to propose. The Secretary General immediately forwards a copy to the House leader of each parliamentary group and to every independent Member. The President then decides whether the amendments are admissible and may make a selection among them so as to prevent repetition and overlapping (SO 257.6).

The debate on the Committee report begins not less than one hour after the expiry of the time limit for the transmission of amendments (SO 275.6). This is a notable exception to the rule under which the report on the clause-by-clause consideration of a bill in a Committee of the Whole is put to a vote without debate (SO 248). The debate lasts one hour. At the expiry of that time, each amendment is read from the Chair before being voted on. Then the question is put on the sections of the bill as amended, any sections not dealt with by the Committee and all remaining elements of the bill, without the President reading them beforehand. Voting is conducted by a show of hands. The adopted sections and elements, amended or not, are incorporated in the report, which is then voted on in its final form (SO 257.7).

Depending on the number of amendments presented, reading each one before it is put to a vote can take considerable time. This is why the vote on the amendments may be deferred to Orders of the Day on a subsequent sitting day at the request of the Government House Leader. The amendments are then put to a vote without the President reading each one. However, in order to give the Members enough time to examine the amendments, they may not be put to a vote less than 10 hours after being forwarded by the Secretary General (SO 257.8, 1st para.).⁴⁶

The President convenes the House leaders of the parliamentary groups in order to organize the vote on the amendments. If the House leaders cannot reach an agreement, the question is put on each amendment separately, but the amendment is not read from the Chair before it is voted on by a show of hands. The question is then put on the sections of the bill as amended, any sections not dealt with by the Committee, and all remaining elements of the bill, one at a

46 When the Assembly sits at the usual times, 10 hours inevitably pass between the forwarding of the amendments and their consideration at a subsequent sitting, since a sitting of the Assembly begins no earlier than 9:40 a.m. with Routine Proceedings, which include a 45-minute Question Period. The reason the 10-hour period is nonetheless specified in the Standing Orders is that the Assembly may be required to sit in extraordinary sittings outside the periods, days or hours provided for in the Standing Orders.

time. Again, voting is conducted by a show of hands. The adopted sections and other elements of the bill, amended or not, are incorporated in the report, which is then voted on in its final form (SO 257.8).

The debate on the passage of the bill lasts one hour (SO 257.1(4)). During the debate, the sponsor of the bill may, without notice, move that it be referred to a Committee of the Whole for consideration of one or more amendments specified by the sponsor. The motion is voted on immediately, without debate, by a show of hands. If the motion is carried, the debate on the passage of the bill is then suspended. The amendments are considered in a Committee of the Whole for a period not exceeding 30 minutes, during which each amendment is read from the Chair before being voted on by a show of hands. After this period, the question is put in the same manner on any amendments not yet dealt with. The report from the Committee of the Whole is then voted on, without debate, by a show of hands (SO 257.9).

Once the amendments have been considered and the Committee report adopted, the debate on the passage of the bill resumes until the time specified in the motion to introduce an exceptional legislative procedure has elapsed, excluding the 30 minutes spent considering amendments in the Committee of the Whole.

Finally, the rules relating to bills, except Standing Order 240 on hoist motions, apply to the exceptional legislative procedure insofar as they are compatible with the motion to introduce an exceptional procedure (SO 257.10).

The following table shows the various stages in an exceptional legislative procedure:

EXCEPTIONAL LEGISLATIVE PROCEDURE

STAGE	LENGTH OF DEBATE
Passage in principle	5 hours
Clause-by-clause consideration (Committee of the Whole)	5 hours
Report stage	1 hour
Passage	1 hour

APPENDIX I FROM THE MOTION TO SUSPEND RULES OF PROCEDURE TO THE MOTION TO INTRODUCE AN EXCEPTIONAL PROCEDURE

Originally, far from being a means to muzzle the opposition, the motion to suspend rules of procedure, which could only be carried by a unanimous vote of the Members of the Assembly, was intended for dealing with unusual situations. In 1941, the unanimity requirement was dropped but, if urgency was invoked, the suspension motion had to be preceded by another motion setting out the grounds for urgent action and justifying suspension of the rules.⁴⁷

In 1972, the rule was relaxed so that the motion no longer had to be preceded by a motion reciting the grounds on which it was moved, such a recital now being included in the text of the motion itself.⁴⁸ In 1984, the rule was relaxed further: it was no longer necessary to include a recital of grounds; instead, it was only necessary to mention urgency in the motion without notice moved by the Government House Leader.

The year 1992 marked a turning point in the history of the motion to suspend rules of procedure: the Government used the motion to rapidly pass 28 bills in half a day, just before the Assembly adjourned for the summer. This was the first time the motion to suspend rules was used to accelerate the passage of a large number of bills, a practice that subsequently became standard during the periods of extended hours in June and December when the Government had to push its legislative agenda through before the adjournment dates set in the Standing Orders.

On December 19, 2000, the President handed down a significant ruling on the use of the motion to suspend rules of procedure. The motion in question, which concerned four bills, proposed very short debating times for each uncompleted

47 Geoffrion 1941, SO 219(2). "But the urgency shall only be declared with the unanimous consent of the house, except when the suspension of a rule has in view the vote of a bill, or of resolutions preliminary to a bill, or of estimates." It is to be noted that as the new Standing Orders came into force only on the closing of the session (VP, May 8, 1941, p. 290), the amendments were not effective until the beginning of the following session, on February 24, 1942.

48 1972-1984 Standing Orders, SO 84(2).

stage of their consideration. According to the opposition, the motion was out of order because it amounted to a denial of the Members' constitutional privilege of freedom of speech. The President rejected this argument, making a distinction between that constitutional privilege and speaking time as such. He pointed out that although freedom of speech is both the least disputed and the most fundamental right of a Member within the House, it is limited by the rules of parliamentary debate which the Members unanimously agreed to when the Standing Orders were adopted. The motion to suspend rules was part of those rules, and the President did not consider that he could amend the motion on his own initiative, even though he recognized that it was not the best parliamentary tool at the Assembly's disposal for setting a time frame for the credible consideration of a bill in keeping with fundamental democratic principles.⁴⁹

In the ruling, the President invited the Members to take matters in hand and replace the motion to suspend rules of procedure by a procedure guaranteeing Members a minimum of speaking time for the consideration of a bill, as suggested in his proposed parliamentary reform tabled in the Assembly in 1998. One year later, on December 6, 2001, the Assembly adopted temporary amendments to the Standing Orders and the Rules for the Conduct of Proceedings. One of the major changes was the replacement of the motion to suspend rules of procedure by the motion to introduce an exceptional procedure. Standing Order 182 was amended to allow the Government House Leader to move, without notice, a motion to introduce an exceptional procedure for the consideration of a matter, whether or not the matter was already on the Order Paper. The amended rules were renewed twice, on June 5, 2002,⁵⁰ and December 19, 2002,⁵¹ but not at the beginning of the 37th Legislature.⁵² However, during the ongoing parliamentary reform process, discussions continued from one legislature to the next on the possibility of permanently replacing the motion to suspend rules of procedure.

As its name indicates, the motion to suspend rules of procedure allowed the Government House Leader to propose the suspension of certain permanent rules and their temporary replacement by other rules set out in the motion. Since there were no limits on recourse to such a motion, its effects were almost boundless: virtually all of the Standing Orders could be suspended while the Government pushed through its proposed measures. This could lead to the adoption of important measures without any real debate being held in the Assembly, which is why the motion was frequently referred to as a "gag order" or "guillotine". To address the issue, on April 21, 2009, the National Assembly

49 JD, December 19, 2000, pp. 8933–8934 (Jean-Pierre Charbonneau).

50 VP, June 5, 2002, pp. 1129–1154.

51 VP, December 19, 2002, pp. 1586–1600.

52 VP, November 19, 2003, p. 276.

adopted a permanent reform of the Standing Orders,⁵³ which included the immediate replacement of the motion to suspend rules of procedure by a new motion to introduce an exceptional procedure very similar to the one that had been temporarily in force during the 36th Legislature. Until its replacement, the motion to suspend rules of procedure had an important impact on proceedings and gave rise to considerable jurisprudence.

There are several differences between the motion to suspend the rules of procedure and the motion to introduce an exceptional procedure.

First, while the Government House Leader could previously use a motion to suspend the rules of procedure to settle a number of matters, the Standing Orders now impose a strict limit on the Government by prescribing that the motion to introduce an exceptional procedure may be used to deal with only one matter at a time (SO 182). This is a major change from the motion to suspend rules of procedure, which often covered several bills.

In addition, the motion to introduce an exceptional procedure does not require prior notice and the Government House Leader no longer needs to invoke urgency. In comparison, the motion to suspend the rules of procedure used to require a notice on the Order Paper, unless urgency was invoked, which was actually the case most of the time. Abundant jurisprudence established that it was not the President's duty to determine whether the urgency invoked to introduce a motion to suspend the rules of procedure was real or not. Only the Assembly could decide, by a vote at the end of the limited debate on the motion, if it was urgent to suspend certain rules of procedure.⁵⁴ Therefore, the urgency did not have to be proven by the mover of the motion or confirmed by the President. It was only necessary to invoke the urgency in the motion⁵⁵ or when

53 *La réforme parlementaire 2009*, Sessional Paper No. 247-20090421, April 21, 2009 (VP, April 21, 2009, p. 216).

54 JD, August 18, 1977, pp. 3051 and 3055-3056 (Clément Richard); JD, December 17, 1992, pp. 4892-4903 (Jean-Pierre Saintonge); JD, June 17, 1993, pp. 7891-7903 (Jean-Pierre Saintonge); JD, June 18, 1987, pp. 8681-8688 (Pierre Lorrain); JD, December 19, 1988, pp. 4324-4332 (Pierre Lorrain); JD, December 19, 1988, pp. 4333-4344 (Pierre Lorrain); JD, June 16, 1993, pp. 7812-7813 (Michel Bissonnet); JD, May 14, 1996, p. 1046 (Jean-Pierre Charbonneau); JD, December 20, 1996, pp. 5056-5057 (Jean-Pierre Charbonneau); JD, March 12, 1998, p. 9885 (Jean-Pierre Charbonneau); JD, June 18, 1998, pp. 12112-12113 (Claude Pinard); JD, June 15, 2000, pp. 7019-7020 (Claude Pinard).

55 JD, June 16, 1993, pp. 7812-7813 (Michel Bissonnet); JD, June 18, 1998, pp. 12112-12113 (Claude Pinard).

the motion was moved,⁵⁶ and it was up to the Assembly to rule on that aspect at the time of vote. A motion to suspend the rules of procedure did not have to contain grounds for the urgency invoked.⁵⁷

While former Standing Order 182 provided that the Government House Leader or any other minister could move the suspension of a rule of procedure, the Standing Order that has since replaced it simply provides that a motion to introduce an exceptional procedure may be moved, without notice, by the Government House Leader. Furthermore, unlike the motion to suspend rules of procedure, which could be moved only by a minister, the motion to introduce an exceptional procedure may also be moved by a deputy Government House Leader who does not hold ministerial office.

Jurisprudence established that the motion to suspend the rules of procedure comprised two elements: the suspension of the rules as such and the replacement of the suspended rules (1985 SO 182). Therefore, to introduce new rules of procedure by means of a motion to suspend rules, it was essential to first suspend the rules of procedure already set out in the Standing Orders so that a new rule could not contradict a provision of the Standing Orders.⁵⁸ That is not the case for a motion to introduce an exceptional procedure, since the provisions of the Standing Orders that are incompatible with the procedure set out in the motion are implicitly suspended for the purpose of considering the matter covered by the motion, once carried (SO 182, 3rd para.).

With regard to the exceptional legislative procedure, the Standing Orders provide set time periods for each stage remaining to be completed in the consideration of a bill. This was not true of the motion to suspend the rules of procedure, and the duration of the stages remaining to be completed could therefore vary greatly.

Lastly, if the purpose of the motion to introduce an exceptional procedure is to allow a motion not on the Order Paper to be carried or a bill not yet introduced to be passed, the motion or bill concerned must be distributed at the time the motion is moved (SO 184). In contrast, in cases where the purpose of the former motion to suspend rules of procedure was to allow the consideration of a bill, the bill had to be distributed at the time the motion was moved, but the Standing Orders were silent about any such obligation in cases where the purpose of such a motion was to allow another motion to be carried. The new Standing Orders therefore fill a void that the President had noted in a ruling handed down in 2000.⁵⁹

56 JD, May 14, 1996, p. 1046 (Jean-Pierre Charbonneau); JD, June 16, 1993, pp. 7812-7813 (Michel Bissonnet).

57 JD, December 19, 1988, pp. 4333-4344 (Pierre Lorrain).

58 JD, February 3, 1995, p. 1350 (Roger Bertrand).

59 JD, March 21, 2000, pp. 5068-5071 (Jean-Pierre Charbonneau).

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■ **CHAPTER 17**
COMMITTEES OF THE WHOLE

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17

COMMITTEES OF THE WHOLE

The Assembly may choose to entrust consideration of a matter to one of its standing committees or, instead, to a Committee of the Whole, which is its largest committee, consisting of all the Members. A Committee of the Whole is simply the Assembly itself, transformed into a committee by a regulatory fiction to consider a matter referred to it by the Assembly.

The Assembly may not resolve itself into a Committee of the Whole, however, until a matter is referred to it. The Standing Orders explicitly provide that certain matters must be referred to a Committee of the Whole. These include the consideration of interim supply (SO 280), examination of the estimates of expenditure for the National Assembly (SO 286), consideration of supplementary estimates (SO 290), consideration of amendments proposed at the passage stage of a bill (SO 257) and, as explained in Chapter 16, clause-by-clause consideration of bills for which an exceptional legislative procedure has been introduced. The Assembly may also have a range of other reasons for considering it preferable to send a matter to a Committee of the Whole rather than to a standing committee.

However, a matter that must be referred to a specific standing committee under the Standing Orders may not be committed to a Committee of the Whole unless there is unanimous consent or a special order. Such matters include the debate on the budget speech held in the Committee on Public Finance (SO 272 and 275), the hearing of the Auditor General on the Auditor's annual management report before the Committee on Public Administration (SO 117.6(2)) and the annual hearing of the Public Protector (Québec Ombudsman) and the Chief Electoral Officer before the Committee on Institutions (SO 294.1).¹

1 See Chapter 19, Section 19.6, "Mandates Specific to Certain Committees".

17.1 HOW COMMITTEES OF THE WHOLE FUNCTION

Until 2009, the Standing Orders were not very explicit with respect to Committees of the Whole, since they contained only a few provisions on the subject. The parliamentary reform clarified how Committees of the Whole operate by adapting the rules to long-established practices and introducing a number of changes.

17.1.1 ESTABLISHING A COMMITTEE OF THE WHOLE

The Assembly resolves itself into a Committee of the Whole during Orders of the Day, following the carrying of a motion without notice moved by the Government House Leader and decided without debate (SO 108). As soon as the motion is carried, the President² suspends the sitting to allow the Members, their political attachés and the public servants accompanying ministers to take a seat in the Chamber.

Under the Standing Orders in force prior to 2009, the President of the Assembly designated the Chair of the Committee of the Whole.³ In practice, however, the Vice-President presiding over the Assembly sitting assumed the role of Committee Chair when the Assembly resolved itself into a Committee of the Whole. This practice was codified in the 2009 reform of the Standing Orders, which stipulated that one of the Assembly's three Vice-Presidents must act as Chair of the Committee of the Whole (SO 109). The Vice-President presiding over the sitting when the Assembly resolves itself into a Committee of the Whole leaves the President's Chair and takes the chair generally reserved for the Secretary General at the Table in the middle of the Assembly Chamber.

To symbolize the fact that it is no longer the Assembly but rather a Committee of the Whole that is sitting, the Mace is removed from the surface of the Table and placed in the brackets on its south side. Two Table officers act as Committee clerks.

2 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

3 1985 Standing Orders, SO 109.



When the Assembly resolves itself into a Committee of the Whole, the Mace is removed from the top of the Table and placed in the brackets.

17.1.2 ORDER AND DECORUM

Given that a Committee of the Whole is composed of all the Members of the Assembly, the quorum is the same as for the Assembly, that is, one-sixth of the Members, including the Chair. The quorum is reduced to one-tenth of the Members, including the Chair, when a parliamentary committee is meeting (ANA, s. 8). The Standing Orders in force from 1972 to 1984 required the Chair of a Committee of the Whole to establish quorum before calling the Committee to order.⁴ However, this rule was not retained in the current Standing Orders.

Once proceedings of the Committee of the Whole have begun, the Committee Chair rules on points of order or procedure; such rulings may not be appealed. The Chair has the same powers as the President of the Assembly, as do the Chairs of the standing committees.

In a Committee of the Whole, Members are not required to sit in the seat assigned to them by the President of the National Assembly, except during a recorded division (SO 109.1), since Committee of the Whole proceedings more closely resemble those of a standing committee, whose purpose is to carry out the detailed consideration of a matter, than those of the Assembly, which consist mainly of speeches. The committee context fosters numerous exchanges between the Members, mainly between the minister responsible for the matter under consideration and the corresponding critic from each opposition party and, where applicable, the independent Members. To facilitate discussion, the

⁴ 1972–1984 Standing Orders, SO 28(2).

minister and the Member from the Official Opposition face each other, occupying the seats of the Government House Leader and the Official Opposition House Leader, respectively. This also facilitates the work of the Committee Chair, who is seated at the Table in the middle of the Chamber.⁴ Members from the other opposition groups and independent Members occupy the seats in the first row to the left of the Chair. As is the case for parliamentary committee proceedings, the rules governing Committee of the Whole proceedings are more flexible than those governing Assembly proceedings. For instance, the Members are not required to rise to be given the floor or to speak.⁵

As in standing committees, which have similar orders of reference, ministers may be accompanied by public servants in Committees of the Whole. Following a long-established practice, public servants may attend proceedings but are not entitled to speak without the consent of the Committee. Advisers to opposition Members may also be present.⁶

17.1.3 PUTTING THE QUESTION

Until 2009, voting in a Committee of the Whole was conducted by a show of hands unless a Member requested a standing vote, which corresponded to a recorded division in the House.⁷ However, unlike in the case of a recorded division, the division bells were not rung throughout the Assembly precincts to invite the Members to take part. The minutes recorded the result of the vote, but not the names of the Members who had voted. A detailed procedure for voting in Committees of the Whole had been established by a private ruling rendered in 2000.⁸

Since the 2009 parliamentary reform, voting in Committees of the Whole has been conducted in the same way as in the Assembly: the Members vote either by a show of hands or by a recorded division. A recorded division must now be requested by at least five Members, as opposed to just one. However, in the case of a recorded division in a Committee of the Whole, the question must be put immediately since Standing Order 114.2 provides that, subject to Standing Order 223, Standing Orders 219 to 228 apply to votes held in Committees of the Whole. Under Standing Order 223, a recorded division may be deferred until later on the same sitting day or until Routine Proceedings of the following sitting day. Given that Routine Proceedings take place only in the Assembly, a recorded division may be deferred only in the Assembly itself.

5 JD, March 30, 2001, p. 554 (Raymond Brouillet).

6 JD, May 24, 2001, pp. 1470–1471 (Raymond Brouillet).

7 Geoffrion 1941, SO 351; JD, December 21, 1988, pp. 4545–4547 (Jean-Pierre Saintonge).

8 This ruling was tabled in the Assembly the next day (JD, April 19, 2000, p. 5657 (Jean-Pierre Charbonneau)).

Persons who are not Members but who assist the latter are asked to leave the Chamber before the vote so that the Members can take their assigned seats (SO 109.1). As is the case for any recorded division, no one may enter the Chamber after the question is put, or leave before the result is announced (SO 225).

The Vice-President presiding over the Committee of the Whole remains seated at the Table throughout the vote. Like the President of the Assembly, the Vice-President has only a casting vote. Following the vote, the Vice-President announces the result after consulting a Table officer, who informs the Vice-President of the number of yeas, nays and abstentions.

17.1.4 REPORT OF THE COMMITTEE OF THE WHOLE

When the Committee of the Whole has concluded consideration of a matter and before adjourning its proceedings, the Chair asks the persons accompanying the Members to leave the Chamber. Proceedings are then adjourned and the Committee rises. A few minutes later, the Assembly reconvenes and its proceedings resume.

At this point, a Member who was present during the proceedings of the Committee of the Whole must report to the Assembly without the Committee or the Assembly being consulted, that is, without further formality (SO 110). The Member gives a very brief oral report informing the President that the Committee has concluded its mandate and giving the conclusions of its deliberations. Although the Standing Orders in force until 2009 stipulated that it was the Chair of the Committee of the Whole who was responsible for reporting to the President of the Assembly,⁹ the new rule brought into force in 2009 codified the current practice that had actually already been followed for years.

As seen earlier, the Vice-President presiding over the proceedings of the Assembly generally becomes the Committee Chair when the Assembly resolves itself into a Committee of the Whole, and the opposite occurs when the Committee proceedings end: the Vice-President chairing the Committee of the Whole returns to the President's Chair to receive the Committee report, which is made by any Member who was present during the Committee proceedings.

⁹ 1985 Standing Orders, SO 110.

If the Committee of the Whole has not fully considered a matter by the scheduled recess of the Assembly, the Committee Chair rises and the proceedings are suspended (SO 111). If a vote is in progress, however, the Chair must, as is the case in the Assembly, wait until the result has been announced before suspending the proceedings (SO 103).¹⁰

When a matter referred to a Committee of the Whole has not been fully considered by the time scheduled for the Assembly to rise, Committee proceedings are adjourned to a later sitting day, unless a vote is in progress. A Member who was present during the Committee proceedings reports progress to the Assembly and the Assembly rises (SO 112). The adjournment of Committee proceedings does not result in the adjournment of Assembly proceedings, which explains why the Committee must report to the Assembly. The President then adjourns the Assembly sitting.

During Committee proceedings, any Member may, without notice, move that the Committee adjourn proceedings (SO 113). A motion to adjourn can be moved only once during a sitting, except by a minister. This motion, which may not be amended, may be discussed in a debate during which the mover and a representative of each parliamentary group may speak for up to ten minutes and the mover may reply for up to five minutes (SO 114).

Such a motion is, in fact, equivalent to a motion to adjourn the debate moved in the Assembly under Standing Order 100. If the motion is carried, proceedings are adjourned to a later sitting day even though the Committee has not finished deliberating, and progress is reported to the Assembly by a Member who was present during the proceedings of the Committee (SO 114.1). Since the motion does not relieve the Committee of its mandate, a motion by the Government House Leader suffices to resolve the Assembly into a Committee of the Whole to resume consideration of the matter referred to it.

10 Before the 2009 parliamentary reform, the procedure varied, depending on whether or not the proceedings occurred during extended hours of meeting. During ordinary hours of meeting, if consideration of a matter referred to the Committee of the Whole had not been concluded by the time scheduled for suspension, the Chair rose without question put and reported progress to the President of the Assembly, unless a vote was in progress. Committee proceedings were then adjourned. However, during extended hours of meeting, the Chair rose and the proceedings were suspended (1985 Standing Orders, SO 111). The difference can be explained by the fact that, during ordinary hours of meeting, Routine Proceedings were held at 2:00 p.m., immediately after the suspension, but during extended hours of meeting, they took place at 10:00 a.m., at the opening of the sitting. During ordinary hours of meeting, the Committee of the Whole was unable to resume proceedings until after Routine Proceedings, whereas during extended hours of meeting, it could do so in the afternoon.

17.2 MAIN ORDERS OF REFERENCE

Subject to the provisions of the Standing Orders that explicitly commit the consideration of certain matters to specific standing committees, the Assembly may opt to refer a matter to a Committee of the Whole rather than to a standing committee. Aside from the previously mentioned matters that must be referred to it, the main order of reference committed to a Committee of the Whole by the Assembly is the clause-by-clause consideration of bills. The Assembly usually chooses to commit clause-by-clause consideration to a Committee of the Whole rather than to a standing committee when the bill is short and uncontroversial. Otherwise, the standing committee remains a more appropriate forum.

17.2.1 CLAUSE-BY-CLAUSE CONSIDERATION OF BILLS

The Standing Orders provide that after the second stage in the legislative process, that is, the passage in principle of a bill, the Government House Leader moves without notice to refer the bill to the appropriate committee or to a Committee of the Whole for clause-by-clause consideration (SO 243).

Sending a bill to a Committee of the Whole often results from prior discussions between the parliamentary groups. When a bill is not contested, and the Members agree to pass it quickly, its clause-by-clause consideration in a Committee of the Whole may be appropriate, allowing one of the five stages in the consideration of a bill, that is, the report stage, to be virtually skipped.

Although the Standing Orders provide that each of the five stages in the consideration of a bill must take place on separate sitting days, the passage in principle and the committee stage can occur on the same sitting day. If the committee stage of a bill takes place in a Committee of the Whole, the Committee's report may also be adopted during the same sitting (SO 230) since it is given orally to the Assembly immediately after Committee proceedings. Standing Order 248 provides that, when clause-by-clause consideration occurs in a Committee of the Whole, the report consists of the text of the bill as agreed to in Committee. In practice, the text of the bill is not tabled in the Assembly. The Chair of the Committee of the Whole simply makes an oral report stating that the Committee has completed consideration of the bill and specifying whether the Committee adopted the bill and whether there were any amendments. The report is not taken into consideration by the Assembly, unlike standing committee reports, since it is voted on without debate (SO 248).

As a result, Standing Order 252, which allows time for Members to send the Secretary General's office a copy of their proposed amendments to the Committee report, does not apply to a report of the Committee of the Whole.¹¹

The procedure is quite different when clause-by-clause consideration of a bill takes place in a standing committee. First, the committee report is more detailed, consisting of the minutes of its proceedings and the text of the bill as agreed to by the committee. Second, the Committee Chair must table the report in the Assembly during the part of Routine Proceedings reserved for that purpose. Before 10:00 p.m. on the day the report is tabled, Members may send the Secretary General's office a copy of their proposed amendments to the report (SO 252). The Assembly may take the report into consideration during a debate in the following sitting, a debate that can be rather long since all Members are entitled to participate (SO 253).

The procedure for clause-by-clause consideration of a bill in Committee of the Whole is similar to the procedure in standing committee.¹² As a result, a motion to hold special consultations under the second paragraph of Standing Order 244 is admissible in Committee of the Whole.¹³ However, such a motion is not admissible if moved during clause-by-clause consideration of a bill that is subject to an exceptional legislative procedure in Committee of the Whole. The fact that the duration of clause-by-clause consideration in such a case is limited to five hours makes it impossible to move such a motion because doing so would be incompatible with the exceptional procedure.¹⁴

17.2.2 MANDATES GIVEN SPECIFICALLY TO A COMMITTEE OF THE WHOLE

In addition to ad hoc orders of reference from the Assembly, such as the clause-by-clause consideration of bills, certain matters must be referred to a Committee of the Whole, as expressly required by the Standing Orders.

11 Special provision is made in the case of an exceptional legislative procedure. Despite Standing Order 248, the report of the Committee of the Whole on the clause-by-clause consideration of a bill that is subject to an exceptional procedure is followed by a one-hour debate (SO 257.1(3)). Not later than one hour after the report of the Committee of the Whole has been presented, Members may send the Secretary General a copy of their proposed amendments to the Committee report (SO 257.6). See Chapter 16, "Exceptional Procedures".

12 See Chapter 14, "The Legislative Process", and Chapter 19, "Committee Mandates".

13 JD, December 14, 1992, pp. 4753–4756 (Michel Bissonnet)/RDPP, No. 244/4.

14 JD, February 27, 2017, pp. 13982–13983 (François Gendron)/RDPP, No. 244/8. See Chapter 16, "Exceptional Procedures".

As mentioned earlier,¹⁵ when a bill is subject to an exceptional legislative procedure, its clause-by-clause consideration must take place in Committee of the Whole. In other cases, a Committee of the Whole may, in addition to undertaking a bill's clause-by-clause consideration, be called on to play another role in the legislative process. During the passage stage of a bill, that is, the last stage in the process, the Member who introduced the bill may move without notice to refer it to a Committee of the Whole for consideration of the amendments the Member specifies (SO 257). If the motion is carried, the Committee is informed of the order of reference and the Government House Leader must move that the Assembly resolve itself into a Committee of the Whole (SO 108).¹⁶

The Committee of the Whole also plays a key role in the examination of the budget estimates,¹⁷ beginning with the consideration of interim supply. Before April 1 each year, the Assembly may grant a quarter of the budget estimates, that is, one-quarter of the Government's estimates of expenditure for the coming fiscal year. This examination takes precedence over other matters, takes place in Committee of the Whole, may deal with all the estimates, and may last up to five hours. The estimates are then voted on (SO 280).

After examining the estimates for the government departments, the Committee of the Whole devotes one meeting to the examination of the estimates for the National Assembly, that is, the expenditure budget for the Assembly's operations for the new fiscal year (SO 286).

Lastly, consideration of supplementary estimates tabled by the Government in the Assembly takes place in Committee of the Whole on a motion without notice moved by the Government House Leader (SO 289). The motion, which is not debated, simply refers the matter to the Committee. Another motion by the Government House Leader is then required for the Assembly to resolve itself into a Committee of the Whole (SO 108).

15 See Chapter 16, "Exceptional Procedures".

16 For the consideration of amendments at the passage stage of a bill, see Chapter 14, "The Legislative Process".

17 See Chapter 15, "The Budget Process".

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18

PARLIAMENTARY COMMITTEES

The *Act respecting the National Assembly*¹ provides that the Assembly may appoint committees, composed of Members of the National Assembly, to examine any matter within their areas of competence and carry out any mandate given to them by the Assembly (ANA, s. 10). A significant part of parliamentary work is therefore actually done in committee rather than in the Assembly. Indeed, while the Assembly is the appropriate forum for Members to express general points of view, the committees, made up of fewer Members, are generally a more suitable context for the clause-by-clause consideration of bills. The committees are also responsible for holding public consultations and for conducting a significant portion of the oversight of the Government's and public administration's activities.

Today's parliamentary committees emerged in the wake of the parliamentary reform of 1984 that led to the adoption of the current Standing Orders of the National Assembly. A key element of the reform was a major restructuring of the existing committee system, which paved the way for better oversight of the executive and of the public administration, as well as of public finances and spending.² Since the reform, the parliamentary committees have become the National Assembly's chief instrument of parliamentary oversight, in addition to playing a major role in the legislative process.

Before the parliamentary reform of 1984, the organizational structure of the committees was quite different from the current one, since it was based on the government model, with a total of 27 committees: one for each of the 24 government departments, plus three others.³ With the exception of the Committee on Financial Commitments, the committees had no practical autonomy and met only when convened by the Government House Leader.

1 *Act respecting the National Assembly*, CQLR, c. A-23.1

2 JD, March 13, 1984, p. 5086 (Richard Guay).

3 The other three were the Committee on the National Assembly, the Committee on Financial Commitments and the Committee on Professional Corporations.

PARLIAMENTARY COMMITTEE ROOMS



Their membership varied constantly, with Members potentially being required to sit on a number of unrelated committees. It was thus difficult for the Members and, consequently, for the committees, to develop any real expertise in a specific subject area.

The 1984 reform proposed an organizational structure for the committees that was distinct from that of the Government, demonstrating a desire to make the Assembly more independent. The areas of competence of each committee would no longer be based on the government department model but rather on the main sectors of state activity. In addition to the Committee on the National Assembly and the Subcommittee on Parliamentary Reform, this reform led to the creation of eight sectorial standing committees,⁴ each composed of “permanent” members appointed for a two-year term. This structure ensures stability, which enables committee members to become specialized in a field of activity broader than that of a single departmental sector. Even though Members are not elected as specialists per se, a good knowledge of the sector of state activity of their respective committees helps to make them more effective in their parliamentary work.

Committee specialization has lent greater credibility to the way committees carry out their mandates. Not only do the committees now have a better grasp of the matters referred to them, but they are also better able to draw connections between their various mandates.

Since 1984, the structure of the committees has continued to evolve. The *Act respecting the accountability of deputy ministers and chief executive officers of public bodies*⁵ and, later, the *Public Administration Act*⁶ entrusted the committees with new responsibilities, for instance with regard to oversight of the public administration. The year 1997 saw another major committee reorganization that included the creation of the Committee on Public Administration. In addition to that committee and the Committee on the National Assembly, there were nine other standing committees,⁷ each specialized in a specific sector of government activity. Twelve years later, the parliamentary reform of 2009

4 The Committee on Institutions; the Committee on the Budget and Administration; the Committee on Social Affairs; the Committee on Labour and the Economy; the Committee on Agriculture, Fisheries and Food; the Committee on Planning and Infrastructures; the Committee on Education and Manpower; and the Committee on Culture.

5 *Act respecting the accountability of deputy ministers and chief executive officers of public bodies*, CQLR, c. I-4.1 (repealed by SQ, 2000, c. 8, s. 153).

6 *Public Administration Act*, CQLR, c. A-6.01.

7 The Committee on Institutions; the Committee on Public Finance; the Committee on Social Affairs; the Committee on Labour and the Economy; the Committee on Agriculture, Fisheries and Food; the Committee on Planning and the Public Domain; the Committee on Education; the Committee on Culture; and the Committee on Transportation and the Environment.

significantly changed the committees' respective areas of competence in order to balance their workload. Although the number of committees remained the same, the names of some committees were changed to more accurately reflect their new areas of competence.

Although the Standing Orders and the Rules for the Conduct of Proceedings in the Assembly are the main sources of committee rules of procedure, committee proceedings are governed largely by an unwritten code and often take place in a more relaxed setting than that of the Assembly, with informal collaboration between committee members. The very nature of committee mandates, which consist mainly in the in-depth examination of various matters, and the relatively small number of participants certainly contribute to the more casual atmosphere.

Nonetheless, parliamentary procedure remains extremely important in the committee context, especially when tensions mount during consideration of politically charged matters. Many of the great procedural “battles” occur in committee. One obvious example is the systematic obstruction—often referred to as “filibustering” in British parliamentary language—that occasionally occurs in committee when a contested bill is being examined. In such cases, parliamentary procedure becomes highly relevant.

This chapter will examine the organizational structure of the committees, that is, their name, membership and areas of competence, as well as how they operate, including the rules of procedure governing their proceedings. Chapter 19 will examine in detail how the different committee mandates are carried out.

18.1 COMMITTEE STRUCTURE

The current committee structure was developed mainly out of a concern for stability and specialization, with a view to improving parliamentary oversight and enhancing the role of the Members of the National Assembly.

Nine of the Assembly's 11 current standing committees can be qualified as “sectorial”, since each one specializes in a rather homogeneous sector of government activity. They are the Committee on Agriculture, Fisheries, Energy and Natural Resources; the Committee on Planning and the Public Domain; the Committee on Culture and Education; the Committee on Labour and the Economy; the Committee on Public Finance; the Committee on Institutions; the Committee on Citizen Relations; the Committee on Health and Social Services; and the Committee on Transportation and the Environment.

All sectorial committees function in basically the same way and carry out similar mandates, the main one remaining the consideration of bills. However, the parliamentary role of the Members has changed significantly over the years. While mainly legislative at first, the Members' role has become increasingly one of overseeing government activity and consulting the public on various issues of concern to society.

In addition to the nine sectorial committees, two other standing committees play a role that can be qualified as "horizontal": the Committee on the National Assembly and the Committee on Public Administration. The specific role of these committees is assigned to them by law and the rules of procedure, but is not limited to a specific area of competence.

18.1.1 THE COMMITTEE ON THE NATIONAL ASSEMBLY

The role of the Committee on the National Assembly is not at all comparable to that of the other parliamentary committees. Since it is the ideal forum for discussion and decision-making regarding all aspects of Assembly and committee operations, its role may be qualified as "internal." Simply put, the Committee on the National Assembly does not actually have legislative or government oversight functions, but rather controls the way these functions are exercised. The special status and the authority of this committee are demonstrated by the fact that the *Act respecting the National Assembly* expressly requires the creation of a Committee on the National Assembly (ANA, s. 11), while simply permitting the Assembly to appoint the other standing committees. The membership of the Committee on the National Assembly similarly reflects its unique role.

18.1.1.1 MEMBERSHIP

Given the authority the Committee on the National Assembly has over the proceedings of the other committees and the potential effect of its decisions on the Assembly's proceedings, it is hardly surprising that it is composed of the Members who exercise the principal parliamentary functions, namely, the President of the Assembly,⁸ who acts as Chair, the Vice-Presidents, the House leaders and whips of the parliamentary groups, and the elected Chairs of the 10 other standing committees (SO 115).

18.1.1.2 FUNCTIONS

As mentioned previously, the Committee on the National Assembly has a horizontal role. It establishes the Standing Orders as well as the Rules for the Conduct of Proceedings in the National Assembly and in committee, and submits them to the National Assembly for approval (SO 116(1)). In addition, the Committee is

8 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

vested with a certain number of powers relating to the operation of the other committees. For instance, at the opening of and as needed during each legislature, it determines the membership of each committee and the allocation of the offices of committee Chair, and sets the date for each committee's first meeting (SO 127). It also fills vacancies and makes permanent substitutions when the Assembly stands prorogued or adjourned for more than five days (SO 129).

In addition, the Committee on the National Assembly coordinates the proceedings of the other committees by, among other things, determining to which committee a government department or public body is accountable and by clarifying each committee's area of competence whenever necessary (SO 116(2)). It may also approve the striking of joint committees or subcommittees to consider particular matters (SO 153) and designate their co-chairs (RCP 10). It may authorize a committee or steering committee to travel to or to meet in a place other than the precincts of the National Assembly (SO 116(3) and RCP 4.1(a)), provided the committee has submitted a written request to that effect giving reasons and estimated costs (RCP 1). It also receives the required committee reports on travel activities (RCP 1 and 4.1(b)).

The Committee on the National Assembly also carries out all other functions conferred on it by the Standing Orders, such as inquiring into the conduct of a Member of Parliament or any other person accused of breaching the rights and privileges of the Assembly (SO 319 and 325).⁹ In addition, it exercises all the functions conferred on it by the *Act respecting the National Assembly* (ANA, s. 11) or any other statute. These include carrying out various mandates under the *Election Act*¹⁰ and designating the parliamentary committees that are to examine certain reports.¹¹ Moreover, the *Auditor General Act* provides that the Committee on the National Assembly must be consulted before the Auditor General can be dismissed.¹²

9 See Chapter 3, "Parliamentary Privilege".

10 For example, under section 25 of the *Election Act*, CQLR, c. E-3.3, the preliminary report of the Commission de la représentation électorale (CRE) on the boundaries of the electoral divisions is examined by the Committee on the National Assembly, and all the Members may take part in the Committee's deliberations. The CRE report is the subject of a five-hour debate in the Assembly within five days after it is tabled. If the Assembly is not sitting, the debate takes place during a sitting of the Committee on the National Assembly within ten days after the report is tabled, and all the Members may take part in the debate (*Ibid.*, s. 28).

11 *Act respecting Access to documents held by public bodies and the Protection of personal information*, CQLR, c. A-2.1, ss. 119.1, 134 and 179.1; *Election Act*, CQLR, c. E-3.3, s. 542.1; *Act respecting the Ministère du Conseil exécutif*, CQLR, c. M-30, ss. 3.41 and 3.41.6; *Act respecting the protection of personal information in the private sector*, CQLR, c. P-39.1, s. 89.

12 *Auditor General Act*, CQLR, c. V-5.01, s. 13.

In 2009, the Committee on the National Assembly was assigned a new responsibility: hearing, as necessary, any person who, under Québec law, must be appointed by the Assembly, and then reporting to the Assembly without submitting any observations, conclusions or recommendations (SO 116(3.1)).

The Committee also examines any matter referred to it by the National Assembly (ANA, s. 11) or any matter not specifically referred to another committee (SO 116(4)). Hence, it has, in the past, been mandated to carry out the clause-by-clause consideration of a bill¹³ and to hold special consultations.¹⁴

The Committee on the National Assembly is also responsible for examining matters relating to parliamentary reform. Under Standing Order 117, it must do so through a standing subcommittee established for that purpose, namely, the Subcommittee on Parliamentary Reform. This subcommittee is composed of the President of the National Assembly, who acts as its Chair; the Vice-Presidents of the National Assembly, who may not vote; the House leaders and whips of the parliamentary groups; and three committee Chairs, one of whom is an opposition Member (SO 117).¹⁵ In the absence of the President or at the President's request, a Vice-President of the Assembly designated by the President acts as Chair. The House leader of a parliamentary group may be replaced by a deputy House leader. On a motion by one of its members, the Subcommittee may examine any matter relating to the powers of the National Assembly and its committees or the conduct of their proceedings. The Subcommittee must report to the Committee on the National Assembly at least once a year (SO 117).

A steering committee, composed of the President of the Assembly, the House leaders of the parliamentary groups and the committee clerk, is established to assist the Committee on the National Assembly in carrying out its mandate (RCP 4.1). The steering committee exercises certain functions between meetings

13 On December 15, 1987, in accordance with an order adopted by the Assembly on December 14, the Committee on the National Assembly carried out the clause-by-clause consideration of Bill 113, *An Act to amend the pension plan and other conditions of employment of the Members of the National Assembly* (JD, December 14, 1987, p. 10644; JD, December 15, 1987, CAN-929-963).

14 On November 27, 1986, in accordance with an order adopted by the Assembly the day before, the Committee on the National Assembly heard the Chief Electoral Officer on Bill 147, *An Act to amend the Act respecting the establishment of the boundaries of electoral divisions* (JD, November 27, 1986, CAN-13-33).

15 Since independent Members do not belong to a parliamentary group, they are not represented on the Subcommittee on Parliamentary Reform. However, on November 3, 2004, after consenting to derogate from Standing Order 117, the Assembly carried a motion presented by Second Vice-President Diane Leblanc to allow the Member for Chutes-de-la-Chaudière, Marc Picard, to sit on the Subcommittee on Parliamentary Reform for the purposes of the parliamentary reform process begun when proposals were tabled by the Government House Leader on June 10, 2004, and by the President of the National Assembly on June 11, 2004.

of the Committee on the National Assembly.¹⁶ The President determines the order of business for the steering committee's meetings, which may be conducted by telephone (RCP 4.2). The clerk of the Committee on the National Assembly takes part, by virtue of office, in the steering committee's meetings and communicates its decisions to all members of the standing committee (RCP 4.3). The steering committee then reports to the Committee on the National Assembly at the earliest opportunity (RCP 4.4).

18.1.2 THE COMMITTEE ON PUBLIC ADMINISTRATION

The Committee on Public Administration was created in 1997 to take on certain specific functions formerly carried out by the Committee on the National Assembly or other standing committees. Its chief role is to ascertain whether the sums allocated to the Government and the public administration are spent according to the rules of sound management. It must also ensure that public administrators report on their management.

16 Rule 4.1 of the Rules for the Conduct of Proceedings reads as follows:

4.1. There shall be a steering committee of the Committee on the National Assembly, which shall consist of the President of the National Assembly, the House leaders of the parliamentary groups, and the clerk of the committee.

Between meetings of the Committee on the National Assembly the said steering committee shall:

- (a) authorize committees or steering committees to travel or to meet in a place other than the precincts of the National Assembly;
- (b) receive accounts from committees and steering committees respecting their travel;
- (c) approve the establishment of joint committees or subcommittees and appoint their co-chairmen;
- (d) fill vacancies and make permanent substitutions in committee memberships when the Assembly stands prorogued or adjourned for more than five days;
- (e) approve changes to the list of temporary chairmen;
- (f) adjust the budgetary envelope of the committees out of the budgetary reserve of the Committee on the National Assembly;
- (g) determine whether it is expedient to televise the proceedings of committees;
- (h) designate, on behalf of the Committee on the National Assembly, the committee to which any matter that is to be examined in pursuance of statutory provisions shall be referred;
- (i) coordinate, in respect of calendars, timetables, meeting rooms, and resources, the proceedings of any committees that are to consider matters not having precedence, and plan the proceedings of the Committee on the National Assembly;
- (j) decide whether it is expedient for the Committee on the National Assembly to hear, before he is appointed, any person whom it is the responsibility of the Assembly to appoint, and determine how such hearing is to be organized.

18.1.2.1 MEMBERSHIP

The composition of the Committee on Public Administration is unique because of its horizontal role as overseer of the public administration, which necessarily interests all the Members of the National Assembly. In contrast to the other committees, composed exclusively of permanent members, it is composed of 10 permanent members and eight temporary members. The permanent members guarantee a certain stability in committee proceedings, while other Members of the National Assembly may take part in committee work when a matter in which they have a specific interest is being examined.

The 10 permanent members are appointed by the Committee on the National Assembly for a two-year term (SO 117.2, 1st para.): six from the parliamentary group forming the Government and four from the Opposition, at least three of whom are from the Official Opposition (SO 117.1(1)).

The temporary members are appointed by the whip of their parliamentary group for the duration of one committee meeting or of the consideration of a particular matter (SO 117.2, 2nd para.). Five temporary members may be appointed by the Government Whip, while the other three are appointed by the Official Opposition Whip (SO 117.1(2)). Temporary members may take part in the proceedings of the Committee on Public Administration, but may not vote (SO 117.3).

Independent Members or Members belonging to an opposition group other than the Official Opposition may also take part in Committee on Public Administration proceedings but may not vote or move motions (SO 117.4).

The Assembly has in the past adopted temporary rules to modify the composition of its parliamentary committees, including the Committee on Public Administration, to take into account particular circumstances in the Assembly's makeup, such as the presence of a minority government or the recognition of a second or third opposition group.¹⁷

17 See Appendix I to this chapter, "The Composition and Particularities of the Parliamentary Committees during the 38th to 42nd Legislatures".

18.1.2.2 CHAIR AND VICE-CHAIR

The Chair and Vice-Chair of the Committee on Public Administration are elected by the committee's permanent members at the beginning of the first session of each legislature and as needed during the legislature for a two-year period. The Chair is chosen from among the members from the Official Opposition and the Vice-Chair from among the members from the parliamentary group forming the Government (SO 117.5). Due to its specific parliamentary oversight functions, the Committee on Public Administration is the only standing committee always chaired by a member from the Official Opposition. Its Chair has the same powers as the other standing committee Chairs.¹⁸

18.1.2.3 FUNCTIONS

The functions of the Committee on Public Administration are listed in Standing Order 117.6. First, it has sole responsibility, previously devolved to the sectorial committees, for examining the financial commitments (SO 117.6(1)). This mandate is discussed in more detail in Chapter 19.

Second, the Committee on Public Administration hears the Auditor General each year on the Auditor's annual management report (SO 117.6(2)).¹⁹ This mandate does not extend to the Auditor's investigative reports.²⁰

The Committee also carries out certain specific mandates under the *Public Administration Act*. These include hearing each minister who deems it expedient to be heard and each deputy minister or chief executive officer of a public body whose administrative management has been the subject of a report of the Auditor General or the Public Protector (Québec Ombudsman) (SO 117.6(3)). It also shares with the sectorial committees the responsibility of hearing, at least once every four years, each minister who deems it expedient to be heard and, as applicable, each deputy minister or chief executive officer of a public body to discuss their administrative management (SO 117.6(3.1)). Until 2009, the Committee on Public Administration was the only committee to carry out this mandate, which is now conferred by section 29 of the *Public Administration*

18 See Subsection 18.1.3.3, "Chairs and Vice-Chairs".

19 From 1984 to 1997, the Committee on the National Assembly was responsible for hearing the Auditor General, the Chief Electoral Officer and the Public Protector every year, or for delegating that function to another standing committee. Since 1997, this responsibility has been assumed jointly by the Committee on Public Administration, which hears the Auditor General on the Auditor's annual report, and the Committee on Institutions, which hears the Chief Electoral Officer and the Public Protector, under Standing Order 294.1.

20 JD, December 13, 1995, CBA-30 p. 2 (Jacques Baril)/RDPP (Com. Vol.), No. 116 (4)/1.

Act²¹ and has replaced the one initially conferred by section 8 of the *Act respecting the accountability of deputy ministers and chief executive officers of public bodies*,²² passed in 1993. Until the Committee on Public Administration was created in 1997, all committees, each in their respective areas of competence, were required to hear the deputy ministers and the chief executive officers every year. At the time it was created, the Committee on Public Administration inherited full responsibility for this mandate. However, the passage of the *Public Administration Act* in the year 2000 significantly increased the Committee's already very heavy workload, since over 100 government departments and public bodies were subject to the new Act, compared to 70 under the previous Act, and it became practically impossible for the Committee to fulfil its obligation to hear all the deputy ministers and the chief executive officers concerned each year. The 2009 parliamentary reform reduced the Committee's workload by decreasing the frequency of the hearings to once every four years and by allowing the sectorial committees to share the responsibility. However, the Committee on Public Administration retains full authority

21 This section reads as follows:

29. A deputy minister, or a person exercising the powers conferred by the *Public Service Act* (chapter F-3.1.1) on a deputy minister, and the chief executive officer of a body of the Administration, even if the body has not been designated under the second paragraph of section 5, are, as provided by law, in particular as concerns the exercise of the authority and powers of the minister under whose authority they fall, accountable to the National Assembly for their administrative management.

The competent parliamentary committee of the National Assembly shall hear the minister at least once every four years, if the minister considers it appropriate and, where applicable, shall also hear the deputy minister or chief executive officer to examine their administrative management.

The parliamentary committee may examine

- (1) the service statement, and the results achieved in relation to the administrative aspects of a strategic plan or an annual expenditure management plan;
 - (2) the results achieved in relation to the objectives of an affirmative action program or hiring plan for handicapped persons that is applicable to the department or body, and in relation to the hiring objectives determined by the Conseil du trésor with regard to the various segments of Québec society;
 - (3) any other matter of an administrative nature under the authority of the department or body that is noted in a report of the Auditor General or the Public Protector.
- (*Public Administration Act*, s. 29).

22 The *Act respecting the accountability of deputy ministers and chief executive officers of public bodies* was passed in 1993 on the initiative of a government Member, Henri-François Gautrin, Member for Verdun, under the title *An Act respecting the reduction of personnel in public bodies and the accountability of deputy ministers and chief executive officers of public bodies*. It fulfilled a desire often expressed by the Members to make the senior public administration more accountable to the National Assembly. With state responsibilities increasingly entrusted to bodies independent of the central government administration, the Members of the National Assembly saw a significant part of the management of public affairs slipping away from their oversight. In 2000, the Act was repealed by the *Public Administration Act*, which established a new management framework for the public service based on managerial accountability at all levels of the public administration.

over the departments and public bodies whose administrative management is the subject of a report of the Auditor General or the Public Protector,²³ and remains responsible for examining the annual report on the implementation of the *Public Administration Act* (SO 117.6(3.2)).

The Committee on Public Administration also examines any other matter referred to it by the Assembly (SO 117.6(4)).²⁴ However, unlike the sectorial committees, it may not decide to examine a matter on its own initiative.²⁵

18.1.3 SECTORIAL COMMITTEES

Nine sectorial committees carry out a broad range of mandates related to the consideration of bills and to oversight of government activities, each in a specific sector of state activity.

18.1.3.1 NAMES AND AREAS OF COMPETENCE

Following the significant changes brought about by the 2009 parliamentary reform, the names of the nine sectorial standing committees and their areas of competence have been as follows (SO 118):

1. Committee on Agriculture, Fisheries, Energy and Natural Resources:
 - agriculture, fisheries, food, energy, natural resources;
2. Committee on Planning and the Public Domain:
 - land use planning and development, municipal affairs, housing, sport and recreation, local and regional community development;
3. Committee on Culture and Education:
 - culture, education, vocational training, higher education, communications;
4. Committee on Labour and the Economy:
 - industry, trade, tourism, labour, the labour force, science, technology, income security;

23 While the Committee on Public Administration devotes a significant amount of its time to hearing the deputy ministers and the chief executive officers of public bodies whose administrative management is the subject of a report by the Auditor General, to date only one Public Protector report has been examined by the Committee, in March 2018.

24 Twice in the 38th Legislature, the Assembly referred an order to the Committee on Public Administration as a result of a motion moved during Business Standing in the Name of Members in Opposition. The first order, referred on October 17, 2007, was to examine the implementation of the *Balanced Budget Act*. The second, referred on April 9, 2008, was to shed light on the dismissal of Québec's Delegate General to New York.

25 Minutes, September 20, 2011, CAP p. 1 (Sylvain Simard)/RDPP, (Com. Vol.), No. 149/2.

5. Committee on Public Finance:
 - finance, the budget, government administration, the public service, revenue, services, procurement, pension plans;
6. Committee on Institutions:
 - chairing of the Conseil exécutif, justice, public security, the Constitution, Indigenous affairs, international and intergovernmental relations;
7. Committee on Citizen Relations:
 - citizen relations, cultural communities, immigration, the status of women, the family, seniors, youth, consumer protection;
8. Committee on Health and Social Services:
 - health, social and community services;
9. Committee on Transportation and the Environment:
 - transportation, the environment, wildlife, parks.

18.1.3.2 MEMBERSHIP

Not later than on the third sitting of the Assembly following the election of the President at the opening of and as needed during each legislature, the Committee on the National Assembly meets to select which committees will be chaired by a government Member and which will be chaired by an opposition Member. At this stage, the Committee on the National Assembly is composed of only the President and Vice-Presidents of the National Assembly and the House leaders and whips of the parliamentary groups, since the Chairs of the standing committees have not yet been elected (SO 115). It also determines the membership of the committees and sets the date of their first meeting. All such decisions must be unanimous. The President reports on the meeting to the Assembly, which immediately votes on the report, on a motion by a Vice-President (SO 127).

Under the permanent rules currently in force, each sectorial committee is composed of 10 members: six from the parliamentary group forming the Government and four from the Official Opposition (SO 121).²⁶ Any independent

²⁶ Until 1997, the Standing Orders provided that each committee was to be composed of at least 10 members, but did not prescribe a maximum. No Member could sit on more than one committee, except to reflect the proportional representation of the parliamentary groups. As a result, all Members, other than ministers, sat on a committee, some on two. In 1993–1994, the size of the committees varied from 15 to 21 members. Since 1997, when the Standing Orders were amended to reduce the size of the committees, each committee has been limited to 10 or 12 members, which means that some Members of the National Assembly do not sit on a committee. Such Members are entitled to take part in committee proceedings but may not vote.

Member or Member belonging to an opposition group other than the Official Opposition may also sit on a committee. In such cases, the number of committee members increases to 12: seven members from the parliamentary group forming the Government, four from the Official Opposition and one independent Member or one Member from another opposition group (SO 122). As indicated previously regarding the Committee on Public Administration, the Assembly has nevertheless several times in the past adopted temporary rules to adjust the composition of the committees in order to take into account particular circumstances.²⁷

A minister may sit on a committee for the duration of a mandate provided the order of reference from the Assembly (SO 124) explicitly allows it. The minister is not obligated, however, to take part in committee proceedings.²⁸ Ministers also sit on a committee, by right, during consideration of bills they have introduced in the House (SO 125).²⁹ If a minister designated to sit on a committee for the duration of its mandate is absent, neither the Chair nor the committee itself may invite another minister to sit on the committee.³⁰ However, nothing prevents the minister from designating another minister as a substitute.³¹

Committee members are appointed for two years (SO 121).³² However, on a motion without notice that may not be debated, the Assembly may fill a vacancy or make a permanent substitution in the membership of a committee (SO 129). If the Assembly stands prorogued or adjourned for more than five consecutive days, those powers are exercised by the Committee on the National Assembly or, between meetings of that Committee, by its steering committee, which then reports to the Committee at its next meeting (RCP 4.1(d) and 4.4). At the earliest opportunity, the President must report on that meeting to the Assembly, which votes on the report immediately, on a motion moved without notice by a Vice-President (SO 129).

27 See Appendix I to this chapter, "The Composition and Particularities of the Parliamentary Committees during the 38th to 42nd Legislatures".

28 JD, March 26, 1986, pp. CBA-511-514 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 124/1.

29 In addition, the Minister of Finance is a member of the Committee on Public Finance during the debate on the budget speech (SO 275). Moreover, when a committee is examining a bill that amends several Acts, ministers take part in the proceedings that concern the provisions under their jurisdiction (SO 261).

30 JD, November 2, 2004, CAS-74 p. 1 (Russell Copeman)/RDPP (Com. Vol.), No. 124/2.

31 JD, February 12, 2002, CAT-33 p. 2 (Yvon Vallières)/RDPP (Com. Vol.), No. 125/1.

32 At the end of the two-year period, if the Committee on the National Assembly has not met again to determine the membership of the sectorial committees, the members no longer hold office and the committees may no longer meet. When the term of the committee members expired on March 5, 2001, no committee was able to meet before March 27, 2001, when the Committee on the National Assembly met to determine committee membership (VP, March 27, 2001, p. 13).

18.1.3.3 CHAIRS AND VICE-CHAIRS

Six committees are chaired by government Members and three by opposition Members (SO 126). At the opening of each new legislature, the Committee on the National Assembly selects which committees are to be chaired by a Member from the parliamentary group forming the Government and which are to be chaired by an opposition Member (SO 127). Failing consensus on the allocation of the offices of chair, the parliamentary groups, in the following order, select which committees they wish to have chaired by one of their members: the Government has the first, second, fourth, sixth, eighth and ninth choices, while the Official Opposition has the third and fifth choices and, if there are no other opposition groups, the seventh choice as well. If there is another opposition group, it has the seventh choice (SO 128). Temporary rules were adopted during more recent legislatures to modify the allocation of the offices of chair to take into account, in particular, the fact that there was a second opposition group.³³

Once the allocation has been determined, each committee elects a Chair and Vice-Chair from among its members to hold office for two years (SO 134); these officers must be elected by a majority of the members from each parliamentary group (SO 135). Furthermore, even though the Chair and Vice-Chair must be chosen from among the members representing a particular parliamentary group, all committee members are entitled to propose candidates from that group. In other words, a candidate does not necessarily have to be nominated for the position of Chair or Vice-Chair by a member of the candidate's own parliamentary group.³⁴

The President of the Assembly is responsible for presiding over the election of each committee Chair.³⁵ Each committee Chair then presides over the election of the Vice-Chair, who must be chosen from a different parliamentary group (SO 137).

The Chair organizes and directs committee proceedings. Like the other members, the Chair takes part in committee deliberations and is entitled to vote (SO 138). In fact, committee Chairs are obliged to vote³⁶ and, unlike the President of the Assembly, they do not have a casting vote.³⁷

33 See Appendix I to this chapter, "The Composition and Particularities of the Parliamentary Committees during the 38th to 42nd Legislatures".

34 JD, November 14, 1984, pp. 768–769 (Richard Guay)/RDPP, No. 135/1.

35 When the President is absent or unable to act, or at the President's request, a Vice-President may take over the President's parliamentary duties (ANA, s. 20; SO 10). A Vice-President may not, however, take the President's place in the election of new committee Chairs. If the office of President of the Assembly is vacant, no committee Chairs may be elected.

36 JD, December 9, 2004, CFP-72 p. 4 (Raymond Bernier)/RDPP (Com. Vol.), No. 138/6; JD, November 15, 2005, pp. 10164–10165 (Michel Bissonnet)/RDPP, No. 138/1.

37 JD, May 9, 1985, pp. CI-499–500 (Marcel Gagnon)/RDPP (Com. Vol.), No. 138/2.

The Chair must preside over committee proceedings with competence and impartiality, but may nevertheless take part in deliberations and express opinions on matters under discussion. In this regard, the Standing Orders are in no way restrictive.³⁸ Thus, committee Chairs may make preliminary remarks,³⁹ move motions, propose amendments to a bill⁴⁰ and, under Standing Order 213, address a question to a Member who has just finished speaking.⁴¹

Although not obliged to maintain the same degree of neutrality as the President of the Assembly, the committee Chair must keep in mind the importance of protecting the credibility required to preside over committee deliberations. Since it is not the President's role to intervene in these matters,⁴² the committee Chairs establish a line of conduct to follow in order to avoid having their neutrality or conduct called into question. Members who consider that a committee Chair is not exercising the functions of office properly may question the Chair's conduct by means of a motion of censure to be debated and voted on by the Assembly.⁴³ However, by moving such a motion, Members expose their own conduct to reproach if the accusations prove to be unfounded.⁴⁴

When exercising the functions of office, the committee Chair has the same powers as the President of the Assembly.⁴⁵ The Chair calls to order, suspends and adjourns proceedings (SO 2) and is the only person allowed to decide to suspend them, since the Standing Orders do not provide for a motion to that effect.⁴⁶ In addition, the Chair may suspend proceedings during a vote in order to verify a point of order related to the vote.⁴⁷

38 JD, December 9, 2004, CFP-72 p. 4 (Raymond Bernier)/RDPP (Com. Vol.), No. 138/6.

39 Ibid.

40 JD, December 2, 1988, pp. CBA-1472-1473 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 138/3.

41 JD, December 9, 2004, CFP-72 p. 4 (Raymond Bernier)/RDPP (Com. Vol.), No. 138/6; JD, January 17, 1995, CI-8 pp. 26-27 (Sylvain Simard)/RDPP (Com. Vol.), No. 213/1.

42 JD, November 15, 2005, pp. 10164-10165 (Michel Bissonnet)/RDPP (Com. Vol.), No. 138/1. In this case, the Official Opposition House Leader asked the President of the Assembly for a directive, claiming that the appointment by the Premier of a Member as Vice-Chair of a departmental committee and Chair of an interdepartmental committee was incompatible with the Member's duties as committee Chair. The President rejected the allegation, stating that since the Member was not a minister, his appointment could not prevent him from being a permanent committee member and therefore from acting as committee Chair.

43 Ibid.

44 JD, December 9, 2004, CFP-72 p. 4 (Raymond Bernier)/RDPP, No. 138/6.

45 JD, December 19, 1973, pp. 704-708 (Jean-Noël Lavoie)/RDPP, No. 2/3.

46 JD, February 20, 1986, pp. CBA-303-305 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 44/2.

47 JD, February 21, 1985, pp. CET-1147-1148 (Roland Dussault)/RDPP (Com. Vol.), No. 44/1.

Like the President of the Assembly, the committee Chair exercises all the powers necessary to maintain order. For instance, if a Member uses unparliamentary language, the Chair may ask the Member to retract the offending words⁴⁸ and, if the Member fails to heed two consecutive calls to order, the Chair may refuse to call on the Member to speak for the remainder of the committee meeting.⁴⁹

In addition, committee Chairs enforce the Standing Orders by calling attention to breaches of order (SO 38) and ruling on points of order that have been raised (SO 39).⁵⁰ Committee Chairs do not, however, have jurisdiction in matters of violation of rights or privileges, which is the exclusive responsibility of the President of the Assembly. Like the President, committee Chairs can neither interpret the law as concerns non-procedural matters nor rule on questions of law.⁵¹ They are also not allowed to intervene on questions of conflict of interest.⁵² Committee chair rulings cannot be discussed by committee members (SO 41) nor appealed before the President, given that the committee Chairs have full authority to hand down rulings.⁵³

Each committee Chair also has full authority to organize committee work since the President of the Assembly has no supervisory power or right of intervention in such matters.⁵⁴ A committee Chair once ruled that committee Chairs may adjourn proceedings in special circumstances, such as the absence of a

48 JD, April 25, 1994, p. CAPA-51 (Paul-André Forget)/RDPP (Com. Vol.), No. 35(7)/2.

49 On December 5, 1984, after three consecutive calls to order, the Chair of the Committee on Education ruled that a Member from the Official Opposition who had used unparliamentary language was no longer entitled to take the floor. The Member withdrew the offensive words a few minutes later and was once again allowed to speak (JD, December 5, 1984, CE-396-398 (Luc Tremblay)).

50 As is the case for the President of the Assembly, committee Chairs do not rule on hypothetical questions (JD, November 10, 1988, pp. CAS-1964-1965 (Guy Bélanger)/RDPP (Com. Vol.), No. 34/1).

51 JD, February 13, 1986, pp. CBA-125-126 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 2/1; JD, June 16, 1986, pp. CBA-1163-1164 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 2/2; JD, March 14, 1988, pp. CAS-49-51 and 83-84 (Jean Leclerc)/RDPP (Com. Vol.), No. 2/3; JD, November 6, 2003, CI-18 pp. 15-17 (Sylvain Simard)/RDPP (Com. Vol.), No. 2/5.

52 The Chair rules on points of order and procedure (JD, June 2, 1999, CET-21 p. 97 (Denise Carrier-Perreault)/RDPP (Com. Vol.), No. 2/4). In addition to the clarification established at that time, this jurisdiction is now under the responsibility of the Ethics Commissioner for the Members of the National Assembly (*Code of Ethics and conduct of the Members of the National Assembly*, CQLR, c. C-23.1).

53 JD, July 4, 1973, pp. 2148-2149 (Jean-Noël Lavoie)/RDPP, No. 2/1; JD, December 18, 1973, pp. 572-575 (Jean-Noël Lavoie)/RDPP, No. 2/2; JD, December 3, 1975, p. 2343 (Jean-Noël Lavoie)/RDPP, No. 2/4; JD, April 16, 1986, pp. 940-943 (Pierre Lorrain)/RDPP, No. 2/6; JD, October 20, 2015, pp. 7267-7268 (François Gendron)/RDPP, No. 35(6)/8.

54 JD, December 6, 1995, pp. 5472-5473 (Roger Bertrand)/RDPP, No. 2/9; JD, November 5, 1996, pp. 2916-2917 (Jean-Pierre Charbonneau).

minister, in order to ensure the proper conduct of committee work.⁵⁵ The conduct of the Chair may only be called into question using the same procedure applicable to Members of Parliament.⁵⁶

When the committee Chair is unable to act, or at the Chair's request, the Vice-Chair may act as a substitute. When both the Chair and Vice-Chair are unable to act, the clerk informs the committee, which takes the appropriate measures (SO 141). The committee may appoint one of its members to replace the Chair (RCP 6).⁵⁷ As will be discussed later, committee debates may also be presided over by a temporary Chair (SO 139). Lastly, in the event of a vacancy in the office of Chair, the Vice-Chair replaces the Chair and exercises the Chair's functions. The committee must elect a new Chair within 30 days (SO 140), otherwise it may no longer meet.

For each committee, the President of the Assembly appoints a public servant to act as clerk (SO 142). Selected from among the staff of the Committee Secretariat, the clerk works under the authority of the committee Chair⁵⁸ and the administrative supervision of the Director of the Committee Secretariat (RCP 7). In general, the clerk carries out the committee's orders and performs all the administrative and procedural tasks related to the committee's mandates. The clerk also advises the committee Chair on questions of parliamentary procedure in collaboration with advisers in parliamentary law (RCP 7.1).

Each committee may, at the request of its Chair, strike a steering committee composed of the Chair, the Vice-Chair and the clerk. The steering committee sees to the administration of the committee and makes the necessary decisions between meetings for the smooth conduct of its proceedings (RCP 4).⁵⁹

55 JD, August 28, 1984, p. CET-273 (Louise Harel)/RDPP (Com. Vol.), No. 138/1.

56 JD, April 16, 1985, pp. 3002-3003 (Richard Guay)/RDPP, No. 35(5)/1; JD, December 6, 1995, pp. 5472-5473 (Roger Bertrand)/RDPP, No. 2/9. See Chapter 3, "Parliamentary Privilege". The procedure for calling the conduct of the President of the Assembly into question is explained in Chapter 4, "The Office of President".

57 A committee Chair who wishes to be replaced during a meeting must first ask the Vice-Chair to act as a substitute; if the Vice-Chair is not available, the Chair may call on another committee member (JD, November 28, 2000, CAPA-25 pp. 1-2 (Cécile Vermette)/RDPP (Com. Vol.), No. 141/1).

58 JD, November 29, 1995, CC-10 pp. 19-23 (David Payne)/RDPP (Com. Vol.), No. 138/5.

59 Although there is no obligation to establish a steering committee, there are numerous advantages to doing so. For instance, a steering committee lightens the standing committee's workload during deliberative meetings. In the case of orders of initiative, the committee members often decide to delegate organization of the mandate to the steering committee. Furthermore, the steering committee can represent the standing committee at certain events. The steering committee is a very effective way to make decisions more rapidly, by telephone or otherwise. Its decisions are recorded by the committee clerk and are made available to committee members, but are not made public.

In recent years, the composition of the steering committee of certain committees has been modified to ensure better representation of the parliamentary groups in opposition.⁶⁰

A temporary Chair may preside over committee debates if the committee Chair so requests or if the Assembly so directs in a motion of referral.⁶¹ The temporary Chair is not elected by the committee, but rather appointed by the President of the Assembly from a list approved by the Committee on the National Assembly. Unlike permanent Chairs, temporary Chairs do not take part in deliberations and are entitled to vote only if they are a committee member or are replacing such a member (SO 139).

The Committee on the National Assembly determines the total number of temporary Chair positions and divides them up among the parliamentary groups and, where applicable, the independent Members. An independent Member who is serving as a temporary Chair but joins a parliamentary group is no longer eligible to act as temporary Chair.⁶² The same rule applies if a temporary Chair leaves a parliamentary group to sit as an independent Member.

18.1.3.4 MANDATES

Each of the nine sectorial committees can carry out three types of mandates: mandates received by order of reference from the Assembly (which make up the majority of their work), mandates arising from self-initiated orders (also called “orders of initiative”), and mandates conferred under a statute (statutory orders). Certain committees also carry out special mandates set out in the Standing Orders.

ORDERS OF REFERENCE FROM THE ASSEMBLY

The mandates committees receive from the Assembly by order of reference are listed in Standing Order 119, which provides that, when ordered to do so by the Assembly, committees examine bills, the estimates of expenditure and any other matter referred to them.

The consideration of bills represents a major part of committee work. The procedure varies somewhat depending on whether a bill is public or private. After a public bill has been passed in principle, the Government House Leader

60 See Appendix I to this chapter, “The Composition and Particularities of the Parliamentary Committees during the 38th to 42nd Legislatures”.

61 In the latter case, the motion of referral must contain a request for a temporary Chair (JD, June 7, 1984, p. 6792 (Richard Guay)/RDPP, No. 139/1). The motion may also grant the temporary Chair certain powers such as the power to change the order in which organizations are heard during special consultations (JD, June 11, 1993, pp. 7568–7573 (Roger Lefebvre)/RDPP, No. 139/2).

62 JD, October 23, 1991, pp. CAN-33–44 (Jean-Pierre Saintonge)/RDPP (Com. Vol.), No. 139/1.

moves without notice that it be referred to the appropriate committee for clause-by-clause consideration (SO 243). Private bills, however, are referred to committee for clause-by-clause consideration and consultation of interested parties immediately after they are introduced, on a motion moved without notice by the Government House Leader and decided without debate (SO 267).⁶³

The Assembly may also request that consultations be held on certain public bills. Immediately after a bill is introduced, the Government House Leader may move without notice to refer the bill to committee to hear any individuals or organizations that wish to make their views known in a general consultation. The same procedure applies in the case of special consultations. Such a motion may not be debated unless it departs from the rules relating to special consultations, in which case it may be debated immediately, during Routine Proceedings, for up to one hour (SO 235).⁶⁴

At times it may also be appropriate for the Assembly to request general or special consultations on bills at another stage in the legislative process; this often occurs at the passage in principle or clause-by-clause consideration stage. Standing Order 146 gives the Assembly the general power to refer any matter to a committee for examination, a power that cannot be more limited than the specific power granted under Standing Order 235.⁶⁵ It may do this on a motion by the Government House Leader, or on an opposition motion, during the period set aside for debates on business standing in the name of Members in opposition, which is held on Wednesdays.⁶⁶ The motion must specify the subject of the order of reference as well as the committee to which the matter is to be referred. If the motion calls for general or special consultations,⁶⁷ it may contain information such as hearing dates, deadlines for the submission of briefs or, in the case of special consultations, the persons and organizations to be invited. However, to be considered an order of reference from the Assembly, the motion must contain only one subject or purpose, namely, the granting of a mandate to a committee.⁶⁸ Unlike a motion moved under Standing Order 235, it requires prior notice on the Order Paper.⁶⁹ In addition, if the motion is made by the Government House Leader, it cannot be amended, but it may be discussed in a limited debate of up to one hour. An order from the Assembly has precedence over any other (SO 146).

63 See Chapter 14, “The Legislative Process”.

64 JD, November 15, 2000, pp. 7898–7899 (Jean-Pierre Charbonneau)/RDPP, No. 235/1.

65 JD, May 23, 2001, p. 1421 (Jean-Pierre Charbonneau)/RDPP, No. 235/2.

66 See Chapter 14, Subsection 14.3.1.2, “Referral for Consultation”.

67 Examples of matters for which consultations may be held in committee are draft bills, bills and government policies.

68 JD, May 23, 2013, p. 3524 (Jacques Chagnon)/RDPP, No. 146/2 | JD, October 1, 2014, pp. 2060–2061 (Maryse Gaudreault)/RDPP, No. 146/3.

69 JD, May 23, 2001, p. 1421 (Jean-Pierre Charbonneau)/RDPP, No. 235/2.

In actual practice, such motions are often adopted through a process simpler than placing a notice on the Order Paper. A motion without notice may be moved during Routine Proceedings to delegate the mandate to hold special or general consultations to a committee (SO 84.1). This method is frequently used by the Government House Leader and the motion moved is usually the result of an agreement between the parliamentary groups and the independent Members regarding the terms of the consultation. However, this approach requires the unanimous consent of the Members of the Assembly.

SELF-INITIATED ORDERS (ORDERS OF INITIATIVE)

In addition to acting on orders from the Assembly, committees may initiate orders on their own. This power arises from and is a logical application of the parliamentary reform of 1984, which was designed mainly to grant the committees more autonomy. Such orders are initiated on a motion by a committee member that is carried by a majority of the committee members from each parliamentary group (SO 149). Standing Order 120 sets out four situations in which committees may initiate the examination of matters within their areas of competence.

First, committees may, on their own initiative, decide to examine draft regulations and regulations that fall within their respective areas of competence (SO 120(1)). They cannot adopt the sections of a regulation but, if they wish to propose amendments to the Government, they can formulate observations, conclusions and recommendations in a deliberative meeting (SO 176).⁷⁰

Second, committees may initiate examination of the policy directions, activities and management of the government departments and public bodies referred to in Standing Orders 293.1 and 294 (SO 120(2)). There are two types of such mandates: under the first type, every year, sectorial committees must examine the policy directions, activities and management of at least one public body subject to their oversight (SO 294),⁷¹ and under the second type, they must, at least once every four years and within their respective areas of competence, hear each minister who deems it expedient to be heard and each deputy minister or chief executive officer who is subject to the *Public Administration Act* (SO 293.1). The sectorial committees began sharing the latter responsibility with the Committee on Public Administration after the 2009 parliamentary reform. However, this responsibility was not completely new to them since they had fulfilled a similar role between the passage of the *Act respecting the accountability of deputy ministers and chief executive officers of public bodies* in 1993 and the creation of the Committee on Public Administration in 1997.

70 JD, March 11, 2010, CAT-28 p. 1 (Marie Malavoy)/RDPP (Com. Vol.), No. 120/1.

71 According to the second paragraph of Standing Order 294, a public body is a body to which the National Assembly, the Government or a minister appoints the majority of the Members, whose personnel is appointed in accordance with the *Public Service Act*, CQLR, c. F-3.1.1, or whose capital forms part of the domain of the State.

Although these mandates are prescribed by the Standing Orders and the committees are responsible for carrying them out, each committee decides, in a deliberative meeting, in accordance with Standing Order 149, which public body it wishes to hear. The decision is made by a motion carried by a majority of the committee members from each parliamentary group. If the committee fails to reach a decision, the Committee on the National Assembly decides in its place (SO 293.1 and 294).⁷²

Third, since the 2009 parliamentary reform, a committee may initiate examination of a petition tabled in the Assembly (SO 120(2.1)). This type of mandate is discussed in Chapter 8.

Last, each sectorial committee may investigate any other matter of public interest (SO 120(3)). This allows committees to initiate examination of any subject or matter they wish to further explore in their areas of competence.⁷³

When a committee initiates an order, it has complete freedom to decide, in a deliberative meeting, how to organize its work. Usually, a National Assembly Library research officer participates in committee proceedings to advise the committee on substantive issues, summarize the information gathered and participate in drafting its report. The committee may also retain the services of an expert to assist its members. In addition, it may decide to hold consultations with organizations or persons to hear their point of view or benefit from their expertise on the matter under consideration. As previously mentioned, the committee may also decide to entrust the organization of the mandate to its steering committee.

STATUTORY ORDERS

Certain mandates are conferred on committees under a statute. These mandates are varied and include the examination of reports (ad hoc, annual or periodic) or opinions, the assessment of the implementation of a particular statute or any of its provisions, the examination of regulations and draft regulations, the hearing of public bodies and the holding of general or special consultations.

Some legislative provisions specify the committee to which a matter is to be referred, while others assign a specific mandate to the “competent committee”. In certain cases, the Committee on the National Assembly is responsible for designating which committee is to carry out a mandate.⁷⁴ The intervals at which a mandate conferred by a statute must be carried out may also be specified in the statute.

72 To date, the Committee on the National Assembly has never used this power, despite the failure of certain committees to comply with this requirement.

73 There are some exceptions to this principle. For instance, under the principle of judicial independence, a committee may not adopt a mandate to hear the commissioners of an inquiry commission created under the *Act respecting public inquiry commissions*, CQLR, chapter C-37, since these commissioners benefit from the same immunity and privileges as Superior Court judges. (Minutes, February 25, 2016, CI p. 2 (Guy Ouellette)/RDPP (Com. Vol.), No. 149/3).

74 See footnote 10.

Depending on what is specified in the legislative provision, some mandates can be carried out only under an order of the Assembly.⁷⁵ This means that, despite a committee's legal obligation to carry out a mandate, a motion carried by the Assembly is still required for the matter to be officially referred to the committee.⁷⁶

In most cases, however, the statute allows the committee to undertake the mandate on its own initiative. In a 1996 ruling,⁷⁷ the President of the Assembly described this type of mandate as practically self-initiated since, although the committees have a legal obligation to carry out such mandates, they retain full discretion in exercising that obligation. As a result, there is no way of ensuring that a mandate is really being acted on, since the Chair and members of the competent committee are solely responsible for carrying it out.

SPECIAL MANDATES UNDER THE STANDING ORDERS

In addition to the mandates conferred under Standing Orders 119 and 120, the Committee on Public Finance devotes at least one meeting per fiscal quarter to examining the Government's budgetary policy and the state of public finances (SO 292). It must also devote 10 hours to the budget speech debate (SO 272 and 275), which is recognized as a quarterly meeting for examining the Government's budgetary policy (SO 292).⁷⁸

For its part, the Committee on Institutions is responsible for hearing the Chief Electoral Officer and the Public Protector every year (SO 294.1).

Lastly, under Standing Order 295, an opposition Member may interpellate a minister on any matter of general interest in an area for which the minister is responsible.⁷⁹

75 *Election Act*, CQLR, c. E-3.3, s. 544; *Act respecting health services and social services*, CQLR, c. S-4.2, ss. 392 and 530.80.

76 In rare cases, a mandate may also be conferred on a parliamentary committee by means of an order of reference issued by the Government under a legislative provision. This is the case, for instance, for the review of Hydro-Québec's strategic plan. In fact, while the *Hydro-Québec Act* provides that "the strategic plan of the Company shall be established according to the form, content and timetable determined by the Government" (*Hydro-Québec Act*, CQLR, c. H-5, s. 11.12), a government order "concerning the form, content and timetable" of its strategic plan mentions that, prior to government approval, the strategic plan must be referred to the National Assembly for consideration by a parliamentary committee (Order in Council 579-2015, June 30, 2015). In such a case, the Assembly must also pass a motion in order for the committee to be allowed to take on the mandate (JD, September 30, 2009, p. 3285; JD, June 8, 2016, pp. 11523-11524; JD, December 5, 2019, p. 5935).

77 JD, November 5, 1996, pp. 2916-2917 (Jean-Pierre Charbonneau)/RDPP, No. 120/1.

78 The Committee on Public Finance is responsible for organizing the mandate set out in Standing Order 292. JD, June 6, 2013, pp. 3917-3918 (Carole Poirier)/RDPP, No. 292/1.

79 See Chapter 19, Section 19.3, "Interpellation".

18.1.3.5 SUBCOMMITTEES

Since the 1984 reform, a committee may strike a subcommittee composed of committee members to carry out a mandate it has received or initiated. This requires a motion by a committee member carried by a majority of the members from each parliamentary group (SO 150). A committee may not, however, entrust a subcommittee with a mandate different from the one originally referred to it by the Assembly.⁸⁰

The committee both determines the membership of the subcommittee and appoints the Chair on a motion carried by a majority of the members from each parliamentary group (RCP 9).

Every subcommittee must report to the committee that appointed it. A subcommittee report on an order of reference from the Assembly is discussed in a limited debate of up to one hour, during which committee members may propose amendments. The committee votes only on the amendments and then reports to the Assembly (SO 151).

Except as otherwise provided, the rules applicable to committees also apply to subcommittees, which have the same powers (SO 152).

Although there are certain advantages to having a subcommittee carry out an order of reference from the Assembly,⁸¹ the committees are reluctant to do so, as evidenced by the fact that half of the 20 orders referred to subcommittees to date were referred during the first two years after the 1984 parliamentary reform.⁸²

80 JD, June 6, 1985, pp. CBA-865-867 (Claude Lachance)/RDPP (Com. Vol.), No. 150/1.

81 Some of the main advantages of working in a subcommittee are:

- it enhances Member participation and commitment;
- having a smaller group carry out a mandate enables each committee member to play a role. Since the committee determines subcommittee membership, the members selected often have a marked interest in the matter under consideration, which allows the subcommittee to work efficiently;
- it allows time for more committee-initiated orders without compromising other committee mandates.

82 Of the 20 mandates carried out by subcommittees, 15 were referred by the Assembly, including seven for the examination of public bills. The subcommittee format has been favoured for the consideration of bills arising from the reform of the *Civil Code of Québec* and for certain general or special consultations. On other occasions, forming a subcommittee has allowed a committee to use the remaining time allotted for examining the budget estimates of a government department or has facilitated the simultaneous consideration of two bills (See Secrétariat des commissions, *La réforme parlementaire 10 ans après: les impacts de la réforme de 1984 sur les commissions parlementaires* (Québec: National Assembly of Québec), pp. 97-98). The last time a mandate was carried out by a subcommittee was in 2006 when the Committee on Transportation and the Environment mandated a subcommittee to travel to northern Québec to hold deliberative meetings and meet various stakeholders as part of the committee's order of initiative on climate warming and other environmental issues in the region.

18.1.4 JOINT COMMITTEES

With the consent of the Committee on the National Assembly, two or more committees or subcommittees may establish a joint committee or subcommittee to examine a matter. The committees decide in a deliberative meeting on the feasibility of doing so (SO 153). The Committee on the National Assembly appoints the co-Chairs of the joint committee or joint subcommittee (RCP 10).

Although the joint committee format lends a certain flexibility to the sectorial specialization of committees by allowing Members to take part in the work of other committees, only one joint committee has been established since 1984.⁸³ A more common means to the same end is the temporary replacement of committee members or the participation of non-members, as provided for in the Standing Orders.

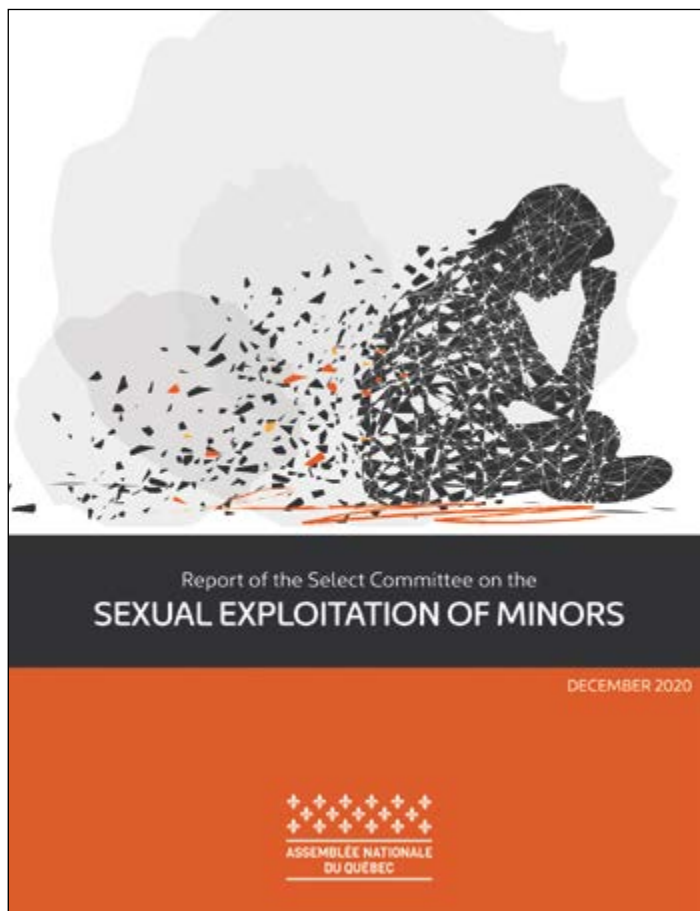
18.1.5 SELECT COMMITTEES

In addition to standing committees, the Assembly may strike select committees (SO 178), an attractive option when it wants to entrust certain specific Members with the examination of a particular matter that does not necessarily fall within the areas of competence of any of the standing committees.⁸⁴ The Assembly passes a motion to define the orders of reference of each select committee and appoint its members. In addition, it may determine the duration of the mandate and appoint the committee Chair and Vice-Chair. Unless the Assembly decides otherwise, the rules pertaining to the standing committees also apply to select committees.

83 The Joint Committee on Social Affairs, Education and Manpower was established to solve the problem created by the overlapping mandates of the Committee on Social Affairs and the Committee on Education and Manpower in order to examine the budget estimates for Program 6 of the 1984–1985 estimates of the Ministère de la Main-d'œuvre et de la Sécurité du revenu.

84 Since 1984, six select committees have been created under the Standing Orders. In 1995, a select committee was established to hold special consultations on Bill 90, *An Act to foster the development of manpower training*, and undertake its clause-by-clause consideration (VP, May 11, 1995, pp. 417–419). In 1999, a select committee was set up to hold general consultations on the new government management framework proposed in the policy statement entitled *Improving Services for Quebecers: A New Management Framework for the Public Service* (VP, June 17, 1999, pp. 451–452). In both cases, appointing a select committee solved the problem created by the overlapping mandates of two standing committees. In 2005, the Assembly struck a select committee to hold special consultations on the choice of a site for the future Centre hospitalier de l'Université de Montréal; the motion passed on March 8, 2005, was retroactive to February 28, 2005, the date on which the committee began its proceedings (VP, March 8, 2005, pp. 1566–1579). On June 15, 2005, the Assembly struck a select committee to examine a draft bill replacing the *Election Act* tabled on December 15, 2004 (VP, June 15, 2005, pp. 1726–1730). On December 4, 2009, on a motion moved by an Official Opposition Member, the Assembly struck a select committee to examine the issue of dying with dignity (VP, December 4, 2009, pp. 950–953). Lastly, on June 14, 2019, the Assembly passed a motion to establish the Select Committee on the Sexual Exploitation of Minors (VP, June 14, 2019, pp. 920–922).

A select committee ceases to exist once it has tabled its report in the Assembly. However, if a session ends due to prorogation of the Assembly before the committee has completed its work, the committee is automatically dissolved, unless the Assembly decides otherwise.



A select committee may also be established by legislation. This option may be preferable when the operational framework of the standing committees does not suit the matter at hand. For instance, a statute creating a select committee could set out special rules governing the conduct of proceedings or provide for different human and material resources from those generally granted to parliamentary committees. The fact that a select committee is created by a statute can also hold symbolic significance, highlighting the importance of the mandate entrusted to the committee.

For example, the *Act respecting the process for determining the political and constitutional future of Québec*, passed in 1991,⁸⁵ provided for the establishment of two select parliamentary committees under the authority of the National Assembly: the Committee to Examine Matters Related to the Accession of Québec to Sovereignty and the Committee to Examine any Offer of a New Constitutional Partnership.⁸⁶ Even when rules of procedure applicable to a select committee are contained in an Act, the committee Chair is still free to interpret these rules, since both the President of the Assembly and the committee Chair have exclusive power to interpret procedural rules, even those enshrined in statute.⁸⁷

While a select committee established under Standing Order 178 may be composed only of Members of the National Assembly (ANA, s. 10),⁸⁸ a statute may provide for the establishment of a larger committee composed of Members of the National Assembly and members of the general public, with the same rules governing its proceedings as those applicable to parliamentary committee proceedings.⁸⁹ This was the case for the Commission on the Political and Constitutional Future of Québec—better known as the Bélanger-Campeau Commission, named after its two co-Chairs—which was established in 1990

85 *Act respecting the process for determining the political and constitutional future of Québec*, SQ, 1991, c. 34.

86 Each committee was composed of 18 members, including the Chair, who was appointed by the Premier from among the committee members. In addition to the Premier, the Leader of the Official Opposition and the Minister for Intergovernmental Affairs, each committee had 15 members, nine appointed from the Government party by the Premier, five appointed from the Official Opposition by the Leader of the Official Opposition (two of whom were not entitled to vote), and the leader of the other opposition party or a Member from that party appointed by that party's leader. The Act stated specifically that the rules applicable to standing parliamentary committees were applicable to the select committees, except when otherwise provided (*Ibid.*, s. 28).

87 See Chapter 3, "Parliamentary Privilege", and Chapter 4, "The Office of President".

88 The select committee established to examine the draft bill replacing the *Election Act* was assisted in its mandate by a citizens' committee composed of eight registered voters: four women and four men (VP, June 15, 2005, pp. 1728–1729).

89 In this respect, it is important to distinguish between select parliamentary committees created under a statute and special commissions created by order in council and in which parliamentary Members participate, as was the case, for example, for the Special Commission on the Rights of the Child and Youth Protection, which was chaired by Régine Laurent and in which four Members from four parliamentary groups sitting in the Assembly took part (Order in Council 534-2019, May 30, 2019).

following the failure of the Meech Lake Accord.⁹⁰ Unlike a select committee appointed by the Assembly in accordance with section 178, a select committee created by a statute is not automatically dissolved by the prorogation of a parliamentary session.

Lastly, it is important to distinguish select committees from other types of committees that may be established by the Government, such as advisory committees⁹¹ and commissions of inquiry.⁹² Since the latter are not parliamentary committees, they are not subject to the same rules.

90 The Commission was composed of the two Chairs appointed on a joint motion by the Premier and the Leader of the Official Opposition; 16 Members of the National Assembly: nine from the Government party, six from the Official Opposition and one from the other opposition party; and 15 other persons appointed on a motion by the Premier after consultation with the Leader of the Official Opposition, including three Members of the House of Commons representing a riding in the province of Québec (*An Act to establish the Commission on the Political and Constitutional Future of Québec*, SQ, 1990, c. 34, s. 5). In addition, section 27 read as follows:

Unless otherwise provided in this Act or in a rule made by the Commission, the provisions of the Standing Orders of the National Assembly and the Operating Rules of the National Assembly for sittings of parliamentary committees, adapted as required, apply to sittings of the Commission.

After the Commission tabled its report on March 27, 1991, the Assembly created the Committee to Examine Matters Relating to Québec's Accession to Sovereignty and the Committee to Examine any Offer of a New Constitutional Partnership.

91 See, for example, the Consultation Commission on Accommodation Practices Related to Cultural Differences (Bouchard-Taylor Commission) (Order in Council 95-2007, February 8, 2007).

92 See, for example, the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress (Viens Commission) (Order in Council 1095-2016, December 21, 2016); the Commission to Investigate the Protection of Journalists' Sources (Chamberland Commission) (Order in Council 1000-2016, November 11, 2016); the Commission of Inquiry on the Awarding and Management of Public Contracts in the Construction Industry (Charbonneau Commission) (Order in Council 1029-2011, October 19, 2011; Order in Council 1119-2011, November 9, 2011; Order in Council 1163-2011, November 23, 2011) and the Inquiry Commission on the Process for Appointing Judges of the Court of Québec and Municipal Courts and Members of the Tribunal administratif du Québec (Bastarache Commission) (Order in Council 322-2010, April 14, 2010).

18.2 COMMITTEE PROCEEDINGS AND PROCEDURE

18.2.1 COMMITTEE MEETINGS

18.2.1.1 SCHEDULE AND LOCATION

During periods of ordinary hours of meeting, committees may meet five days a week according to the following schedule (SO 143):

- Mondays from 2:00 to 6:00 p.m.;
- Tuesdays from 10:00 a.m. to 9:30 p.m., suspending their proceedings from 12:00 noon to 1:40 p.m. and from 6:00 to 7:30 p.m.;
- Wednesdays and Thursdays from 9:40 a.m. to 6:00 p.m., suspending their proceedings from 1:00 to 3:00 p.m.; and
- Fridays from 9:30 a.m. to 12:30 p.m.

During periods of extended hours of meeting, committees may meet according to the following schedule (SO 143.1):

- Mondays from 2:00 to 6:00 p.m.;
- Tuesdays from 10:00 a.m. to 9:30 p.m., suspending their proceedings from 12:00 to 1:40 p.m. and from 6:00 to 7:30 p.m.;
- Wednesdays and Thursdays from 9:40 a.m. to 10:30 p.m., suspending their proceedings from 1:00 to 3:00 p.m. and from 6:00 to 7:30 p.m.; and
- Fridays from 9:40 a.m. to 1:00 p.m.

Outside of these periods, committees may meet according to the following schedule (SO 143.2):

- Mondays from 2:00 to 6:00 p.m.;
- Tuesdays, Wednesdays and Thursdays from 9:30 a.m. to 6:00 p.m., suspending their proceedings from 12:30 to 2:00 p.m.; and
- Fridays from 9:30 a.m. to 12:30 p.m.

By unanimous consent of its members, a committee may agree to continue meeting past the scheduled suspension or adjournment time or to begin a deliberative meeting before the scheduled time (SO 144). This allows committees to, for instance, hold deliberative meetings early in the morning or during the periods of suspension provided for in Standing Orders 143, 143.1 and 143.2.

Committees meet in the Parliament Building or in other National Assembly buildings. With the permission of the Committee on the National Assembly, they may also travel or meet in a place outside the precincts of the National Assembly (SO 116(3)). To do this, they must submit a written request to the Committee on the National Assembly setting out the reasons for meeting elsewhere and an estimate of the costs involved. If the Committee on the National Assembly

COMMITTEE SCHEDULE

ORDINARY HOURS OF MEETING			
MONDAY	TUESDAY	WEDNESDAY and THURSDAY	FRIDAY
		9:40 a.m. to 11:00 a.m.	9:30 a.m. to 12:30 p.m.
	10:00 a.m. to 12:00 noon	11:00 a.m. to 1:00 p.m.	
	Suspension		
	1:40 p.m. to 3:00 p.m.	Suspension	
	3:00 p.m. to 6:00 p.m.	3:00 p.m. to 6:00 p.m.	
2:00 p.m. to 6:00 p.m.	Suspension		
	7:30 p.m. to 9:30 p.m.		
EXTENDED HOURS OF MEETING			
MONDAY	TUESDAY	WEDNESDAY and THURSDAY	FRIDAY
		9:40 a.m. to 11:00 a.m.	9:40 a.m. to 11:00 a.m.
	10:00 a.m. to 12:00 noon	11:00 a.m. to 1:00 p.m.	11:00 a.m. to 1:00 p.m.
	Suspension		
	1:40 p.m. to 3:00 p.m.	Suspension	
	3:00 p.m. to 6:00 p.m.	3:00 p.m. to 6:00 p.m.	
2:00 p.m. to 6:00 p.m.	Suspension	Suspension	
	7:30 p.m. to 9:30 p.m.	7:30 p.m. to 9:30 p.m.	
OUTSIDE OF SESSIONAL PERIODS			
MONDAY	TUESDAY to THURSDAY	FRIDAY	
	9:30 a.m. to 12:30 p.m.	9:30 a.m. to 12:30 p.m.	
	Suspension		
2:00 p.m. to 6:00 p.m.	2:00 p.m. to 6:00 p.m.		

LEGEND

- Routine Proceedings in the Assembly (committee proceedings suspended)
- Committee proceedings

authorizes the request and if the costs incurred exceed the budget allocated by the Office of the National Assembly for committee expenses, the Office approves an additional budget envelope to cover the extra amount. When it has completed its work, the committee or its steering committee must submit a report on its activities and expenses to the Committee on the National Assembly (RCP 1).



Parliamentary committee holding hearings outside the National Assembly precincts.

18.2.1.2 NUMBER OF COMMITTEES AUTHORIZED TO MEET

The 2009 parliamentary reform increased from three to four the number of committees allowed to meet at the same time when the Assembly is sitting (SO 145). During Routine Proceedings, however, committees may meet only if they do so outside the precincts of the National Assembly. When the Assembly is not sitting, up to five committees may meet concurrently (SO 145, 2nd para.).

18.2.1.3 PUBLIC MEETINGS, DELIBERATIVE MEETINGS AND IN CAMERA MEETINGS

All committee meetings, except deliberative meetings, are public (SO 159). However, a committee may decide to meet in camera on a motion carried by a majority of the members from each parliamentary group (SO 160). This option may be considered when witnesses are reluctant to testify before a committee due to the nature of the subject matter and the information they might have to reveal. Depending on the terms of the motion, the decision to meet in camera may apply to only part of a public hearing or deliberative meeting or even to only one particular testimony.

When a committee decides to meet behind closed doors, the testimony heard, documents received and deliberations held are secret and may be disclosed only to the extent and on the conditions determined by the concerned parties and the committee on a motion carried unanimously by the committee members (SO 160, 2nd para.).⁹³ This rule applies without exception.⁹⁴ A motion allowing total or partial disclosure must be accompanied by the written consent of the concerned parties. The terms of both the motion and the written consent are public (RCP 13).

The committee clerk takes part in the meetings held in camera (RCP 12) and prepares the minutes of the proceedings (SO 161). The minutes must record the date and time of the meeting and contain the committee mandate and a list of the members present or replaced, but must not include any information obtained behind closed doors.

Since the Standing Orders do not specify the circumstances in which an in camera meeting may be justified, it is entirely up to the committee to decide whether to hold one. The use of in camera meetings can be seen as a useful way to allow parliamentarians to fulfill their role while protecting the confidentiality of sensitive information. For instance, a committee Chair once recognized that an in camera meeting could be held to hear an organization on a matter pending before the courts without infringing the *sub judice* rule.⁹⁵ This rule, set out in paragraph 3 of Standing Order 35, prohibits a Member who has the floor from referring to a matter that is before a court of law or a quasi-judicial body or that is the subject of an inquiry if such a reference could be

93 On March 10, 1994, the members of the Select Parliamentary Committee to Examine Matters Relating to Québec's Accession to Sovereignty held an in camera meeting and unanimously decided to disclose a document concerning Québec's credit rating. On June 3, 2016, the members of the Committee on Public Administration heard the Anti-Corruption Commissioner behind closed doors as part of a mandate on the administrative management of the Ministère des Transports. At the end of the hearing, the committee members unanimously decided to disclose the testimonies heard and documents received, with some exceptions. The Commissioner gave written consent for disclosure of the closed session (Minutes, June 3, 2016, CPA p. 2 (Carole Poirier)). Lastly, on August 24, 2020, the members of the Select Committee on the Sexual Exploitation of Minors heard testimony behind closed doors from victims of sexual exploitation of minors and from their relatives. At the close of hearings, the committee members unanimously agreed to disclose the testimonies heard but maintain the confidentiality of the names and identities of the witnesses as well as of any element of their testimony that could make it possible to identify them. The witnesses consented in writing to this partial disclosure of the closed session (Minutes, August 24, 2020, CSESM p. 4 (Ian Lafrenière)).

94 Minutes, May 29, 2013, CTE pp. 5–6 (Fatima Houada-Pepin)/RDPP (Com. Vol.) No. 160/2.

95 JD, March 17, 1992, pp. CAE-7904–7906 (Jean Garon)/RDPP (Com. Vol.), No. 35(3)/3.

prejudicial to any person or party.⁹⁶ In camera meetings may also be held to ensure a witness's safety and the protection of their identity or to take into account their special status.⁹⁷

Under Standing Order 35(2), a Member who has the floor may not refer to a committee's in camera proceedings before the committee's report has been tabled in the National Assembly. The question therefore arises as to what sanctions are to be imposed on a Member who discloses such information. According to various authors, publishing or disclosing a committee's in camera deliberations or committee reports before they are made available to the other Members constitutes a breach of privilege or contempt of Parliament:

The publication or disclosure of debates or proceedings of committees conducted with closed doors or in private, or when publication is expressly forbidden by the House, or of draft reports of committees before they have been reported to the House will, however, constitute a breach of privilege or a contempt.⁹⁸

In that respect, as explained in Chapter 3, section 55 of the *Act respecting the National Assembly* lists acts or omissions that can be considered breaches of the privileges of the Assembly. Under paragraph 1 of that section, refusal to comply with an order of the Assembly, a committee or a subcommittee constitutes a breach of privilege. Since a motion to hold an in camera meeting, once passed, becomes an order of the committee,⁹⁹ a Member or another person¹⁰⁰ who contravenes that order could be found in contempt of Parliament and be liable to a sanction prescribed in sections 133 and 134 of the *Act respecting the National Assembly*.

96 See Chapter 11, "Order and Decorum".

97 As part of an investigative mandate referred to it by the Assembly, the Committee on Transportation and the Environment called the bodyguard of a former minister to whom the mandate pertained. To allow the bodyguard to answer the committee members' questions but also make it possible for him to meet his ethical obligations, the Committee decided to hear him in an in camera meeting (Minutes, May 29, 2013, CTE pp. 3–5 (Fatima Houda-Pepin)/RDPP (Com. Vol.), No. 170/7).

98 Thomas Erskine May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 23rd ed., William Robert McKay and Frank Cranmer, eds. (London: LexisNexis UK, 2004), p. 142. On the same subject, the *Australian House of Representatives Practice* specifies the following: "The publication or disclosure of evidence taken in private, of private deliberations and of draft reports of a committee before their presentation to the House, have been pursued as matters of contempt." (David R. Elder and P.E. Fowler, eds., *House of Representatives Practice*, 7th ed. (Canberra: Department of the House of Representatives, 2018), p. 761).

99 Minutes, May 29, 2013, CTE pp. 5–6 (Fatima Houda-Pepin)/RDPP (Com. Vol.), No. 160/2.

100 In addition to the committee members and the committee clerk, the persons who may attend in camera meetings are specified in a motion carried by the committee. All such persons must respect the confidentiality of the proceedings even if they were not in attendance (Minutes, May 29, 2006, CTE p. 2 (Claude Pinard)/RDPP (Com. Vol.), No. 160/1).

Furthermore, it is important to make a distinction between a deliberative meeting and an in camera meeting. The main purpose of deliberative meetings is to organize committee work, to take up a new mandate or to discuss the content of a draft report. Even though such meetings are closed to the public, they are not considered to be in camera because their deliberations are not secret, unlike those of in camera meetings. Moreover, Members' staff used to be allowed to attend deliberative meetings in order to follow the progress of committee work.¹⁰¹ However, in a report tabled in the Assembly in June 2000 and favourably received by a majority of the Members, the Comité de réflexion sur le travail des commissions (task force on committee work) recommended limiting access to deliberative meetings to committee members and committee staff in order to foster the Members' autonomy as parliamentarians, overseers of government action and legislators. For this reason, persons other than committee members and committee staff who wish to attend a deliberative meeting must first obtain the committee's consent.¹⁰²

As previously mentioned, the usual purpose of a deliberative meeting is to organize the committee's work. When a general consultation is being held, the committee holds deliberative meetings to take note of briefs and requests to be heard without a written brief, to decide whether certain persons and organizations should be heard during public hearings and to determine the length of each hearing (SO 167). The same procedure applies when committees decide to hold special consultations (SO 171). Similarly, when a committee concludes the examination of a matter referred to it by the Assembly, it holds a deliberative meeting at the request of one of its members to determine the observations, conclusions and recommendations, if any, it wishes to submit (SO 176). Deliberative meetings are also where committees decide on the possibility of establishing a joint committee or joint subcommittee (SO 153), and generally where they decide on the advisability of taking up an order on their own initiative (SO 120 and 149). Lastly, committees can also decide in a deliberative meeting to strike a subcommittee (SO 150).

The committee Chair convenes deliberative meetings and determines their agenda (SO 148). Given the importance for committee members to be informed of the subjects to be discussed at a given meeting, any subject not on the agenda cannot be discussed.¹⁰³

101 Minutes, August 29, 1985, CI pp. 3-4 (Marcel Gagnon).

102 Minutes, September 11, 2003, CFP p. 4 (Alain Paquet)/RDPP (Com. Vol.), No. 159/3. In practice, however, no consent is required when a committee invites someone to participate in a deliberative meeting. This is true for Auditor General of Québec staff, who regularly take part in the proceedings of the Committee on Public Administration.

103 Minutes, December 12, 2007, CAS p. 6 (Geoffrey Kelley)/RDPP (Com. Vol.), No. 148/1.

Under Standing Order 161, the deliberations of committees meeting in public to carry out a mandate entrusted to them by an order of reference from the National Assembly, by a statute or by the Standing Orders are recorded in the *Journal des débats* (Hansard).¹⁰⁴ In addition, public committee meetings are broadcast on the National Assembly channel and website. Most Parliament building rooms where committee meetings are held are equipped to broadcast proceedings. There are rules to guide committee Chairs in determining whether to authorize media representatives to film proceedings during public meetings.¹⁰⁵

Committee proceedings not held in public are not recorded in the *Journal des débats* (Hansard). However, with the assent of a majority of its members, a committee may request that its proceedings be recorded (SO 161 and RCP 14). The President of the National Assembly rules on each request (RCP 14).

The reports of committees having held only deliberative meetings on a matter are submitted to the Committee on the National Assembly, and the latter appends them to its own report tabled in the National Assembly. Other committee reports are tabled in the Assembly as soon as consideration of a matter is concluded (SO 174).

18.2.1.4 CONVENING A COMMITTEE

A committee that has received an order of reference from the Assembly is convened by the committee Chair on a written notice from the Government House Leader stating the purpose, date, time and place of the meeting; a copy of the notice is sent to the President of the Assembly.¹⁰⁶ If the Assembly is sitting, the Government House Leader, during the part of Routine Proceedings set aside for notices concerning committee proceedings, informs the Assembly that the committee has been convened. This verbal notice serves in lieu of an official notice of meeting (SO 85 and 147).¹⁰⁷ Since orders of reference from the

104 Under this Standing Order, the deliberations of a committee carrying out an order of initiative would not be recorded in the *Journal des débats* (Hansard) but, in practice, all public committee meetings are.

105 On February 21, 2013, the Committee on Transportation and the Environment held a public meeting in the Premiers' Room of the Pamphile-Le May Building to hear a minister. Since this room is not equipped for broadcasting proceedings, the committee Chair, drawing from the National Assembly's rules for media access, allowed media representatives to film proceedings during each parliamentary group's initial interventions and at the beginning of the minister's hearing. (JD, February 21, 2013, CTE-6 pp. 1-2 (Fatima Houde-Pépin)/RDPP (Com. Vol.), No. 159/4). Note that the Chair may allow proceedings to be filmed even if a meeting is being broadcast.

106 Subsequently, the committee may not, even with the unanimous consent of its members, hold its deliberations in a different room than the one announced during Notices of Proceedings in Committees in the House, as the choice of committee room is the prerogative of the Government House Leader (JD, June 3, 2019, CRC-25 p. 1 (MarieChantal Chassé)/RDPP (Com. Vol.), No. 147/1).

107 See Chapter 9, Subsection 9.2.1.10, "Notices of Proceedings in Committees".

Assembly take precedence, the Government House Leader may convene a committee even if the latter had already planned to take up another mandate on its own initiative at that time.¹⁰⁸

In any other case, the committee Chair asks the clerk to convene the committee. The clerk does so by a written notice stating the purpose, date, time and place of the meeting (SO 148).¹⁰⁹ A copy of this notice is sent to the President of the Assembly and to the House leaders and whips of the parliamentary groups. If the Assembly is sitting, the President communicates the notices of proceedings initiated by the committee during the part of Routine Proceedings set aside for that purpose, after the notices of the Government House Leader (SO 85). Since such a notice does not stand in lieu of a notice of meeting, its absence does not prevent a committee duly convened by its Chair from meeting. Moreover, committee Chairs can cancel a meeting after notice has been given by the President.

18.2.1.5 QUORUM

Quorum in committee is one-third of the members, and in subcommittee, a majority of the members (SO 156). The Chair is included in the quorum, but a temporary Chair is included only if the latter is a committee member.

Quorum is necessary to open a meeting and to validate a vote. However, once the meeting has been called to order, quorum is assumed to exist unless lack of quorum is brought to the committee's attention by a member or evidenced by the result of a vote. In such cases, the Chair suspends proceedings. If quorum is not re-established within a reasonable time, the Chair adjourns the meeting (SO 156).

The lack of quorum may not be raised in advance and only a member present may call attention to it.¹¹⁰ Even if there are no Official Opposition representatives present at a meeting, the committee may begin proceedings as long as there is quorum.¹¹¹ Since the existence of quorum is the only condition for a valid vote, it is even possible to vote on a motion to amend a section of a bill when the minister or Member who introduced the bill is absent.¹¹²

108 JD, May 23, 2013, p. 3525 (Claude Cousineau)/RDPP, No. 147/4.

109 Since spring 2001, it has become common practice to send notices of meeting by email.

110 JD, December 5, 1990, pp. CBA-1853-1854 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 156/3.

111 JD, June 12, 1985, pp. CBA-1121-1122 (Claude Lachance)/RDPP (Com. Vol.), No. 156/1.

112 JD, June 16, 1986, p. CAE-985 (Jean-Guy St-Roch)/RDPP (Com. Vol.), No. 156/2. The question can be put on a motion even if the Member who introduced it is absent. This happened in the Committee on Transportation and the Environment on August 23, 2017, when the Member having moved a subamendment the day before was absent for the vote on it (JD, August 23, 2017, CTE-137 pp. 28-29).

18.2.1.6 REPLACING A COMMITTEE MEMBER

Committee members are automatically entitled to participate in debates, question witnesses, move motions and vote. Any committee member may be temporarily replaced by another Member of the National Assembly while a particular matter is under consideration (SO 130) or for the duration of a meeting held to consider a matter referred to the committee by the Assembly (SO 131).

The whip of a parliamentary group or the whip's representative notifies the committee clerk of any temporary substitutions (RCP 2 and 3).¹¹³ The clerk then informs the committee of the substitutions at the beginning of each meeting, in the case of orders of reference from the Assembly, or at the beginning of its first meeting in the case of other mandates.

No substitutions are allowed during deliberative meetings held to discuss whether a committee should initiate an order. Only permanent committee members may attend such a meeting.¹¹⁴ However, temporary substitutions under Standing Order 130 are allowed once the committee has decided to initiate an order. Substitutions for the duration of a meeting under Standing Order 131 are permitted only while a committee is carrying out an order of reference from the Assembly.

Since substitutions for only part of a committee meeting are not allowed, a member who has been replaced loses the right to take the floor for the entire meeting.¹¹⁵ A Member who is on one committee may replace a member of another committee,¹¹⁶ but not another member of the same committee. Consequently, during the clause-by-clause consideration of a bill, a member who had a substitute for the duration of a meeting cannot take another member's place at a subsequent meeting to speak to a bill section for which the substitute used up all the allotted speaking time.¹¹⁷

113 Like other committee members, an independent Member may be replaced by another independent Member without the committee members' consent. The provisions of the Rules for the Conduct of Proceedings requiring whips to notify the committee clerk of any substitution do not apply. (JD, June 6, 1985, CBA pp. 843–849 (Claude Lachance)/RDPP, (Com. Vol.), No. 131/1.

114 Minutes, August 29, 1985, CI p. 2 (Marcel Gagnon)/RDPP (Com. Vol.), No. 131/2.

115 JD, December 10, 1987, pp. CC-1773–1775 (Claude Trudel)/RDPP (Com. Vol.), No. 131/3. Here, "meeting" refers to a meeting held to carry out an order. For example, if a committee carries out two different orders in the same day, substitutions are allowed at the beginning of each "meeting". For some years now, parliamentarians have agreed to relax this rule during examination of the estimates of expenditure. As a result, substitutions are allowed for parts of a meeting if the parts correspond to different components. For example, in the same meeting, a committee may examine three distinct components and different substitutions are allowed for each component.

116 JD, June 10, 1999, CAT-13 pp. 62–63 (Hélène Robert)/RDPP (Com. Vol.), No. 132/3.

117 JD, November 16, 1995, CE-18 p. 8 (Joseph Facal)/RDPP (Com. Vol.), No. 131/4.

Lastly, the Government Whip attends Conseil exécutif meetings but is not considered a member of it. As a result, there is nothing to prevent the Government Whip from replacing a committee member and voting.¹¹⁸

18.2.1.7 PARTICIPATION OF OTHER MEMBERS

Under Standing Order 132, Members not having been appointed to serve on any committee may still take part in a committee's proceedings but are not entitled to vote.¹¹⁹ Members who do serve on a committee may take part in another committee's proceedings only with its permission and may not vote or move motions. Such permission, which may be obtained only with the unanimous consent of the committee members, is not required when the committee is examining the budget estimates.

Standing Order 133 grants an exception with regard to independent Members, allowing them to take part in the examination of a bill in committee even if they sit on another committee. Although they are not entitled to vote, they may still move motions.¹²⁰ In addition, independent Members¹²¹ or members of a parliamentary group other than the Official Opposition may participate in the proceedings of the Committee on Public Administration, but are not entitled to vote or move motions (SO 117.4).

Even though the members of the Committee on the National Assembly are expressly designated by title in the Standing Orders, they may not participate in the work of another committee without its consent since the Committee on the National Assembly is governed by the same rules as every other standing committee.¹²²

118 JD, December 10, 1997, CE-53 p. 1 (Jeanne Blackburn)/RDPP (Com. Vol.), No. 132/2. One can conclude from this ruling that Standing Orders 130 and 131 would not allow a minister to replace a permanent member of a committee.

119 Standing Order 132 has been temporarily amended on several occasions to provide that this rule does not apply to a Member who belongs to a parliamentary group. See Appendix I to this chapter, "The Composition and Particularities of the Parliamentary Committees during the 38th to 42nd Legislatures".

120 JD, March 2, 1993, p. CBA-1871 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 133/1.

121 The Chair of the Committee on Public Administration issued a directive in 2011 on the allocation of speaking time during a public hearing in order to allow several independent Members who were not committee members to participate in the Committee's work. According to the directive, speaking time equivalent to the time to which an additional Member would be entitled is reserved for the independent Members as a group: this time is also divided equally between the number of independent Members having indicated their intention to participate in the hearing (Minutes, September 27, 2011, CAP p. 3 (Sylvain Simard)/RDPP (Com. Vol.), No. 117.4/1).

122 It makes no difference that the members of the Committee on the National Assembly are designated under Standing Order 115 rather than under the mechanism provided for in Standing Order 127. Standing Order 115 is simply intended to ensure that the Members holding the main parliamentary responsibilities are members of the Committee on the National Assembly. JD, June 10, 1999, CAT-13 pp. 62-63 (Hélène Robert)/RDPP (Com. Vol.), No. 132/3.

Moreover, according to a 2000 ruling by a committee Chair, Standing Order 132 does not apply to ministers.¹²³ A committee may not, even by unanimous consent, allow a Member to join it for the duration of a mandate or of a meeting. Only the National Assembly and the Committee on the National Assembly are empowered to change a committee's composition to allow another Member to sit on the committee and to vote.¹²⁴

18.2.2 GENERAL RULES OF PROCEDURE FOR COMMITTEES

18.2.2.1 APPLICATION

Aside from the provisions relating to the committees' names, membership and areas of competence, the body of rules in the Standing Orders governing parliamentary committees is rather limited. This is mainly because, except for inconsistent provisions, the rules relating to the Assembly apply in committee (SO 154). Standing Orders 66 to 69, concerning breaches of privilege, are examples of provisions that do not apply, since such breaches may be raised only in the Assembly.¹²⁵ The same is true for Standing Order 71, concerning personal explanations, since the substance of such explanations must be set out in a notice sent to the President of the Assembly not less than one hour before Routine Proceedings.

123 JD, March 16, 2000, CC-26 p. 1 (Matthias Rioux)/RDPP (Com. Vol.), No 132/4. In his ruling, the committee Chair stated as follows:

[TRANSLATION] Contrary to the Standing Orders in force before 1984, under which a minister was automatically a member of a parliamentary committee, the intention of the 1984 reform was for ministers to sit on parliamentary committees at very specific times only, in order to more clearly underline the independence of the legislative power with respect to the executive power, give true meaning to parliamentary oversight of government action, and avoid . . . situations of conflict of interest in which those being overseen are also the overseers.

The basic principle is very simple . . . since ministers are excluded from the outset from membership in any committee, the Standing Orders allow a minister to sit on a committee only temporarily, in specific and limited circumstances. Each case in which a minister's presence is required is explicitly set out in Standing Orders 124, 125, 261, 275, 287, 300 and 302. The new Standing Orders . . . also allow a minister who so requests to be heard as a witness during consideration of a particular matter—this is very clear in Standing Order 163—and committees, for their part, may request to hear a minister under Standing Order 164 . . . It thus goes without saying that Standing Order 132 . . . applies only to ordinary committee members and not to Cabinet members.

124 JD, December 10, 1997, CE-53 p. 1 (Jeanne Blackburn)/RDPP (Com. Vol.), No. 132/2; JD, November 25, 2009, CFP (steering committee), Appendix V (Alain Paquet)/RDPP (Com. Vol.), No. 121/2.

125 JD, February 13, 1986, p. CBA-160 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 66/1; JD, November 6, 2003, CI-18 pp. 15-17 (Sylvain Simard)/RDPP (Com. Vol.), No. 2/5.

On several occasions, committee Chairs have had to determine whether certain Standing Orders apply in committee. Standing Order 32, for instance, requiring Members to maintain order and decorum and refrain from any course of action that could interfere with proceedings, was determined to apply in the committee context.¹²⁶

It was decided that Standing Order 73, according to which a Member may explain a matter that concerns an absent colleague, applies only in the Assembly, but Standing Order 212, which allows a Member to give a very brief explanation of a speech the Member made, applies in committee.¹²⁷ Consequently, Members who consider that their words have been misquoted may not raise the issue by means of a point of order but may use the procedure set out in Standing Order 212.¹²⁸ Their explanation must be given immediately after the speech giving rise to it,¹²⁹ without interrupting the person who has the floor.¹³⁰

The same is true for Standing Order 213, under which a Member may request permission to question another Member who has just finished speaking.¹³¹ It has been ruled that Members who wish to invoke Standing Order 213 must inform the Chair of their intention to ask a question immediately after the speech giving rise to it¹³² and that they are entitled to ask only one question.¹³³ Requests under Standing Order 213 and points of order are not considered to be speeches.¹³⁴ Nor may the Standing Order be used by Members to answer a question addressed to them during a speech.¹³⁵

Standing Order 211, concerning the relevance of speeches to the matter under discussion, has often been applied in the committee context. When a committee is carrying out an order referred to it by the Assembly, the order of reference determines what is relevant.¹³⁶ Since relevance is difficult to define, the rule must be interpreted not only in favour of the Member who has the floor,¹³⁷ but

126 A computer may be used in committee meetings as long as its use does not interfere with decorum or the proceedings (JD, December 12, 1995, CAS-30 p. 13 (Robert Perreault)/RDPP (Com. Vol.), No. 32/1; JD, December 13, 1995, CAS-31 p. 12 (Robert Perreault)/RDPP (Com. Vol.), No. 32/2).

127 JD, June 12, 1986, pp. CAPA-532-536 (Jacques Tremblay)/RDPP (Com. Vol.), No. 212/1.

128 JD, December 10, 2004, CFP-73 p. 59 (Alain Paquet)/RDPP (Com. Vol.), No. 212/2.

129 Ibid.

130 JD, June 3, 2009, CAS-29 p. 55 (Geoffrey Kelley)/RDPP (Com. Vol.), No. 212/3.

131 JD, January 17, 1995, CI-8 pp. 26-27 (Sylvain Simard)/RDPP (Com. Vol.), No. 213/1.

132 JD, June 15, 2004, CTE-26 p. 52 (Bernard Brodeur)/RDPP (Com. Vol.), No. 213/4.

133 JD, June 11, 2004, CTE-24 p. 13 (Bernard Brodeur)/RDPP (Com. Vol.), No. 213/3.

134 JD, June 10, 2004, CTE-23 p. 58 (Bernard Brodeur)/RDPP (Com. Vol.), No. 213/2.

135 JD, October 28, 2004, CTE-33 p. 21 (Tony Tomassi)/RDPP (Com. Vol.), No. 213/5.

136 JD, September 9, 2003, CAS-9 p. 47 (Russell Copeman)/RDPP (Com. Vol.), No. 211/8.

137 Ibid; JD, February 13, 1986, pp. CBA-122-125 and 128-129 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 211/1.

also in favour of the persons who have been invited to attend committee deliberations,¹³⁸ provided the subject under discussion relates to the committee's order of reference.¹³⁹ This rule may be applied differently depending on the context in which words are spoken¹⁴⁰ and it must be interpreted more broadly during examination of budget estimates than during clause-by-clause consideration of a bill.¹⁴¹

On another point, a committee Chair once ruled during examination of budget estimates that, by analogy with Question Period in the Assembly, no point of order could be raised based on the opinion that a minister's answer to a question was unsatisfactory (SO 81).¹⁴² Similarly, during the clause-by-clause consideration of a bill,¹⁴³ a committee Chair ruled that a minister could refuse to answer a question (SO 82).¹⁴⁴ It is not the Chair's role to evaluate the quality of a question or of the answer given.¹⁴⁵

Standing Order 35, concerning unparliamentary language and words that are inadmissible in debate, also applies to committee proceedings. Consequently, a committee Chair once determined that paragraph 7, according to which the Member who has the floor may not use violent, abusive and insulting language, must be strictly interpreted, including when a Member wishes to quote a journalist.¹⁴⁶ The same applies to paragraph 5,¹⁴⁷ which states that the Member who is speaking may criticize the conduct of another Member only by means of a motion calling that conduct into question, and to paragraph 6, which prohibits imputing improper motives to another Member,¹⁴⁸ provided the latter's words were spoken in the context of parliamentary debate.¹⁴⁹

138 Ibid.

139 JD, April 10, 1990, pp. CAS-2203-2205 (Jean A. Joly)/RDPP (Com. Vol.), No. 211/7.

140 JD, June 20, 2007, CAT-12 p. 48 (Charlotte L'Écuyer)/RDPP (Com. Vol.), No. 211/10.

141 JD, May 27, 2005, CAS-134 pp. 5-6 (Russell Copeman)/RDPP (Com. Vol.), No. 211/9.

142 JD, May 7, 1998, CTE-24 p. 11 (Claude Lachance)/RDPP (Com. Vol.), No. 282/1.

143 JD, June 1, 2006, CFP-16 p. 2 (Sam Hamad).

144 JD, December 17, 2001, CAT-30 p. 32 (Jean-François Simard)/RDPP (Com. Vol.), No. 82/1.

145 JD, April 24, 2002, CAPA-10 p. 17 (Léandre Dion)/RDPP (Com. Vol.), No. 81/1.

146 JD, May 13, 1986, pp. CBA-828-829 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 35(7)/1. A term is not necessarily considered unparliamentary simply because it is listed as such, nor is a term necessarily admissible simply because it is not listed as inadmissible. To determine whether language is unparliamentary, the Chair must evaluate not only the terms used but also the context in which they are used (JD, June 9, 2006, CTE-21 p. 49 (Charlotte L'Écuyer)/RDPP (Com. Vol.), No. 35(7)/3).

147 JD, June 1, 2006, CFP-16 p. 36 (Sam Hamad)/RDPP (Com. Vol.), No. 35(5)/1.

148 JD, June 10, 2004, CTE-23 p. 11 (Bernard Brodeur)/RDPP (Com. Vol.), No. 35(6)/1. Under this ruling, a Member may not refer to the absence of another Member if the intention is to impute improper motives to that Member. However, nothing prohibits the Member from referring, when another Member is absent, to words previously spoken by that Member.

149 JD, June 11, 2013, CCE-40 p. 2 (Lorraine Richard)/RDPP (Com. Vol.), No. 35(6)/2; JD, October 20, 2015, pp. 7267-7268 (François Gendron) RDPP, No. 35(6)/8.

In addition, committee Chairs have intervened on several occasions to ensure compliance with the *sub judice* rule, which prohibits referring to a matter still pending before a court of law if the reference could be prejudicial to the interests of any person or party (SO 35(3)). As in the Assembly, prejudice is assumed and the *sub judice* rule is applied strictly in penal and criminal matters. For this reason, a committee Chair ruled that even a reference to a preliminary inquiry in a matter referred to the Court of Appeal broke the *sub judice* rule, given that the reference was directly related to a matter that could be examined in appeal.¹⁵⁰ However, questions concerning the actions and decisions of the Ministère de la Justice following the report of a commission of inquiry are admissible insofar as they do not directly concern the matter that could be examined in appeal.¹⁵¹ In another case, the same Chair ruled that, even though there was a possible connection between a penal matter and an order of initiative proposed by a Member, the order could not be rejected as long as it did not concern the substance of the matter before the courts.¹⁵²

The *sub judice* rule is applied less strictly in civil and quasi-judicial matters. In parliamentary jurisprudence, a coroner's inquiry is considered to be a case before a quasi-judicial body. That is why, during an interpellation, a Vice-President of the Assembly once reminded Members to be careful not to refer to the matter at the heart of the inquiry.¹⁵³ Similarly, a committee Chair ruled that the Auditor General's investigations are subject to Standing Order 35(3) because the Auditor General has the powers of a public inquiry commissioner. Although the committee may be allowed to discuss the subject in question, it must not prejudice the investigation.¹⁵⁴ As seen in Chapter 11, since words spoken in the context of parliamentary proceedings are generally less likely to affect

150 JD, May 2, 2000, CI-68 p. 13 (Roger Bertrand)/RDPP (Com. Vol.), No. 35(3)/5.

151 Ibid.

152 Minutes, December 16, 1999, CI pp. 5–6 (Roger Bertrand)/RDPP (Com. Vol.), No. 35(3)/4. At the conclusion of an inquiry into allegations of illegal financing of a political party, the Chief Electoral Officer issued a statement of offence to two persons. One person pleaded guilty to the charge and the other pleaded not guilty. While the matter was before the courts, a Member from the Official Opposition moved a motion during a deliberative meeting proposing that the committee undertake an order of initiative to inquire into the allegations of illegal financing and into the inquiry being conducted by the Chief Electoral Officer. The committee Chair specified in his ruling that the *sub judice* rule prohibited Members from referring, even indirectly, to the statement of offence issued by the Chief Electoral Officer, but that the committee could not be prevented from taking up such a mandate, since the motion did not affect the person charged and there was no reason to presume that anything said in committee would be prejudicial to that person. Despite this conclusion, the Chair declared the motion out of order because it contained a recital of grounds. Following the ruling, the Official Opposition Member moved another motion, which was also rejected after being discussed in committee.

153 JD, November 22, 2000, pp. 8076–8077 (Claude Pinard)/RDPP, No. 295/2.

154 JD, May 10, 2006, CFP-11 p. 24 (Sam Hamad)/RDPP (Com. Vol.), No. 35(3)/6.

investigations carried out by the officers of the National Assembly, the risk of causing prejudice is very limited. For this reason, a less absolute application of the *sub judice* rule may, according to the circumstances, be justified in certain cases.

As committee Chairs have pointed out, Standing Order 35(3) prohibits referring to a matter that is before the courts if such a reference may be prejudicial to a person or a party; however, this Standing Order does not prohibit naming the plaintiffs or prosecutors involved, since that information is available at the court office.¹⁵⁵ Furthermore, the *sub judice* rule cannot restrict the right of a legislative assembly to legislate in the areas under its jurisdiction. In other words, it cannot prevent the Assembly or a committee from pursuing consideration of a bill.¹⁵⁶ This rule also does not prevent Members from questioning the Government about its actions and decisions, for example about political party financing or about the Director of Criminal and Penal Prosecutions, so long as there is no specific mention of cases that are before the courts.¹⁵⁷

Moving to another point, a committee Chair has recognized that the principle of ministerial responsibility also applies in committee, including during an interpellation or the clause-by-clause consideration of a bill. Under this principle, set out in Standing Order 189, a minister is always entitled to act on behalf of another minister.¹⁵⁸

It is generally recognized that Standing Order 214, which allows a Member to require a minister who quotes from a document to table that document, also applies in committee.¹⁵⁹ Ministers must comply with this, unless they consider that doing so would be contrary to the public interest. Although no ruling explicitly mentions it, it seems generally accepted that there is no inconsistency between Standing Order 214 and Standing Order 162, which will be discussed in the following section. Thus, a committee Chair once ruled that he could not

155 JD, April 30, 1986, pp. CI-193-196 (Serge Marcil)/RDPP (Com. Vol.), No. 35(3)/1; JD, April 24, 1991, pp. CET-3777-3778 (Guy Bélanger)/RDPP (Com. Vol.), No. 35(3)/2.

156 JD, May 25, 2001, p. 1545 (Michel Bissonnet)/RDPP, No. 35(3)/17; JD, June 7, 2000, pp. 6664-6666 (Claude Pinard); JD, June 13, 1994, p. CAE-1281 (Jean Garon)/RDPP (Com. Vol.), No. 267/6; JD, June 2, 2011, CAT-9 pp. 1-2 (Marie Malavoy)/RDPP (Com. Vol.), No. 35(3)/7. For more information on the application of the *sub judice* rule at the Assembly, see Chapter 11, Subsection 11.2.2.1, "Words Inadmissible in Debate".

157 JD, March 24, 2016, pp. 10314-10316 (Jacques Chagnon)/RDPP, No. 35(3)/21.

158 JD, February 12, 2002, CAT-33 p. 2 (Yvon Vallières)/RDPP (Com. Vol.), No. 125/1. JD, January 29, 2013, CAPERN-8 pp. 48-49 (Marie Bouillé)/RDPP (Com. Vol.), No. 124/3.

159 Standing Order 214 applies to ministers only. A parliamentary assistant who quotes from a document is not required to table the document (JD, December 3, 2004, CFP-68 p. 15 (Alain Paquet)/RDPP (Com. Vol.), No. 214/3).

require a minister to table a document, prepared by the minister's department, that could be considered personal notes.¹⁶⁰ Similarly, ministers are not required to table a document to which they simply refer without quoting directly.¹⁶¹

A motion to adjourn debate, provided for in Standing Order 100, is replaced in committee by a motion to adjourn proceedings.¹⁶² Standing Order 165 provides that any member of a committee may move the adjournment of its proceedings. Such a motion may be moved only once during the same meeting, unless it is moved by the Chair or by a minister who is a committee member,¹⁶³ and is put to a vote without amendment. The motion may not be debated, but a representative from each parliamentary group may speak to it for up to 10 minutes.¹⁶⁴ If the vote has not taken place by the time the meeting ends, the motion lapses.¹⁶⁵ A Member may not raise a point of order to take the floor and present a motion to adjourn proceedings.¹⁶⁶

18.2.2.2 TABLING DOCUMENTS

Under Standing Order 162, which governs the tabling of documents in parliamentary committee, documents may be tabled only with the permission of the Chair. In contrast to what happens in the Assembly,¹⁶⁷ where many documents are tabled with the unanimous consent of the Members, in committee the Chair has full authority to refuse the tabling of a document even if the committee members give their unanimous consent.¹⁶⁸ Conversely, the Chair may allow a document to be tabled despite the objection of one or more committee members.¹⁶⁹ The Chair's authority in this area also allows the Chair to accept the

160 JD, January 27, 1987, pp. CBA-1605-1607 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 214/1.

161 JD, April 25, 1995, CE-7 pp. 37-38 (Joseph Facal)/RDPP (Com. Vol.), No. 214/2.

162 A motion to adjourn debate allows the Assembly to interrupt the debate in progress and move on to examine another matter. This procedure is not really suitable for committees, which have only one item on the agenda per meeting, the sole exception being deliberative meetings held to organize committee work.

163 Since ministers are not members of the committee that studies the estimates of expenditure, they may not speak to a motion to adjourn (JD, June 1, 1987, pp. CAS-1696-1698 (Guy Bélanger)/RDPP (Com. Vol.), No. 165/1).

164 Since independent Members do not belong to a parliamentary group, they are not permitted to speak to the motion even if they moved it (JD, December 14, 1992, pp. CET-1228-1229 (Jean Audet)/RDPP (Com. Vol.), No. 165/2).

165 JD, June 7, 1996, CI-27 pp. 69-70 (Roger Paquin)/RDPP (Com. Vol.), No. 165/3.

166 JD, November 6, 1996, CI-45 pp. 24-26 (Marcel Landry)/RDPP (Com. Vol.), No. 165/4.

167 See Chapter 9, Subsection 9.2.1.4.1, "Papers".

168 JD, October 10, 1984, pp. CAPA-87-89 (Yvon Vallières)/RDPP (Com. Vol.), No. 162/1. In the case in point, the committee Chair authorized the tabling of confidential documents within the meaning of the *Act respecting Access to documents held by public bodies and the Protection of personal information*, specifying that the committee was to exercise caution with regard to the information.

169 JD, October 10, 1984, p. CI-137 (Jean-Claude Rivest)/RDPP (Com. Vol.), No. 162/4.

tabling of briefs from organizations that were not heard within the framework of a consultation.¹⁷⁰ However, it is not up to the Chair to judge the substance of these briefs, and their tabling in committee does not mean that either the Chair or the committee members endorse their content. This said, if a brief contains unparliamentary remarks, it will not be allowed to be tabled in committee.¹⁷¹

In a 1995 ruling, the President of the Assembly recognized that, since documents must be tabled in committee in order for certain mandates to be carried out, it is important to allow committee Chairs to fully exercise their power under Standing Order 162 to accept these documents. Therefore, even though the tabling of audiovisual documents is not allowed in the Assembly unless they are first transcribed on paper, due to problems related to preservation and broadcasting,¹⁷² it is up to each committee Chair to determine if it is desirable or necessary to table audiovisual documents to assist committee members in carrying out a mandate.¹⁷³ Even though committee Chairs can accept or refuse documents, they may not allow petitions to be tabled since, under Standing Orders 62 to 64, petitions must be presented by a Member in the Assembly at the time set aside for this purpose during Routine Proceedings.¹⁷⁴

The fact that a committee Chair has previously refused the tabling of a document does not prevent a Member from later requesting to table the document if new circumstances justify it. However, such a request must not, under any circumstances, constitute an appeal of the previous decision.¹⁷⁵

Committee Chairs have set certain criteria for the tabling of documents, authenticity being a major one. Consequently, committee Chairs will refuse to allow a document to be tabled if the minimum amount of information necessary to establish its authenticity is not provided beforehand.¹⁷⁶ For instance, committee

170 JD, September 22, 1986, p. CET-564 (Jean-Pierre Charbonneau)/RDPP (Com. Vol.), No. 162/5.

171 JD, April 11, 2019, CRC-10 pp. 17-18 (MarieChantal Chassé)/RDPP (Com. Vol.), No. 162/10.

172 JD, June 17, 1996, pp. 2325-2326 (Jean-Pierre-Charbonneau)/RDPP, No. 59/4. Since October 2007, electronic copies of all annual reports and strategic plans of government departments, public bodies, and officers of the National Assembly are tabled in the Assembly in addition to hard copies of each, the latter still being the only official versions (JD, October 23, 2007, p. 1577 (Michel Bissonnet)/RDPP, No. 59/6).

173 JD, May 25, 1995, pp. 3001-3002 (Roger Bertrand)/RDPP, No. 59/3.

174 JD, March 9, 2010, CI-48 pp. 1-2 (Claude Bachand)/RDPP (Com. Vol.), No. 162/8.

175 JD, March 16, 2010, CI-51 p. 18 (Bernard Drainville)/RDPP (Com. Vol.), No. 162/9. In this case, the committee Chair was of the opinion that, as one week had gone by since the first request and the document had circulated among parliamentarians and been discussed in the media, the situation had changed sufficiently enough to allow the Chair to consider the request as a new one.

176 JD, October 10, 1984, p. CI-126 (Jean-Claude Rivest)/RDPP (Com. Vol.), No. 162/2; JD, October 14, 1986, p. CE-1455 (Marcel Parent); JD, May 27, 1987, pp. CE-1910-1911 (Marcel Parent).

Chairs will reject letters that do not bear a signature, name or addressee allowing their authenticity to be verified.¹⁷⁷ Another criterion considered according to the jurisprudence is the confidentiality of a document.¹⁷⁸

Committee Chairs are not bound, however, by the *Act respecting Access to documents held by public bodies and the Protection of personal information*, which applies to the administration of the National Assembly and not to parliamentary proceedings. In any case, neither the President of the Assembly nor the committee Chairs would be authorized to interpret that Act since the only legislative provisions they may interpret are those having to do with parliamentary procedure.¹⁷⁹ A committee Chair did nevertheless once remind the committee of the importance of exercising prudence when tabling a confidential document.¹⁸⁰

The sole purpose of tabling a document is to preserve it in the committee archives.¹⁸¹ By virtue of the privileges of freedom of speech and freedom of action, Members may refer to all kinds of documents, such as personal notes or editorials, even if they have not been tabled, as long as any questions based on those documents are relevant to the committee's mandate.

Once tabled, a document becomes public, unless the committee is meeting in camera. For that reason, committee Chairs may refuse to allow a document already in the public domain to be tabled.

Lastly, the power conferred on committee Chairs by Standing Order 162 allows them to accept or refuse, but does not allow them to require, the tabling of a document.¹⁸²

18.2.2.3 THE DECISION-MAKING PROCESS

The decision-making process in committee is essentially the same as in the Assembly.¹⁸³ Decisions are made following a motion by one of the members (SO 185). Motions in committee do not require prior notice (SO 158).

177 JD, October 9, 1990, pp. CBA-1174-1177 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 162/6.

178 JD, October 10, 1984, pp. CAPA-87-89 (Yvon Vallières)/RDPP (Com. Vol.), No. 162/1.

179 On this subject, the President of the Assembly has ruled that, in the absence of rules of parliamentary procedure dealing directly with the right to privacy, the President is not authorized to question whether certain words spoken or documents tabled could infringe Québec law. However, the President did express the wish that any words spoken, documents tabled or acts performed by a Member during parliamentary proceedings be respectful of the fundamental rights of the people of Québec (JD, June 10, 1998, pp. 11815-11817 (Jean-Pierre Charbonneau)/RDPP, No. 67/38. See also JD, November 29, 2011, p. 3487 (Jacques Chagnon)/RDPP (Com. Vol.), No. 214/9).

180 JD, October 10, 1984, pp. CAPA-87-89 (Yvon Vallières)/RDPP (Com. Vol.), No. 162/1.

181 JD, October 10, 1984, pp. CI-123-133 (Jean-Claude Rivest)/RDPP (Com. Vol.), No. 162/3.

182 JD, December 5, 2006, CFP-39 p. 37 (Sam Hamad)/RDPP (Com. Vol.), No. 162/7.

183 See Chapter 12, "The Decision-Making Process".

Motions may be either substantive or formal (SO 187). Except for those whose terms do not vary, motions must be in writing (SO 190). In addition, they must be legible, although not necessarily typed.¹⁸⁴ However, they must not contain any explanatory grounds or arguments (SO 191).

Motions with a financial impact, such as those resulting in the commitment of public funds¹⁸⁵ or the imposition of a charge on taxpayers,¹⁸⁶ may be moved only by a minister, unless they express a general idea, an opinion or a wish.¹⁸⁷

Committee Chairs must reject any motion not in compliance with the Standing Orders, but may correct its form to make it admissible (SO 193).¹⁸⁸

184 JD, December 8, 1993, p. CAE-5656 (Madeleine Bélanger)/RDPP (Com. Vol.), No. 190/1.

185 To determine whether a motion commits public funds, four criteria have been derived from jurisprudence: (1) Is the motion enforceable? (2) Does it have a direct impact on spending? (3) Is it expressed in general terms? (4) Is the amount of the expenditure specified? (JD, December 6, 1984, pp. CE-491-494 (Luc Tremblay)/RDPP (Com. Vol.), No. 192/2; JD, December 8, 1993, p. CAE-5653 (Madeleine Bélanger)/RDPP (Com. Vol.), No. 192/5; JD, June 1, 2005, CAS-137 p. 43 (Russell Copeman)/RDPP (Com. Vol.), No. 192/7; JD, June 7, 2005, CAS-139 p. 72 (Jean-Pierre Paquin)/RDPP (Com. Vol.), No. 192/8. Recent jurisprudence has tended to clarify these criteria. As a result, it has been ruled that, to commit public funds, a motion must have a direct financial impact on the Consolidated Revenue Fund (JD, May 11, 2006, CFP-12 p. 11 (Pierre Reid)/RDPP (Com. Vol.), No. 192/9) or clearly commit estimates of expenditure (JD, May 30, 2008, CAS-51 p. 14 (Geoffrey Kelley)/RDPP (Com. Vol.), No. 197/18). Thus, a motion to index to the cost of living an allocation paid using sums taken out of the Consolidated Revenue Fund constitutes a commitment of public funds even if the amount of the expenditure is not specified (JD, May 27, 2010, CI-75 pp. 1-2 (Claude Bachand)/RDPP (Com. Vol.), No. 192/11). In contrast, a reduction in expenditures cannot be considered a measure that commits public funds, nor can cancelling such a reduction. However, an increase in expenditures could be considered a commitment of public funds (JD, June 1, 2010, CFP-71 pp. 30-31 (Alain Paquet)/RDPP (Com. Vol.), No. 192/10). Furthermore, a Member who is not a minister may not present a measure that would have the effect of limiting the Government in its budget expenditures by setting in advance the amount of the deficit allowed for its ongoing activities (JD, June 11, 2013, CFP-47 p. 12 (Irvin Pelletier)/RDPP (Com. Vol.), No. 197/27). In addition to these criteria, when a bill is being examined, whether or not the bill provides explicitly for amounts to be taken directly out of the Consolidated Revenue Fund is a determining factor (JD, November 19, 2014, CAT-31 pp. 23-24 (Pierre Michel-Auger)/RDPP (Com. Vol.), No. 192/12).

186 A committee Chair declared in order a motion by a Member to increase the general fee for extrajudicial costs a lawyer may charge for acts performed in relation to the carrying out of certain rulings. In the Chair's opinion, the purpose of the motion was not to impose a charge on taxpayers, but rather to set a fee for a professional order (JD, June 20, 1995, pp. CI-52-53 (Sylvain Simard)/RDPP (Com. Vol.), No. 192/6).

187 See Chapter 14, Subsection 14.1.2, "The Crown's Financial Initiative".

188 During clause-by-clause consideration of a bill, a committee Chair declared in order a preliminary motion to hold general consultations on the bill before beginning the clause-by-clause consideration. He corrected the motion's form, however, by replacing "general consultations" by "special consultations", as provided for in SO 244 (JD, December 12, 1995, CAS-30 p. 28 (Robert Perreault)/RDPP (Com. Vol.), No. 193/1). See also JD, November 4, 2004, CTE-35 p. 21 (Tony Tomassi)/RDPP (Com. Vol.), No. 193/2; JD, April 3, 1990, pp. CAE-835-836 and 843 (Madeleine Bélanger)/RDPP (Com. Vol.), No. 197/9.

Motions ruled in order by the committee Chair may be debated. The speaking time is the same as in the Assembly, that is, 10 minutes in the case of a formal motion and 20 minutes regarding any other matter. However, the mover of a motion, the Premier and the leaders of the other parliamentary groups, or their representatives,¹⁸⁹ may speak for up to one hour each to a substantive motion and 30 minutes to a formal motion (SO 209). There is no right of reply in committee (SO 217).

Specific speaking times are set out in the Standing Orders for various committee mandates, including general and special consultations (SO 169 and 173), clause-by-clause consideration of a bill (SO 245, 246 and 270), examination of budget estimates (SO 284 and 209), examination of financial commitments (RCP 30) and interpellations (SO 300–302).

With the unanimous consent of its members, a committee may nevertheless decide to override the rules pertaining to the allocation of speaking time (SO 155). This rule makes it impossible to limit the committee members' speaking time for the duration of a mandate by means of a motion on the organization of proceedings carried by a simple majority of the members. The rule also prevents the committee from being bound by a prior agreement between the parliamentary groups, or between a minister and the Opposition, on the allocation of speaking time.¹⁹⁰ The committee Chair gives the floor to the Member requesting it, alternating between the parliamentary groups.¹⁹¹

Despite the rule stating that a Member may speak only once to a question (SO 209), most debates in committee take the form of a discussion, meaning that the Members may divide their speaking time into several interventions as provided for in various Standing Orders.¹⁹² In contrast to what happens in the Assembly, the time that elapses when a point of order is raised in committee is not deducted from the speaking time of the Member who has the floor.¹⁹³

189 The representative of the leader of an opposition group is presumed to be the critic with respect to the matter under discussion (JD, June 8, 2004, CTE-21 p. 42 (Bernard Brodeur)/RDPP (Com. Vol.), No. 209/2).

190 JD, April 22, 1986, p. CAS-52 (Guy Bélanger)/RDPP (Com. Vol.), No. 284/2; JD, April 25, 1989, pp. CBA-2622–2623 (Jean-Guy Lemieux); JD, April 26, 1989, pp. CBA-2646–2650 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 284/5. For more information on unanimous consent in committee, see Chapter 16, "Exceptional Procedures".

191 JD, December 10, 2004, CFP-73 p. 56 (Alain Paquet)/RDPP (Com. Vol.), No. 33/2.

192 This is the case, for instance, during the clause-by-clause consideration of a bill (SO 245), the examination of estimates of expenditure (SO 284), general consultations (SO 169), and special consultations (SO 173).

193 JD, June 10, 2004, CTE-23 p. 37 (Bernard Brodeur)/RDPP (Com. Vol.), No. 209/3.

The rules of the Assembly concerning amendments and subamendments also apply in committee. Thus, unless otherwise provided, any substantive motion may be amended (SO 196), and subamendments may be proposed to any amendment (SO 200).¹⁹⁴ If no amendment is proposed to a motion, any Member who has the floor may move the previous question (“that this question be now put”), which entails that the motion may not be amended (SO 202). The Chair may reject the motion if of the opinion that debate on the original question has not been unduly prolonged or that putting the question immediately would infringe on the Members’ rights (SO 203). The question may be put if the Chair considers that the committee members have been given adequate time to deliberate on the motion and that they all have had the opportunity to speak.¹⁹⁵ The previous question may not be put in the case of a motion to amend, since this is only allowed in the case of a substantive motion.¹⁹⁶

Unless otherwise specified, decisions in committee are made by a majority vote of the committee members. The vote is taken by a show of hands or, if a member so requests, by a recorded division (SO 157).¹⁹⁷ As is the case in the Assembly, the members do not need to actually raise their hands when voting. Those in favour say “adopted” or “carried” while those against say “rejected” or “on division”. If half or more of the members say “on division”, the motion is considered rejected.¹⁹⁸

Contrary to the procedure for recorded divisions in the Assembly, the division bells are not rung before a recorded division in committee. Members who are absent when the question is put are not entitled to vote (RCP 11).¹⁹⁹

For recorded divisions, after the Chair reads the motion aloud, the clerk conducts a roll call of the members, starting with the mover of the motion if the latter is entitled to vote. Without rising, members vote for or against the motion or indicate their decision to abstain. The clerk then communicates the result of the vote to the Chair, who announces it to the committee.

194 Since a subamendment amends an amendment, it must refer to the amendment being discussed. However, under Standing Order 193, committee Chairs have the latitude to correct the form of a subamendment directly amending the motion or the section concerned by the amendment in order to render it admissible (JD, November 4, 2004, CTE-35 p. 21 (Tony Tomassi)/RDPP (Com. Vol.), No. 193/2).

195 JD, March 13, 1985, p. CET-1333 (Richard Guay)/RDPP (Com. Vol.), No. 202/1.

196 JD, June 11, 1986, pp. CE-542–544 (Michel Bissonnet)/RDPP (Com. Vol.), No. 202/2.

197 There have been instances where the Assembly has temporarily amended the Standing Orders to provide for certain parliamentary Members to be members of a committee without the right to vote or to establish a specific procedure in the event of a tie vote. On this subject, see Appendix I to this chapter, “The Composition and Particularities of the Parliamentary Committees during the 38th to 42nd Legislatures”.

198 JD, December 11, 2007, CET-16 pp. 37–38 (Catherine Morissette)/RDPP (Com. Vol.), No. 157/2.

199 Only the Members present when a recorded division is requested may vote (JD, June 1, 2006, CFP-16 p. 16 (Sam Hamad)/RDPP (Com. Vol.), No. 157/1).



Example of a committee report containing observations, conclusions and recommendations.

18.2.2.4 COMMITTEE REPORTS

When a committee has concluded proceedings on a matter, the Chair or a member designated by the Chair must table the committee's report in the Assembly (SO 174) at the time set aside for that purpose during Routine Proceedings (SO 53(3)(b)). Committee reports must be submitted to the Committee on the National Assembly, however, when they pertain to one or more deliberative meetings on a given matter that are not followed by a public or in camera meeting on the same matter (SO 174).

A committee report comprises the minutes of the proceedings for each meeting (SO 161) and the observations, conclusions or recommendations, if any, the committee wishes to submit to the Assembly (SO 177). Standing Order 177 applies to the majority of committee mandates, including committee-initiated

orders, orders under the Standing Orders and orders under Québec statutes.²⁰⁰ However, a committee report on a bill comprises the minutes of its proceedings and the text of the bill as agreed to by the committee (SO 248).

When a committee's proceedings with respect to any matter referred to it by the Assembly have been completed, and at the request of a committee member, the committee has three clear days to hold deliberative meetings to determine the observations, conclusions and recommendations, if any, it wishes to submit (SO 176). However, if the matter referred to it pertains to a bill, the committee has only one day.²⁰¹ Standing Order 176 applies only to orders of reference by the Assembly. For other mandates, the Standing Orders do not indicate any time limit for holding deliberative meetings.²⁰²

Members of the National Assembly who would like a committee to hold a deliberative meeting may so request as soon as the committee has concluded its proceedings. The committee Chair must grant the request²⁰³ and convene the committee.

For the purposes of Standing Order 176, a clear day means any day on which committees are allowed to meet. For example, if a committee completes its mandate on a Thursday, it must hold a deliberative meeting no later than the following Tuesday and report to the Assembly on Wednesday. The deliberative meeting cannot be postponed beyond the time limit set out in Standing Order 176.²⁰⁴ However, weeks set aside for riding work are not counted in the time limit since committees cannot meet during those periods (SO 191).

Although no ruling has been made on the subject, it appears well established that the time limit set out in Standing Order 176 applies only when the Assembly is sitting. It goes without saying that this time limit must be respected to avoid unduly delaying the tabling of a committee report or hampering Assembly proceedings. However, when the Assembly is not sitting, failure to hold a deliberative meeting within one clear day has no impact on Assembly proceedings, provided the committee report is tabled at the first sitting after resumption.

200 Minutes, December 3, 2013, CFP pp. 2–3 (Irvin Pelletier)/RDPP (Com. Vol.), No. 176/3.

201 While Standing Order 176 applies when a bill is the subject of consultations under Standing Order 146 or 235, it does not apply during clause-by-clause consideration of a bill. Indeed, Standing Order 176 is incompatible with Standing Order 248, according to which a committee's report consists of the minutes of its proceedings and the text of the bill as agreed to by the committee.

202 Minutes, December 3, 2013, CFP pp. 2–3 (Irvin Pelletier)/RDPP (Com. Vol.), No. 176/3.

203 JD, February 11, 2003, CFP-100 pp. 64–65 (Jean-Guy Paré)/RDPP (Com. Vol.), No. 176/1. Previously, the time limit was one clear day, even if the order of reference did not involve a bill, but this left committees very little time to meet and to draft their reports. So the 2009 reform extended this time limit to three clear days. However, if the order does involve a bill, the one-day time limit still applies so as not to delay the remaining steps in the legislative process.

204 Minutes, May 29, 2006, CTE p. 3 (Claude Pinard)/RDPP (Com. Vol.), No. 176/2.

The Standing Orders do not contain specific provisions on whether dissent or minority opinions may be reported in a committee's observations, conclusions and recommendations. As previously mentioned, unless otherwise provided, decisions in committee are made by majority vote. This means that a committee's observations, conclusions and recommendations are determined by a motion carried by a majority of its members. Thus, in the absence of a decision to the contrary by the committee, it is not possible to include, even in the observations, conclusions and recommendations, a dissent or minority opinion. The committee minutes record the motions moved and the result of votes.²⁰⁵ Nevertheless, in some instances, members have agreed to include a minority opinion in a report.²⁰⁶

A committee may also decide to make an interim report to the Assembly (SO 175). Only one motion to that effect may be moved per meeting. According to a ruling, the motion must not be intended to delay the carrying out of an order of reference received from the Assembly but rather to obtain from the Assembly clarification of the order or additional means to carry it out.²⁰⁷

205 Minutes, December 6, 2016, CET p. 4 (Lorraine Richard)/RDPP (Com. Vol.), No. 176/4.

206 On February 12, 2015, during a deliberative meeting following public hearings held within the framework of special consultations on the draft of the Government's revised 2015-2020 sustainable development strategy, the committee members agreed to allow each parliamentary group and an independent Member to submit their own observations (Minutes, February 12, 2015, CTE p. 2 (Pierre Reid)).

207 JD, November 8, 1988, pp. CE-1297-1299 (Marcel Parent)/RDPP (Com. Vol.), No. 175/1. In this case, the motion was moved during the clause-by-clause consideration of a bill in order to allow interested groups to see the amendments proposed by the Minister. The committee Chair declared the motion out of order for two reasons: first, the purpose of the motion was to put an immediate end to committee proceedings; second, Standing Order 175 may not be used to postpone the proceedings of a committee having received an order of reference from the Assembly. There is some doubt as to whether an interim report may be tabled during the clause-by-clause consideration of a bill. Indeed, Standing Order 175 seems inconsistent with Standing Order 248, under which the report of a committee that has carried out the clause-by-clause consideration of a bill comprises the minutes of committee proceedings and the text of the bill as agreed to by the committee. At least four interim reports have been tabled in the Assembly by standing committees: on June 14, 2005, the Committee on Culture tabled an interim report containing its observations in the context of an order of initiative on cultural diversity (VP, June 14, 2005, p. 1690); on February 20, 2007, the Committee on Public Finance tabled an interim report containing observations, conclusions and recommendations in the context of its order of initiative on the protection of investors (VP, February 20, 2007, p. 811); on June 8, 2010, the Committee on Public Finance tabled an interim report in the context of an order of initiative on the indexation of the pension plans of the public and parapublic sectors (VP, June 8, 2010, p. 1437); and on May 17, 2016, the Committee on Citizen Relations tabled an interim report in the context of an order of initiative on Aboriginal women's living conditions as affected by sexual assault and domestic violence (VP, May 17, 2016, p. 2266). In the last case, the purpose of the interim report was to present the progress the committee had made on this mandate to the Assembly and the public.

A committee report that does not issue from a deliberative meeting or pertain to a bill or to financial commitments, but contains recommendations, must be taken into consideration within 15 days after it is tabled in the Assembly, subject to Standing Order 97²⁰⁸ and not counting any days required for the debate on the opening speech of a session, the debate on the budget speech, the consideration of estimates in committee or business having precedence before the Assembly (SO 94). The Government House Leader designates the report that is to be discussed. A limited debate may be held on the report, but amendments are not admissible. Lastly, the debate must not give rise to any decision by the Assembly (SO 95).

All committee reports become public once tabled in the Assembly (RCP 16). The question arises as to what would happen if the content of such a report were disclosed before the report was tabled in the Assembly. As previously noted, disclosure of a committee's in camera deliberations could be considered contempt of Parliament. In the case of public committee meetings, certain experts in parliamentary law are of the opinion that disclosing the content of a committee report before it is tabled constitutes contempt of Parliament.²⁰⁹ However, the President of the Assembly has never had to rule on the question, although reminders have sometimes been made in committee on the subject.²¹⁰

In one instance, the President ruled that publishing a document on the outcome of committee proceedings after the committee had tabled its report did not at first glance constitute contempt of Parliament. Based on this ruling, the fact that a committee chooses not to include observations, conclusions or recommendations with its report, as allowed by the Standing Orders, does not prevent the Government or any other interested party from drawing conclusions or reporting on the consultations held by the committee. In addition, the President clarified that a committee's public proceedings are part of the public domain, which means that the Government, opposition Members and all citizens are free to express their opinions or observations on those proceedings.²¹¹

208 Conversely, a report that contains observations or conclusions without recommendations does not give rise to a debate in the Assembly.

209 Thomas Erskine May, *Erskine May's Treatise on the Law, Privileges, Proceedings, and Usage of Parliament*, 25th ed., Mark Hutton, David Natzler, Matthew Hamlyn, Colin Lee, Chloe Mawson, Crispin Poyser, Eve Samson and Kate Lawrence, eds. (London: LexisNexis Butterworths, 2019), para. 15.10.

210 On May 2, 2018, during a deliberative meeting in connection with an order of initiative on the place of women in politics, and following publication of excerpts from the committee's report in a newspaper before the report was tabled in the Assembly, the Chair of the Committee on Citizen Relations reminded the committee members about the private nature of documents submitted during a deliberative meeting (Minutes, May 2, 2018, CRC p. 2 (Marc Picard)).

211 JD, May 13, 1993, pp. 6373–6374 (Jean-Pierre Saintonge)/RDPP, No. 67/29.

Committee reports are occasionally disclosed at a press conference immediately before being tabled in the Assembly, with the media being requested to wait until the reports are tabled before releasing or broadcasting their content. The Assembly once even carried a motion allowing a committee to publish its report on a self-initiated order before tabling it in the Assembly.²¹² However, this is not common practice.

212 On December 20, 1996, the Assembly carried a motion authorizing the Committee on Culture to publish its report on issues relating to the development of the information highway. Despite this authorization, the report was not made public until after the resumption of parliamentary proceedings in March 1997.

APPENDIX I THE COMPOSITION AND PARTICULARITIES OF THE PARLIAMENTARY COMMITTEES DURING THE 38TH TO 42ND LEGISLATURES

As discussed in this chapter, even though the Standing Orders contain permanent rules governing the composition of the parliamentary committees, the arrival of several opposition groups in recent years has changed the political landscape. As a result, the Assembly has had to revise the composition of its committees from time to time, through agreements reached between the parliamentary groups and the independent Members, if any, to reflect the Assembly's particularities at the beginning of each new legislature.

Therefore, since the 38th Legislature, temporary amendments have been made to the composition of parliamentary committees and the allocation of the offices of committee chair and vice-chair in the context of a minority government or in order to recognize a second or third opposition group. At times, these amendments have also led to other temporary amendments to the rules relating to the conduct of committee proceedings.

38TH LEGISLATURE

Committee on Public Administration²¹³

Throughout the 38th Legislature, the Committee on Public Administration had 12 permanent members (TSO 117.1, 38th Leg.), as follows:

- five from the parliamentary group forming the Government;
- four from the Official Opposition;
- three from the Second Opposition Group, one of whom was not entitled to vote.

The Whip of the Second Opposition Group or the Whip's representative identified, as needed, which members were entitled to vote (RCP, TR 3.1, 38th Leg.).²¹⁴

213 See Subsection 18.1.2, "Committee on Public Administration".

214 JD, May 29, 2007, CAS-2 p. 1 (Geoffrey Kelley)/RDPP (Com. Vol.), No. 121/1.

In addition, the Committee also had 12 temporary committee members, in the same ratio (TSO 117.1, 38th Leg.).

Standing Order 117.4, which allows “any independent Member or Member from a parliamentary group sitting in opposition other than the Official Opposition” to take part in the proceedings of the committee without being entitled to vote or move a motion, was also amended in order to remove the reference to a Member “from a parliamentary group sitting in opposition other than the Official Opposition”; as a result, it applied only to independent Members (TSO 117.4, 38th Leg.). However, the Assembly had no independent Members at the time.

The quorum of the committee was set at four permanent members, including its Chair, while that of any subcommittee was set at a majority of its permanent members, including its Chair (TSO 117.8, 38th Leg.).

No amendments were made to the allocation of the offices of Chair and Vice-Chair of the Committee on Public Administration.

Sectorial Committees²¹⁵

Throughout the 38th Legislature, the sectorial committees were composed of 12 permanent members (TSO 121, 38th Leg.), as follows:

- five from the parliamentary group forming the Government;
- four from the Official Opposition;
- three from the Second Opposition Group, one of whom was not entitled to vote.

The Whip of the Second Opposition Group or the Whip’s representative identified, if necessary, which members were entitled to vote (RCP, TR 3.1, 38th Leg.).²¹⁶

The quorum of each committee was set at four members, including its Chair, while that of any subcommittee was set at a majority of its members, including its Chair (TSO 156, 38th Leg.).

Standing Order 122, which allows any independent Member to serve as a committee member, was withdrawn for the duration of the legislature, despite the fact that there were no independent Members at the time.

²¹⁵ See Subsection 18.1.3, “Sectorial Committees”.

²¹⁶ JD, May 29, 2007, CAS-2 p. 1 (Geoffrey Kelley)/RDPP (Com. Vol.), No. 121/1.

The office of committee Chair was allocated as follows (TSO 126, 38th Leg.):

- five to the parliamentary group forming the Government;
- two to the Official Opposition;
- two to the Second Official Opposition Group.

Temporary Standing Orders were adopted to add a second Vice-Chair, chosen from the Second Opposition Group, to the Committee on Institutions (TSO 126.1, 134, 135, 137, 140 and 141, 38th Leg.; RCP, TR 4 and 6, 38th Leg.). The office of Vice-Chair was allocated as follows:

- four to the parliamentary group forming the Government;
- four to the Official Opposition;
- two to the Second Opposition Group.

Standing Order 127 was also amended to provide that the Committee on the National Assembly was to meet to determine the allocation of the offices of committee Chair and Vice-Chair among the parliamentary groups “within the first 15 days of the first session of a legislature”, rather than “not later than the third day on which the Assembly meets after the election of the President at the opening of a Legislature”, and as needed after that (TSO 127, 38th Leg.).

In addition, Standing Order 128 on the allocation of the office of Chair was withdrawn due to a lack of consensus.

Lastly, Standing Order 138, which states that committee Chairs are entitled to vote, was amended to specify that this provision was applicable, subject to the rules concerning the member from the Second Opposition Group who was not entitled to vote (TSO 138, 38th Leg.).

Steering Committees

During the 38th Legislature, the steering committee of each committee was composed of the latter’s clerk and three other members, one representing each parliamentary group. In the case of the Committee on Institutions, these members were the Committee’s Chair and two Vice-Chairs. The steering committees of the other committees were composed of their Chair and Vice-Chair as well as one member from a different parliamentary group than that of the Chair or Vice-Chair, appointed by a majority of the members from each parliamentary group (RCP, TR 4, 38th Leg.).

39TH LEGISLATURE

Committee on Public Administration²¹⁷

At the beginning of the 39th Legislature, the Assembly agreed to amend the composition of the Committee on Public Administration so that the ratio of its 12 permanent members²¹⁸ was as follows:

- seven from the parliamentary group forming the Government;
- four from the Official Opposition;
- one independent Member.

In April 2009, when the Action démocratique du Québec (ADQ) party was recognized as a parliamentary group, it was decided that the membership of the Committee on Public Administration would include a second Vice-Chair, chosen from the Second Opposition Group.²¹⁹ Consequently, the Committee seat previously reserved for an independent Member was instead allocated to a Member from the Second Opposition Group.

In addition, the Committee also had eight temporary members, in the ratio set out in the Standing Orders.²²⁰

Sectorial Committees²²¹

The sectorial committees were composed of 10 or 12 members, as set out in the permanent provisions of the Standing Orders.

However, at the beginning of the legislature, the Assembly agreed to allow two independent Members to sit on the Committee on Social Affairs (which later became the Committee on Health and Social Services), thus increasing its membership to 14,²²² as follows:

- eight from the parliamentary group forming the Government;
- four from the Official Opposition;
- two independent Members.

217 See Subsection 18.1.2, “Committee on Public Administration”.

218 VP, January 15, 2009, p. 27 (Yvon Vallières).

219 “Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature”, Sessional Paper No. 246-20090421, April 21, 2009 (VP, April 21, 2009, p. 214), p. 7.

220 See Subsection 18.1.2.1, “Membership”.

221 See Subsection 18.1.3, “Sectorial Committees”.

222 VP, January 15, 2009, p. 27 (Yvon Vallières).

The offices of committee Chair and Vice-Chair were allocated taking into consideration the permanent provisions of the Standing Orders.²²³

Under the agreement on the recognition of the ADQ as a parliamentary group, the seventh paragraph of Standing Order 128, which reserves the seventh choice for the office of committee Chair for an opposition group other than the Official Opposition, did not apply during this legislature.²²⁴

Steering Committees

The steering committee of each committee was composed of the latter's Chair, Vice-Chair and clerk, in accordance with the permanent rules, except the steering committee of the Committee on Public Administration, which, as of April 2009, also included a second Vice-Chair, chosen from the Second Opposition Group.²²⁵

40TH LEGISLATURE

Committee on Public Administration²²⁶

Throughout the 40th Legislature, in the context of a minority government, the Committee on Public Administration had nine permanent members (TSO 117.1, 40th Leg.), as follows:

- four from the parliamentary group forming the Government;
- four from the Official Opposition;
- one from the Second Opposition Group.

It also had nine temporary members (TSO 117.1, 41st Leg.), in the same ratio (TSO 117.1, 40th Leg.).

Independent Members could take part in the proceedings of the Committee, but were not entitled to vote or move motions (TSO 117.4, 40th Leg.).

A second Vice-Chair, chosen from the Second Opposition Group, was added to the Committee on Public Administration (TSO 117.5, 135, 137, 140 and 141, 40th Leg.; RCP, TR 4 and 6, 40th Leg.).

223 See Subsection 18.1.3.3, "Chairs and Vice-Chairs".

224 "Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature", Sessional Paper No. 246-20090421, April 21, 2009 (VP, April 21, 2009, p. 214), p. 7.

225 Ibid.

226 See Subsection 18.1.2, "Committee on Public Administration".

Sectorial Committees²²⁷

The sectorial committees were also composed of nine permanent members (TSO 121, 40th Leg.), as follows:

- four from the parliamentary group forming the Government;
- four from the Official Opposition;
- one from the Second Opposition Group.

Any independent Member could serve as a member of the Committee, in which case the number of permanent members was increased to 11 (TSO 122, 40th Leg.), as follows:

- five from the parliamentary group forming the Government;
- four from the Official Opposition;
- one from the Second Opposition Group;
- one independent Member.

Under the temporary rules, the offices of committee Chair were allocated as follows (TSO 126, 40th Leg.):

- five to the parliamentary group forming the Government;
- three to the Official Opposition;
- one to the Second Official Opposition Group.

In this regard, Standing Order 128 was amended to provide that the seventh and ninth choices for the offices of committee Chair were to fall to the Second Opposition Group and to the Official Opposition, respectively (TSO 128, 40th Leg.).

The offices of Vice-Chair were allocated as follows:

- four to the parliamentary group forming the Government;
- four to the Official Opposition;
- one to the Second Opposition Group.

Steering Committees

Throughout the 40th Legislature, the steering committee of the Committee on Public Administration was composed of the latter's Chair, two Vice-Chairs and clerk (RCP, TR 4, 40th Leg.). When the parliamentary committees were created at the beginning of the legislature, the Committee on the National Assembly agreed that a Member from the Official Opposition who sat on the Committee

²²⁷ See Subsection 18.1.3, "Sectorial Committees".

on Citizen Relations would be a member of its steering committee, in addition to the Chair from the Second Opposition Group, the Vice-Chair from the parliamentary group forming the Government, and the clerk.²²⁸ The steering committee of every other committee was composed of the latter's Chair, Vice-Chair and clerk, in accordance with the Standing Orders.

41ST LEGISLATURE

Committee on Public Administration²²⁹

During the 41st Legislature, the Committee on Public Administration had 13 permanent members (TSO 117.1, 41st Leg.), as follows:

- seven from the parliamentary group forming the Government;
- four from the Official Opposition;
- two from the Second Opposition Group, one of whom was not entitled to vote.

It also had 10 temporary members (TSO 117.1, 41st Leg.), as follows:

- five from the parliamentary group forming the Government;
- three from the Official Opposition;
- two from the Second Opposition Group.

Any independent Member could serve as a member of the Committee, in which case the number of permanent members was increased to 15 (TSO 117.1.1, 41st Leg.), as follows:

- eight from the parliamentary group forming the Government;
- four from the Official Opposition;
- two from the Second Opposition Group, one of whom was not entitled to vote;
- one independent Member

The Whip of the Second Opposition Group or the Whip's representative identified, if necessary, which member was entitled to vote (RCP, TR 3.1, 41st Leg.).

Independent Members could take part in the proceedings of the Committee, but could not vote or move motions (TSO 117.4, 41st Leg.).

A second Vice-Chair, chosen from the Second Opposition Group, was added to the Committee on Public Administration (TSO 117.5, 135, 137, 140 and 141, 41st Leg.; RCP, TR 4 and 6, 41st Leg.).

²²⁸ Minutes, November 6, 2012, CAN p. 3 (Jacques Chagnon).

²²⁹ See Subsection 18.1.2, "Committee on Public Administration".

Sectorial Committees²³⁰

The sectorial committees were composed of 13 permanent members (TSO 121, 41st Leg.), as follows:

- seven from the parliamentary group forming the Government;
- four from the Official Opposition;
- two from the Second Opposition Group, one of whom was not entitled to vote.

Any independent Member could serve as a member of the Committee, in which case the number of permanent members was increased to 15 (TSO 122, 41st Leg.), as follows:

- eight from the parliamentary group forming the Government;
- four from the Official Opposition;
- two from the Second Opposition Group, one of whom was not entitled to vote;
- one independent Member.

The Whip of the Second Opposition Group or the Whip's representative identified, if necessary, which member was entitled to vote (RCP, TR 3.1, 41st Leg.).

An independent Member not appointed to serve on another parliamentary committee of the Assembly could take part in the proceedings of any of its committees, but could not vote (TSO 132, 1st para., 41st Leg.).

The offices of committee Chair were allocated in keeping with the permanent provisions of the Standing Orders,²³¹ as follows:

- six to the parliamentary group forming the Government;
- three to opposition Members (two from the Official Opposition and one from the Second Opposition Group).

As temporary rules had been adopted to add a second Vice-Chair, chosen from the Second Opposition Group, to the Committee on Public Finance (TSO 134, 135, 137, 140 and 141, 41st Leg.; RCP, TR 4 and 6, 41st Leg.), the offices of Vice-Chair were allocated as follows:

- three to the parliamentary group forming the Government;
- six to the Official Opposition;
- one to the Second Opposition Group.

²³⁰ See Subsection 18.1.3, "Sectorial Committees".

²³¹ See Subsection 18.1.3.3, "Chairs and Vice-Chairs".

Steering Committees

Temporary rules were adopted during the 41st Legislature so that the steering committee of each committee would be composed of the latter's Chair, Vice-Chair(s) and clerk (RCP, TR 4, 41st Leg.). These rules took into account the presence of a second Vice-Chair, chosen from the Second Opposition Group, on the Committee on Public Administration and on the Committee on Labour and the Economy.

42ND LEGISLATURE

Committee on the National Assembly²³²

At the beginning of the 42nd Legislature, even though the Parti québécois (PQ) and Québec solidaire (QS) were recognized as opposition groups, following negotiations between the parties represented in the Assembly,²³³ it was agreed that they would not have a whip. Standing Order 115 was therefore amended to provide that the Committee on the National Assembly would include "the whips of the parliamentary groups, where applicable" (TSO 115, 42nd Leg.). The same applied to the composition of the Subcommittee on Parliamentary Reform (TSO 117, 42nd Leg.).

Committee on Public Administration²³⁴

The Committee on Public Administration was composed of 13 permanent members (TSO 117.1, 42nd Leg.), as follows:

- seven from the parliamentary group forming the Government;
- four from the Official Opposition;
- one from the Second Opposition Group;
- one from the Third Opposition Group.

It also had eight temporary members (TSO 117.1, 42nd Leg.), as follows:

- five from the parliamentary group forming the Government;
- three from the Official Opposition.

232 See Subsection 18.1.1, "Committee on the National Assembly".

233 See "Entente relative à la notion de groupe parlementaire, au fonctionnement de l'Assemblée et des commissions parlementaires, ainsi qu'aux aspects budgétaires pour la durée de la 42^e législature", Sessional Paper No. 48-20181129, November 28, 2018 (VP, November 29, 2018, p. 23).

234 See Subsection 18.1.2, "Committee on Public Administration".

Any independent Member could serve as a member of the Committee, in which case the number of permanent members was increased to 15 (TSO 117.1.1, 42nd Leg.), as follows:

- eight from the parliamentary group forming the Government;
- four from the Official Opposition;
- one from the Second Opposition Group;
- one from the Third Opposition Group;
- one independent Member.

Independent Members could take part in the proceedings of the Committee, but could not vote or move motions (TSO 117.4, 42nd Leg.).

A second Vice-Chair, chosen from the Second Opposition Group, was added to the Committee on Public Administration (TSO 117.5, 135, 137, 140 and 141, 42nd Leg.; RCP, TR 4 and 6, 42nd Leg.).

Sectorial Committees²³⁵

The sectorial committees were composed of 13 permanent members (TSO 121, 42nd Leg.), as follows:

- seven from the parliamentary group forming the Government;
- four from the Official Opposition;
- one from the Second Opposition Group;
- one from the Third Opposition Group.

Any independent Member could serve as a member of the Committee, in which case the number of permanent members was increased to 15 (TSO 122, 42nd Leg.), as follows:

- eight from the parliamentary group forming the Government;
- four from the Official Opposition;
- one from the Second Opposition Group;
- one from the Third Opposition Group;
- one independent Member.

An independent Member not appointed to serve on another committee of the Assembly could take part in the proceedings of any of its committees, but could not vote (TSO 132, 1st para., 42nd Leg.).

²³⁵ See Subsection 18.1.3, "Sectorial Committees".

The offices of committee Chair were allocated as follows:

- six to Members from the parliamentary group forming the Government;
- three to Members from the Official Opposition (TSO 126, 42nd Leg.).

In addition, Standing Order 128 was amended to provide that the 7th choice for the office of committee Chair was to fall to an opposition group other than the Official Opposition (TSO 128, 42nd Leg.).

Temporary rules were also adopted in order to add a second Vice-Chair, chosen from the Second Opposition Group, to the Committee on Labour and the Economy (TSO 134, 135, 137, 140 and 141, 42nd Leg.; RCP, TR 4 and 6, 42nd Leg.), which caused the offices of Vice-Chair to be allocated as follows:

- three to the parliamentary group forming the Government;
- six to the Official Opposition;
- one to the Second Opposition Group.

Steering Committees

During the 42nd Legislature, to take into account the presence of a second Vice-Chair, chosen from the Second Opposition Group, on the Committee on Labour and the Economy and on the Committee on Public Administration, temporary rules were adopted to provide that the steering committee of each of these Committees would be composed of its Chair, Vice-Chair(s) and clerk (RCP, TR 4, 42nd Leg.).

Other particularities

For a parliamentary group that had no whip, when a committee was convened, a copy of the notice of meeting was sent to a Member designated by the parliamentary group to exercise the functions the whip would normally perform (TSO 117.7 and 148, 42nd Leg.; RCP, TR 3.1 and 23, 42nd Leg.).

Temporary rules were also adopted to provide a procedure to be followed in the case of a tie vote. In such a situation, if all opposition members were present and had voted, the committee Chair was required to suspend committee proceedings for a period of up to 10 minutes. At the end of the suspension, a committee member from the parliamentary group forming the Government who was absent during the vote or a Member designated to replace that member could take part in the vote. The replacement was valid only for the vote in progress and could not be repeated. (TSO 157.1, 42nd Leg.; RCP, TR 11, 42nd Leg.).

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■ CHAPTER 19

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COMMITTEE MANDATES

Chapter 18 examined committee structure and organization, as well as general committee procedure, that is, the general principles applicable to all committee mandates. However, beyond these general principles, each type of mandate is subject to its own set of procedural rules.

Of all the mandates carried out by committees, the examination of public bills undoubtedly occupies the most time. However, every year, committees carry out many other mandates at the Assembly's request or on their own initiative, particularly mandates related to parliamentary oversight. This chapter will look at the main committee mandates, beginning with the clause-by-clause consideration of bills.

19.1 CLAUSE-BY-CLAUSE CONSIDERATION OF BILLS

As explained in Chapter 14, bills examined in the Assembly fall into two main categories: public bills and private bills. The distinction between the two is not merely academic since it determines the examination procedure followed in committee.

19.1.1 PUBLIC BILLS

After a public bill is passed in principle, the Government House Leader moves without notice to refer it to the appropriate standing committee or to a Committee of the Whole for clause-by-clause consideration (SO 243). The procedure for clause-by-clause consideration of a bill is the same for standing committees and for Committees of the Whole.¹ Clause-by-clause consideration in committee can take place on the same sitting day as the bill's passage in principle (SO 230). The minister or Member who introduced the bill is entitled to sit as a participating member on the committee to which the bill is referred (SO 125).

¹ JD, December 14, 1992, pp. 4753–4756 (Michel Bissonnet)/RDPP, No. 244/4. See also Chapter 17, "Committees of the Whole".

The competence of a standing parliamentary committee to which the clause-by-clause consideration of a bill is referred may not be raised in committee since an order duly adopted by the Assembly requires the committee to examine the bill.² Any question as to the committee's competence in the matter may be raised in the Assembly from the time the order of reference is presented until the time the first notice convening the committee is given by the Government House Leader. After that, the order of reference is presumed to be compliant.³ The fact that a point of privilege is raised in the Assembly with respect to a bill has no impact on the proceedings of the committee mandated to examine it.⁴

Customarily, the procedure involves three separate stages: preliminary remarks, preliminary motions and clause-by-clause examination.⁵ The committee then concludes its proceedings with final remarks.

19.1.1.1 PRELIMINARY REMARKS

Since there is no express provision regarding preliminary remarks at the beginning of the examination of a bill, the general rule on speaking times set out in Standing Order 209 applies. When clause-by-clause consideration of a bill begins, each Member has a maximum of 20 minutes to make preliminary remarks or "opening statements". Under the same general rule, the remarks are made in a single speech and must not take the form of a dialogue or debate.⁶

The sponsor of the bill is the first to take the floor, followed by the opposition critics, other committee members and, finally, independent Members, who can take part, without the right to vote, in the proceedings of a committee examining a bill (SO 133). No time is allotted to the bill's sponsor to reply to the preliminary remarks made by other Members.⁷

Preliminary remarks should not be confused with discussion on the principle of a bill under Standing Order 247, which allows committee members to speak to the principle and general content of a bill at the opening of proceedings on a bill whose principle was passed without debate in the Assembly. However, if

2 JD, June 6, 1986, pp. CBA-1001-1003 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 118/1.

3 JD, June 10, 1992, pp. 2119-2122 and 2165-2172 (Jean-Pierre Saintonge)/RDPP, No. 243/1.

4 JD, April 24, 1990, pp. CET-1451-1452 (Guy Bélanger)/RDPP (Com. Vol.), No. 244/15; JD, November 18, 2004, CTE-39 p. 15 (Tony Tomassi).

5 JD, December 2, 1986, pp. CET-1149-1156 (Jean-Pierre Charbonneau)/RDPP (Com. Vol.), No. 244/9.

6 JD, December 2, 1992, pp. CAE-1794-1798 (Madeleine Bélanger)/RDPP (Com. Vol.), No. 244/18.

7 JD, December 10, 1992, pp. CAE-2121-2122 (Madeleine Bélanger)/RDPP (Com. Vol.), No. 244/19.

the Assembly did debate the bill's principle, no further discussion is allowed when clause-by-clause consideration begins. This does not prevent committee members from making preliminary remarks on details of the bill rather than on its principle and general content.⁸ Similarly, without systematically examining each section of a bill, it is possible, during preliminary remarks, to refer to certain specific provisions.⁹ During this stage, a Member may request that, during a bill's clause-by-clause consideration, all sections be considered one paragraph or subparagraph at a time, in accordance with Standing Order 245.¹⁰

19.1.1.2 PRELIMINARY MOTIONS

As is the case for preliminary remarks, the concept of "preliminary motion" is not expressly provided for in the Standing Orders. However, it may be seen as falling under the second paragraph of Standing Order 244, according to which special consultations may be held before clause-by-clause consideration of the bill begins. This practice, now well established within Quebec parliamentary law, developed over time from parliamentary custom. It allows committee members, after the preliminary remarks stage, to move motions proposing means to help the committee carry out its mandate.

Once preliminary remarks are finished, preliminary motions begin, and once a preliminary motion has been moved, it is not possible to go back to an earlier stage without the unanimous consent of the members, unless a motion to withdraw is carried under Standing Order 195.¹¹ Similarly, a preliminary motion moved during the preliminary remarks stage is out of order since the Chair must respect the 20 minutes' speaking time allotted to each Member wishing to make preliminary remarks.¹² However, since these are two separate stages, Members who used up all their speaking time during preliminary remarks may nevertheless move a preliminary motion when the committee begins the preliminary motions stage.¹³

8 JD, December 2, 1986, pp. CET-1149-1156 (Jean-Pierre Charbonneau)/RDPP (Com. Vol.), No. 244/9.

9 JD, June 9, 1986, p. CBA-1033 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 211/3.

10 JD, December 11, 2007, CET-16 p. 3 (Catherine Morissette)/RDPP (Com. Vol.), No. 245/8.

11 JD, December 2, 1986, pp. CET-1149-1156 (Jean-Pierre Charbonneau)/RDPP (Com. Vol.), No. 244/9.

12 JD, December 10, 1992, pp. 4575-4579 (Maurice Richard)/RDPP, No. 244/2.

13 JD, December 8, 1986, pp. CET-1539-1546 (Madeleine Bélanger)/RDPP (Com. Vol.), No. 244/10.

Preliminary motions address the functional, technical and practical organization of committee proceedings and are meant to help the committee carry out the order of reference from the Assembly. At this stage, Members can propose, under the second paragraph of Standing Order 244, that the committee hold special consultations on a bill before beginning clause-by-clause consideration.¹⁴

Since the spirit and intent of a preliminary motion are to propose the best means to help a committee carry out its mandate, only motions that deal with organizing proceedings and that are directly related to the committee's order of reference are admissible.¹⁵ Consequently, motions proposing that the committee hear a minister on a bill may be ruled in order.¹⁶ Similarly, a motion requesting that the minister who introduced a bill make a copy of the draft regulations on the administration of the bill available to the Members was deemed to be in keeping with the spirit of preliminary motions since it helped further the committee's mandate.¹⁷

Another example of a preliminary motion is one requesting a committee to strike a subcommittee to carry out the clause-by-clause consideration of a bill (SO 150). A motion requesting that documents that could help a committee carry out its mandate be forwarded may also be admissible.¹⁸ However, a committee must stay within the scope of the order of reference from the Assembly directing it to carry out the clause-by-clause consideration of the bill. Any motion that is

14 At the preliminary motions stage, the committee may decide to hear an organization it already heard during special consultations held following an order from the Assembly (JD, December 8, 1997, CAT-24 p. 17 (Camille Laurin)/RDPP (Com. Vol.), No. 244/25). A motion that is identical in substance to a preliminary motion already considered by the committee is out of order (JD, February 11, 1986, pp. CBA-30-35 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 244/3). However, the rejection of a motion to hold special consultations to hear certain organizations does not exclude other motions proposing consultations to hear other organizations, since the motions are not identical (JD, December 5, 1984, pp. CE-374-377 (Luc Tremblay)/RDPP (Com. Vol.), No. 185/1; JD, June 9, 1993, p. 7417 (Roger Lefebvre)/RDPP, No. 244/5). It is also possible to move a motion to hear an organization that is part of a group of organizations the committee previously refused to hear, since the organization is an entity that is separate and independent from the group and has its own particular experience (JD, December 12, 1986, pp. CAS-951-952 (Guy Bélanger)/RDPP (Com. Vol.), No. 244/12).

15 JD, January 17, 1995, CI-8 p. 30 (Sylvain Simard)/RDPP (Com. Vol.), No. 244/21.

16 In such cases, the motion is moved pursuant to Standing Order 244, since Standing Order 164 is only a procedural provision under which a committee that wishes to hear a minister must give 15 days' advance notice, unless the minister waives such notice (JD, February 11, 1986, pp. CBA-30-35 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 244/3; JD, April 14, 1987, pp. CET-2965-2969 (Gilles Baril)/RDPP (Com. Vol.), No. 244/13; JD, June 12, 1990, pp. CE-1222-1224 (Louise Harel); JD, December 14, 1992, pp. CET-1181-1183 and 1196 (Jean Audet)).

17 JD, December 14, 1992, pp. 4750-4751 (Michel Bissonnet)/RDPP, No. 244/3.

18 JD, June 8, 2006, CTE-20 pp. 36-37 (Charlotte L'Écuyer)/RDPP (Com. Vol.), No. 244/37.

contrary to or deviates from this mandate is inadmissible,¹⁹ as is a preliminary motion proposing that the bill be examined by subject rather than clause by clause in sequential order or that consideration of a section be deferred.²⁰

Given that preliminary motions pertain to the functional organization of committee proceedings, they are considered formal motions, which may not be amended.²¹

During debates on preliminary motions, the general speaking times provided in Standing Order 209 apply, rather than those set out in Standing Order 245, which apply only during clause-by-clause consideration. Since preliminary motions are formal motions, the mover of such a motion, the Premier and the leaders of the other parliamentary groups, or their representatives, each have 30 minutes' speaking time. The other committee members have 10 minutes each. If a motion is moved by an opposition Member, that Member has 30 minutes' speaking time as mover of the motion. This is in addition to the time granted to the representative of the leader of the Member's parliamentary group,²² who may also speak for 30 minutes.²³ The minister may take the floor for 10 minutes, but may speak for 30 minutes if speaking as the representative of the Premier.²⁴ In contrast to the rules for clause-by-clause consideration, the minister is not allotted five minutes to reply to each question or comment.²⁵

Under Standing Order 209, Members may speak only once to a given question and may not divide the time they have been allotted for a preliminary motion into shorter segments,²⁶ unlike the practice during clause-by-clause consideration (SO 245).

19 JD, December 6, 1984, p. CE-467 (Luc Tremblay)/RDPP (Com. Vol.), No. 244/1; JD, December 4, 2003, CAT-24 p. 4 (François Ouimet)/RDPP (Com. Vol.), No. 244/35.

20 JD, May 15, 2008, CFP-41 pp. 3-4 (Alain Paquet)/RDPP (Com. Vol.), No. 244/40. See Subsection 19.1.1.3, "Clause-by-Clause Consideration".

21 JD, December 14, 2005, CTE-61 p. 28 (Tony Tomassi)/RDPP (Com. Vol.), No. 196/3.

22 JD, December 13, 2001, CAT-28 p. 59 (Danielle Doyer)/RDPP (Com. Vol.), No. 244/32.

23 The representative of the leader of a parliamentary group in opposition is presumed to be the critic for the matter under discussion (JD, June 8, 2004, CTE-21 p. 42 (Bernard Brodeur)/RDPP (Com. Vol.), No. 209/2).

24 This almost always seems to be the case at the preliminary motions stage, since the minister is not granted any specific speaking time. However, there is no obligation in this regard, since any government Member may speak as a representative of the Premier and thus enjoy a longer speaking time (JD, March 25, 1987, pp. 6346-6348 (Jean-Pierre Saintonge)/RDPP, No. 253/3).

25 JD, June 9, 1986, p. CBA-1053 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 246/2.

26 JD, June 8, 2004, CTE-21 p. 19 (Bernard Brodeur)/RDPP (Com. Vol.), No. 209/1.

The Standing Orders do not set a limit on the number of preliminary motions that can be moved. It is not uncommon to see numerous preliminary motions when a bill is contested by opposition Members. Such motions can be used as a means of slowing down committee proceedings. This systematic obstruction, referred to as “filibustering”, is an integral part of parliamentary practice.

In most cases, after discussing a few preliminary motions, the committee members agree to move on to the clause-by-clause consideration of the bill. In other cases, a member who considers that there have been enough preliminary motions may move to proceed immediately to the examination of section 1 and so begin the clause-by-clause consideration stage, thus putting an end to the preliminary motions. This motion is usually moved by a government Member and may be declared in order by the committee Chair if the latter considers that, under the circumstances, the Opposition has had sufficient opportunity to submit preliminary motions.

Since the Standing Orders do not specify how many preliminary motions may be moved or the duration of this stage in a bill’s clause-by-clause consideration, the committee Chair must decide whether a motion to undertake the clause-by-clause consideration of the bill is in order.²⁷ Jurisprudence provides the following principles to guide the Chair: (1) the role of the Chair is to protect the rights of each parliamentarian and to give the Opposition the time it needs to present its point of view; (2) it is the exclusive prerogative of the Chair to rule on whether a motion to proceed to the examination of section 1 is in order; (3) the admissibility of such a motion is not based on a purely mathematical calculation of the number of meetings devoted to preliminary motions; (4) precedents may guide the Chair in making a decision; and (5) past motions to this effect have often been ruled as intended not to end debate but rather to proceed to another stage, namely, the bill’s clause-by-clause consideration.²⁸

Despite these precedents, there are no exact criteria for determining when a motion proposing to proceed to the examination of section 1 of the bill can be declared in order. In one case, such a motion was ruled in order even though only one preliminary motion had been debated. This was because the committee Chair took into account the fact that the purpose of the motion was to hear an organization that had already been heard by the committee the week before during special consultations on the bill, which had been held following an order from the Assembly.²⁹ In another case, a committee Chair declared such a

27 JD, December 8, 2000, CC-52 pp. 32–33 (William Cusano)/RDPP (Com. Vol.), No. 244/31.

28 JD, June 11, 2004, CTE-24 pp. 21–22 (Bernard Brodeur)/RDPP (Com. Vol.), No. 244/36; JD, June 9, 2006, CTE-21 p. 19 (Charlotte L’Écuyer)/RDPP (Com. Vol.), No. 244/38.

29 JD, December 8, 1997, CAT-24 pp. 29–30 (Camille Laurin)/RDPP (Com. Vol.), No. 244/26.

motion out of order on the grounds that it had been moved rather prematurely, during the third meeting devoted to the clause-by-clause consideration of the bill and after six preliminary motions had been moved and debated.³⁰ However, the same Chair ruled a similar motion in order during the fourth committee meeting to examine another bill, again after six such motions had been moved.³¹ Finally, yet another similar motion was ruled in order during the third meeting on the clause-by-clause consideration of a bill, after seven preliminary motions had been moved and rejected.³²

The carrying of a motion to proceed to the examination of section 1 of a bill concludes the preliminary motions stage.³³ The committee then begins the clause-by-clause consideration of the bill.

19.1.1.3 CLAUSE-BY-CLAUSE CONSIDERATION

Once the preliminary motions stage is finished, the committee examines each section of the bill in detail (SO 244). At this stage, the committee adopts the bill's constitutive elements but is not required to pass the bill as a whole. The Assembly will later decide, at the passage stage of the legislative process, whether the bill should be passed.³⁴ According to doctrine, the parts of a bill must be examined in committee in the following order: printed clauses, deferred

30 JD, November 27, 2003, CAS-23 pp. 56–57 (Russell Copeman)/RDPP (Com. Vol.), No. 244/34. The Chair also ruled such a motion premature in the following three cases: JD, December 8, 2000, CC-52 pp. 32–33 (William Cusano)/RDPP (Com. Vol.), No. 244/31; JD, June 9, 2006, CTE-21 p. 19 (Charlotte L'Écuyer)/RDPP (Com. Vol.), No. 244/38; JD, May 30, 2011, CTE-18 pp. 16–17 (Charlotte L'Écuyer)/RDPP (Com. Vol.), No. 244/43. In the latter case, the motion was declared out of order even though three motions had already been rejected and the committee was in its third meeting. Similarly, a committee Chair once rejected such a motion after three preliminary motions had been discussed (JD, December 2, 1992, pp. CAE-1865–1868 (Madeleine Bélanger)) but ruled it in order a few days later after five preliminary motions had been moved (JD, December 9, 1992, pp. CAE-2091–2093 (Madeleine Bélanger)). In another case, the Chair took into account the fact that the Opposition had had the opportunity to move several motions and declared the motion in order after three meetings (JD, June 11, 1986, pp. CE-504–509 (Robert Thérien)/RDPP (Com. Vol.), No. 244/6). The Chair also came to the same conclusion on two other occasions, finding the motion in order after four motions had been moved and, in the first case, the committee was in its third meeting (JD, May 16, 1995, CTE-21 pp. 13–16 (Denise Carrier-Perreault)) and, in the second case, the committee was in its fourth meeting (JD, December 14, 1999, CAT-30 p. 16 (Hélène Robert)).

31 JD, November 4, 2003, CAS-15 p. 7 (Russell Copeman)/RDPP (Com. Vol.), No. 244/33.

32 JD, June 11, 2004, CTE-24 pp. 21–22 (Bernard Brodeur)/RDPP (Com. Vol.), No. 244/36.

33 JD, December 7, 1993, p. CAE-5634 (Madeleine Bélanger)/RDPP (Com. Vol.), No. 244/20.

34 JD, June 4, 1999, p. 2258 (Michel Bissonnet)/RDPP, No. 244/6.

printed clauses, new clauses, printed schedules,³⁵ new schedules, preamble, if any, and title.³⁶ However, committees usually examine new clauses at the same time as printed clauses, and the above list should also include the bill's headings, if any, which are examined before the title of the bill.

The text of a bill is examined in sequential order, that is, starting with section 1, followed by section 2 and so on until the end.³⁷ This procedure can be modified only with the unanimous consent of the committee members. Therefore, a preliminary motion moving that the bill be examined by subject is inadmissible.³⁸

In practice, when proceedings are conducted in a spirit of cooperation, committee members can agree by unanimous consent and without further formality to defer examination of one or more sections. In the context of debates, the expression "deferral of examination of a section" is sometimes replaced by "suspension of examination of a section". However, if the work atmosphere is not conducive to unanimous consent, a committee member may move a motion to defer examination of the section under discussion.³⁹ The motion is debated, with the same speaking times as a formal motion. If the motion is carried, examination of the section in question is deferred and the committee

35 According to a ruling from a committee Chair, the content of a schedule includes anything that, due to its format or technical nature, is difficult to include in the body of the bill, such as long lists, maps, technical descriptions, forms, fee grids, sworn oaths, tables and international agreements or accords. However, in the case submitted to the Chair, the purpose of the schedule referred to in section 1 of the bill was to enact a separate bill. In the Chair's opinion, this procedure, which on the face of it was contrary to the rules of legal drafting, posed procedural difficulties as well. The detailed examination of schedules is normally carried out after the committee has voted on the sections of the bill. However, if the committee had followed that procedure in this case, it would have had to decide whether to adopt section 1 of the bill before examining the bill set out in the schedule and enacted by section 1, which could have led the committee to reach contradictory decisions. In this context, the Chair decided that the committee had to examine the schedule before examining section 1 (JD, December 7, 2010, CFP-109 p. 3 (Alain Paquet)/RDPP (Com. Vol.), No. 244/42).

36 Geoffrion 1941, SO 564; JD, June 4, 1999, p. 2258 (Michel Bissonnet)/RDPP, No. 244/6; Arthur Beauchesne, Alistair Fraser, William Foster Dawson and John A. Holtby, *Beauchesne's Rules and Forms of the House of Commons of Canada, with Annotations, Comments and Precedents*, 6th ed. (Toronto: Carswell, 1991), p. 205.

37 Geoffrion 1941, SO 564(1), note 1; Beauchesne et al., *Beauchesne's Rules and Forms of the House of Commons of Canada*, p. 205. If, after the Assembly has been prorogued, a bill is reinstated on the Order Paper in the next session at the clause-by-clause consideration stage, pursuant to Standing Order 48, consideration of the bill resumes at the exact point at which it was interrupted before prorogation (JD, April 12, 2001, CTE-2 p. 4 (Claude Lachance)/RDPP (Com. Vol.), No. 48/1).

38 JD, May 15, 2008, CFP-41 pp. 3-4 (Alain Paquet)/RDPP (Com. Vol.), No. 244/40.

39 Ibid. According to this ruling, while it is possible to move a motion to defer examination of a section during clause-by-clause consideration of the bill, it is not possible to move such a motion with respect to the entire bill during the preliminary motions stage. See also JD, February 18, 2016, CI-91 pp. 13-14 (Guy Ouellette)/RDPP (Com. Vol.), No. 244/44.

can examine the following section of the bill.⁴⁰ A motion to defer clause-by-clause consideration of a section is inadmissible if the section is an essential element of the bill.⁴¹

During clause-by-clause consideration, motions to hold special consultations are inadmissible. Such motions must be moved during the preliminary motions stage, that is, before examination of the first section of a bill has begun.⁴²

According to committee custom, the minister reads each section of the bill, but cannot be compelled to do so.⁴³ Since the current Standing Orders do not address this matter, previous Standing Orders can be consulted.⁴⁴ The Geoffrion Standing Orders provide that the Chair reads only the number of each section unless a Member requests that the entire section be read.⁴⁵

During clause-by-clause consideration, all committee members have the right to propose amendments to the section being examined.⁴⁶ Under Standing Order 197, amendments must concern the same subject as the section being examined and may not be contrary to the section's principle.⁴⁷ If there is uncertainty as to the principle of a section, the mover of the motion must be given the benefit of the doubt.⁴⁸ Furthermore, amendments may only remove, add or replace words. Consequently, a Member may not present an amendment

40 JD, June 13, 2000, CAT-48 p. 17 (Yvon Vallières)/RDPP (Com. Vol.), No. 244/30.

41 Geoffrion 1941, SO 344 and 566, note 15; JD, February 18, 2016, CI-91 pp. 13-14 (Guy Ouellette)/RDPP (Com. Vol.), No. 244/44.

42 JD, April 14, 1987, pp. CET-2965-2969 (Gilles Baril)/RDPP (Com. Vol.), No. 244/13; JD, June 6, 1990, pp. CBA-727-730 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 244/16.

43 JD, December 17, 2007, CET-20 p. 43 (Catherine Morissette)/RDPP (Com. Vol.), No. 244/39.

44 Ibid.

45 Geoffrion 1941, SO 564.

46 An amendment motion may be moved only when the section the amendment pertains to is being examined. Furthermore, distributing or tabling a document in advance to inform the committee members of the text of an amendment a minister intends to propose to a section does not prevent the minister from moving a different amendment later, when the section concerned is being examined (JD, December 2, 2003, CFP-23 p. 38 (Alain Paquet)/RDPP (Com. Vol.), No. 198/2).

47 JD, June 4, 1986, pp. CAPA-256-258 and 264 (Jacques Tremblay)/RDPP (Com. Vol.), No. 197/4; JD, June 13, 1986, p. CBA-1131 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 197/6; JD, May 29, 2008, CAS-50 p. 30 (Geoffrey Kelley)/RDPP (Com. Vol.), No. 197/16; JD, June 12, 2008, CE-16 p. 14 (Pierre Arcand)/RDPP (Com. Vol.), No. 197/20; JD, December 7, 2011, CAPERN-65 pp. 21-23 (Claude Pinard)/RDPP (Com. Vol.), No. 197/25; JD, January 18, 2015, CSSS-32 pp. 47- 48 (Marc Tanguay)/RDPP (Com. Vol.), No. 197/28; JD, April 2, 2015, CFP-40 p. 42 (Raymond Bernier)/RDPP (Com. Vol.), No. 197/29; JD, November 25, 2015, CI-77 p. 20 (Maka Kotto)/RDPP (Com. Vol.), No. 197/30; JD, June 2, 2016, CAT-76 p. 10 (Pierre Michel Auger)/RDPP (Com. Vol.), No. 197/33; JD, November 15, 2017, CFP-187 p. 23 (Raymond Bernier)/RDPP (Com. Vol.), No. 197/34.

48 JD, May 29, 2008, CAS-50 p. 30 (Geoffrey Kelley)/RDPP (Com. Vol.), No. 197/16; JD, December 8, 2011, CAPERN-66 p. 8 (Claude Pinard)/RDPP (Com. Vol.), No. 197/26.

intended to strike out a section; to achieve that end, the Member need only vote against the section.⁴⁹ However, it is generally accepted that the bill's sponsor may propose an amendment to replace the entire text of a section or to strike out a section of the bill. In such a case, the speaking time is that set out in Standing Order 245, not Standing Order 195.



Committee clerk taking note of an amendment adopted during clause-by-clause consideration of a bill.

Moreover, each amendment must comply with the general admissibility criteria for amendments established by jurisprudence.⁵⁰ For instance, an amendment may not repudiate, set aside or contradict the main motion or, in this case, the section being amended, or distort it.⁵¹ Furthermore, in keeping with the principle of the financial initiative of the Crown, only a minister may move an amendment intended to appropriate public funds, impose a charge on taxpayers, remit a debt due to the State or grant state property (SO 192).⁵² However, an amendment that

49 JD, June 13, 1985, pp. CBA-1276-1281 (Claude Lachance)/RDPP (Com. Vol.), No. 197/2; JD, June 3, 2010, CFP-73 p. 59 (Alain Paquet)/RDPP (Com. Vol.), No. 197/21. Only the mover of a motion may propose that it be withdrawn, pursuant to Standing Order 195 (JD, June 4, 1986, pp. CAPA-256-258 and 264 (Jacques Tremblay)/RDPP (Com. Vol.), No. 197/4).

50 See Chapter 12, "The Decision-Making Process".

51 JD, April 15, 1997, CC-37 p. 41 (Jean Garon)/RDPP (Com. Vol.), No. 244/23; JD, June 7, 2010, CFP-75 p. 10 (Alain Paquet)/RDPP (Com. Vol.), No. 197/22; JD, June 6, 2011, CAT-11 p. 10 (Marie Malavoy)/RDPP (Com. Vol.), No. 197/23.

52 See Chapter 18, Subsection 18.2.2.3, "The Decision-Making Process".

does not clearly commit estimates of expenditure and does not have a direct financial impact on the Consolidated Revenue Fund is admissible since it does not contravene the principle of the Crown's financial initiative.⁵³

In addition to the above-mentioned criteria, each amendment must meet the admissibility criteria specific to clause-by-clause consideration of a bill. Under Standing Order 244, amendments must be relevant to the subject matter of a bill and consistent with its spirit.⁵⁴ If a bill amends two or more statutes and it is impossible to identify only one subject, the committee Chair must check whether the motion to amend is relevant to one of the subjects of the bill. In such a case, the fact that the motion would amend a section of a statute other sections of which are amended by the bill does not, in and of itself, make the amendment admissible.⁵⁵

Further, amendments must not exceed the scope of the bill⁵⁶ or add a new principle to it.⁵⁷ In this regard, the fact that amendments reproduce the text of another bill almost in its entirety⁵⁸ or partially⁵⁹ is a telling clue that they, in and of themselves, constitute a principle that could be the subject of a completely independent and stand-alone bill or that they are related to such a principle. Amendments may not amount to a cancellation of a modification made by a section of a bill to an existing Act⁶⁰ or to a rejection of the bill⁶¹ nor may they

53 JD, September 29, 2015, CSSS-73 pp. 45–46 (Marc Tanguay)/RDPP (Com. Vol.), No. 197/31.

54 JD, May 13, 1986, pp. CE-272–276 and 281–282 (Marcel Parent)/RDPP (Com. Vol.), No. 244/4; JD, November 28, 1997, CE-47 p. 33 (Yves Beaumier)/RDPP (Com. Vol.), No. 244/24; JD, December 7, 2011, CAPERN-65 pp. 21–23 (Claude Pinard)/RDPP (Com. Vol.), No. 197/25; JD, June 2, 2016, CAT-76 p. 10 (Pierre Michel Auger)/RDPP (Com. Vol.), No. 197/33; JD, November 15, 2017, CFP-187 p. 23 (Raymond Bernier)/RDPP (Com. Vol.), No. 197/34.

55 JD, March 13, 1990, pp. CE-736–737 (Claire-Hélène Hovington)/RDPP (Com. Vol.), No. 197/8; JD, December 7, 2011, CAPERN-65 pp. 21–23 (Claude Pinard)/RDPP (Com. Vol.), No. 197/25.

56 JD, December 13, 1990, pp. CBA-2301–2302 (Jean Audet)/RDPP (Com. Vol.), No. 244/17. Although jurisprudence recognizes the possibility of broadening the scope of the main motion, an amendment motion that far exceeds the scope of the bill is inadmissible (JD, May 30, 2008, CAS-51 pp. 1–2 (Geoffrey Kelley)/RDPP (Com. Vol.), No. 197/17; JD, November 25, 2015, CI-77 p. 20 (Maka Kotto)/RDPP (Com. Vol.), No. 197/30; JD, October 27, 2015, CSSS-82 p. 47 (Marc Tanguay)/RDPP (Com. Vol.), No. 197/32).

57 JD, May 29, 2008, CAS-50 p. 30 (Geoffrey Kelley)/RDPP (Com. Vol.), No. 197/16; JD, May 30, 2008, CAS-51 p. 14 (Geoffrey Kelley)/RDPP (Com. Vol.), No. 197/18; JD, December 7, 2011, CAPERN-65 p. 21–23 (Claude Pinard)/RDPP (Com. Vol.), No. 197/25; JD, June 11, 2013, CFP-47 p. 12 (Irvin Pelletier)/RDPP (Com. Vol.), No. 197/27; JD, April 2, 2015, CFP-40 p. 42 (Raymond Bernier) RDPP (Com. Vol.), No. 197/29; JD, June 2, 2016, CAT-76 p. 10 (Pierre Michel Auger)/RDPP (Com. Vol.), No. 197/33.

58 JD, April 2, 2015, CFP-40 p. 42 (Raymond Bernier)/RDPP (Com. Vol.), No. 197/29.

59 JD, November 25, 2015, CI-77 p. 20 (Maka Kotto)/RDPP (Com. Vol.), No. 197/30.

60 JD, May 28, 2019, CSSS-14 p. 30 (Luc Provençal)/RDPP (Com. Vol.), No. 197/35.

61 Geoffrion 1941, SO 562, note 1; Beauchesne et al., *Beauchesne's Rules and Forms of the House of Commons of Canada*, p. 207.

go against its principle as previously passed by the Assembly.⁶² The explanatory notes, although indicative of the content of a bill, do not alone suffice to identify its principle or principles.⁶³ The presence of an element in the explanatory notes does not guarantee that it constitutes a principle, nor does its absence guarantee that it does not constitute a principle. The committee must determine whether the element is essential or simply procedural.⁶⁴

No amendment may correct technical drafting errors in a statute not being examined by the committee.⁶⁵ Amendments to add consequential provisions are admissible, however.⁶⁶ Moreover, when a bill being considered in committee is incomplete—for instance, when a printing error has occurred and sections are missing—an amendment is the only way to remedy the situation.⁶⁷

An amendment that is contrary to or deviates from the provisions of the bill already adopted by the committee or that contradicts a decision the committee has made about a previous amendment is inadmissible.⁶⁸ The same is true for an amendment that is substantially the same as or based on another one already rejected by the committee,⁶⁹ unless it contains new facts.⁷⁰ However,

62 Geoffrion 1941, SO 566.

63 JD, May 18, 1988, pp. CC-299–301 (Claude Trudel)/RDPP (Com. Vol.), No. 197/7; JD, June 3, 1993, p. CE-2738 (Maurice Richard)/RDPP (Com. Vol.), No. 197/13; JD, May 29, 2008, CAS-50 p. 30 (Geoffrey Kelley)/RDPP (Com. Vol.), No. 197/16.

64 JD, June 3, 1993, p. CE-2738 (Maurice Richard)/RDPP (Com. Vol.), No. 197/13.

65 JD, April 14, 1987, pp. CET-3001–3007 (Lawrence Cannon)/RDPP (Com. Vol.), No. 244/14.

66 Ibid.

67 On December 16, 1999, during clause-by-clause consideration of Bill 226, *An Act respecting Agropur*, by the Committee on Agriculture, Fisheries and Food, an amendment was adopted to add sections 2 and 3 to the English version of the bill.

68 Beauchesne et al., *Beauchesne's Rules and Forms of the House of Commons of Canada*, p. 207; JD, December 2, 1999, CET-43 pp. 14–15 (Denise Carrier-Perreault)/RDPP (Com. Vol.), No. 244/28; JD, June 11, 1986, pp. CAPA-478 and 480 (Jacques Tremblay); JD, June 12, 1996, CC-9 p. 17 (Michel Morin).

69 Beauchesne et al., *Beauchesne's Rules and Forms of the House of Commons of Canada*, p. 176; JD, May 30, 1996, CET-15 p. 13 (François Beaulne)/RDPP (Com. Vol.), No. 244/22. In this case, the committee Chair ruled out of order an amendment to introduce the notion of “non-organized workers” in a section since the amendment previously rejected by the committee referred to “spokespersons of non-organized workers”. However, the Chair of another committee ruled in order an amendment to achieve the goal without an “increase in electricity rates paid by individuals”. Here, the Chair was of the opinion that the amendment motion was sufficiently different from a previously rejected amendment that stated that the objective was to be achieved without raising “income tax, taxes or rates paid by Québec taxpayers” (JD, June 1, 2006, CFP-16 p. 29 (Sam Hamad)/RDPP (Com. Vol.), No. 185/5).

70 JD, February 18, 1986, pp. CBA-181–187 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 185/2; JD, June 7, 2016, CI-131 pp. 49–50 (Guy Ouellette)/RDPP (Com. Vol.), No. 185/7. Thus, an amendment that begins with terms similar to those of a previous amendment but that has a different goal is admissible (JD, June 12, 2000, CI-86 p. 30 (Roger Bertrand)/RDPP (Com. Vol.), No. 244/29).

an amendment motion that is identical in every respect to a motion moved when another section was being examined is admissible, since its purpose is to amend a section that is substantively different from the previous one.⁷¹ An amendment reproducing part of the text of a previously rejected amendment was once deemed in order, since its subject matter was sufficiently different.⁷² On the other hand, an amendment motion to insert a new section that would contradict a section of the bill not yet examined by the committee is out of order,⁷³ since it amends a section that the committee has not yet examined. Conversely, the fact that an amendment relates to a subject not yet present in a bill does not render the amendment inadmissible.⁷⁴

Amendments that make a section unintelligible, that are frivolous or that are presented in a spirit of mockery⁷⁵ are also inadmissible, as are amendments that are vague or trifling⁷⁶ or that are moved scornfully.⁷⁷

An amendment may, however, propose to divide a section or paragraph or to join a number of sections or paragraphs into one.⁷⁸

As with any other motion,⁷⁹ an amendment motion may be declared out of order at any time before being put to a vote. Therefore, if the committee Chair has allowed such a motion to be moved and realizes during its discussion that it is irregular, the Chair must inform the committee and withdraw the motion.⁸⁰

Subamendments may be proposed to any amendment; each subamendment must be debated before another is moved (SO 200). The Member moving an amendment may not, however, propose a subamendment to it.⁸¹ The admissibility criteria for a subamendment are the same as for an amendment (SO 200):

71 JD, December 2, 1988, pp. CE-1813-1815 (Marcel Parent)/RDPP (Com. Vol.), No. 185/4; JD, June 11, 2008, CFP-46 p. 59 (Alain Paquet)/RDPP (Com. Vol.), No. 197/19.

72 JD, August 23, 2016, CET-101 p. 27 (Claude Cousineau)/RDPP (Com. Vol.), No. 185/8. The same is true for an amendment deemed more restrictive than the previous amendment (JD, December 17, 2014, CSSS-28 p. 26 (Marc Tanguay)/RDPP (Com. Vol.), No. 185/6).

73 JD, June 3, 1986, pp. CC-710-712 and 720-721 (Claude Trudel)/RDPP (Com. Vol.), No. 197/3.

74 JD, January 28, 2015, CSSS-32 pp. 47-48 (Marc Tanguay)/RDPP (Com. Vol.), No. 197/28.

75 Geoffrion 1941, SO 566, note 4.

76 Beauchesne et al., *Beauchesne's Rules and Forms of the House of Commons of Canada*, p. 207. However, according to Beauchesne, an amendment may not be declared out of order solely because it is formulated in vague terms (*Ibid*, p. 176).

77 JD, December 15, 1997, CAS-101 p. 21 (Rosaire Bertrand)/RDPP (Com. Vol.), No. 244/27.

78 Geoffrion 1941, SO 333(2).

79 JD, June 3, 1999, pp. 2164-2165 (Raymond Brouillet)/RDPP, No. 193/7.

80 JD, June 13, 1988, pp. CAS-1377-1387 (Guy Bélanger)/RDPP (Com. Vol.), No. 198/1.

81 JD, September 13, 1990, pp. CAE-2752-2754 (Madeleine Bélanger)/RDPP (Com. Vol.), No. 200/3.

it may not repudiate⁸², alter⁸³ or contradict the principle of the amendment⁸⁴ or be inconsistent with its spirit.⁸⁵ In accordance with jurisprudence, a subamendment must be related to the amendment it is intended to amend,⁸⁶ and not to the main motion. It must not have the same effect as a motion that has already been presented and its subject must differ sufficiently from a previously rejected amendment.⁸⁷ It may not broaden the scope of the amendment since its purpose is simply to amend it.⁸⁸ Nor may it be intended to replace the entire text of the amendment motion under consideration.⁸⁹ As is the case for amendments, when there is uncertainty concerning the admissibility of subamendments, the Chair must seek to foster debate rather than restrict it.⁹⁰ Finally, subamendments may not be amended.⁹¹

Each committee member has 20 minutes to speak to each section, paragraph⁹² and subparagraph of a bill, to each amendment and subamendment, and to each section being amended or inserted in an existing statute. The speaking time may be used all at once or in two or more turns (SO 245). When a section proposes replacing a section of an existing statute by two sections, each member has 20 minutes to speak to the introductory paragraph, 20 minutes to speak to the provision proposing an amendment to a section of an existing statute, and 20 minutes to speak to the section the bill proposes to add to the existing statute.⁹³ If the purpose of a section is to add a section comprising several paragraphs or subparagraphs to an existing statute, the speaking time allotted is only 20 minutes for the whole section.⁹⁴

82 JD, June 12, 2019, CI-50 p. 1 (André Bachand)/RDPP (Com. Vol.), No. 200/13.

83 JD, December 2, 2003, CFP-23 p. 45 (Alain Paquet)/RDPP (Com. Vol.), No. 200/4; JD, October 30, 2014, CAT-22 p. 1 (Pierre Michel Auger)/RDPP (Com. Vol.), No. 200/9; JD, June 12, 2019, CI-50 p. 1 (André Bachand)/RDPP (Com. Vol.), No. 200/13.

84 JD, September 30, 2015, CSSS-74 p. 1 (Marc Tanguay)/RDPP (Com. Vol.), No. 200/10.

85 JD, June 6, 2019, CSSS-21 pp. 39–40 (Luc Provençal)/RDPP (Com. Vol.), No. 200/12.

86 JD, March 22, 2006, CAS-2 p. 14 (Russell Copeman)/RDPP (Com. Vol.), No. 200/5.

87 JD, October 6, 2015, CSSS-76 pp. 18–19 (Marc Tanguay)/RDPP (Com. Vol.), No. 200/11.

88 JD, November 10, 1988, pp. CAS-1956–1960 (Guy Bélanger)/RDPP (Com. Vol.), No. 200/1; JD, November 10, 1988, pp. CAS-1965–1968 (Guy Bélanger)/RDPP (Com. Vol.), No. 200/2; JD, February 15, 2012, CAPERN-80 pp. 10–11 (Claude Pinard)/RDPP (Com. Vol.), No. 200/8.

89 JD, December 6, 2010, CFP-108 p. 7 (Luc Ferland)/RDPP (Com. Vol.), No. 200/6.

90 JD, June 12, 2019, CI-50 p. 1 (André Bachand)/RDPP (Com. Vol.), No. 200/13

91 JD, April 6, 2011, CI-7 p. 11 (Stéphanie Vallée)/RDPP (Com. Vol.), No. 200/7.

92 The adoption of an amendment that divides a paragraph into two paragraphs does not result in the granting of additional speaking time (JD, November 20, 1996, CI-47 p. 10 (Roger Paquin)/RDPP (Com. Vol.), No. 245/3).

93 JD, December 13, 1994, CI-3 p. 36 (Sylvain Simard)/RDPP (Com. Vol.), No. 245/2; JD, December 18, 1996, CE-15 pp. 21–22 (Robert Kieffer).

94 JD, June 6, 1996, CI-26 pp. 74–75 (Jean-Guy Paré); JD, November 28, 1996, CET-25 pp. 14–15 (François Beaulne); JD, April 15, 1997, CC-37 p. 30 (Jean Garon); JD, December 2, 2003, CFP-23 pp. 6–9 (Alain Paquet)/RDPP (Com. Vol.), No. 245/6.

For example, if a section of a bill proposes adding three sections to an existing statute, in addition to the 20 minutes allotted to study the introductory paragraph, 20 minutes of speaking time is allotted to each member for each of the three proposed sections, regardless of whether any of those sections comprises more than one paragraph or subparagraph.⁹⁵ If an amendment is moved to any of those sections, the speaking time is also 20 minutes, even if the amendment comprises more than one paragraph.⁹⁶ Furthermore, if an amendment seeks to add two or more sections to, or amend two or more sections of, an existing statute, each section added or amended constitutes an amendment in and of itself and 20 minutes of speaking time is therefore allotted for each.⁹⁷

Moreover, sections of an Act enacted by a bill section are examined in the same manner as if they were bill sections, with the same speaking times.⁹⁸

Although Standing Order 245 does not specify the speaking times allotted for schedules, 20 minutes is granted for each paragraph since a schedule is considered part of the bill.⁹⁹

Sections are usually examined as a whole, even if they comprise several paragraphs or subparagraphs, and committee members have 20 minutes' speaking time per section. Members wishing to examine a section one paragraph or subparagraph at a time must advise the committee Chair as soon as examination of the section begins, failing which the section is examined as a whole.¹⁰⁰ Since 20 minutes' speaking time is allotted for each paragraph or subparagraph of a section that does not amend an existing statute, it is important for time management purposes that the Chair know whether a Member is speaking to a specific paragraph or subparagraph. In some cases, a Member may prefer that all of a bill's sections be examined in the same manner, that is, one paragraph or subparagraph at a time, in which case the Member may state that preference at the preliminary remarks stage. The sections (other than those amending an existing statute) are then examined one paragraph or subparagraph at a time as requested, without the Member being required to reiterate the request for each section being examined.¹⁰¹

95 JD, December 2, 2003, CFP-23 pp. 6-9 (Alain Paquet)/RDPP (Com. Vol.), No. 245/6.

96 JD, December 2, 2003, CFP-23 p. 42 (Alain Paquet)/RDPP (Com. Vol.), No. 245/7.

97 JD, November 18, 2003, CAS-20 pp. 6-7 (Russell Copeman)/RDPP (Com. Vol.), No. 245/5.

98 JD, May 26, 2015, CSSS-51 p. 1 (Véronique Hivon)/RDPP (Com. Vol.), No. 245/9; JD, October 20, 2015, CAPERN-52 pp. 51-52 (Norbert Morin)/RDPP (Com. Vol.), No. 245/10.

99 JD, March 23, 1987, pp. CBA-2048-2053 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 245/1.

100 JD, June 13, 2001, CTE-18 pp. 19-20 (Claude Lachance)/RDPP (Com. Vol.), No. 245/4.

101 JD, December 11, 2007, CET-16 p. 3 (Catherine Morissette)/RDPP (Com. Vol.), No. 245/8.

In addition to the regular time allotted to each committee member under Standing Order 245, the sponsor of the bill may speak for up to five minutes after each other member has spoken (SO 246). The minister sponsoring the bill is under no obligation to use the time allotted but generally does so to give explanations or answer questions. A committee Chair once ruled that a minister is not obliged to answer a question and that a point of order may not be raised based on the fact that an answer is considered unsatisfactory. It is up to the Member asking the question to be persistent.¹⁰² Another committee Chair ruled that the sponsor of the bill may use the speaking time as the sponsor sees fit and that it is not the Chair's role to intervene in such matters.¹⁰³ Only a minister may use the speaking time allotted under Standing Order 246,¹⁰⁴ and this time may not be transferred to the minister's parliamentary assistant.¹⁰⁵ Under Standing Order 245, parliamentary assistants who wish to speak must use their own speaking time.¹⁰⁶

With the committee's consent, a minister may ask a public servant to give explanations or answer a Member's question.¹⁰⁷ However, consent must be requested each time the minister wants a public servant to take the floor, unless it is clear that consent has been given for the entire meeting.¹⁰⁸

Although amendments may be proposed until the committee has made a final decision on a section or motion, committee members may submit an amendment only if they are entitled to speak to the motion. A committee member may also propose a subamendment if entitled to speak to the amendment being examined, even if that member has used up the speaking time they were allotted for the original motion.¹⁰⁹

Amendments adopted during clause-by-clause consideration may result in a change in the bill's title. For this reason, even though the order in which the sections are examined can be modified, the title of a bill can be examined and adopted only after examination of the sections has been completed.¹¹⁰ A preamble is examined after all of the sections but before the title.¹¹¹ The same applies for Acts enacted by a bill section.¹¹² Moreover, jurisprudence has

102 JD, December 17, 2001, CAT-30 p. 32 (Jean-François Simard)/RDPP (Com. Vol.), No. 82/1.

103 JD, November 2, 2004, CTE-34 pp. 6-7 (Charlotte L'Écuyer)/RDPP (Com. Vol.), No. 246/6.

104 JD, June 16, 1986, pp. CAS-426-427 (Guy Bélanger)/RDPP (Com. Vol.), No. 246/3.

105 JD, February 18, 1986, pp. CBA-219-221 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 246/1.

106 Ibid.

107 JD, December 19, 2000, CC-55 p. 2 (Matthias Rioux)/RDPP (Com. Vol.), No. 246/5.

108 JD, November 22, 2000, CAT-60 p. 14 (Yvon Vallières)/RDPP (Com. Vol.), No. 246/4.

109 JD, June 3, 1986, pp. CC-718-720 (Claude Trudel)/RDPP (Com. Vol.), No. 196/2.

110 JD, June 11, 1986, pp. CE-519-524 (Robert Thérien)/RDPP (Com. Vol.), No. 244/7.

111 JD, December 9, 1986, pp. CAPA-1022-1024 (Maurice Richard)/RDPP (Com. Vol.), No. 244/11.

112 JD, October 20, 2015, CAPERN-52 pp. 51-52 (Norbert Morin)/RDPP (Com. Vol.), No. 245/10.

established that the sponsor of a bill decides whether it should contain a preamble.¹¹³ A motion to add a preamble to a bill that does not have one is inadmissible.¹¹⁴ This is especially true of an amendment proposing that a preamble be added to a statute that does not have one.¹¹⁵ Amendments to the preamble or the title of a bill are admissible only if they arise from the amendments made to the rest of the bill. Substantive changes to a preamble are thus inadmissible, unless they seem necessary to accurately reflect the amended text of the bill or for the sake of standardization.¹¹⁶

Clause-by-clause consideration of a bill concludes with the adoption of its headings and title, although, if sections have been added to or removed from the bill, the committee usually passes a renumbering motion to allow the Law Clerk to make the necessary corrections.¹¹⁷ Furthermore, in cases where the bill refers to existing statutes, it is customary for the committee to carry a motion to adjust references to reflect updating of the Compilation of Québec Laws and Regulations. Finally, committees used to carry a motion at the end of their proceedings to adopt the actual text of the bill, but this practice was dropped after the Chair of the Committee of the Whole ruled that it was unnecessary.¹¹⁸

Traditionally, at the National Assembly, clause-by-clause consideration of a bill in parliamentary committee is conducted in French. Committee members are nevertheless entitled to propose an amendment to either the French or the English text of the section being examined. The motion itself may be presented in either language, and there is no obligation to present it in both languages.¹¹⁹

Before terminating the committee's mandate, it is customary for each Member to have 20 minutes' speaking time to make closing remarks, according to the same rules as the preliminary remarks, with the exception that the sponsor of the bill speaks last.

113 JD, October 19, 2011, CAPERN-30 pp. 12-13 (Claude Pinard)/*RDPP* (Com. Vol.), No. 197/24.

114 JD, December 9, 1986, pp. CAPA-1022-1024 (Maurice Richard)/*RDPP* (Com. Vol.), No. 244/11.

115 JD, June 5, 2009, CAS-30 p. 24 (Geoffrey Kelley)/*RDPP* (Com. Vol.), No. 244/41.

116 JD, June 17, 1991, pp. CI-1712-1718 (Claude Dauphin)/*RDPP* (Com. Vol.), No. 197/11.

117 Geoffrion 1941, SO 539: "It shall be the duty of the law clerk to revise public bills and cause the same to be printed." This role is currently played by the Legislative Translation and Publishing Directorate.

118 JD, June 4, 1999, p. 2258 (Michel Bissonnet)/*RDPP*, No. 244/6. Under this ruling, the committee adopts the constitutive elements of the bill but is not required to pass the bill. It is up to the Assembly to decide, at the passage stage of the legislative process, whether the bill should be passed.

119 JD, June 14, 1995, CE-14 pp. 10-11 (Diane Barbeau)/*RDPP* (Com. Vol.), No. 197/14; JD, November 20, 1996, CI-47 p. 25 (Marcel Landry)/*RDPP* (Com. Vol.), No. 197/15; JD, December 11, 1996, pp. 4208-4209 (Raymond Brouillet)/*RDPP*, No. 252/1.

After completing consideration of the bill, the committee tables its report in the Assembly. This report comprises the minutes of its proceedings and the text of the bill as adopted by the committee (SO 248, 1st para.).

19.1.2 PRIVATE BILLS

Once a private bill has been introduced in the Assembly, it is referred to the appropriate committee on a motion without notice by the Government House Leader so that the committee can hear interested parties and undertake clause-by-clause consideration (SO 267). The order of reference specifies whether a minister is to sit on the committee (SO 124). The Member who introduced the bill is automatically entitled to sit as a participating member of the committee throughout the proceedings (SO 125).

The Director of Legislative Affairs (Law Clerk) must keep a register of the name, place of residence and occupation of the private bill's applicant and of the parties who have indicated that they have an interest in the bill and wish to speak to it. The Law Clerk then sends a list of those parties to the Government House Leader and the Member who introduced the bill (RCP 39). On behalf of the Parliamentary Committees Director, the clerk of the committee concerned then convenes the parties at least seven days before the bill is to be examined in committee (RCP 40). The unanimous consent of the Assembly is required if less than seven days' notice is given for this meeting. Once this consent has been obtained, it is not necessary to ask the interested parties whether they agree to waive the seven-day notice.¹²⁰ The interested parties heard by the committee under Standing Order 267 are the applicant for the bill and the parties who have informed the Law Clerk in advance of their interest in speaking to the bill in keeping with Rule 39 of the Rules for the Conduct of Proceedings.¹²¹

Under Standing Order 270, the general rules relating to public bills also apply to private bills, subject to Standing Orders 264 through 269. A Member may thus move a preliminary motion to allow the committee to examine certain documents that could help it in carrying out its mandate.¹²² Moreover, in accordance with Standing Order 244 and on a motion by one of its members, a committee may decide to hear a person or organization that is not registered with the Law Clerk and is therefore not an "interested party" within the meaning of Standing Order 267.¹²³

¹²⁰ For example, see JD, May 9, 2019, p. 2669.

¹²¹ JD, May 27, 1992, pp. CAE-702-705 (Madeleine Bélanger)/RDPP (Com. Vol.), No. 267/4.

¹²² JD, May 28, 1992, pp. CAE-737-739 and 768-769 (Madeleine Bélanger)/RDPP (Com. Vol.), No. 267/5.

¹²³ JD, May 27, 1992, pp. CAE-702-705 (Madeleine Bélanger)/RDPP (Com. Vol.), No. 267/4.

The applicant and other interested parties are generally heard in the same meeting as that devoted to the clause-by-clause consideration of the bill. First, committee members are invited to make their preliminary remarks, beginning with the Member who introduced the bill,¹²⁴ who may introduce the applicant, the applicant's counsel, if any,¹²⁵ and the other interested parties, before giving a concise explanation of the bill's content. The other committee members then make their preliminary remarks.

Next, the committee holds the public hearings. First, it hears the applicant and the applicant's counsel. The applicant begins by presenting an outline of the bill, and the applicant's counsel gives any legal explanations. Then, the other interested parties are invited to explain why they wish to speak to the bill. Since the Standing Orders do not specify how long hearings are to last or how speaking times are to be allocated between the parliamentary groups, the committee makes that decision, unless the time was specified in a motion previously carried by the Assembly.

After the public hearings, the committee begins the clause-by-clause consideration of the bill, which is carried out in the same way as for a public bill, except that the preamble is considered first unless the committee decides to delay its adoption.¹²⁶ Once the preamble has been adopted, the committee members examine each section and any schedules in the same way as for a public bill.¹²⁷

In the case of private bills on a municipal matter, the preamble is traditionally examined last. During this stage, each committee member may speak to the same matter several times. He or she may speak for up to 20 minutes to each section, paragraph and subparagraph of the bill, each amendment and subamendment and each section to be amended or inserted in an existing statute (SO 245). The Member introducing the bill is also allowed five minutes' speaking time after each other committee member has spoken (SO 246). In the case of a private bill introduced by a minister, which is a rare occurrence, the minister is allotted the same speaking time as any other committee member. If interested parties wish to speak to any of the sections, they may do so with the committee's permission.

124 The resignation of a Member who introduces a private bill does not alter the committee's mandate, which is to hear the interested parties and undertake clause-by-clause consideration of the bill. Furthermore, it is not the Chair's role to ensure that the resigning Member is replaced (JD, June 18, 1987, pp. CBA-2833-2837 and 2847 (Maurice Richard)/RDPP (Com. Vol.), No. 267/2).

125 Applicants are almost always accompanied by counsel, although this is not an obligation.

126 Geoffrion 1941, SO 630. Since private bills do not require explanatory notes, they each contain a preamble setting out the facts on which they are founded (SO 266).

127 Geoffrion 1941, SO 630, note 1.

The private bill's applicant, whose rights will be affected by its passage, may suggest amendments to the committee, but only a committee member may officially move an amendment motion. The Member who introduced the bill is generally the one who moves the amendment, at the applicant's request. The committee members then vote for or against the amendments and the sections of the bill. However, it is not their role to move that a section be withdrawn, since the bill belongs to the promoter, who may withdraw or drop all or part of it.¹²⁸

Once clause-by-clause consideration of a bill has been concluded, the committee reports to the Assembly. This report is put to a vote immediately, without debate (SO 267).

19.2 EXAMINATION OF THE ESTIMATES OF EXPENDITURE

In addition to the clause-by-clause consideration of bills, another mandate of the committees is the examination of the estimates. On a motion without notice that is moved by the Government House Leader immediately after the interim supply estimates have been carried by the Assembly and may not be debated (SO 281, 2nd para.),¹²⁹ all the estimates, except those for the Assembly itself, are sent to the standing committees for examination. Under Standing Order 282, the committees examine the estimates within their areas of competence as determined by Standing Order 118.

Examination of the estimates begins not less than 15 days after they are tabled in the Assembly and lasts for 10 consecutive sittings, Monday through Friday, during committee meeting hours and according to the schedule for extended hours of meeting. During this period, the Assembly conducts only Routine Proceedings (SO 282).

The maximum time that may be devoted to examination of the estimates of expenditure in committee is 200 hours; the time allowed for examining the estimates for a particular government department is 20 hours (SO 283). If 200 hours have not elapsed after 10 sitting days, the committees may conclude their deliberations in the following days, according to the same rules (SO 286).

The procedure for examining the estimates of expenditure is specified in an agreement reached by the House leaders of the parliamentary groups following a meeting convened by the President (SO 285).¹³⁰ The agreement sets out the committee meeting schedule and calendar, certain specific rules concerning the replacement of committee members and the participation of independent

128 JD, May 29, 1986, pp. CBA-905-906 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 267/1.

129 See Chapter 15, "The Budget Process".

130 The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

Members, voting times and the time allotted for examination of each department's estimates of expenditure. The time allotted may not be exceeded even with the unanimous consent of the committee members. The committee may change the order of business, allowing proceedings to continue beyond the scheduled times set out in the Standing Orders, but only if the total time specified in the agreement for examining the estimates for a particular department has not elapsed.¹³¹ If changes need to be made to the terms of the agreement between the House leaders, the President of the Assembly and the House leaders must make them, in accordance with Standing Order 285. A committee Chair is not authorized to redistribute time allotted but not used by a committee due to cancellation of a meeting. The Chair's power is limited to managing committee proceedings within the time periods for which the committee was convened by the Government House Leader.¹³²

Before examination of the estimates of expenditure begins in committee, an outline of the agreement between the parliamentary groups is tabled in the Assembly. Occasionally, the presence of a minister who is not a Member of the Assembly is required under the agreement. In such a case, according to a committee Chair ruling, the minister may still defend the estimates for the minister's department in committee since, during examination of the estimates, as during other instances of parliamentary oversight, such as the examination of financial commitments, ministers testify as members of the Conseil exécutif, not as members of the committee concerned. Since parliamentary committees are subgroups of the Assembly, committee members must also be Members of the Assembly. However, a minister who is not a Member is nonetheless entitled to testify before a committee.¹³³ A non-elected minister may therefore speak in the context of a parliamentary oversight mandate such as the examination of the estimates of expenditure.¹³⁴

The Government House Leader convenes the committees for examination of the estimates on a daily basis in accordance with Standing Order 85, based on the terms of the agreement. The Government has some leeway to make changes to the estimates examination calendar if the President sees that all Members agree. If there is no agreement, the President invites the parliamentary groups to reach an agreement; otherwise, the President determines when the examination will take place.¹³⁵ It is customary to begin committee proceedings on the estimates with preliminary remarks by the minister defending the

131 JD, May 27, 1987, pp. CE-1924-1926 (Marcel Parent)/RDPP (Com. Vol.), No. 285/1.

132 JD, April 25, 2001, CET-4 p. 1 (Robert Kieffer)/RDPP (Com. Vol.), No. 285/2.

133 Under section 11 of the *Executive Power Act*, CQLR, c. E-18, a person may be appointed to the Conseil exécutif without having been elected, provided the person later becomes a Member of the National Assembly.

134 JD, May 8, 2001, CAT-7 pp. 8-9 (Danielle Doyer)/RDPP (Com. Vol.), No. 287/4.

135 JD, May 2, 2017, p. 16051 (François Ouimet)/RDPP, No. 282/6.

estimates for the minister's department. The committee Chair then gives the floor to the representative of each respective parliamentary group in opposition, who also makes preliminary remarks. Since no provision in the Standing Orders governs the content and duration of preliminary remarks, unless the agreement under Standing Order 285 otherwise provides for them, they are governed by Standing Order 209, which sets out the general rules for speaking time. Standing Order 209 states that, except as otherwise provided, the time limit for matters other than a formal motion, including preliminary remarks, is 20 minutes. However, for many years now, committee members have agreed to limit the time allotted for preliminary remarks in order to proceed more rapidly to the examination of the estimates.

As is the case for the clause-by-clause consideration of a bill, committee members may also move preliminary motions on the organization and planning of committee proceedings.¹³⁶

The committee then proceeds to a discussion on the estimates between the minister and the committee members, beginning with the Official Opposition critic. The estimates for each department are divided into programs, which are subdivided into program elements. The Standing Orders provide that each committee member may speak to each element for a total of 20 minutes (SO 209) and may speak more than once to each element (SO 284). The minister may speak as often as desired (SO 287) for 20 minutes at a time (SO 209). This approach has never actually been used in practice. Instead, committees agree to hold a general discussion on the estimates, with the total time distributed among the parliamentary groups in 20-minute blocks that include ministers' responses.

When there are more than two parliamentary groups, however, the provisions of the Standing Orders are not very useful. For example, in the minority government situation of the 38th Legislature, the President of the Assembly ruled that, for two reasons, it was up to him to specify how the time would be distributed among the parliamentary groups. The first reason arose from Standing Order 285, which provides that the President is to convene a meeting of the House leaders in order to specify the procedure for examining the estimates and which confers certain prerogatives on the President in that respect. The second reason arose from the fact that the President must protect the rights of all of the Members at all times and allow them to fully participate in deliberations.¹³⁷ Consequently, the President chose to distribute speaking time in proportion to the number of seats each parliamentary group held in the National

136 JD, April 9, 1991, pp. CC-1309-1312 (Réjean Doyon)/RDPP (Com. Vol.), No. 284/7.

137 JD, June 8, 2007, pp. 1187-1188 and 1200 (Michel Bissonnet)/RDPP, No. 285/1.

Assembly.¹³⁸ During the 39th Legislature, the President of the Assembly also specified the procedure for the participation of independent Members, 15 at the time, in the examination of estimates.¹³⁹

Under the third paragraph of Standing Order 132, when a committee is examining the estimates, Members who do not sit on the committee may also take part in its proceedings without its permission even if they are already members of another committee.

Furthermore, it is difficult to apply the rule of alternation during examination of the estimates in committee strictly, given that there is no adversarial debate.¹⁴⁰ Responsibility for giving the floor to a Member thus rests entirely with the committee Chair, who must ensure that speaking time is distributed fairly,¹⁴¹ and that all the Members have an opportunity to voice an opinion, since they all have equal rights in this regard.¹⁴² In practice, and subject to the speaking time available to the Members or the parliamentary groups, where applicable, the Chair gives the floor to the different parliamentary groups on a rotating basis. That said, if the committee does not give its unanimous consent, it is not bound by an agreement between the House leaders of the parliamentary groups or between a minister

138 Ibid. For the purposes of the examination of the estimates for the 2007–2008 fiscal year, the Government, which was in a minority situation, agreed to relax its application of the rule of proportionality in order to grant more speaking time to the opposition than would have been granted had the time been calculated strictly on the basis of the number of seats held by each parliamentary group in the Assembly. It was agreed that the two opposition groups would be allotted 65% of the total speaking time, while the group forming the Government would be allotted 35%. Debates of up to two hours would not be preceded by preliminary remarks, except for the estimates relating to youth, for which each parliamentary group was allotted 10 minutes of speaking time. The same procedure was generally followed during the examination of the estimates for the 2008–2009 fiscal year, in what was still a minority government situation, and again in 2013–2014, when the two opposition groups had 5/9 of the speaking time, allocated in proportion to the number of members from each parliamentary group on the committees. During the 39th, 41st and 42nd Legislatures, the group forming the Government had 50% of the time slated for the examination of the estimates of expenditure. However, for the estimates of expenditure for the 2020–2021 fiscal year, although they were deemed to have been examined following the special order adopted in the context of the COVID-19 pandemic, the same special order entrusted the committees with the mandate to examine them, without the obligation to adopt them, for a period of 100 hours devoted solely to discussion among opposition Members (VP, May 13, 2020, pp. 1895–1896).

139 JD, April 3, 2012, pp. 5575–5576 (Jacques Chagnon)/RDPP, No. 285/2. See also JD, April 30, 2010, CFP-63 p. 5 (Alain Paquet)/RDPP (Com. Vol.), No. 285/3; JD, May 3, 2010, CSSS-40 p. 11 (Pascal Bérubé)/RDPP (Com. Vol.), No. 285/4.

140 JD, April 12, 1984, pp. CBA-67–68 (Claude Lachance)/RDPP (Com. Vol.), No. 284/1.

141 Ibid.; JD, April 25, 1989, pp. CBA-2621–2622 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 284/4.

142 JD, April 25, 1989, pp. CBA-2613–2614 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 284/3.

and Official Opposition Members with respect to the allocation of speaking time,¹⁴³ unless this allocation is explicitly provided for in the agreement tabled in the Assembly in accordance with Standing Order²⁸⁵.

Since Standing Order 287 places no limit on the number of times a minister defending departmental estimates may speak, the Chair is required to give the minister the floor whenever the latter wishes to respond to another Member. However, the minister, not being a member of the committee for this mandate, may not vote or move motions.

Examining estimates in committee can sometimes be a very technical exercise. The minister is therefore accompanied by public servants to provide explanations during discussions with committee members. A public servant may even be called on to answer a question addressed to the minister. To be entitled to do so, the public servant must have the prior consent of the minister and the committee members,¹⁴⁴ and the discussion must concern an administrative or technical matter.¹⁴⁵ Similarly, a Member may question a public servant directly only with the prior consent of the minister and the committee.¹⁴⁶ As a result, a public servant may not be subpoenaed to appear before a committee to answer questions on the estimates.¹⁴⁷

Members of the National Assembly are authorized to ask ministers to provide any information that can be of help in studying the estimates. However, although the Standing Orders contain provisions that relate to the examination of financial commitments, there is no rule that requires government departments to provide committees with information that could be used in examining

143 JD, April 22, 1986, p. CAS-52 (Guy Bélanger)/RDPP (Com. Vol.), No. 284/2; JD, April 26, 1989, pp. CBA-2646-2650 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 284/5.

144 JD, April 22, 1986, p. CE-54 (Marcel Parent)/RDPP (Com. Vol.), No. 287/2.

145 JD, April 12, 1984, pp. CBA-117-119 (Daniel Johnson)/RDPP (Com. Vol.), No. 287/1.

146 JD, April 20, 1993, pp. CET-2635-2636 (Jean-Claude Gobé)/RDPP (Com. Vol.), No. 287/3.

147 JD, April 17, 2002, CAT-39 pp. 9-10 (Yvon Vallières)/RDPP (Com. Vol.), No. 287/5.

the estimates.¹⁴⁸ Similarly, the President of the Assembly may not compel a minister to transmit a document the minister has undertaken to later transmit to the members of a committee during examination of the estimates.¹⁴⁹

As is the case during Question Period in the Assembly, no point of order may be raised based on the opinion that a minister's answer to a question is unsatisfactory.¹⁵⁰

During examination of a government department's budget estimates, each of its programs is discussed in turn, with a general discussion of all the programs being allowed only with the unanimous consent of the committee members.¹⁵¹ In accordance with jurisprudence, which indicates that this rule must be applied very broadly, the rule of relevance is less strictly applied during examination of the estimates than during clause-by-clause consideration of a bill. This means that a Member can broach all of a department's activities when making comments, as long as the Member does so in reference to a particular program element.¹⁵²

When the time allotted for examining a particular program has expired, the Chair puts the question even if a particular Member's speaking time has not elapsed.¹⁵³ Furthermore, the committee may also decide to vote on all of a

148 Following the established practice, each government department usually responds in writing to requests for information made by opposition groups preparing to examine the estimates. This practice does not arise from the Standing Orders or an order of the Assembly, but rather from an agreement between the House leaders. A committee Chair described the practice as follows: [TRANSLATION] "Since this practice is outside the framework of committee proceedings per se, it may not be associated with precedents or usage in the Assembly within the meaning of Standing Order 180. The committee Chair may not interpret this agreement or intervene to ensure compliance with it. All the Chair can do is encourage ministers to exercise the greatest possible transparency with regard to the activities and management of their respective departments." (JD, May 7, 1998, CTE-24 p. 11 (Claude Lachance)/RDPP (Com. Vol.), No. 282/1). Furthermore, although the Chair may hope that ministers will transmit all documents related to the preparation of the committee examination of estimates within a reasonable timeframe, the Chair cannot compel them to do so nor unilaterally determine that a seven-day deadline is a reasonable standard (JD, February 12, 2013, pp. 1668-1669 (Jacques Chagnon)/RDPP, No. 282/4).

149 JD, March 13, 2013, p. 1920 (Jacques Chagnon)/RDPP, No. 282/5.

150 JD, May 7, 1998, CTE-24 p. 11 (Claude Lachance)/RDPP (Com. Vol.), No. 282/1; JD, April 24, 2002, CAPA-10 p. 17 (Léandre Dion)/RDPP (Com. Vol.), No. 81/1.

151 JD, May 29, 1990, pp. CAE-1258-1260 (Madeleine Bélanger)/RDPP (Com. Vol.), No. 284/6.

152 JD, April 16, 1986, p. CBA-533 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 211/2.

153 JD, April 25, 1989, pp. CBA-2613-2614 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 284/3.

department's programs at once if the time allotted for examining that department's estimates has expired.¹⁵⁴ The committee may then approve, negative or reduce the estimates (SO 288), but it may never increase them.¹⁵⁵

When the time allotted for examining the estimates has expired or when all the estimates have been carried in committee, the committee reports are all tabled together at the same sitting (SO 288). Unlike other committee reports, these reports are tabled by the President of the Assembly.

19.3 INTERPELLATION

Any opposition Member may interpellate a minister on any matter of current or general interest for which the minister is responsible (SO 295). One parliamentary committee meeting per week (every Friday morning from 10:00 a.m. to 12:00 noon) is reserved for this debate, called an "interpellation". Interpellations take place only when the Assembly is sitting, but not during extended hours of meeting or when the Assembly stands adjourned for more than five days (SO 299).¹⁵⁶

A notice published in the Assembly's Order Paper not later than the last sitting of the week states the subject matter of the interpellation and the minister concerned (SO 296). If two or more such notices appear in the Order Paper, the President of the Assembly determines which one is to be called, considering the order in which the notices were given, their distribution among the parliamentary groups and the presence of independent Members.¹⁵⁷ The President announces the subject matter of the interpellation during the last Routine Proceedings of the week at the time set aside for information on the proceedings of the Assembly (SO 297).

154 According to a long-standing practice, the committee votes on the estimates of a government department as a whole after voting on each of the department's programs. Until 1999, a similar practice was followed in the Committee of the Whole for the supplementary estimates: after voting on the estimates granted to each department, the committee voted on all the supplementary estimates. However, this practice was set aside to prevent the Committee of the Whole from making two contradictory decisions. For more on this subject, see Chapter 15, Subsection 15.2.4, "Supplementary Estimates".

155 Geoffrion 1941, SO 382.

156 This means that there is no interpellation the Friday before a week allotted for riding work that occurs during ordinary hours of meeting (see Chapter 6, "Legislatures, Sessions and Sittings"). Conversely, if an interpellation has been announced for the following Friday and the Assembly decides to adjourn for more than five days, the interpellation takes place on the first Friday after resumption (JD, March 23, 2005, p. 7379 (François Gendron)/RDPP, No. 299/1).

157 See Chapter 5, Subsection 5.1.4.3, "Allocation of Measures", and Appendix IV, "Allocation of Interpellations and Business Standing in the Name of Members in Opposition (Wednesday Motions)".

The subject matter determines which committee will hold the interpellation¹⁵⁸ that takes place the following week, on Friday morning from 10:00 a.m. to 12:00 noon (SO 298). The debate is usually held in the National Assembly Chamber and is televised.

Interpellations were added to the Standing Orders of the National Assembly in November 1977 to replace the sittings formerly held on Friday mornings. Abolishing those sittings meant losing a Question Period. Since the Friday morning interpellation, originally called “question with debate”, stems from the Friday morning Question Period, it is quite similar to the latter.¹⁵⁹ During Question Period, the Government is traditionally allowed to respond through the head of the Government or through any other government Member. Although Members may direct their questions to the minister of a particular department, this does not entitle them to receive an answer from that particular minister.¹⁶⁰ Under the principle of ministerial responsibility, codified in Standing Order 189, a minister can always replace another minister even if the notice of interpellation is directed at a specific minister. The Government designates which minister will speak to the matter, and the committee Chair cannot intervene regarding that choice.¹⁶¹ Likewise, the President of the National Assembly is not responsible for determining which minister is concerned by the subject of an interpellation, since this falls to the executive branch.¹⁶²

During the sitting, the Member who gave the interpellation notice speaks first, followed by the minister to whom the interpellation is addressed. Each may speak for up to 10 minutes (SO 300). Government Members then alternate with opposition Members in taking the floor. Speaking time is limited to five minutes each, with the minister being allowed to speak after each opposition Member (SO 301). Unused speaking time lapses and may not be deferred.¹⁶³

158 At the beginning of a legislature, the fact that the committees have not yet been formed does not prevent a Member from presenting a notice of interpellation to the President nor does it provide grounds on which the latter may reject it, since there is no reason to suppose that the committee will not have been formed by the date of the interpellation (JD, May 10, 2007, p. 68 (Michel Bissonnet)/RDPP, No. 295/3). However, since an interpellation must be heard before the appropriate parliamentary committee of the National Assembly, it goes without saying that it cannot be held until the committees have been formed (JD, May 17, 2007, p. 239 (Marc Picard)/RDPP, No. 295/4).

159 JD, November 6, 1984, pp. 473–475 (Richard Guay)/RDPP, No. 295/1.

160 Ibid.

161 JD, May 31, 1996, CAS-21 p. 10 (Claude Lachance)/RDPP (Com. Vol.), No. 295/1; JD, October 4, 2013, CFP-65 p. 25 (Roland Richer)/RDPP, (Com. Vol.), No. 295/2.

162 JD, November 6, 1984, pp. 473–475 (Richard Guay)/RDPP, No. 295/1.

163 JD, March 23, 1984, p. CET-8 (Pierre Fortier)/RDPP (Com. Vol.), No. 301/1.

It was once ruled that an independent Member who is also a committee member may speak for five minutes,¹⁶⁴ unless the independent Member requested the interpellation, in which case more time is allotted.¹⁶⁵

Twenty minutes before the committee is to rise, the committee Chair grants the minister 10 minutes' speaking time, and the Member who gave the notice of interpellation, 10 minutes to reply (SO 302).

Lack of quorum may not be raised during an interpellation, nor may there be any motions, reports or votes (SO 303), not even a motion to adjourn proceedings.¹⁶⁶

19.4 ACCOUNTABILITY MANDATES

The accountability mandates carried out by the committees arise from the National Assembly's oversight powers with respect to any action by the Government, its departments or its bodies. In addition to the examination of financial commitments, discussed later in this chapter, there are two types of accountability mandates: accountability reporting by government departments and bodies in accordance with the *Public Administration Act*,¹⁶⁷ and examination of the policy directions, activities and management of public bodies, commonly called an "oversight mandate".

19.4.1 ACCOUNTABILITY REPORTING BY GOVERNMENT DEPARTMENTS AND BODIES

Under section 29 of the *Public Administration Act*, at least once every four years, the competent parliamentary committee of the National Assembly must hear the deputy ministers and the chief executive officers of public bodies to discuss their administrative management.

As seen in Chapter 18, this mandate, which replaced the one initially set out in section 8 of the *Act respecting the accountability of deputy ministers and chief executive officers of public bodies*,¹⁶⁸ was originally carried out exclusively by the Committee on Public Administration. Since its creation in 1997, this Committee had been responsible for hearing all deputy ministers and chief executive officers annually on their administrative management. However, due to the number of bodies concerned (approximately 120, compared with 70

164 JD, November 7, 2003, CAS-17 pp. 1-2 (Lucie Charlebois)/RDPP (Com. Vol.), No. 301/2.

165 JD, May 20, 2011, CCE-14 p. 1 (Pierre Marsan)/RDPP (Com. Vol.), No. 301/3.

166 JD, May 9, 1997, CAS-83 p. 4 (Rosaire Bertrand)/RDPP (Com. Vol.), No. 303/1.

167 *Public Administration Act*, CQLR, c. A-6.01.

168 *Act respecting the accountability of deputy ministers and chief executive officers of public bodies*, CQLR, c. I-4.1 (repealed by SQ 2000, c. 8, s. 153).

under the former Act), the Committee was far from being able to fulfil this requirement and was only able to hear a few chief executive officers a year. Consequently, since September 2009, this obligation has been spread out over four years, and the Committee on Public Administration is no longer the only committee that carries out this responsibility.

Under Standing Order 293.1, each sectorial committee must hear each minister who deems it expedient to be heard and each deputy minister or chief executive officer within its area of competence once every four years on their administrative management. If the mandate involves a public body, the committee also examines the body's policy directions and activities (SO 293.1, 2nd para.). In such a case, the mandate replaces the oversight mandate provided for in Standing Order 294.

The government departments and bodies to be heard are selected in accordance with Standing Order 149, on a motion carried by a majority of the committee members from each parliamentary group. Failing agreement, the Committee on the National Assembly decides in their place (SO 293.1, 3rd para.).

The Committee on Public Administration is fully competent to hear deputy ministers and chief executive officers whose administrative management has been the subject of a report by the Auditor General or the Public Protector (SO 117.6(3)).¹⁶⁹ If the Committee chooses to hear a department or body whose management has not been the subject of a report (SO 117.6(3.1)), it must notify the competent sectorial committee. This committee has 10 days to let the Committee on Public Administration know whether it intends to carry out the mandate. If the competent committee decides not to do so, or if it does not reply within 10 days, the Committee on Public Administration may take up the mandate (RCP 8.1).

At the hearing, the deputy minister or chief executive officer is required to answer only questions relating to their administrative management. Ministers alone may speak to the programs' policy directions.¹⁷⁰

169 In this regard, it was decided that the Committee on Public Administration has the power, under the third paragraph of Standing Order 117.6, to hear the chief executive officer of any public body if the administrative management of that officer has been the subject of a report by the Auditor General or the Public Protector. When a chief executive officer is the subject of such a report, the Committee need not consider the nature of the public body concerned: the power to convene the chief executive officer is implicitly recognized (JD, February 4, 2010, CAP-13 p. 1 (Sylvain Simard)/RDPP (Com. Vol.), No. 117.6(3)/2). In the case at hand, it was ruled that the Committee had the power to convene the Lieutenant-Governor since her management had been the subject of a report by the Auditor General.

170 JD, October 8, 1997, CAP-13 p. 15 (Jacques Chagnon)/RDPP (Com. Vol.), No. 117.6(3)/1.

19.4.2 OVERSIGHT OF PUBLIC BODIES

Every year, each sectorial committee must examine the policy directions, activities and management of one public body subject to its oversight.¹⁷¹ As is the case for accountability mandates, the body to be heard is selected in accordance with Standing Order 149, on a motion carried by a majority of the committee members from each parliamentary group. Failing agreement, the Committee on the National Assembly decides which body is to be heard (SO 294).

Even though this mandate is a requirement under the Standing Orders, each committee takes it up on its own initiative. Each committee has complete autonomy to organize its proceedings. This means it can choose to hold either general or special consultations, since Standing Order 294, unlike Standing Order 293.1, does not specify how parliamentarians are to examine a public body's activities.

As seen in Subsection 19.4.1, when a committee begins an accountability mandate with respect to a public body in accordance with Standing Order 293.1, it must examine the body's policy directions, activities and management. In such a case, the mandate is considered to be carried out in accordance with Standing Order 294.

When the activities of a public body are examined, its chief executive officer is heard if it is not possible to hear the minister responsible for the body. In such a case, the committee must take into consideration the chief executive officer's status, independence and responsibilities with respect to the body's political and practical decisions.¹⁷²

19.5 CONSULTATIONS

At the National Assembly, consultations are a common means by which committees carry out certain aspects of the mandates entrusted to them or those they initiate themselves. Consultations in committee are an excellent way for the Members to lay the groundwork for a mandate by exploring the actual expectations and needs of the persons and organizations affected by the matter under consideration. Consultations can be either general or special.

171 Within the meaning of the second paragraph of Standing Order 294, a public body is a body to which the National Assembly, the Government or a minister appoints the majority of the members, to which, by law, the personnel is appointed in accordance with the *Public Service Act*, CQLR, c. F-3.1.1, or whose capital is part of the domain of the State.

172 JD, October 30, 1984, pp. CC-1-2 (Richard French)/RDPP (Com. Vol.), No. 294/1.

When a committee holds special consultations, it invites persons or organizations possessing specific experience in the matter under consideration (SO 170) to express their opinions. When a committee holds general consultations, it has the Committee Secretariat publish a notice in the *Gazette officielle du Québec* and in the newspapers, inviting persons or organizations who so desire to submit a brief on the matter being examined by the committee (SO 166).

Both general and special consultations may take place following an order of reference from the Assembly or a committee-initiated order (also called an “order of initiative”). A committee may decide to hold general consultations in connection with any self-initiated mandate, except the examination of financial commitments and hearing the deputy ministers and the chief executive officers of public bodies under Standing Order 293.1.¹⁷³ Moreover, as mentioned, the committee may decide to hold special consultations before proceeding to the clause-by-clause consideration of a bill (SO 244).

The Assembly may also order a committee to hold general or special consultations on a bill (SO 235) or any other matter (SO 146). In the case of special consultations ordered by the Assembly, the names of the persons and organizations invited, as well as the other terms of the mandate, are often specified in the order of reference, and the committee must comply with them. It may not add any persons or organizations to the list set out in the Assembly order.¹⁷⁴

173 Another exception is made for petitions. When a committee decides to examine a petition, it may hear its originator, or the originator’s representatives, as well as other persons or bodies (SO 64.6), but it may not hold a general consultation. See Chapter 8, “Petitions”.

174 JD, May 23, 2006, CTE-12 p. 5 (Claude Pinard)/RDPP (Com. Vol.), No. 170/4; JD, September 22, 1986, pp. CET-578–580 (Jean-Pierre Charbonneau); JD, February 28, 2005, CS-1 p. 8 (Diane Legault)/RDPP (Com. Vol.), No. 178/1. This last case involved a select committee and the Assembly was not sitting when it was established. As a result, the motion on which the decision was based was carried only when the Assembly resumed on March 8, 2005, after the committee had completed its proceedings, and had retroactive effect to February 28, 2005. Since the House leaders of all the parliamentary groups and the independent Members had agreed on the terms of the motion, the committee had been careful when beginning proceedings to adopt an agenda for its first meeting that corresponded to the schedule set out in the motion.

Consultation générale

Sur l'avant-projet de loi instituant le nouveau Code de procédure civile

La Commission des institutions tiendra des auditions publiques sur cet avant-projet de loi.

COMMENT PARTICIPER

- Organismes : mémoire écrit
- Citoyens : mémoire écrit ou intervention sans mémoire

Il est également possible de commenter ce mandat en ligne. Pour plus de détails, consultez le site Internet de l'Assemblée ou communiquez avec la secrétaire de la Commission.

QUAND Les auditions débuteront le 17 janvier 2012

OÙ À l'hôtel du Parlement, à Québec.

DATE LIMITE Les mémoires et les demandes d'intervention doivent être reçus au plus tard le **vendredi 18 novembre 2011**.

La Commission choisira ensuite les citoyens et les organismes qu'elle entendra.

assnat.qc.ca

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Exprimez votre opinion !
COMMISSION DES INSTITUTIONS



Example of a general consultation notice published in the newspapers.

In the case of general consultations, however, the committee organizes its own proceedings, since it is impossible to predict how many organizations and persons will submit briefs. The rules governing general consultations are found in Standing Orders 166 to 169. The general consultation notice published in the *Gazette officielle du Québec* and in the newspapers specifies the period of time allotted for submitting briefs, which must be at least 30 days.¹⁷⁵ Briefs may be submitted on paper or electronically (SO 166).

The committee holds a deliberative meeting to examine the briefs received and, from among the persons and organizations that submitted briefs, selects those it will hear in public hearings, if applicable. Usually committees welcome any person or organization that has submitted a brief and wishes to be heard. Public hearings are not automatic, however. Unless required to do so by an order of reference from the Assembly, it is up to the committee to decide whether it wishes to hold a public hearing (SO 167).

¹⁷⁵ Even if the deadline for submitting briefs has passed, it is customary for the committee clerk to forward to the members any documents addressed to them (JD, September 30, 2004, CTE-29 p. 27 (Bernard Brodeur)/RDPP (Com. Vol.), No. 166/2). No time limit is provided for special consultations, since there is no requirement to submit a brief (JD, September 9, 2003, CAS-9 p. 46 (Russell Copeman)/RDPP (Com. Vol.), No. 172/1).

If the committee decides to hold public hearings, general consultations are governed by the same rules as special consultations. After selecting the persons and organizations it wishes to hear, the committee holds a deliberative meeting to decide the total duration of each hearing and the time limits for each presentation and for discussions (SO 167 and 171). The committee clerk then convenes the persons and organizations to be heard, letting them know when, where and how long their hearing will be, as well as how much time has been allotted for their presentation (SO 168 and 172). The invitation for general consultations must be sent at least seven days in advance (SO 168). If the committee wishes to hear a minister, the clerk must convene the minister at least 15 days in advance, unless the minister concerned waives such notice (SO 164).

Unless otherwise provided in the Assembly order of reference, public hearings begin with preliminary remarks, each Member being entitled to speak for up to 20 minutes (SO 209). However, with the unanimous consent of its members, a committee may override the rules pertaining to the allocation of speaking times (SO 155) and determine the total duration of preliminary remarks, dividing the time among the parliamentary groups. It may also decide that only the minister and the opposition critics concerned by the matter under discussion will be allowed to make preliminary remarks. The committee Chair must then respect the speaking time determined by the committee and not allow another government Member to use a minister's unused speaking time.¹⁷⁶ However, if unanimous consent is denied, the Chair must apply the general speaking times provided in the Standing Orders. Similarly, since consent is required to override the rules pertaining to speaking times, special rules may not be established through a motion, that is, a special order, adopted by a simple majority of the committee members.¹⁷⁷

Under the Standing Orders, during public hearings, the Chair divides the time the committee devotes to hearing each person or organization between government Members and opposition Members. Provided there is alternation between those two groups, Members may speak as often as they wish but never for more

176 JD, March 7, 1989, pp. CBA-2439-2441 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 169/1.

177 In practice, the time allocated for preliminary remarks is specified in the motion carried by the Assembly assigning the mandate to the committee. The committee must then comply with the motion since it is an order of the Assembly. In almost all cases, a motion without notice requires the consent of the Assembly in order to be carried.

than 10 minutes at a time (SO 169 and 173).¹⁷⁸ Speaking time allocated to independent Members is counted as part of the time reserved for opposition Members, since the Chair must divide the speaking time between the government Members and the opposition Members as a group.¹⁷⁹ During the 38th Legislature, this method became difficult to apply, since there were more opposition Members than government Members. Consequently, the committees followed the practice adopted by the Assembly for limited debates and divided speaking time among the three parliamentary groups in proportion to the number of seats held by each in the Assembly.¹⁸⁰ However, under the minority government of the 40th Legislature, time was divided in proportion to the representation of the members from each parliamentary group on the committee. In the 41st Legislature, since the parliamentary group forming the Government had a majority in the Assembly and in committee, the allocation of speaking time was divided equally between the group forming the Government and the opposition groups. The latter divided the speaking time between them in a proportion of 60%-40%.¹⁸¹ During the 39th and 42nd Legislatures, the time allocated for hearing a person or organization during a consultation had to be distributed equally between the group forming the Government and the opposition Members, the latter in proportion to their representation on the committee.¹⁸²

Since the purpose of consultations is to hear various views on a given subject, the vast majority of persons and organizations that participate in the process are invited by the committee. Anyone who turns down an invitation or fails to attend a hearing after accepting an invitation may be subpoenaed. Under

178 Under the terms of a ruling rendered in 1986 during special consultations, this speaking time did not include the witness's answer (JD, March 26, 1986, p. CET-74 (Jean-Pierre Charbonneau)). However, the committees considered the ruling impossible to implement, since doing so could have resulted in one Member monopolizing all the available speaking time. In 1989, during general consultations, a committee Chair upheld the 1986 ruling but added that it was up to the Chair to remind witnesses to give brief answers since overlong answers could enable a Member asking a series of short questions to use up all the time available (JD, March 7, 1989, pp. CBA-2439-2441 (Jean-Guy Lemieux)). The current practice is to include the answer time in the Members' speaking time.

179 JD, February 2, 1993, p. CBA-1009 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 169/3.

180 JD, October 17, 2007, CTE-6 p. 1 (Lawrence S. Bergman)/RDPP (Com. Vol.), No. 173/2.

181 "Entente relative au fonctionnement de l'Assemblée nationale et des commissions parlementaires, aux fonctions parlementaires ainsi qu'aux aspects budgétaires pour la durée de la 41^e législature", Sessional Paper No. 51-20140602, June 2, 2014 (VP, June 2, 2014, p. 64), p. 6.

182 JD, June 1, 2011, CAT pp. 2-3 (Marie Malavoy)/RDPP (Com. Vol.), No. 267/7. "Entente relative à la notion de groupe parlementaire, au fonctionnement de l'Assemblée et des commissions parlementaires, ainsi qu'aux aspects budgétaires pour la durée de la 42^e législature", Sessional Paper No. 48-20181129, November 28, 2018 (VP, November 29, 2018, p. 23), p. 23.

section 51 of the *Act respecting the National Assembly*,¹⁸³ the Assembly or a committee may subpoena or compel any person to appear before it to answer questions or present any evidence that the Assembly or a committee considers necessary for its proceedings, inquiries or deliberations.¹⁸⁴ There is no restriction on a committee's ability to subpoena someone or to compel someone to appear before it in connection with a mandate, including a former minister who is still a Member.¹⁸⁵ However, the committee must stay within the scope of its mandate without questioning a Member's conduct.¹⁸⁶ Furthermore, in the absence of an order to produce documents adopted by the Assembly or a committee, an organization is not obliged to transmit a document requested by the Members. However, parliamentarians are entitled to expect cooperation from the organizations participating in a committee's proceedings.¹⁸⁷

183 *Act respecting the National Assembly*, CQLR, c. A-23.1.

184 In 1986–1987, during consideration of a motion by the Member for Lévis calling into question the conduct of the Member for Portneuf and Minister of Agriculture, Fisheries and Food, the Committee on the National Assembly subpoenaed 11 witnesses, including three ministers and two Members. On October 30, 1997, the Committee on Culture carried a motion summoning the President of the Régie des rentes du Québec and notifying him of its decision in a letter from the Committee clerk delivered by messenger rather than by subpoena. On December 15, 2003, the Committee on Public Finances subpoenaed the president of the Bureau de transition et de l'encadrement du secteur financier in connection with its order of initiative to hear the directors of the Agence d'encadrement du secteur financier. On August 22, 2011, as part of its oversight mandate, the Committee on Agriculture, Fisheries, Energy and Natural Resources carried a motion to subpoena 14 members of the board of directors of La Financière agricole. The Committee also required one of the directors, via subpoena, to produce certain documents. On April 17, 2013, in a deliberative meeting to continue organizing its proceedings in connection with the order of reference from the Assembly aimed at shedding light on the events of October 24, 2014, concerning the action taken by the Minister of Sustainable Development, Environment, Wildlife and Parks with regard to the independent public body known as the Bureau d'audiences publiques sur l'environnement (BAPE), the Committee carried a motion, by a majority vote of the members, ordering Daniel Breton, Member for Sainte-Marie–Saint-Jacques and former Minister of Sustainable Development, Environment, Wildlife and Parks, to appear. On October 29 and 30, 2013, during deliberative meetings to continue organizing its proceedings in connection with the order provided in Standing Order 292 to conduct the quarterly examination of the Government's budgetary policy, the Committee carried a motion, by a majority vote of the members, ordering Nicolas Marceau, Minister of Finance, to produce a document before the Committee. This document was to report on the revenues and expenditures as at June 30, 2013, on a detailed by-public-body, comparable basis, i.e. as at June 30, 2012, of all Québec government non-budget-funded bodies and special funds in order to support the summary presented in the non-consolidated public account dated June 30, 2013. On May 11, 2016, during a deliberative meeting to organize its proceedings in connection with its order of initiative on the tax haven phenomenon, the Committee on Public Finance carried a motion ordering five representatives from major accounting firms to appear before it.

185 Minutes, April 17, 2013, CTE p. 3 (Fatima Houda-Pepin)/RDPP (Com. Vol.), No. 170/6.

186 JD, April 24, 2013, p. 2696 (Jacques Chagnon)/RDPP, No. 146/1.

187 JD, November 23, 2017, pp. 18145–18146 (François Ouimet)/RDPP, No. 170/3.

Under section 52 of the *Act respecting the National Assembly*, a Member may require that a person appearing before a committee take an oath. In fact, a Member may request that all the witnesses participating in a consultation be sworn in,¹⁸⁸ although, in general, an oath is rarely required.

During consultations held by order of the Assembly, witnesses and Members must limit their comments to the subject of the Assembly's order of reference.¹⁸⁹ The committee is bound to carry out the order received from the Assembly. However, even if the consultation concerns a specific document, references to other documents are permitted if relevant.¹⁹⁰ Since the rule of relevance is difficult to define, it must be interpreted broadly in favour not only of committee members but also of witnesses.¹⁹¹ Charts may also be used in committee for instructional purposes or to enhance understanding.¹⁹²

Jurisprudence recognizes that the *sub judice* rule, codified in paragraph 3 of Standing Order 35, applies to persons who testify before a committee in the same way it applies to Members.¹⁹³ Since the *sub judice* rule cannot prevent the Assembly from legislating, a judicial proceeding cannot preclude persons from answering questions put to them within the framework of the legislative process; the objective is to ensure that parliamentarians are sufficiently knowledgeable about the issues to be able to make an informed decision.¹⁹⁴

Changes were made to the Standing Orders during the parliamentary reform of 2009 in order to promote and facilitate public participation in general consultations. As a result, anyone who so desires may ask to be heard during a committee's public hearings without submitting a brief. The request must be accompanied by a short statement summarizing the nature of the presentation (SO 166(2)). If the committee decides to hold public hearings, it selects those it will hear from among the people who asked to be heard without submitting a written brief. A period not exceeding 45 minutes is set aside to hear all such presentations. The committee decides how long each presentation will last, how much of that time will be for the person's statement and how much for

188 JD, October 10, 1984, p. CAPA-33 (Yvon Vallières)/RDPP (Com. Vol.), No. 170/1. For more information on rights and obligations of witnesses appearing before a committee, see Chapter 3, "Parliamentary Privilege".

189 JD, April 10, 1990, pp. CAS-2203-2205 (Jean A. Joly)/RDPP (Com. Vol.), No. 211/7.

190 JD, February 22, 2000, CAS-25 pp. 5-6 (Yves Beaumier)/RDPP (Com. Vol.), No. 166/1.

191 JD, September 9, 2003, CAS-9 p. 47 (Russell Copeman)/RDPP (Com. Vol.), No. 211/8.

192 JD, February 22, 1988, p. CAS-3008 (Guy Bélanger)/RDPP (Com. Vol.), No. 167/1. See Chapter 11, Subsection 11.2.2.2, "Exhibiting Objects".

193 JD, March 17, 1992, p. CAE-7904-7906 (Jean Garon)/RDPP (Com. Vol.), No. 35 (3)/3. See Chapter 11, Subsection 11.2.2.1, "Words Inadmissible in Debate".

194 JD, June 2, 2011, CAT-9 pp. 1-2 (Marie Malavoy)/RDPP (Com. Vol.), No. 35 (3)/7.

discussion with the committee members, and when the presentations will be made (SO 167(2)). The persons the committee decides to hear are convened at least seven days ahead of time (SO 168).

This being said and despite increasing citizen participation in committee proceedings, there are still few written rules governing the testimony of witnesses who appear before a committee. In the absence of more extensive rules, parliamentary committees are called on to establish their own practices to ensure the fair and respectful treatment of all witnesses in keeping with their fundamental rights. Committee members must always keep in mind the advice from the President of the National Assembly to the effect that every word spoken, every document presented and every gesture made by a Member of the National Assembly during parliamentary deliberations be characterized by respect for the fundamental rights of the people of Québec.¹⁹⁵

19.5.1 USE OF INFORMATION AND COMMUNICATIONS TECHNOLOGIES

The public's growing interest in participating in public affairs has led the National Assembly to adopt new means of communication to bring the institution closer to the people it serves. Modern information and communications technologies are providing new ways to enhance and increase citizen participation in parliamentary proceedings.

19.5.1.1 VIDEOCONFERENCING

The first time videoconferencing was used was at a hearing on September 8, 2004, as part of a pilot project involving the representatives of the Nunavik Regional Board of Health and Social Services. It proved to be an effective tool that allowed witnesses who could not come to the Parliament Building in the city of Québec to be heard in committee at public hearings. Although the *Standing Orders and Other Rules of Procedure of the National Assembly* did not initially provide for the use of videoconferencing, committees employed this technology from time to time to facilitate obtaining the testimony of certain organizations or experts during consultations.

After a number of successful experiences with videoconferencing between 2004 and 2009,¹⁹⁶ it was decided that new measures to allow committees to use the technology should be introduced as part of the 2009 parliamentary

¹⁹⁵ JD, November 13, 1997, pp. 8433–8435 (Jean-Pierre Charbonneau)/RDPP, No. 66/2; JD, June 10, 1998, pp. 11815–11817 (Jean-Pierre Charbonneau)/RDPP, No. 67/38.

¹⁹⁶ In addition to the hearing of the Committee on Social Affairs held on September 8, 2004, 10 other hearings were held by videoconference between 2004 and 2009.

reform. As a result, witnesses can now ask to be heard via videoconference,¹⁹⁷ for instance during general or special consultations. Committees consider these requests with a number of criteria in mind, such as the impossibility for a witness to travel or to be represented by another person, the importance of the testimony to the proceedings, the availability of the required equipment at the Assembly and the committee's business calendar (RCP 16.2). Any costs related to a witness's use of videoconferencing equipment outside the precincts of the Assembly must be assumed by the witness. However, any costs incurred due to the delay, extension, postponement or cancellation of a hearing must be assumed by the committee (RCP 16.3).

19.5.1.2 ONLINE CONSULTATIONS

To enable more widespread public participation and make it easier for citizens to express their concerns, parliamentary committees sometimes add an online component to their consultations. This allows anyone wishing to express an opinion on a subject being examined to do so by completing the questionnaire available on the National Assembly's website or by electronically submitting a discussion paper. All documents and responses to the questionnaires are forwarded to the committee members to further their deliberations on the subject.

The first online consultation was held in summer 2000, when the Committee on Institutions held consultations in connection with its order of initiative on the impact of the proposed Free Trade Area of the Americas. This experience, along with 14 other online consultations carried out between 2002 and 2008, generated over 7,400 responses from the public. Online consultations were initially reserved for orders of initiative but were later successfully used in pilot projects involving orders of reference from the Assembly.

The use of online consultations was codified in the Standing Orders as part of the 2009 parliamentary reform. Since then, committees have been allowed to hold online consultations in connection with any order of initiative. Further, when mandating a committee to hold general consultations, the Assembly may also order it to hold online consultations (SO 173.1).¹⁹⁸

197 In the context of the COVID-19 pandemic, the Assembly adopted a special order providing that, when the room in which the committee must hold its meeting is equipped with the required technology, all witnesses are to be heard by videoconference, unless otherwise decided by the committee at the request of the witness (VP, October 20, 2020, p. 2443).

198 Since 2000, the committees have held 25 online consultations. The most popular one was that of the Select Committee on Dying with Dignity, with 6,779 responses to the online questionnaire.

19.5.1.3 ONLINE COMMENTS

Since March 16, 2010, citizens have been able to comment online on certain matters under examination by the Assembly or in committee, including bills and most orders carried out by parliamentary committees, regardless of whether they are the subject of a public consultation. This was the last of the 2009 parliamentary reform measures to be implemented. A citizen need only complete the online form available on the National Assembly's website or print out the form and mail it to the committee secretariat. The Members can then benefit from citizens' feedback and give greater consideration to their concerns.¹⁹⁹

19.6 MANDATES SPECIFIC TO CERTAIN COMMITTEES

In addition to the mandates mentioned above, the following specific mandates set out in the Standing Orders require a special procedure: the examination of the financial commitments, carried out by the Committee on Public Administration; the debate on the budget speech, which the Committee on Public Finance continues once the Assembly has done its part; the hearing of the Auditor General by the Committee on Public Administration; and the hearing of the Public Protector and the Chief Electoral Officer by the Committee on Institutions.

19.6.1 EXAMINATION OF FINANCIAL COMMITMENTS

The examination of financial commitments was introduced in 1969 to replace the examination of public accounts. The first committee to carry out the mandate was the specialized Committee on Financial Commitments. Following the parliamentary reform of 1984, all eight new sectorial committees were entrusted with examining financial commitments in their respective areas of competence. In April 1997, the National Assembly went back to the specialized committee formula and entrusted the mandate to the newly created Committee on Public Administration (SO 117.6(1)).²⁰⁰

This Committee examines all financial commitments of \$25,000 or more that the Conseil du trésor, the Conseil exécutif or any government department has authorized under a financial management system (RCP 17). These amounts are taken out of the appropriations adopted annually by the National Assembly.

199 Under this new method of participation, 15,843 comments had been received on 617 orders by March 31, 2020.

200 This mandate is unique to the Committee on Public Administration, since no other parliamentary public accounts committee in Canada has this responsibility. See Chapter 18, Subsection 18.1.2, "Committee on Public Administration".

The purpose of the mandate is to conduct ongoing parliamentary oversight of how the departments and public bodies are using the appropriations granted to them by the National Assembly. The Committee on Public Administration examines the larger expenditures to make sure that they are appropriate, that they comply with government rules and standards respecting the awarding of contracts and subsidies, and that public funds are allocated fairly.

There are a number of commitments the Committee is not empowered to examine, namely, indemnities paid in cases of expropriation; expenditures of a confidential nature made for the collection of taxes and for state security; expenditures inherent in the conveyance of securities and cash and in the protection of government property where the public interest is at stake; expenditures relating to studies and inquiries undertaken to increase the efficiency of the civil administration where the public interest is at stake; and expenditures relating to the appointment, remuneration, interchange and pensioning of public servants and government employees (RCP 18). Transfers of appropriations, loans from the contingency fund, loan guarantees and a priori approvals are also excluded from the Committee's examination of financial commitments (RCP 19).

In accordance with the rules for the conduct of proceedings governing the examination of financial commitments, the Secretary of the Conseil du trésor sends the clerk of the Committee on Public Administration the list of financial commitments on the 15th day of each month (RCP 22).²⁰¹ The Committee can then, in a deliberative meeting and on its own initiative, select the financial commitments it wishes to examine in depth in a meeting held for that purpose in the presence of a minister. It may, for instance, decide to further investigate

201 In practice, the Committee is given specific information concerning the Government's financial commitments by means of monthly lists provided by the government departments and public bodies through the Secretariat of the Conseil du trésor. The process is governed by Secretariat Directive No. 4-80 concerning certain commitments of \$25,000 or more and the rules governing payments made from the Consolidated Revenue Fund. The commitments are presented by budget program and relate mainly to the contracts and subsidies granted during the month by each of the departments and bodies. The tendering process for contracts (public or by invitation, with or without consulting the list of suppliers) is generally imposed by government regulation. In certain cases, a department or body proceeds without calling for tenders, by means of a "negotiated contract", either because certain exceptions are authorized by regulation or because the Conseil du trésor has given its approval. A significant number of contracts are listed as "requests for delivery": in such cases, a department may order goods or services directly from a supplier without going through the tendering process, since the process has already been carried out with a view to selecting a certain number of suppliers to meet the standardized needs of the Government and establishing as many open orders as necessary. Subsidies are categorized as "subject to standards" or "other". To be granted, a subsidy "subject to standards", in contrast to other subsidies, must meet specific technical criteria that leave the departments and bodies little latitude.

the financial commitments for a specific month or a specific government department. The financial commitments the Committee chooses not to examine in depth are deemed to have been examined (RCP 20).

In a deliberative meeting, the Committee on Public Administration may also determine how it will proceed: the number of meetings it will devote to the examination, the order in which the commitments are to be examined, which commitments it wishes to examine in the presence of a minister, how much time it wishes to allot to the examination of those commitments, how the time is to be allocated and which minister it requires to be present. It may also determine the order of business of any meeting in which it examines financial commitments. All of the above must be accepted by a majority of the Committee members from each parliamentary group (RCP 21).

Formerly, when the Committee wished to further investigate the financial commitments of a government department or a public body, the minister concerned was systematically convened to answer for those commitments. After preliminary remarks, the Committee generally carried out its examination by asking the minister to explain each commitment in chronological order. The parliamentarians declared the commitments examined as and when the monthly lists were examined.

To improve efficiency, the Committee on Public Administration completely overhauled its procedure and tools in March 2004. It now holds a deliberative meeting approximately once a month to examine the financial commitments submitted the previous month. After each monthly meeting, it sends any requests it may have for additional information, in writing, to the government department concerned. The Committee can still hear ministers during the process, but this is only necessary when the information provided is insufficient or when the situation warrants a hearing, for instance if there are numerous questions.²⁰² After the deliberative meeting, the clerk follows up on Committee requests for information or documentation from the departments, setting a reasonable time limit for submitting the information requested, and forwards answers to the Committee members before the next meeting slated for the examination of financial commitments. If the answers are satisfactory, the commitments are deemed examined at that meeting.

202 Actually, the Committee last convened ministers during the 37th Legislature: it heard the Minister of Agriculture, Fisheries and Food on March 15, 2005, and the Minister of Transport on November 10, 2005. It also heard the President and Director General of the Office québécois de la langue française on November 1, 2005, the Director General of the Centre d'expertise hydrique on February 9, 2006, and the Public Curator of Québec on June 15 and September 25, 2006.

During the 39th Legislature, the Committee on Public Administration adopted a practice to make its financial commitment examination procedure even more efficient. Since then, Committee members receive the lists of financial commitments at least two weeks before the deliberative meeting. The Committee clerk compiles their questions and comments in a document that is distributed to them at the beginning of the deliberative meeting, and the Committee examines only the financial commitments that elicited questions or comments from one of its members.

When the Committee on Public Administration wishes to further investigate financial commitments in the presence of a minister, it must notify the minister at least 15 days before the meeting, as prescribed by Standing Order 164 (RCP 24), although the minister may waive such notice. A minister who is unable to attend a meeting slated for the examination of financial commitments can ask another minister who is a member of the Conseil du trésor to attend instead (RCP 25).²⁰³

Under the Rules for the Conduct of Proceedings, during a meeting to examine financial commitments, Committee members are entitled to speak as often as they wish, for a total of 20 minutes each, to each commitment called by the Chair (RCP 30). The minister's replies are not included in this speaking time.²⁰⁴ The rule of relevance is interpreted broadly in favour of the Members, provided there is at least some connection to the commitment under examination.²⁰⁵ Preliminary remarks are not allowed, however, unless provided for on the meeting's agenda or unless the agenda is amended by a majority vote of the Committee members from each parliamentary group.²⁰⁶

A minister who is unable to answer a given question during a meeting has 15 days to send a reply to the Committee clerk, who forwards copies to all the Committee members and to the research services of the parliamentary groups (RCP 26).²⁰⁷ A minister may be required to provide documents in response to a Committee member's request for information, unless the minister believes it would not be in the public interest to provide them (RCP 27). A Committee member may also ask a minister to provide further information or additional documents relating to a financial commitment examined at an earlier meeting (RCP 28).

203 This has actually never occurred; the Committee on Public Administration has preferred to reach an agreement with the minister regarding the minister's availability.

204 JD, November 1, 1988, pp. CBA-1160-1161 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 293/1.

205 JD, October 1, 1986, pp. CBA-1237-1238 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 211/5.

206 JD, November 3, 1988, pp. CBA-1206-1207 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 293/3.

207 JD, February 25, 1992, pp. CI-2277-2278 (Claude Dauphin)/RDPP (Com. Vol.), No. 293/4.

No discussion is necessary for financial commitments to be deemed examined. Based on a 1988 ruling, just as commitments not selected for discussion during a deliberative meeting are deemed to have been examined, those that were on an examination meeting agenda but that the Committee was unable to examine are also considered to have been examined, unless a motion to defer consideration is carried.²⁰⁸ Such a motion, which must be carried by a majority of the Committee members from each parliamentary group, allows the Committee to defer uncompleted examination of financial commitments to a later meeting (RCP 29).

Following the examination of financial commitments, the Chair of the Committee on Public Administration then tables the Committee report in the Assembly.²⁰⁹ The report must contain the minutes of the deliberative meetings, the minutes of the meetings held to examine financial commitments and, if applicable, the Committee's conclusions, observations and recommendations (RCP 31).²¹⁰ The report is not debated in the Assembly even if it contains recommendations (SO 94).

The 41st Legislature was marked by far-reaching deliberations by the Committee members on how the Committee carries out its mandate to examine financial commitments. Numerous difficulties were raised regarding the financial commitment forwarding and examination process. The Committee opted for a two-part solution and started by choosing to use the information already entered in the electronic call for tenders system to compile the lists of financial commitments. This allowed the format for forwarded information to be standardized. The Committee then adopted a method of examination by sampling to target certain types of commitments that it wished to investigate further. The high number (over 20,000) of financial commitments every year makes it difficult to conduct an exhaustive examination.

Implementing the sampling method led the Committee on Public Administration to review how it carried out its in-depth examination of financial commitments. Since fall 2015, the Committee has systematically examined the financial commitments of the government departments and budget-funded bodies whose administrative management is examined in hearings. Discussions therefore take place between the Committee and the deputy minister or chief executive officer and no longer with the minister.

208 JD, November 3, 1988, pp. CBA-1206-1207 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 293/2.

209 A report on proceedings to examine financial commitments for the previous months is tabled twice a year, usually in June and December.

210 Since its creation in 1997, the Commission on Public Administration has exercised this right only once, when it included observations and conclusions in a report tabled in the Assembly on December 7, 2006, after hearing the Public Curator of Québec.

19.6.2 RESUMPTION OF THE DEBATE ON THE BUDGET SPEECH

The second mandate specific to a certain committee is the resumption of the debate on the budget speech by the Committee on Public Finance. The debate on the budget speech is suspended in the Assembly once all Members wishing to speak to the subject have been heard or 13 hours and 30 minutes have elapsed since the Minister of Finance began the speech.²¹¹ The debate resumes in the Committee on Public Finance²¹² not later than the next meeting. The Minister of Finance sits on the Committee during proceedings on the budget speech (SO 275).

Debate in committee may not exceed 10 hours (SO 272) and comprises two stages: preliminary remarks and the debate itself.²¹³ According to jurisprudence, the Minister of Finance, the Official Opposition critic and the other opposition group critics, if any, may each speak for up to 20 minutes at the preliminary remarks stage.²¹⁴ Traditionally, the Official Opposition finance critic then opens the debate.²¹⁵

In 1986, the Chair of the Committee on the Budget and Administration allocated speaking times during the debate stage in accordance with a decision rendered on May 23, 1984, by the Committee on the National Assembly. After the preliminary remarks, Committee members were allowed to speak as often as they wished for a total of 10 minutes each. The Minister of Finance also had 10 minutes to reply to each question or comment. When possible, the rule of alternation was observed.²¹⁶ The same procedure was followed during subsequent legislatures, with speaking time being allocated equally to government Members and opposition Members.²¹⁷

211 See Chapter 15, Section 15.1, “The Budget Speech and The Budget Speech Debate”.

212 See Chapter 18, Subsection 18.1.3, “Sectorial Committees”.

213 JD, June 1, 1993, pp. CBA-2657-2658 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 275/3.

214 JD, May 13, 1986, pp. CBA-783-785 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 275/2; JD, May 30, 2007, CFP-2 p. 1 (Alain Paquet)/RDPP (Com. Vol.), No. 275/4; JD, April 14, 2010, CFP-56 p. 1 (Alain Paquet)/RDPP (Com. Vol.), No. 275/6; JD, March 28, 2012, CFP-64 p. 1 (Claude Bachand)/RDPP (Com. Vol.), No. 275/7; JD, November 28, 2012, CFP-12 p. 1 (Irvin Pelletier)/RDPP (Com. Vol.), No. 275/8; JD, June 11, 2014, CFP-3 p. 1 (Raymond Bernier)/RDPP (Com. Vol.), No. 275/9.

215 JD, June 1, 1993, pp. CBA-2657-2658 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 275/3; November 28, 2012, CFP-12 p. 1 (Irvin Pelletier)/RDPP (Com. Vol.), No. 275/8; JD, June 11, 2014, CFP-3 p. 1 (Raymond Bernier)/RDPP (Com. Vol.), No. 275/9.

216 JD, May 13, 1986, pp. CBA 783-785 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 275/2. However, with more than two parliamentary groups, the principle of alternation becomes difficult to apply. The general practice in the Assembly and in committee is to grant members from each parliamentary group speaking time on a rotating basis.

217 JD, June 1, 1993, pp. CBA-2657-2658 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 275/3.

During the **38th Legislature**, however, the Assembly was composed of three parliamentary groups, and the group forming the Government was in a minority position. The Committee on Public Finance, which had replaced the Committee on the Budget and Administration in 1997, adopted the same time allocation rules the President of the Assembly had established for the debate on the budget speech in the House, with each parliamentary group being granted speaking time in proportion to the number of seats held in the Assembly. Members of each parliamentary group were allowed to speak as often as they wished for a total of 10 minutes each, on a rotating basis. The Minister of Finance also had 10 minutes to reply to each question or comment, and this time was subtracted from the total speaking time of the parliamentary group having previously spoken, so as not to penalize the other groups.²¹⁸

At the beginning of the **39th Legislature**, the Assembly was composed of only two parliamentary groups, and the one forming the Government had a majority. Speaking time was divided equally between this group and the opposition Members, with the Official Opposition and the independent Member obtaining speaking time in proportion to their representation on the Committee on Public Finance: four-fifths for the Official Opposition, which had four Members on the Committee at the time, and one-fifth for the independent Member.²¹⁹

The following year, after the Second Opposition Group was recognized,²²⁰ the time was allocated as follows: 50% to the group forming the Government and 50% to the opposition Members in proportion to their representation on the Committee: four-fifths for the Members from the Official Opposition and one-fifth for the Member from the Second Opposition Group. However, since the latter was also the representative of a parliamentary group, he was granted 20 minutes for preliminary remarks, which had not been the case the previous year when he was an independent Member.²²¹ During the last year of this legislature, since the Second Opposition Group had been dissolved, the Assembly was composed of 16 independent Members and, once again, two parliamentary groups. Only Members from those two groups could make preliminary remarks, which left 9 hours and 20 minutes to be distributed among the Members. Speaking time was divided equally between the group forming the Government and the opposition Members. Since independent Members could participate in the debate, one-fifth of the Opposition's time was reserved for independent Members wishing to speak. Speaking time was also divided equally between

218 JD, May 30, 2007, CFP-2, p. 1 (Alain Paquet)/RDPP (Com. Vol.), No. 275/4.

219 JD, April 1, 2009, CFP-4 p. 5 (Alain Paquet)/RDPP (Com. Vol.), No. 275/5.

220 "Recognition of the Action démocratique du Québec as a Parliamentary Group and Allocation of Various Measures Among the Members Sitting in Opposition for the Duration of the 39th Legislature", Sessional Paper No. 246-20090421, April 21, 2009 (VP, April 21, 2009, p. 214).

221 JD, April 14, 2010, CFP-56 p. 1 (Alain Paquet)/RDPP (Com. Vol.), No. 275/6.

those independent Members, up to a maximum of 20 minutes each. The time not used by the independent Members was added to the Official Opposition's time.²²² Speaking time was granted in 20-minute blocks, for both questions and answers.

In the **40th Legislature**, in a minority government context, the Minister of Finance and the critic from each of the two opposition groups were granted 20 minutes for their preliminary remarks, and any unused time was added to the speaking time for the debate. The nine remaining hours were divided among the three parliamentary groups according to the principle of proportional representation, with the group forming the Government receiving four-ninths of the speaking time and the opposition Members sharing the remaining five-ninths. Of the speaking time reserved for the opposition groups, 20 minutes was allocated to two independent Members who wished to participate in the debate. The time not used by those independent Members was divided between the Official Opposition and the Second Opposition Group according to the principle of their proportional representation on the Committee: four-fifths for the Official Opposition and one-fifth for the Second Opposition Group. Speaking time was granted in 20-minute blocks, for both questions and answers.²²³

In the **41st Legislature**, speaking times were granted to the three parliamentary groups and the independent Members in accordance with the agreement regarding the concept of parliamentary group, the conduct of proceedings in the Assembly and in parliamentary committees and budgetary aspects for the duration of the 41st Legislature.²²⁴ The allocation was as follows: 4 hours 45 minutes to the parliamentary group forming the Government, 2 hours 51 minutes to the parliamentary group forming the Official Opposition, 1 hour 54 minutes to the Second Opposition Group and 30 minutes to the independent Members. The Minister of Finance, the Official Opposition critic and the Second Opposition Group critic had a maximum of 20 minutes for their preliminary remarks. Discussions were also conducted in 20-minute blocks, for both questions and answers.²²⁵

At the beginning of the **42nd Legislature**, the agreement regarding the concept of parliamentary group, the conduct of proceedings in the Assembly and in parliamentary committees and budgetary aspects for the duration of the

222 JD, March 28, 2012, CFP-64 p. 1 (Claude Bachand)/RDPP (Com. Vol.), No. 275/7.

223 JD, November 28, 2012, CFP-12 p. 1 (Irvin Pelletier)/RDPP (Com. Vol.), No. 275/8.

224 "Entente relative au fonctionnement de l'Assemblée et des commissions parlementaires, aux fonctions parlementaires ainsi qu'aux aspects budgétaires pour la durée de la 41^e législature", Sessional Paper No. 51-2014O602, June 2, 2014 (VP, June 2, 2014, p. 64), p. 6, Appendix A.

225 JD, June 11, 2014, CFP-3 p. 1 (Raymond Bernier)/RDPP (Com. Vol.), No. 275/9.

42nd Legislature²²⁶ was followed for the allocation of speaking times, which were divided equally among the group forming the government and the opposition groups. The time reserved for the latter was divided as follows: four-sixths for the Official Opposition, one-sixth for the Second Opposition Group and one-sixth for the Third Opposition Group. Independent Members not sitting on a parliamentary committee could participate in this debate. Had they been members of such a committee, their total speaking time would have been subtracted from the overall speaking time and would have been equivalent to the time reserved for them during debate in the House, i.e. 15 minutes total or 7 minutes 30 seconds each. The remaining time would have been divided according to the above-mentioned proportions. As in the 41st Legislature, the Minister of Finance and each opposition group critic had a maximum of 20 minutes for their preliminary remarks, taken from the speaking time allocated to their parliamentary group. Discussions were also conducted in 20-minute blocks, for both questions and answers.

During the debate, Committee members can make general comments on any subject. They need not ask the Minister questions.²²⁷ In contrast to what happens during the budget speech debate in the Assembly, no want of confidence motion or motion stating a grievance may be presented, since only the Assembly is competent to rule on such motions.²²⁸

Once the debate in the Committee on Public Finance has been concluded, the Chair reports to the Assembly at the next Routine Proceedings (SO 276).

19.6.3 HEARING THE OFFICERS OF THE NATIONAL ASSEMBLY

Another mandate specific to certain committees is the hearing of the public officers of the National Assembly. The officers of the National Assembly are appointed by the National Assembly. This status helps ensure that they remain independent and impartial in the performance of their duties.

There are five officers of the National Assembly, all of whom are directly accountable to it: the Ethics Commissioner, the Lobbyists Commissioner, the Chief Electoral Officer, the Public Protector and the Auditor General. They are appointed on a motion by the Premier, which must be supported by two-thirds

226 “Entente relative à la notion de groupe parlementaire, au fonctionnement de l’Assemblée et des commissions parlementaires, ainsi qu’aux aspects budgétaires pour la durée de la 42^e législature”, Sessional Paper No. 48-20181129, November 28, 2018 (VP, November 29, 2018, p. 23), p. 23.

227 JD, June 5, 1984, p. CBA-207 (Claude Lachance)/RDPP (Com. Vol.), No. 275/1.

228 JD, March 7, 1991, pp. CBA-2679-2681 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 292/1. In this case, the want of confidence motion was moved during the quarterly examination of the Government’s budgetary policy rather than during resumption of the debate on the budget speech.

of the Members of the National Assembly.²²⁹ In the case of the Ethics Commissioner, the motion must be presented jointly with the Leader of the Official Opposition after consulting with the leaders of the other authorized parties in the Assembly.²³⁰

As is the case for other persons appointed by the Assembly under a statute, these officers may be heard by the Committee on the National Assembly in a public hearing (SO 116(3.1)) before being appointed.²³¹ The decision to hold such a hearing is made by the Committee's steering committee (RCP 4.1), and the purpose is to enable the Members to ask the candidates questions before their appointment. To date, such a hearing has never been held.

Under the Standing Orders, three of the officers of the National Assembly must be heard by a parliamentary committee every year. From 1984 to 1997, the Committee on the National Assembly was responsible for hearing the Auditor General, the Chief Electoral Officer and the Public Protector every year or delegating this responsibility to another standing committee. Since 1997, this responsibility has been shared by the Committee on Public Administration and the Committee on Institutions.²³² Section 45 of the *Lobbying Transparency and Ethics Act* also provides for examination of the report of the Lobbyists Commissioner in committee.

In addition, three of the officers of the National Assembly—the Chief Electoral Officer, the Public Protector and the Auditor General—are subject to section 29 of the *Public Administration Act*, under which the competent committee of the National Assembly must hear the deputy ministers and the chief executive

229 *Election Act*, CQLR, c. E-3.3, s. 478; *Public Protector Act*, CQLR, c. P-32, s. 1; *Lobbying Transparency and Ethics Act*, CQLR, c. T-11.011, s. 33; *Auditor General Act*, CQLR, c. V-5.01, s. 7. In addition to the officers of the National Assembly, the president and chief executive officer of the Autorité des marchés publics (*Act respecting the Autorité des marchés publics*, CQLR, c. A-33.2.1, s. 4), the members of the Commission d'accès à l'information (*Act respecting Access to documents held by public bodies and the Protection of personal information*, CQLR, c. A-2.1, s. 104), the Commission de la fonction publique (*Public Service Act*, ss. 106 and 122), the Commission des droits de la personne et des droits de la jeunesse (*Charter of human rights and freedoms*, CQLR, c. C-12, s. 58), the Commission de la représentation électorale (*Election Act*, s. 526), the Anti-Corruption Commissioner (*Anti-Corruption Act*, CQLR, c. L-6.1, s. 5), the Director General of the Sûreté du Québec (*Police Act*, CQLR, c. P-13.1, s. 56) and the Director of Criminal and Penal Prosecutions (*Act respecting the Director of Criminal and Penal Prosecutions*, CQLR, c. D-9.1.1, s. 2) are also appointed by the National Assembly on a motion by the Premier supported by two-thirds of the Members of the Assembly. See Chapter 12, Subsection 12.3.4, "Required Majority".

230 *Code of ethics and conduct of the Members of the National Assembly*, CQLR, c. C-23.1, s. 62.

231 See Chapter 18, Subsection 18.1.1, "Committee on the National Assembly".

232 See Chapter 18, Subsections 18.1.2, "Committee on Public Administration", and 18.1.3, "Sectorial Committees".

officers of public bodies at least once every four years on their administrative management. Moreover, the Committee on Public Administration hears the Auditor General every year on the Auditor's annual management report.²³³

19.6.3.1 THE AUDITOR GENERAL

The Auditor General performs audits to support Parliament in its oversight of the funds and other public property the Assembly entrusts to the Government and its bodies and enterprises. The Auditor General is appointed for a non-renewable 10-year term.²³⁴

The Auditor General reports to the Assembly on how the Government, its bodies and its enterprises manage public funds. The reports are tabled in the Assembly, generally in the spring and fall, and include volumes on specific audits and special reports.²³⁵

On or before December 15 every year, the Auditor General also tables an annual management report for the preceding fiscal year in the National Assembly.²³⁶ The Committee on Public Administration is responsible for hearing the Auditor General every year on this report (SO 117.6(2)).

The Committee on the National Assembly first entrusted the mandate to hear the Auditor General on the Auditor's annual report to the Committee on the Budget and Administration in 1987. After the latter was dissolved in April 1997, a committee with a horizontal role—the Committee on Public Administration—was mandated to hear the Auditor General annually on the Auditor's activity report, which at the time was included in the last chapter of the Auditor General's annual report. Since the 2002–2003 fiscal year, the Auditor General has tabled a separate annual management report and the Committee has used the

233 Under section 4 of the *Public Administration Act*, the National Assembly, any person appointed or designated by the National Assembly to exercise functions under its authority, the personnel directed by that person and the Commission de la représentation électorale are subject to the provisions of that Act only to the extent provided by law. Under their constituting Acts, the Chief Electoral Officer (*Election Act*, s. 488.2), the Public Protector (*Public Protector Act*, s. 35.1) and the Auditor General (*Auditor General Act*, s. 67) are subject to section 29 of the *Public Administration Act*. The Committee on Public Administration therefore heard the Public Protector in 2010, with respect to his 2008–2009 annual management report, and examined the 2007–2008 annual management report of the Chief Electoral Officer in a deliberative meeting in 2009.

234 *Auditor General Act*, s. 9.

235 Since 2015, in anticipation of the end of a legislature, the Auditor General has also prepared an assurance report giving the Auditor General's conclusion on the plausibility of the forecasts and assumptions presented in the pre-election report published by the Minister of Finance (*Auditor General Act*, ss. 40.1–40.4). The assurance report is attached to the pre-election report sent to the President of the Assembly by the Minister of Finance for tabling (*Act respecting the Ministère des Finances*, CQLR, c. M-24.01, s. 23.5).

236 *Auditor General Act*, s. 44.

opportunity to hear the Auditor General not only on how the duties of office have been performed and resources used, but also on the Auditor General's financial commitments for the entire fiscal year.

In addition to hearing the Auditor General on the annual management report, the Committee calls on the Auditor General to testify during meetings held to hear, under the *Public Administration Act*, the deputy ministers and the chief executive officers of public bodies whose administrative management has been the subject of a report by the Auditor General (SO 117.6(3)).

19.6.3.2 THE PUBLIC PROTECTOR (QUÉBEC OMBUDSMAN)

The Public Protector (Québec Ombudsman) corrects or prevents errors or unfair treatment of people or groups by Québec government departments or bodies. The Public Protector is appointed for a five-year renewable term.²³⁷

In addition, the Public Protector acts on behalf of citizens who feel that a health and social services establishment has infringed on their rights or failed to fulfill its responsibilities toward them. Under section 28 of the *Public Protector Act*, the Public Protector must submit an activity report for the preceding calendar year to the Assembly on or before September 30 every year.

The Committee on Institutions is mandated to hear the Public Protector annually (SO 294.1) and is free to define and organize its proceedings as it sees fit since the Standing Orders do not specify how this mandate is to be carried out.²³⁸

However, the Committee on Public Administration may also call on the Public Protector to testify during meetings held to hear, under the *Public Administration Act*, the deputy ministers and the chief executive officers of public bodies whose administrative management has been the subject of a report by the Public Protector (SO 117.6(3)).

19.6.3.3 THE CHIEF ELECTORAL OFFICER

The Chief Electoral Officer is responsible for overseeing general elections, by-elections, municipal elections, school board elections and referendums in Québec, and for maintaining and updating the permanent list of electors and monitoring political party funding and election spending.

²³⁷ *Public Protector Act*, s. 2.

²³⁸ Since 1984, the Committee on Institutions has examined the policy directions, activities and management of the Public Protector three times, in 1990, 1991 and 2014. The 1991–1992, 1993–1994 to 1996–1997, 2000–2001, 2008–2009 and 2009–2010 annual reports were also examined by the Committee in public hearings. The Committee on Institutions heard the Public Protector regarding two special reports in September 2010, and the Committee on Public Administration regarding a special report in March 2018. Since 2014, the Public Protector has presented the annual management report and various special reports to the members of the Committee on Institutions before their tabling in the National Assembly.

The Chief Electoral Officer also informs voters of their voting rights, has the power to make inquiries and initiate legal proceedings, and chairs the Commission de la représentation électorale, which is responsible for setting the boundaries of Québec's electoral divisions. The Chief Electoral Officer is appointed for a seven-year renewable term.²³⁹

Under section 542 of the *Election Act*, the Chief Electoral Officer and the Commission de la représentation électorale must submit an annual activity report, including a financial report for the preceding fiscal year, to the Assembly on or before September 30. The annual management report must be included in that report (*Election Act*, s. 488.2). The Chief Electoral Officer's report must be submitted to the Committee on the National Assembly for consideration in cases where the report recommends verifying the permanent list of electors (*Election Act*, s. 542.1).

Every year, the Chief Electoral Officer and the Commission de la représentation électorale prepare their budget estimates and submit them to the National Assembly before April 1 (*Election Act*, s. 543). Sections 544 to 547 of the *Election Act* specify the procedure for examining the estimates and financial reports in committee.²⁴⁰

The Committee on Institutions is responsible for hearing the Chief Electoral Officer annually (SO 294.1) and is free to define and organize its mandate as it sees fit since the Standing Orders do not specify how this mandate is to be carried out.²⁴¹

19.6.3.4 THE LOBBYISTS COMMISSIONER

The Lobbyists Commissioner monitors and controls lobbying that targets public office holders such as ministers and Members and their personnel. This entails investigations and inspections with respect to contraventions of the *Lobbying Transparency and Ethics Act*²⁴² and the *Code of conduct for lobbyists*²⁴³ drawn up by the Lobbyists Commissioner.²⁴⁴ The Lobbyists Commissioner is appointed for a five-year renewable term.²⁴⁵

239 *Election Act*, s. 479.

240 The Committee on Institutions examined the budget estimates of the Chief Electoral Officer for the 1990–1991, 1991–1992, 1992–1993 and 1993–1994 fiscal years.

241 The Committee on Institutions examined the policy directions, activities and management of the Chief Electoral Officer in 2016, 2017 and 2019.

242 *Lobbying Transparency and Ethics Act*, s. 39.

243 *Code of Conduct for Lobbyists*, CQLR, c. T-11.011, r. 2.

244 On September 18–19 and November 12, 2003, the Committee on Public Finance examined the draft code of conduct for lobbyists under section 37 of the *Lobbying Transparency and Ethics Act*.

245 *Lobbying Transparency and Ethics Act*, s. 34.

Under section 45 of the *Lobbying Transparency and Ethics Act*, the Lobbyists Commissioner must table an activity report for the preceding year in the Assembly on or before September 30 every year. The report is examined by the competent committee, which is free to define and organize its proceedings as it sees fit since neither the Act nor the Standing Orders specify how this mandate is to be carried out.²⁴⁶

19.6.3.5 THE ETHICS COMMISSIONER

The Ethics Commissioner is the newest officer of the National Assembly and is responsible for the administration of the *Code of ethics and conduct of the Members of the National Assembly*,²⁴⁷ passed on December 3, 2010. The Commissioner provides advisory opinions to Members, with the recommendations the Commissioner deems appropriate, on questions concerning their obligations under the Code, particularly in relation to incompatible offices or posts and conflicts of interest, as well as gifts and benefits. The Commissioner may publish guidelines for Members regarding the application of the Code and organize activities to inform the Members and the general public about the Ethics Commissioner's role.

The Ethics Commissioner initiates inquiries or conducts them at the request of a Member to determine whether a Member or minister has violated the Code in any way, and reports the resulting findings to the National Assembly. The Commissioner is appointed for a five-year renewable term.²⁴⁸

A person who has been the subject of a report by the Ethics Commissioner but who is not a Member may address a written notice to the President of the National Assembly within five days after the report is tabled asking to be heard by the Assembly. The President convenes the competent committee without delay to hear the person's statement, which must not exceed 20 minutes and is not debated.²⁴⁹ The committee report is then tabled in the National Assembly and is voted on at the next sitting, during Deferred Divisions. No debate or

246 The Committee on Public Finance has carried out the mandate once, on April 30, 2008, when it heard the Lobbyists Commissioner to examine the activity reports for the years 2002 to 2007. However, due to the dissolution of the Assembly, the Committee was not able to complete this mandate and table its report. In addition, under section 68 of the *Lobbying Transparency and Ethics Act*, the Committee examined the five-year report on the Act's implementation produced by the Minister of Justice and tabled in the Assembly on October 23, 2007. The Committee held four days of public hearings on May 1 and May 6–8, 2008, on the Minister of Justice's report and on the Lobbyists Commissioner's overview of the first five years of the Act's existence. However, with the dissolution of the Assembly, the Committee could not complete its mandate or table its report.

247 *Code of ethics and conduct of the Members of the National Assembly*, s. 3.

248 *Ibid.*, s. 66.

249 *Ibid.*, s. 102.

amendments to the report are admissible.²⁵⁰ Any sanction recommended in the report is applicable on the report's adoption by a two-thirds vote of the Members of the National Assembly.²⁵¹

Not later than January 1, 2015, and every five years afterwards, the Ethics Commissioner must report on the implementation of the Code and the advisability of amending it. This report is submitted to the President of the Assembly, who tables it within 15 days of receiving it or, if the Assembly is not sitting, within 15 days of resumption. The competent committee then examines the report.²⁵²

250 Ibid., s. 103.

251 Ibid., s. 104. The Ethics Commissioner has on a few occasions submitted investigation reports to the President of the National Assembly recommending sanctions of Members of the National Assembly. The investigation report on Claude Surprenant, Member for Groulx, was tabled on December 1, 2017, and adopted by the Members of the National Assembly on December 6, 2017. The report recommended reprimanding the Member. The investigation report on Pierre Paradis, Member for Brome-Missisquoi, was tabled on June 5, 2018, and rejected by the Members of the National Assembly on June 14, 2018, in a vote. The report recommended imposing a penalty on the Member. An investigation report on Pierre Fitzgibbon, Minister of Economy and Innovation and Member for Terrebonne, was tabled on October 29, 2020, and adopted by the Members of the National Assembly on November 12, 2020. This report recommended reprimanding the Member. A second investigation report concerning the same Member was tabled on December 8, 2020. In a letter submitted on the same day, Minister Fitzgibbon informed the President that he wished to waive his right under section 102 of the *Code of Ethics and Conduct of the Members of the National Assembly* to reply to the investigative report (VP, December 8, 2020, p. 2854). The report was therefore put to a vote the next day, December 9, and was rejected by the Members of the Assembly. This report recommended reprimanding the Member. See Chapter 3, Subsection 3.6.2, "Complaints for Violations of the *Code of Ethics and Conduct of the Members of the National Assembly*".

252 *Code of Ethics and Conduct of the Members of the National Assembly*, s. 114. The Committee on Institutions proceeded to examine the first report on the implementation of the *Code of Ethics and Conduct of the Members of the National Assembly* for 2011-2014, tabled by the Ethics Commissioner on February 24, 2015. The Commission tabled its report in the National Assembly on April 5, 2017. The second report on the implementation of this Code, for the years 2015-2019, was tabled in the Assembly on December 5, 2019.

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- JD, November 18, 2003, CAS-20 pp. 6–7 (Russell Copeman)/*RDPP* (Com. Vol.), No. 245/5.
- JD, December 2, 2003, CFP-23 pp. 6–9 (Alain Paquet)/*RDPP* (Com. Vol.), No. 245/6.
- JD, December 2, 2003, CFP-23 p. 42 (Alain Paquet)/*RDPP* (Com. Vol.), No. 245/7.
- JD, December 11, 2007, CET-16 p. 3 (Catherine Morissette)/*RDPP* (Com. Vol.), No. 245/8.
- JD, May 26, 2015, CSSS-51 p. 1 (Véronique Hivon)/*RDPP* (Com. Vol.), No. 245/9.
- JD, October 20, 2015, CAPERN-52 pp. 51–52 (Norbert Morin)/*RDPP* (Com. Vol.), No. 245/10.
- JD, February 18, 1986, pp. CBA-219–221 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), No. 246/1.
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- JD, June 16, 1986, pp. CAS-426–427 (Guy Bélanger)/*RDPP* (Com. Vol.), No. 246/3.
- JD, November 22, 2000, CAT-60 p. 14 (Yvon Vallières)/*RDPP* (Com. Vol.), No. 246/4.

- JD, December 19, 2000, CC-55 p. 2 (Matthias Rioux)/RDPP (Com. Vol.), No. 246/5.
- JD, November 2, 2004, CTE-34 pp. 6–7 (Charlotte L'Écuyer)/RDPP (Com. Vol.), No. 246/6.
- JD, December 11, 1996, pp. 4208–4209 (Raymond Brouillet)/RDPP (Com. Vol.), No. 252/1.
- JD, March 25, 1987, pp. 6346–6348 (Jean-Pierre Saintonge)/RDPP (Com. Vol.), No. 253/3.
- JD, May 29, 1986, pp. CBA-905–906 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 267/1.
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- JD, May 13, 1986, pp. CBA-783–785 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 275/2.
- JD, June 1, 1993, pp. CBA-2657–2658 (Jean-Guy Lemieux)/RDPP (Com. Vol.), No. 275/3.
- JD, May 30, 2007, CFP-2 p. 1 (Alain Paquet)/RDPP (Com. Vol.), No. 275/4.
- JD, April 1, 2009, CFP-4 p. 5 (Alain Paquet)/RDPP (Com. Vol.), No. 275/5.
- JD, April 14, 2010, CFP-56 p. 1 (Alain Paquet)/RDPP (Com. Vol.), No. 275/6.
- JD, March 28, 2012, CFP-64 p. 1 (Claude Bachand)/RDPP (Com. Vol.), No. 275/7.
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- JD, April 12, 1984, pp. CBA-67–68 (Claude Lachance)/*RDPP* (Com. Vol.), No. 284/1.
- JD, April 22, 1986, p. CAS-52 (Guy Bélanger)/*RDPP* (Com. Vol.), No. 284/2.
- JD, April 25, 1989, pp. CBA-2613–2614 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), No. 284/3.
- JD, April 25, 1989, pp. CBA-2621–2622 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), No. 284/4.
- JD, April 26, 1989, pp. CBA-2646–2650 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), No. 284/5.
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- JD, April 9, 1991, pp. CC-1309–1312 (Réjean Doyon)/*RDPP* (Com. Vol.), No. 284/7.
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- JD, April 25, 2001, CET-4 p. 1 (Robert Kieffer)/*RDPP* (Com. Vol.), No. 285/2.
- JD, April 30, 2010, CFP-63 p. 5 (Alain Paquet)/*RDPP* (Com. Vol.), No. 285/3.
- JD, May 3, 2010, CSSS-40 p. 11 (Pascal Bérubé)/*RDPP* (Com. Vol.), No. 285/4.
- JD, April 12, 1984, pp. CBA-117–119 (Daniel Johnson)/*RDPP* (Com. Vol.), No. 287/1.
- JD, April 22, 1986, p. CE-54 (Marcel Parent)/*RDPP* (Com. Vol.), No. 287/2.
- JD, April 20, 1993, pp. CET-2635–2636 (Jean-Claude Gobé)/*RDPP* (Com. Vol.), No. 287/3.
- JD, May 8, 2001, CAT-7 pp. 8–9 (Danielle Doyer)/*RDPP* (Com. Vol.), No. 287/4.
- JD, April 17, 2002, CAT-39 pp. 9–10 (Yvon Vallières)/*RDPP* (Com. Vol.), No. 287/5.
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APPENDIX A

*ACT RESPECTING THE
NATIONAL ASSEMBLY
(CQLR, C. A-23.1)*

**ACT RESPECTING THE NATIONAL ASSEMBLY
(CQLR, c. A-23.1)**

WHEREAS the people of Québec have a deep attachment to democratic principles of government;

Whereas the National Assembly is, through the elected representatives who compose it, the supreme and legitimate organ by which those principles are expressed and applied;

Whereas it behooves this Assembly, as the guardian of the historical and inalienable rights and powers of the people of Québec, to defend it against any attempt to despoil it of its rights and powers or to derogate from them;

Whereas it is befitting, therefore, that the perdurance, the sovereignty and the independence of the National Assembly be affirmed, and that its proceedings be protected against all interference,

HER MAJESTY, with the advice and consent of the National Assembly of Québec, enacts as follows:

CHAPTER I ORGANIZATION AND OPERATION

DIVISION I	COMPOSITION, TERM AND POWERS
1.	The National Assembly is composed of the Members elected for each of the electoral divisions established in accordance with the Election Act (chapter E-3.3) and whose names have been transmitted to the Secretary General by the Chief Electoral Officer in accordance with section 380 of the said Act. 1982, c. 62, s. 1; 1984, c. 51, s. 526; 1989, c. 1, s. 582.
2.	The National Assembly and the Lieutenant-Governor form the Parliament of Québec. The Parliament of Québec assumes all the powers conferred on the Legislature of Québec. No provision of this Act restricts the scope or exercise of those powers. 1982, c. 62, s. 2.
3.	The Parliament has the exercise of the legislative power. 1982, c. 62, s. 3.

4. The Assembly has the power of supervision over all the acts of the Government and of its departments and agencies.

1982, c. 62, s. 4.

5. The Assembly is convoked, prorogued and dissolved by the Lieutenant-Governor.

1982, c. 62, s. 5.

6. A Legislature starts upon the receipt by the Secretary General, after a general election, of the list of the candidates declared elected transmitted by the Chief Electoral Officer pursuant to section 380 of the Election Act (chapter E-3.3).

A Legislature ends on 29 August of the fourth calendar year following the year that includes the most recent general election polling day.

However, if the publication provided for in the first paragraph of section 129.1 of the Election Act has been made, the Legislature ends instead on 27 February, or 28 February in the case of a leap year, of the fifth calendar year following the year that includes the most recent general election polling day.

Only the Lieutenant-Governor may dissolve the National Assembly before the expiry of a Legislature.

1982, c. 62, s. 6; 1984, c. 51, s. 527; 2013, c. 13, s. 9.

7. The Assembly sits in the territory of Ville de Québec; it may also sit at any other place in Québec.

1982, c. 62, s. 7; 1996, c. 2, s. 75.

8. The quorum of the Assembly or of a committee of the whole House is one-sixth of the Members, including the President.

However, when a committee of the Assembly is sitting, the quorum of the Assembly or of the committee of the whole House is one-tenth of the Members, including the President.

1982, c. 62, s. 8.

9. The rules of procedure of the Assembly are established by the Assembly, and it alone has authority to see that they are observed.

1982, c. 62, s. 9.

DIVISION II THE COMMITTEES

- 10.** The National Assembly may appoint committees, composed of Members of the Assembly, to examine any matter within the jurisdiction assigned to them by the Assembly, and to carry out any mandate given to them by the Assembly.

1982, c. 62, s. 10.

- 11.** The Assembly must appoint a committee on the Assembly to examine any matter referred to it by the Assembly.

The committee shall also carry out any other function vested in it by this Act.

1982, c. 62, s. 11.

- 12.** A committee may form subcommittees composed of Members of the Assembly.

1982, c. 62, s. 12.

- 13.** A committee or a subcommittee may sit even when the Assembly is not in session.

1982, c. 62, s. 13.

- 14.** A committee or a subcommittee may sit anywhere in Québec, in accordance with the Standing Orders of the Assembly.

1982, c. 62, s. 14.

DIVISION III THE MEMBERS

- 15.** No Member may sit in the Assembly before making the oath provided in Schedule I.

1982, c. 62, s. 15; 1999, c. 40, s. 25.

- 16.** A Member may resign his seat verbally at a sitting of the Assembly.

He may also resign in a writing countersigned by two other Members and sent to the President or the Secretary General of the Assembly.

If a Member resigns in writing, the President must so inform the Assembly at its next sitting.

1982, c. 62, s. 16.

APPENDIX A

- 17.** The seat of a Member of the Assembly becomes vacant if he
- (1) dies;
 - (2) resigns;
 - (3) becomes a candidate at a federal election or a provincial election in another province;
 - (4) is appointed to the Senate;
 - (5) is convicted of treason;
 - (6) is convicted of corrupt electoral or referendum practices;
 - (7) *(subparagraph repealed)*;
 - (8) is sentenced to imprisonment for an indictable offence punishable by imprisonment for over two years;
 - (9) is in a situation that makes him disqualified within the meaning of the Election Act (chapter E-3.3), except the situation contemplated in subparagraph 4 of the second paragraph of section 235 of that Act.

A Member's seat also becomes vacant in the cases provided for in section 134 and in the Code of ethics and conduct of the Members of the National Assembly (chapter C-23.1).

1982, c. 62, s. 17; 1984, c. 51, s. 528; 1989, c. 1, s. 583; 1990, c. 4, s. 66; 1997, c. 8, s. 21; 2010, c. 30, s. 115.

- 18.** If the seat of a Member of the Assembly becomes vacant at a time when the election held in the electoral division of the Member is contested or could still be contested within the legal limit of time, any subsequent election held in the electoral division during the same Legislature becomes null if, as a result of the contestation, the court declares elected a person other than the person proclaimed elected at the contested election or at a subsequent election.

1982, c. 62, s. 18.

- 19.** At the beginning of its first sitting after a general election, the National Assembly shall elect a President and, subsequently, a first, a second and a third Vice-President from among its Members.

The first Vice-President and the second Vice-President shall be elected from among the Members forming the Government and the third Vice-President from among the Members forming the Official Opposition.

1982, c. 62, s. 19; 1999, c. 1, s. 1.

- 20.** If the President is absent or unable to act, or at his request, one of the Vice-Presidents shall replace him and exercise his parliamentary duties.

1982, c. 62, s. 20.

- 21.** If the President and the Vice-Presidents are absent or unable to act, the Secretary General shall notify the Assembly, and it shall designate a Member as interim President for his parliamentary duties.

1982, c. 62, s. 21.

- 22.** If the office of President becomes vacant, the Secretary General shall inform the Assembly, and no business may be transacted until a new President is elected.

1982, c. 62, s. 22.

- 23.** In addition to his duties under this Act, the President shall carry out the duties conferred on him by the Assembly.

1982, c. 62, s. 23.

- 24.** On the dissolution of the Assembly, the President and the Vice-Presidents remain in office until they are replaced or reappointed by the new Assembly.

In such a case, they continue to receive the indemnity provided for in paragraphs 1 and 2 of section 7 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (chapter C-52.1).

1982, c. 62, s. 24; 2006, c. 10, s. 1.

DIVISION V PARLIAMENTARY ASSISTANTS

- 25.** The Government may appoint one or several Members as parliamentary assistants to assist a minister in the discharge of his duties. A parliamentary assistant may reply to questions addressed to the minister or take note of them on his behalf.

In no case, however, may the number of parliamentary assistants exceed twenty.

1982, c. 62, s. 25.

DIVISION VI THE SECRETARY GENERAL

- 26.** The National Assembly, on a motion of the Prime Minister, shall appoint a Secretary General and one or more associate secretaries general.

1982, c. 62, s. 26.

- 27.** If the Secretary General is absent or unable to act, or in case of vacancy of the office of Secretary General, the President shall designate one of the associate secretaries general to replace the Secretary General during his absence or inability to act or during the vacancy of the office.

1982, c. 62, s. 27; 1984, c. 47, s. 8; 1999, c. 40, s. 25.

- 28.** In addition to his duties under this Act, the Secretary General shall carry out the duties conferred on him by the Assembly.

1982, c. 62, s. 28.

| CHAPTER II LEGISLATIVE ACTS

- 29.** The National Assembly passes the legislative Acts and the Lieutenant-Governor gives assent to them.

1982, c. 62, s. 29.

- 30.** Any Member may present a bill.

However, only a minister may present a bill having as its object the commitment of public funds, the creation of a charge on the taxpayers, the remission of a debt owing to the Province or the alienation of property owned by the Province.

1982, c. 62, s. 30.

- 31.** Every legislative bill must have the following introductory formula:
“The Parliament of Québec enacts as follows: ”.
1982, c. 62, s. 31.
- 32.** Upon the giving of assent to an Act, the Secretary General shall enter the date of assent therein. The entry forms part of the Act.
1982, c. 62, s. 32.
- 33.** The Secretary General has custody of the originals of the Acts.
In case of the loss or destruction of an original, the Secretary General may substitute for it a certified true copy; thereafter, that copy serves as the original.
1982, c. 62, s. 33.
- 34.** The Secretary General shall affix his seal to every copy of an Act that he certifies true.
1982, c. 62, s. 34.
- 35.** After an Act has been assented to, the Secretary General shall send the Québec Official Publisher a copy certified true to the original enacted by Parliament.
1982, c. 62, s. 35; 2009, c. 3, s. 2.
- 36.** Every year, the Québec Official Publisher shall publish a compilation of the statutes assented to during the preceding year.
1982, c. 62, s. 36.
- 37.** The Office of the Assembly shall by by-law establish the conditions and modalities of printing, publication and distribution of the legislative Acts, the copies of the annual compilation of the statutes, the bills, and the other parliamentary documents.
The Secretary General shall provide printed copies of the Acts, free of charge, to the Lieutenant-Governor, government departments and public bodies, according to the rules established by the Office.

For the purposes of this section, a public body is a body to which the National Assembly, the Government or a minister appoints the majority of the members, to which, by law, the personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1), or whose capital forms part of the domain of the State.

1982, c. 62, s. 37; 2010, c. 30, s. 116.

- 38.** The Secretary General shall deliver a copy of the annual compilation of the statutes to the Lieutenant-Governor, and to the Registrar of Québec.

1982, c. 62, s. 38.

- 39.** The Secretary General, or the person designated by him for that purpose, shall supply certified true copies of any Act to any person who applies therefor, upon payment of the cost fixed by the by-law of the Office of the Assembly. The designation has effect from its publication in the *Gazette officielle du Québec*.

Sums received under this section are paid into the Consolidated Revenue Fund.

1982, c. 62, s. 39; 1986, c. 71, s. 2.

- 40.** A copy of an Act certified true by the Secretary General, or the person designated for that purpose, or the text of an Act published by the Québec Official Publisher is authentic and is proof of its existence and contents.

1982, c. 62, s. 40; 1986, c. 71, s. 3.

- 41.** Every person who makes a request to the National Assembly for the passage of a private bill must pay to the Assembly the fees prescribed by regulation.

1982, c. 62, s. 41; 1989, c. 22, s. 1.

CHAPTER III INDEPENDENCE OF THE NATIONAL ASSEMBLY

DIVISION I RIGHTS, PRIVILEGES AND IMMUNITIES

- 42.** The Assembly has the power to protect its proceedings against all interference.

1982, c. 62, s. 42.
- 43.** Every Member is vested with full independence for the carrying out of his duties.

1982, c. 62, s. 43.
- 44.** No Member may be prosecuted, arrested or imprisoned by reason of anything said or done or any document tabled by him in the carrying out of his parliamentary duties in the Assembly or in any committee or subcommittee.

1982, c. 62, s. 44.
- 45.** No Member may be bound to appear to answer a charge of contempt of court nor arrested or held for contempt of court while the Assembly or a committee or subcommittee in whose work he is taking part is sitting, or during the two preceding or two following days.

1982, c. 62, s. 45.
- 46.** A Member is exempt from appearing as a witness in court or before any body or person empowered to summon witnesses while the Assembly or a committee or subcommittee in whose work he is taking part is sitting, and during the two preceding and two following days.

1982, c. 62, s. 46
- 47.** The President of the Assembly may exempt a member of the personnel of the Assembly from appearing as a witness in court, or before any body or person empowered to summon witnesses where he considers his presence required for the proper functioning of the Assembly and its services.

1982, c. 62, s. 47.

- 48.** No person may be prosecuted for publishing or distributing an unedited report or official summary of the debates of the Assembly or of a committee or subcommittee, or for distributing, unedited, such debates or any document that has been submitted to them.

1982, c. 62, s. 48.

- 49.** No person may be found guilty for publishing or distributing an abstract of the debates of the Assembly or of a committee or subcommittee, of a report or of an official summary of the debates, or of a document that has been submitted to them, or for giving an account of them, unless it is proved that he acted with malicious intent.

1982, c. 62, s. 49

- 50.** A copy of a written or audio-visual document contemplated in section 48 or 49 certified true by the Secretary General of the Assembly is admissible as evidence.

1982, c. 62, s. 50.

- 51.** The Assembly or a committee may summon and compel the appearance before it of any person, either to answer questions put to him or to produce such papers and things as it may deem necessary for its acts, inquiries or proceedings.

1982, c. 62, s. 51.

- 52.** The President or any Member of the Assembly or the chairman or any member of a committee or subcommittee may require a person appearing before it to make the oath provided in Schedule II.

1982, c. 62, s. 52; 1999, c. 40, s. 25.

- 53.** In no case may a person's testimony before the Assembly or a committee or subcommittee be held against him in a court of law, unless he is being prosecuted for perjury.

1982, c. 62, s. 53.

- 54.** No action may be instituted by reason of an official act performed in good faith by a person in the exercise of duties assigned to him under this Act or in carrying out an order of the Assembly or a committee or subcommittee.

1982, c. 62, s. 54.

- 55.** No person may breach the privileges of the Assembly. The following acts, in particular, constitute breaches of the privileges of the Assembly:

- (1) refusing to comply with an order of the Assembly, a committee or a subcommittee;
- (2) giving false or incomplete testimony before the Assembly, a committee or a subcommittee;
- (3) presenting a false document to the Assembly, a committee or a subcommittee with intent to deceive;
- (4) forging, falsifying or altering, with intent to deceive, any document of the Assembly, a committee or a subcommittee or any document tabled or presented before it;
- (5) creating a disturbance liable to disrupt the course of parliamentary proceedings;
- (6) using or threatening to use force or using undue pressure to have a sitting cancelled or suspended;
- (7) assaulting, interfering with, bullying or threatening Members of the Assembly in the carrying out of their parliamentary duties or members of the personnel of the Assembly in the carrying out of their parliamentary duties;
- (8) defaming a Member of the Assembly or using abusive language about him;
- (9) bribing or attempting to bribe a Member of the Assembly or a member of the personnel of the Assembly;
- (10) attempting to influence the vote, opinion, judgment or action of a Member by means of deceit, threats or undue pressure;
- (11) suborning or attempting to suborn or threatening a person in regard to any evidence to be given by him before the Assembly, a committee or a subcommittee;

- (12) instituting an action with malicious intent against a Member;
- (13) performing an act contrary to the parliamentary immunity conferred on a Member.

1982, c. 62, s. 55.

- 56.** The person responsible for carrying out a warrant of the Assembly, a committee or a subcommittee may demand the assistance of a peace officer or any other person.

Refusal to give assistance when demanded constitutes a breach of the privileges of the Assembly.

1982, c. 62, s. 56.

DIVISION II *(Repealed)*

2010, c. 30, s. 117.

- 57.** *(Repealed).*

1982, c. 62, s. 57; 1988, c. 84, s. 544; 2010, c. 30, s. 117.

- 58.** *(Repealed).*

1982, c. 62, s. 58; 2010, c. 30, s. 117.

- 59.** *(Repealed).*

1982, c. 62, s. 59; 1999, c. 40, s. 25; 2010, c. 30, s. 117.

- 60.** *(Repealed).*

1982, c. 62, s. 60; 1999, c. 40, s. 25; 2010, c. 30, s. 117.

DIVISION III *(Repealed)*

2010, c. 30, s. 117.

- 61.** *(Repealed).*

1982, c. 62, s. 61; 2010, c. 30, s. 117.

- 62.** *(Repealed).*

1982, c. 62, s. 62; 2010, c. 30, s. 117.

- 63.** (Repealed).
1982, c. 62, s. 63; 2010, c. 30, s. 117
- 64.** (Repealed).
1982, c. 62, s. 64; 2010, c. 30, s. 117.
- 65.** (Repealed).
1982, c. 62, s. 65; 1999, c. 40, s. 25; 2010, c. 30, s. 117.
- 66.** (Repealed).
1982, c. 62, s. 66; 1983, c. 55, s. 161; 1999, c. 40, s. 25; 2000, c. 8, s. 242;
2010, c. 30, s. 117.
- 67.** (Repealed).
1982, c. 62, s. 67; 2010, c. 30, s. 117.
- 68.** (Repealed).
1982, c. 62, s. 68; 1986, c. 61, s. 66; 1988, c. 21, s. 66; 1997, c. 43, s. 38;
2010, c. 30, s. 117.
- 69.** (Repealed).
1982, c. 62, s. 69; 2010, c. 30, s. 117.
- 70.** (Repealed).
1982, c. 62, s. 70; 2010, c. 30, s. 117.
- 71.** (Repealed).
1982, c. 62, s. 71; 2002, c. 6, s. 84; 2010, c. 30, s. 117.
- 72.** (Repealed).
1982, c. 62, s. 72; 2010, c. 30, s. 117.
- 73.** (Repealed).
1982, c. 62, s. 73; 1986, c. 3, s. 1; 2010, c. 30, s. 117.

DIVISION IV *(Repealed)*

2010, c. 30, s. 117.

74. *(Repealed).*

1982, c. 62, s. 74; 2010, c. 30, s. 117.

75. *(Repealed).*

1982, c. 62, s. 75; 2010, c. 30, s. 117.

76. *(Repealed).*

1982, c. 62, s. 76; 2010, c. 30, s. 117.

77. *(Repealed).*

1982, c. 62, s. 77; 2010, c. 30, s. 117.

78. *(Repealed).*

1982, c. 62, s. 78; 2010, c. 30, s. 117.

79. *(Repealed).*

1982, c. 62, s. 79; 2010, c. 30, s. 117.

80. *(Repealed).*

1982, c. 62, s. 80; 2010, c. 30, s. 117.

81. *(Repealed).*

1982, c. 62, s. 81; 2010, c. 30, s. 117.

DIVISION V *(Heading repealed)*

2010, c. 30, s. 117.

82. *(Repealed).*

1982, c. 62, s. 82; 2010, c. 30, s. 117.

83. *(Repealed).*

1982, c. 62, s. 83; 2010, c. 30, s. 117.

84. *(Repealed).*

1982, c. 62, s. 84; 2010, c. 30, s. 117.

85. The bringing of a complaint before the Assembly by a Member against another Member without a serious reason constitutes a breach of the privileges of the Assembly.

1982, c. 62, s. 85.

DIVISION VI	DEFENCE COSTS, JUDICIAL COSTS, EXPENSES FOR COUNSEL AND INDEMNIFICATION

1998, c. 11, s. 1.

85.1. A Member or a former Member is entitled, subject to sections 85.2 to 85.4, to the payment of the defence costs and judicial costs arising out of proceedings brought against the Member or former Member by a third person for any act or omission in the performance of the Member's or former Member's duties of office.

The Member or former Member is also entitled to the payment of expenses incurred for counsel where the Member or former Member is summoned to appear at an inquiry, a preliminary inquiry or judicial or quasi-judicial proceedings in connection with the Member's or former Member's duties of office.

In each case submitted to it, the Office of the National Assembly may, after obtaining the advice of the jurisconsult appointed under the Code of ethics and conduct of the Members of the National Assembly (chapter C-23.1), fix the maximum amount to be paid under the first and second paragraphs.

1998, c. 11, s. 1; 2010, c. 30, s. 118.

85.2. In the case of criminal proceedings, the defence costs and judicial costs shall be paid only if the case was withdrawn or dismissed or if the Member or former Member was acquitted by a judgment that has become *res judicata*, or was discharged.

1998, c. 11, s. 1.

85.3. Where a Member or former Member is found guilty of a penal offence in a judgment that has become *res judicata*, no costs or expenses may be paid and the Assembly shall recover any costs or expenses paid except where the Office, after obtaining the advice of the jurisconsult, is of the opinion that the Member or former Member had reasonable grounds for believing that the conduct in question was in conformity with the law. In the latter case, the Assembly shall assume the payment of any pecuniary penalty.

1998, c. 11, s. 1.

- 85.4.** Where, in judgment in a civil suit that has become *res judicata*, a Member or former Member is held liable for damage by reason of an act or omission in the performance of the Member's or former Member's duties of office, no costs or expenses may be paid and the Assembly shall recover any costs or expenses paid if the Office, after obtaining the advice of the jurisconsult, is of the opinion that the Member or former Member acted in bad faith.

The Assembly shall, however, assume the payment of any pecuniary penalty arising out of a judgment in a civil suit, except where the Office, after obtaining the advice of the jurisconsult, is of the opinion that a gross fault was committed by the Member or former Member or that the judgment should be appealed by the Member or former Member.

1998, c. 11, s. 1.

CHAPTER IV ADMINISTRATION OF THE ASSEMBLY

DIVISION I THE OFFICE OF THE NATIONAL ASSEMBLY

- 86.** An Office of the National Assembly is hereby established.

1982, c. 62, s. 86.

- 87.** The President of the Assembly is the chairman of the Office. The Office is also composed of nine other Members.

For the duration of the 42nd Legislature, the first paragraph is amended by replacing "nine" by "eleven".

1982, c. 62, s. 87; 1999, c. 3, s. 1; 2018, c. 28, s.1.

- 88.** The members of the Office other than the chairman are designated by the Members of each party in the following manner:

- (1) five from the Government party;
- (2) four from the party of the Official Opposition or, where there are several opposition parties, three from the Official Opposition party and one from the party among the remaining opposition parties having obtained the greatest number of seats or, in case of equality of seats, from that having obtained the greatest number of valid votes.

For the duration of the 42nd Legislature, the first paragraph is amended

- (1) by replacing "five" in paragraph 1 by "six";
- (2) by replacing paragraph 2 by the following paragraph:

“(2) three from the Official Opposition party and one from each of the other opposition parties represented in the Assembly following the 1 October 2018 general election.”.

1982, c. 62, s. 88; 1999, c. 3, s. 2; 2018, c. 28, s.2.

- 89.** Each of the designating parties shall also designate the same number of Members as substitute members of the Office; each of them may act in the place of a member who is absent or unable to act.

1982, c. 62, s. 89.

- 90.** Within fifteen days from the beginning of a session, each party shall communicate to the President of the Assembly the names of the members and substitute members it has designated.

1982, c. 62, s. 90.

- 91.** The President shall submit the list of the designated Members to the Assembly. The Assembly shall adopt or reject the list as a whole.

1982, c. 62, s. 91.

- 92.** If a party fails to designate its representatives or if the composition of the Assembly does not allow the application of sections 88 and 89, the chairman shall himself designate the Members to complete the composition of the Office.

1982, c. 62, s. 92.

- 93.** When the Assembly is prorogued, the members of the Office remain in office until they are replaced or designated again.

1982, c. 62, s. 93.

- 94.** On the dissolution of the Assembly, the President and the Vice-Presidents of the Assembly shall perform the duties of the Office.

1982, c. 62, s. 94.

- 95.** The Vice-Presidents of the Assembly may take part, without the right to vote, in the proceedings of the Office.

1982, c. 62, s. 95.

- 96.** If the President is absent, or at the President's request, the Vice-President designated by the President shall act as chairman. Only the first Vice-President or the second Vice-President may be designated for that purpose.

If the President is unable to act or the office of President is vacant, the first Vice-President shall act as chairman during such inability or vacancy.

However, if the first Vice-President also is unable to act or the office of first Vice-President also is or also becomes vacant, the second Vice-President shall replace the first Vice-President in the circumstances described in the second paragraph.

1982, c. 62, s. 96; 1998, c. 54, s. 1; 1999, c. 3, s. 3; 1999, c. 40, s. 25.

- 97.** Five members, including the chairman, constitute a quorum of the Office. In the event of a tie-vote, the chairman has a casting vote.

For the duration of the 42nd Legislature, the first paragraph is amended by replacing “Five” by “Six”.

1982, c. 62, s. 97; 1999, c. 3, s. 4; 2018, c. 28, s.3.

- 98.** The Secretary General of the Assembly is the secretary of the Office. If the Secretary General is absent or unable to act, the Office shall designate an associate secretary general to replace him.

1982, c. 62, s. 98.

- 99.** The Office shall establish its rules of procedure.

1982, c. 62, s. 99.

- 100.** The Office shall have managerial and regulatory functions, in accordance with this Act.

It shall have such other functions as the Assembly may assign to it.

1982, c. 62, s. 100.

- 101.** The Office shall give its opinion on any matter referred to it by the President.

1982, c. 62, s. 101.

- 102.** The Office shall establish, by regulation, the terms and conditions, scales and modalities of reimbursement to the members, except members of the Conseil exécutif, members of the staff of the National Assembly and the persons contemplated in the first paragraph of section 124.2, of expenses incurred in carrying out official assignments requested by the President of the Assembly.

The Office may, according to the modalities, on the terms and conditions and for the time it determines, delegate to the person it designates the power to determine the amount of the expenses that may be reimbursed according to the fixed scale.

1982, c. 62, s. 102; 1984, c. 27, s. 33.

- 103.** The Office shall, by regulation, establish the conditions, scales and modalities of payment of an attendance allowance to its members and to the members of and participants in a committee or subcommittee of the Assembly.

1982, c. 62, s. 103; 1984, c. 27, s. 34.

- 104.** The Office shall, by regulation, establish the conditions, scales and modalities of payment to Members of, in particular,

- (1) transportation allowances and travel expenses;
- (2) the cost of renting premises in the electoral division of each Member to receive his electors as well as any other cost provided for by the Office in the regulations to ensure the proper administration of the Member's offices;
- (3) allowances for the remuneration of their personnel and for payment of professional services;
- (4) expenses for lodgings, in the territory of Ville de Québec or in the immediate vicinity, of any Member domiciled outside the territory formed by that of Ville de Québec or an electoral division adjacent to the territory of that city, or of the Member domiciled within the electoral division of Charlevoix-Côte-de-Beaupré and more than 50 kilometres from the Parliament Building by the shortest road;
- (5) the cost of purchase or lease of property or services for communications.

The Office may, by regulation, in the cases, on the conditions and to the extent it determines, allow a Member to whom the first paragraph of section 124.1 applies to make transfers from the sums granted by the Office under subparagraphs 2 and 3 of the first paragraph to the sums granted under the first paragraph of section 104.2.

The Office may, by regulation, in the cases, on the conditions and to the extent it determines, pay the allowances or repay the expenses and other costs provided for in this section for a period, fixed in the regulation, between the day on which the seat of a Member becomes vacant or the Assembly is dissolved and the thirtieth day, or the sixtieth day as regards persons referred to in the first paragraph of section 124.1, after the day on which a poll is held to fill the vacancy or a poll is held following the dissolution of the Assembly.

1982, c. 62, s. 104; 1984, c. 27, s. 35; 1985, c. 19, s. 1; 1986, c. 3, s. 2; 1989, c. 22, s. 2; 1996, c. 2, s. 76; 1997, c. 13, s. 1; 1999, c. 40, s. 25; 2004, c. 19, s. 1; 2006, c. 10, s. 2; 2016, c. 5, s. 1.

- 104.1.** The Office may, by regulation, provide for one or several categories of Members and establish the conditions, scales and modalities of payment to such Members of additional allowances for the same purposes as those paid under section 104.

1989, c. 22, s. 3.

- 104.2.** The Office shall, by regulation, establish the conditions, scales and modalities of payment of the expenses connected with the administration of the offices of the persons contemplated in the first paragraph of section 124.1.

The Office may, by regulation, in the cases, on the conditions and to the extent it determines, allow those persons to make transfers from the sums granted by the Office under the first paragraph to the sums granted under subparagraphs 2 and 3 of the first paragraph of section 104.

1989, c. 22, s. 3; 2004, c. 19, s. 2.

- 104.3.** The Office shall fix, by regulation, the conditions, rates and terms governing the payment of any amount pursuant to sections 85.1 to 85.4.

1998, c. 11, s. 2.

- 105.** The Office shall fix the intervals for the payment of indemnities and expense allowances provided in the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (chapter C-52.1).

1982, c. 62, s. 105.

- 106.** The Minister of Finance shall pay, for each Member participating in the plan, such portion of the premium of a group life insurance and disability insurance plan or of any other insurance plan as the Office may determine.

1982, c. 62, s. 106.

- 107.** The Office shall, by regulation, determine the rules according to which the personnel and the financial resources are to be allocated to any committee or subcommittee of the Assembly.

1982, c. 62, s. 107.

- 108.** The Office shall, by regulation, determine the moneys that may be received from the Assembly, for research and support purposes, by the political parties represented in the Assembly following the last general election and by independent Members, and the terms and conditions of payment thereof.

The Member who is the leader of the Government party and the Member who is the leader of the Official Opposition party may transfer the moneys required for the remuneration of the regular personnel hired to assist the party for research and support purposes to the budget granted, under subparagraph 3 of the first paragraph of section 104, to the offices referred to in section 124.1. The personnel hired to assist the party for such purposes forms part of the personnel of the offices so designated in the same manner as the other members of the personnel of those offices.

In the case of another party to which the first paragraph applies, the Member who is the leader of that party or the authorized Member may transfer the moneys required for the remuneration of the regular personnel hired to assist the party for research and support purposes to the budget granted to the Member under subparagraph 3 of the first paragraph of section 104. The personnel hired to assist the party for such purposes forms part of the personnel of that Member in the same manner as the other members of his personnel.

Independent Members may transfer the moneys required for the remuneration of regular personnel hired to assist them for research and support purposes to the budget granted to them under subparagraph 3 of the first paragraph of section 104. The personnel hired to assist independent Members for such purposes forms part of their personnel in the same manner as the other members of their personnel.

1982, c. 62, s. 108; 1985, c. 19, s. 2; 1986, c. 3, s. 3; 1989, c. 22, s. 4; 1994, c. 39, s. 1; 1999, c. 3, s. 5; 2012, c. 24, s. 1.

- 108.1.** The Office shall, by regulation, determine the moneys that may be received from the Assembly, for the purposes of research and support, by a Member sitting as an independent Member on 15 June 1993 who is not a member of a political party represented in the Assembly, and the terms and conditions of payment thereof.

This section shall cease to have effect on 24 July 1994.

1992, c. 7, s. 1; 1993, c. 20, s. 1.

- 109.** The President shall table in the Assembly the rules and regulations adopted by the Office within fifteen days of their adoption if the Assembly is in session or, if it is not sitting, within fifteen days of the opening of the next session or resumption.

1982, c. 62, s. 109.

DIVISION II MANAGEMENT OF THE ASSEMBLY

- 110.** Subject to this Act, the Assembly shall continue to be managed within the scope of the Acts, regulations and rules applicable.

The Office may, however, by regulation, derogate from the applicable Acts, regulations and rules by specifically indicating the provisions derogated from and the provisions that are to apply in their place and stead.

1982, c. 62, s. 110.

- 110.1.** Subject to this Act and for the purposes of this division, the Office may make any regulation it deems necessary for the management of the Assembly.

1984, c. 47, s. 9.

- 110.2.** Subject to the second paragraph of section 110, Chapter III, Chapter IV with the exception of section 44, the second and fourth paragraphs of section 45, sections 46 and 53 and the third paragraph of section 57 and section 73 of the Public Administration Act (chapter A-6.01) apply to the National Assembly.

2000, c. 8, s. 103; 2011, c. 19, s. 28.

- 111.** The Office may, by regulation, prescribe the rules governing the expenditures of the Assembly.

1982, c. 62, s. 111.

- 112.** *(Repealed).*

1982, c. 62, s. 112; 2000, c. 15, s. 95.

- 113.** The Office shall fix the maximum number of staff needed by the Assembly to administer its services and shall determine the apportionment of the staff.

The Office shall adopt the administrative organization plan of the Assembly.

1982, c. 62, s. 113; 1984, c. 47, s. 10.

- 114.** The organization and use of the premises as well as the use of the equipment of the Assembly and its services must be approved by the Office.

1982, c. 62, s. 114.

DIVISION III SERVICES OF THE ASSEMBLY

- 115.** The President of the Assembly shall direct and administer the services of the Assembly.

1982, c. 62, s. 115.

- 116.** The President is responsible for the security of the buildings or premises occupied by the Members and the members of the personnel of the Assembly; he shall also provide protection for persons and property in the premises.

For that purpose, the President may establish an advisory committee to assist him with the examination and implementation of security and protective measures; the members of the committee are entitled, where such is the case, to the fees and other allowances determined by the Office.

1982, c. 62, s. 116; 1984, c. 47, s. 11.

- 117.** If the President is absent, or at the President's request, the Vice-President designated by the President shall act as President. Only the first Vice-President or the second Vice-President may be designated for that purpose.

If the President is unable to act or the office of President is vacant, the first Vice-President shall act as President during such inability or vacancy.

However, if the first Vice-President also is unable to act or the office of first Vice-President also is or also becomes vacant, the second Vice-President shall replace the first Vice-President in the circumstances described in the second paragraph.

1982, c. 62, s. 117; 1998, c. 54, s. 2; 1999, c. 3, s. 6; 1999, c. 40, s. 25.

- 118.** The President may delegate some of the President's administrative responsibilities to the first or the second Vice-President who shall, within the limits of the delegation, have the same powers and duties as the President.

1982, c. 62, s. 118; 1999, c. 3, s. 6.

- 119.** Under the responsibility of the President, the Secretary General of the Assembly has the supervision of the members of the personnel of the Assembly; he shall administer its day-to-day business and exercise the other functions assigned to him by the Office.

The orders of the Secretary General must be carried out in the same manner as those of the President.

1982, c. 62, s. 119.

- 120.** Every member of the personnel of the Assembly, except a casual employee, is a member of the personnel of the civil service, whether appointed under the Public Service Act (chapter F-3.1.1) or by derogation by virtue of the second paragraph of section 110, unless, in the latter case, the Office excludes him therefrom.

The Secretary General has, in respect of the personnel of the Assembly, the powers vested in a deputy minister by the Public Service Act.

1982, c. 62, s. 120; 1983, c. 55, s. 161.

- 121.** The Assembly may vest in the associate secretaries general, in their deeds of appointment, the rank and privileges of an assistant deputy minister.

The associate secretaries general are members of the personnel of the civil service.

1982, c. 62, s. 121.

- 122.** The respective duties of the members of the personnel of the Assembly not expressly defined by law or by the Office are determined by the President.

1982, c. 62, s. 122.

- 123.** No deed, document or writing binds the Assembly or may be attributed to the President unless it is signed by him, by the Secretary General or by another officer, and only, in this last case, to the extent determined by regulation of the Office.

The Office may, however, upon the conditions it fixes, allow the required signature to be affixed by means of an automatic device to such documents as it determines.

The Office may also allow a facsimile of the signature to be engraved, lithographed or printed on such documents as it determines. In such a case, the facsimile has the same force as the signature itself if the document is countersigned by a person authorized by the President.

Any copy of a document forming part of the records of the services of the Assembly and certified true by a person authorized to sign the document under the first paragraph is authentic and has the same force as the original.

1982, c. 62, s. 123.

- 123.1.** The Secretary General shall have custody of the records of the Assembly. He may, however, entrust their care to any members of the personnel of the Assembly he may designate.

1984, c. 27, s. 36.

- 124.** The President may, with the approval of the Office, enter into any agreement with a department, an agency or a person to facilitate the carrying out of this Act.

1982, c. 62, s. 124.

DIVISION III.1 OFFICE STAFF AND MEMBER'S STAFF

1983, c. 55, s. 136.

- 124.1.** The Leader of the Official Opposition, a Member to whom subparagraph 6 of the first paragraph of section 7 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (chapter C-52.1) applies, the President and the Vice-Presidents of the National Assembly, the Government House Leader, the Official Opposition House Leader and the House Leader of a party contemplated in paragraph 6 of section 7 of the said Act, and the Chief Government Whip, the Chief Official Opposition Whip and the Whip of a party contemplated in subparagraph 6 of the first paragraph of section 7 of the said Act, may appoint their respective executive secretaries and the other persons required for the orderly administration of their respective offices.

Members other than those contemplated in the first paragraph or in sections 11.5 and 11.6 of the Executive Power Act (chapter E-18) may appoint such persons as are required to assist them in carrying out their duties.

For the duration of the 42nd Legislature, the first paragraph is amended by replacing “, the Chief Official Opposition Whip and the Whip of a party contemplated in subparagraph 6 of the first paragraph of section 7 of the said Act,” by “and the Chief Official Opposition Whip”.

1983, c. 55, s. 136; 2012, c. 24, s. 2; 2018, c. 28, s. 4.

- 124.2.** The standards and scales according to which the executive secretary and the other members of the office staff are recruited, appointed and remunerated, as well as their other conditions of employment, are fixed by regulation of the Office of the National Assembly.

This section applies to the members of the staff of a Member.

1983, c. 55, s. 136.

- 124.3.** The Office of the National Assembly shall, by a unanimous decision, after consultation with the Ethics Commissioner appointed under the Code of ethics and conduct of the Members of the National Assembly (chapter C-23.1), adopt rules of ethics applicable to the office staff of the House officers of the National Assembly and the staff of the Members referred to in section 124.1. The Office shall publish the rules on the website of the National Assembly.

2010, c. 30, s. 119.

DIVISION IV BUDGETARY AND FINANCIAL PROVISIONS

- 125.** The President shall prepare the budget estimates for the Assembly every year. He shall, for that purpose, consult the Office.

Where, during a year, the President foresees that he will be required to exceed the budget estimates, he must prepare supplementary budget estimates and, for that purpose, consult the Office.

Furthermore, the budget estimates and, as the case may be, the supplementary budget estimates must be approved by the Office.

1982, c. 62, s. 125; 1989, c. 22, s. 5.

- 126.** The sums required for the carrying out of this Act shall be taken out of the Consolidated Revenue Fund.

1982, c. 62, s. 126; 1989, c. 22, s. 6.

- 127.** *(Replaced).*

1982, c. 62, s. 127; 1983, c. 55, s. 137; 1984, c. 27, s. 37; 1989, c. 22, s. 6.

- 128.** The Assembly shall put a library, called the “Library of the National Assembly”, at the disposal of its Members and the members of its personnel.

1982, c. 62, s. 128.

- 129.** The head of the Library, his assistants and the other employees of the Library are members of the personnel of the Assembly.

1982, c. 62, s. 129.

- 130.** *(Replaced).*

1982, c. 62, s. 130; 1984, c. 27, s. 38.

- 131.** The head of the Library may update unusable or obsolete documents, transpose them to other data systems or treat them in any other manner approved by the Office.

1982, c. 62, s. 131.

- 132.** The Québec Official Publisher, the departments and the government agencies governed by the Auditor General Act (chapter V-5.01), including bodies referred to in section 6 of that Act, public or private institutions under agreement governed by the Act respecting health services and social services (chapter S-4.2), the regional council established by the Act respecting health services and social services for Cree Native persons (chapter S-5), and the inquiry commissions and study committees set up by the Government shall transmit two copies of the documents they publish to the head of the Library.

1982, c. 62, s. 132; 2010, c. 30, s. 120; 2013, c. 16, s. 89.

CHAPTER V PENAL PROVISIONS

- 133.** Any person other than a Member who performs any act or makes any omission contemplated in sections 55 and 56 is guilty of an offence and liable to a maximum fine of \$10,000.

1982, c. 62, s. 133; 1990, c. 4, s. 67.

- 134.** A Member who commits an act or omission described in section 55, 56 or 85 is guilty of an offence and liable to one or more of the following sanctions, as determined by the Assembly:

- (1) a reprimand;
- (2) a penalty, specifying the amount;
- (3) the reimbursement of any unlawful profit;
- (4) the reimbursement of the indemnities, allowances or other sums received as a Member while the offence continued;
- (5) the loss of his or her seat.

A sanction is applicable as soon as the Assembly imposes it.

1982, c. 62, s. 134; 2010, c. 30, s. 121.

- 135.** *(Replaced).*

1982, c. 62, s. 135; 2010, c. 30, s. 121.

- 136.** *(Replaced).*

1982, c. 62, s. 136; 2010, c. 30, s. 121.

- 137.** The Assembly is fully competent to judge any offence provided for in section 134 and to apply the penalties prescribed therein.

1982, c. 62, s. 137; 2010, c. 30, s. 122.

- 138.** Where the Assembly condemns a Member to pay or reimburse an amount for an offence against this Act, it may, in default of payment, have its decision homologated by the Superior Court or the Court of Québec, according to the amount involved.

The decision thereby becomes executory as a judgment of that court in its civil law jurisdiction.

1982, c. 62, s. 138; 1988, c. 21, s. 66.

- 139.** Every sum received under this chapter is paid into the Consolidated Revenue Fund.

1982, c. 62, s. 139.

CHAPTER VI TRANSITIONAL AND FINAL PROVISIONS

- 140.** *(Replaced).*

1982, c. 62, s. 140; 1989, c. 22, s. 7.

- 141.** *(Replaced).*

1982, c. 62, s. 141; 1989, c. 22, s. 7.

- 142.** The Standing Orders of the National Assembly of Québec, any sessional order, and any resolution, decision or order of the commissioners appointed under sections 41 and 82 of the Legislature Act (chapter L-1) and the regulations, orders or orders in council adopted under sections 116, 118 and 119 of the said Act remain in force to the extent that they are consistent with this Act or the Act respecting the Ministère des Communications (chapter M-24), as the case may be, until they are repealed or replaced.

1982, c. 62, s. 142.

- 143.** In any Act, order in council, order, contract or any other document, a reference to a provision of the Legislature Act (chapter L-1), except the provisions of that Act that are not replaced by this Act, is a reference to the equivalent provision of this Act or to the equivalent provision of the Act respecting the Ministère des Communications (chapter M-24) enacted under this Act.

1982, c. 62, s. 143; 1999, c. 3, s. 7.

- 144.** *(Omitted).*

1982, c. 62, s. 144.

- 145.** *(Amendment integrated into c. E-3.1, s. 10).*

1982, c. 62, s. 145.

- 146.** (Amendment integrated into c. F-3.1, s. 92).
1982, c. 62, s. 146.
- 147.** (Amendment integrated into c. F-3.1, s. 118).
1982, c. 62, s. 147.
- 148.** (Amendment integrated into c. I-16, s. 1).
1982, c. 62, s. 148.
- 149.** (Omitted).
1982, c. 62, s. 149.
- 150.** (Amendment integrated into c. I-16, heading of Division II).
1982, c. 62, s. 150.
- 151.** (Omitted).
1982, c. 62, s. 151.
- 152.** (Amendment integrated into c. I-16, s. 5).
1982, c. 62, s. 152.
- 153.** (Amendment integrated into c. I-16, s. 9).
1982, c. 62, s. 153.
- 154.** (Amendment integrated into c. I-16, s. 11).
1982, c. 62, s. 154.
- 155.** (Omitted).
1982, c. 62, s. 155.
- 156.** (Amendment integrated into c. I-16, s. 60).
1982, c. 62, s. 156.
- 157.** (Amendment integrated into c. I-16, s. 61).
1982, c. 62, s. 157.
- 158.** (Amendment integrated into c. I-16, s. 62).
1982, c. 62, s. 158.

- 159.** (Amendment integrated into c. J-2, s. 5).
1982, c. 62, s. 159.
- 160.** (Amendment integrated into c. L-1, s. 85).
1982, c. 62, s. 160.
- 161.** (Amendment integrated into c. L-1, s. 86).
1982, c. 62, s. 161.
- 162.** (Amendment integrated into c. L-1, s. 89).
1982, c. 62, s. 162.
- 163.** (Amendment integrated into c. M-24, heading of chapter I, of chapter II, and ss. 15-19).
1982, c. 62, s. 163.
- 164.** (Amendment integrated into c. S-4, s. 6).
1982, c. 62, s. 164.
- 165.** (Amendment integrated into c. S-20, s. 23).
1982, c. 62, s. 165.
- 166.** (Amendment integrated into c. T-16, s. 133).
1982, c. 62, s. 166.
- 167.** (Repealed).
1982, c. 62, s. 167; 1989, c. 22, s. 7.
- 168.** (This section ceased to have effect on 18 December 1987).
1982, c. 62, s. 168; U. K., 1982, c. 11, Sch. B, Part I, s. 33.
- 169.** (Repealed).
1982, c. 62, s. 169; 1989, c. 22, s. 7.
- 170.** (Omitted).
1982, c. 62, s. 170.

| SCHEDULE I

(Section 15)

OATH OF A MEMBER

I, *(name of the Member)*, declare under oath that I will be loyal to the people of Québec and that I will perform the duties of Member honestly and justly in conformity with the constitution of Québec.

1982, c. 62, Schedule I; 1999, c. 40, s. 25.

| SCHEDULE II

(Section 52)

DECLARATION UNDER OATH

I, *(name of the witness)*, declare under oath that the testimony that I will give will be the truth, the whole truth and nothing but the truth.

1982, c. 62, Schedule II; 1999, c. 40, s. 25.

APPENDIX B

*CODE OF ETHICS
AND CONDUCT OF THE MEMBERS
OF THE NATIONAL ASSEMBLY
(CQLR, C. C-23.1)*

CODE OF ETHICS AND CONDUCT OF THE MEMBERS OF THE NATIONAL ASSEMBLY (CQLR, c. C-23.1)

AS, in their capacity as representatives of the people of Québec, Members of the National Assembly take part in the passage of legislation and the making of regulations, exercise the National Assembly's power of supervision over the actions of the Government and its departments, bodies and agencies, assist individuals and groups who request help in their relations with the State, and participate in public debate;

AS, because of those functions, the people of Québec expect Members to embrace the values of the National Assembly and to observe certain rules of conduct, including, if they are members of the Conseil exécutif, when carrying out their duties as Ministers;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TITLE PRELIMINARY PURPOSE, APPLICATION AND INTERPRETATION

- 1.** The purpose of this Code is to affirm the principal values of the National Assembly embraced by its Members, to set out the rules of conduct which they must observe, and to provide for the application and enforcement of those rules.

2010, c. 30, s. 1.

- 2.** This Code applies to all Members of the National Assembly ("Members"). It also applies to the members of the Conseil exécutif ("Cabinet Ministers") when carrying out their duties as Ministers.

For the purposes of this Code,

- (1) a Cabinet Minister who has not been elected to the National Assembly, or
- (2) as far as the imposition of a sanction for a violation of this Code is concerned, a person who has ceased to be a Member

is deemed to be a Member.

2010, c. 30, s. 2.

- 3.** The Ethics Commissioner is responsible for the administration of this Code and comes under the National Assembly.

The Ethics Commissioner exercises the duties of office within the framework of the rights, privileges and immunities of the National Assembly.

APPENDIX B

This Code does not operate to limit the rights, privileges or immunities of the National Assembly.

2010, c. 30, s. 3.

4. This Code in no way affects the authority conferred by law on the Office of the National Assembly.

2010, c. 30, s. 4.

5. For the purposes of this Code,

(1) “public body” means

(a) a government agency governed by the Auditor General Act (chapter V-5.01);

(b) a body referred to in section 6 of that Act, a public or private institution under agreement governed by the Act respecting health services and social services (chapter S-4.2) or the regional council established by the Act respecting health services and social services for Cree Native persons (chapter S-5); or

(c) any person designated by the National Assembly to carry out duties that come under the National Assembly and any body to which the National Assembly or a committee of the National Assembly appoints the majority of members;

(2) “family member” means the Member’s spouse within the meaning of the Interpretation Act (chapter I-16), or a dependent child of the Member or the Member’s spouse.

2010, c. 30, s. 5; 2013, c. 16, s. 92.

TITLE I VALUES AND ETHICAL PRINCIPLES

6. The following are the values of the National Assembly:

(1) commitment to improving the social and economic situation of Quebecers;

(2) high regard for and the protection of the National Assembly and its democratic institutions; and

(3) respect for other Members, public servants and citizens.

The conduct of Members must be characterized by benevolence, integrity, adaptability, wisdom, honesty, sincerity and justice. Consequently, Members

- (1) show loyalty towards the people of Québec;
- (2) recognize that it is their duty to serve the citizens;
- (3) show rigour and diligence;
- (4) seek the truth and keep their word; and
- (5) preserve the memory of how the National Assembly and its democratic institutions function.

2010, c. 30, s. 6.

7. Members embrace the values set out in this Title.

2010, c. 30, s. 7.

8. Members recognize that these values must guide them in carrying out their duties of office and determining the rules of conduct applicable to them, and be taken into account in interpreting those rules. They strive for consistency between their actions and the values set out in this Title, even when their actions do not in themselves contravene the applicable rules of conduct.

2010, c. 30, s. 8.

9. Members recognize that their adherence to these values is essential to maintain the confidence of the people in them and the National Assembly and enable them to fully achieve their mission of serving the public interest.

2010, c. 30, s. 9.

TITLE II	RULES OF CONDUCT APPLICABLE TO ALL MEMBERS

| CHAPTER I **INCOMPATIBLE OFFICES OR POSTS**

10. The office of member of a municipal council or a school board council is incompatible with the office of Member.

2010, c. 30, s. 10.

11. Employment, a position or any other post to which remuneration or a benefit in lieu of remuneration is attached is incompatible with the office of Member if it is held with

- (1) the Government or one of its departments or a public body;
- (2) the Government of Canada, the government of another province or of a territory, or a department or agency of such a government, except the regular Armed Forces or the Reserve;
- (3) a foreign country; or
- (4) an international non-profit organization.

However, being a Cabinet Member is not incompatible with the office of Member.

This section does not prohibit engaging in remunerated teaching activities or practising a profession within a body referred to in subparagraph *b* of paragraph 1 of section 5, subject to the Member having informed, and obtained permission from, the Ethics Commissioner.

2010, c. 30, s. 11.

12. The post of director or officer of a legal person, partnership or association engaged in professional, commercial, industrial or financial activities is incompatible with the office of President of the National Assembly.

2010, c. 30, s. 12.

13. A Member who, when elected, holds an incompatible office or post within the meaning of section 10 or 11 must resign from that office or post before taking the oath of office.

If a post incompatible with the office of Member devolves on a Member during his or her term, the Member must resign from one or the other within 30 days. Meanwhile, the Member is barred from sitting in the National Assembly.

2010, c. 30, s. 13.

- 14.** A Member must not engage in lobbying within the meaning of the Lobbying Transparency and Ethics Act (chapter T-11.011).

However, this section does not prohibit any activities normally engaged in by Members acting in their official capacity.

In determining whether a Member has engaged in lobbying, the Ethics Commissioner must consult the Lobbyists Commissioner.

2010, c. 30, s. 14.

CHAPTER II CONFLICTS OF INTEREST

- 15.** A Member must not place himself or herself in a situation where his or her private interests may impair independence of judgment in carrying out the duties of office.

2010, c. 30, s. 15.

- 16.** When carrying out the duties of office, a Member must not

- (1) act, attempt to act or refrain from acting, so as to further his or her private interests or those of a family member or non-dependent child, or to improperly further another person's private interests; or
- (2) use the position of Member to influence or attempt to influence another person's decision so as to further the Member's private interests or those of a family member or non-dependent child, or to improperly further another person's private interests.

2010, c. 30, s. 16.

- 17.** A Member must not use, communicate or attempt to use or communicate information obtained in or in connection with the carrying out of the duties of office that is not generally available to the public so as to further the Member's or another person's private interests.

2010, c. 30, s. 17.

- 18.** No Member may, directly or indirectly, be party to a contract with the Government or a department or public body.

However, a Member may

- (1) have interests in an enterprise that is party to such a contract, subject
 - (a) in the case of an enterprise whose securities are not listed on an exchange and for which there is no published market, to informing the Ethics Commissioner as soon as the Member becomes aware of the contract and to the Ethics Commissioner authorizing the Member to retain the interest, on the conditions specified by the Commissioner, such as the creation of a blind trust managed by an independent trustee or the establishment of a blind management agreement with an independent mandatary; and
 - (b) in the case of any other enterprise, to collusion or undue influence being unlikely given the extent of the interests or the circumstances in which the contract is made;
- (2) receive a loan, a reimbursement, a grant, an indemnity or any other benefit from the Government or a department or public body under any Act, regulation or program; and
- (3) hold securities issued by the Government or a public body on the same terms as are applicable to all.

2010, c. 30, s. 18.

- 19.** A Member may claim and receive remuneration or a benefit resulting from a contract mentioned in the first paragraph of section 18 if the contract was entered into and carried out before the Member's election.

2010, c. 30, s. 19.

- 20.** If the Government or a department or public body acquires property belonging in whole or in part to a Member, or a real right affecting such property, the purchase price or indemnity must be set by the Administrative Tribunal of Québec. The Member informs the Ethics Commissioner within 30 days.

2010, c. 30, s. 20.

- 21.** A Member may, in the course of professional or similar activities, receive remuneration to which he or she is entitled even if it is paid in whole or in part by the Government or a department or public body, provided that the service recipient is not the Government or a department or public body.

This section does not prohibit engaging in remunerated teaching activities or practising a profession within a body referred to in subparagraph *b* of paragraph 1 of section 5, subject to the Member having informed, and obtained permission from, the Ethics Commissioner.

2010, c. 30, s. 21.

- 22.** A Member whose election places him or her in a conflict of interest situation must inform the Ethics Commissioner without delay and put an end to that situation within 60 days, unless a different compliance period is set by the Ethics Commissioner.

2010, c. 30, s. 22.

- 23.** A Member placed in a conflict of interest situation during his or her term by the operation of an Act or by entering into a marriage, civil union or de facto union or by accepting a gift, a legacy or the office of liquidator of a succession must inform the Ethics Commissioner without delay and put an end to that situation within 60 days unless a different compliance period is set by the Ethics Commissioner.

2010, c. 30, s. 23.

- 24.** A Member placed in a conflict of interest situation without his or her knowledge or against his or her will must inform the Ethics Commissioner without delay and put an end to that situation within 60 days after becoming aware of it, unless a different compliance period is set by the Ethics Commissioner.

2010, c. 30, s. 24.

- 25.** A Member who knowingly has a private financial interest, not shared by the other Members or the general public, in a matter that is being discussed in the National Assembly or a committee of which he or she is a member must, if present, publicly and without delay declare the general nature of the interest and withdraw from the meeting or sitting without participating in debate or voting on the matter.

The Member must also inform the Secretary General of the National Assembly and the Ethics Commissioner.

2010, c. 30, s. 25.

- 26.** A Member who, while in office, holds another post must avoid any conflict between the duties of that post and the duties of office.

2010, c. 30, s. 26.

CHAPTER III REMUNERATION

- 27.** A Member must not receive, directly or indirectly, any form of salary, indemnity, financial assistance or other benefit from a political party or party authority.

A Member may, however, be reimbursed by a political party or party authority authorized under the Election Act (chapter E-3.3) for reasonable expenses incurred in the course of a partisan activity.

2010, c. 30, s. 27.

- 28.** A former Member must inform the Ethics Commissioner in writing, within 60 days, of any salary, indemnity, financial assistance or other benefit arising from the Member's prior office that is paid directly or indirectly to him or her. The Ethics Commissioner gives public notice of the information within 15 days after receiving it.

2010, c. 30, s. 28.

CHAPTER IV GIFTS AND BENEFITS

- 29.** A Member must not solicit, elicit, accept or receive any benefit, whether for himself or herself or for another person, in exchange for speaking or taking a certain position on any issue, including one that may be brought before the National Assembly or a committee.

2010, c. 30, s. 29.

- 30.** A Member must refuse or, at the first opportunity and after requesting an advisory opinion from the Ethics Commissioner, return to the donor or deliver to the Ethics Commissioner any gift, hospitality or other benefit, whatever its value, that may impair his or her independence

of judgment in carrying out the duties of office, or that may compromise the Member's integrity or that of the National Assembly. If the Member refuses such a benefit, he or she so informs the Ethics Commissioner in writing.

2010, c. 30, s. 30.

- 31.** A Member who receives, directly or indirectly, a gift, hospitality or other benefit that has a value of more than \$200 and chooses not to return it to the donor or not to deliver it to the Ethics Commissioner must, within 30 days, file with the Ethics Commissioner a disclosure statement containing an accurate description of the gift, hospitality or benefit received and specifying the name of the donor and the date on which and circumstances under which it was received.

The Ethics Commissioner keeps a public register in which such statements are recorded.

If a Member returns a thing to the donor, the Member so informs the Ethics Commissioner in writing.

2010, c. 30, s. 31.

- 32.** Section 31 does not apply to gifts, hospitality or other benefits received by a Member in the context of a purely private relationship.

2010, c. 30, s. 32.

- 33.** For the purposes of sections 30 and 31, the repeated receipt of gifts, hospitality and other benefits from the same source must be taken into account.

For the purposes of section 31, the \$200 is computed over a 12-month period.

2010, c. 30, s. 33.

- 34.** The things delivered to the Ethics Commissioner under this chapter are turned over to the Secretary General of the National Assembly. The Secretary General disposes of them as appropriate.

2010, c. 30, s. 34.

CHAPTER V ATTENDANCE RECORD

- 35.** A Member must maintain a good attendance record in carrying out the duties of office. He or she may not be absent from sittings of the National Assembly for an unreasonable length of time without a valid reason.

2010, c. 30, s. 35.

CHAPTER VI USE OF STATE PROPERTY AND SERVICES

- 36.** A Member uses, and allows the use of, State property, including property leased by the State and services made available to the Member by the State, for activities related to the carrying out of the duties of office.

2010, c. 30, s. 36.

CHAPTER VII DISCLOSURE STATEMENT

- 37.** Within 60 days after the notice of his or her election is published in the *Gazette officielle du Québec*, and annually on or before the date set by the Ethics Commissioner, a Member must file with the Ethics Commissioner a statement disclosing his or her private interests and those of his or her family members. The statement is kept at the office of the Ethics Commissioner.

2010, c. 30, s. 37.

- 38.** The disclosure statement must
- (1) state the value of all income and all benefits that the Member has received during the 12 months preceding the disclosure statement and is entitled to receive during the next 12 months for services already provided, as well as the nature and source of that income and those benefits;
 - (2) identify the immovable property, situated in Québec and elsewhere, in which the Member or a family member possesses a real right for purposes other than personal residential use;
 - (3) mention any notice of expropriation issued for property in which the Member or a family member possesses a real right, whether or not it is property described in paragraph 2;

- (4) state the name, occupation and address of any person, other than a financial institution or a family member, who owes money to the Member or a family member or to whom the Member or a family member owes money as a result of a loan in excess of \$3,000, and state the balance owing if in excess of \$20,000;
- (5) state the nature of any professional, commercial or industrial activity engaged in by the Member or a family member during the 12 months preceding the disclosure statement, other than a dependent child's employment that generated income not exceeding \$10,000, and state the name of the employer or enterprise on whose behalf the activity was engaged in or the fact that the activity was engaged in on the Member's or family member's own account;
- (6) state all benefits that the Member or a family member has received during the 12 months preceding the disclosure statement, and is entitled to receive during the next 12 months, from a contract with the Government or a department or public body, other than a contract described in subparagraph 2 or 3 of the second paragraph of section 18, and describe the subject-matter, value and nature of each such contract;
- (7) state the name of any enterprise whose securities are listed on an exchange or for whose securities there is a published market and in which the Member or a family member has an interest, including shares, stocks or pecuniary benefits, and specify the nature and value of that interest;
- (8) state the name of any enterprise, other than an enterprise described in paragraph 7, in which the Member or a family member has an interest, including shares, stocks or pecuniary benefits, and specify the nature and value of that interest; the Member must provide any of the following information about any such enterprise that the Member is able to obtain by making reasonable inquiries:
 - (a) the enterprise's activities and sources of income;
 - (b) the ties that may exist between the enterprise and the Government, a department or a public body;
 - (c) the name and address of the persons who have interests in the enterprise; and
 - (d) the names of any legal persons related to the enterprise;

- (9) list all legal persons, associations and partnerships of which the Member or a family member has been a director, an officer or a partner, including a general or special partner, during the 12 months preceding the disclosure statement;
- (10) provide information concerning any succession or trust under which the Member or a family member is a beneficiary entitled to a value of \$10,000 or more; and
- (11) include any other information that the Ethics Commissioner may require.

2010, c. 30, s. 38.

- 39.** After reviewing a Member's disclosure statement filed under section 37, the Ethics Commissioner may request a meeting with the Member to ensure that adequate disclosure has been made and to discuss the Member's obligations under this Code.

2010, c. 30, s. 39.

- 40.** A disclosure summary of the private interests of each Member is prepared by the Ethics Commissioner after consulting with the Member. The summary must state the general nature of the interests mentioned in the disclosure statement and be made public by the Ethics Commissioner.

The summary must

- (1) set out the nature and source of the income and benefits mentioned in the disclosure statement other than
 - (a) a source of income or benefits if the total of the income and benefits from that source during the 12 months before the relevant date is less than \$10,000; or
 - (b) any other source of income or benefits that the Ethics Commissioner determines should not be disclosed;
- (2) identify any immovable property in which the Member possesses a real right and for which a notice of expropriation has been issued;
- (3) state the nature of any professional, commercial or industrial activity engaged in by the Member during the 12 months preceding the disclosure statement and state the name of the employer or enterprise on whose behalf the activity was engaged in or the fact that the activity was engaged in on the Member's own account;

- (4) describe the subject-matter and nature of any contract described in paragraph 6 of section 38;
- (5) identify any interest with respect to which a blind trust or a blind management agreement has been created in accordance with section 18, and state the name and address of the trustee or mandatary and the date of the trust deed or management agreement;
- (6) list the names of any enterprises, legal persons, partnerships, associations, successions and trusts mentioned in the Member's disclosure statement, and state the nature of the interest; and
- (7) provide any other information that the Ethics Commissioner sees fit to make public.

2010, c. 30, s. 40.

CHAPTER VIII ACTS CONTRARY TO THIS CODE

- 41.** A Member acts contrary to this Code if he or she
- (1) refuses or fails to respond to a written request of the Ethics Commissioner within a reasonable time;
 - (2) refuses or fails to provide within a reasonable time information or a document the Ethics Commissioner has required in writing;
 - (3) misleads or attempts to mislead the Ethics Commissioner in the exercise of the Ethics Commissioner's functions; or
 - (4) in any way hinders the Ethics Commissioner in the exercise of the Ethics Commissioner's functions.

2010, c. 30, s. 41.

TITLE III	SPECIAL RULES OF CONDUCT APPLICABLE TO CABINET MINISTERS

CHAPTER I INTERPRETATION

- 42.** For the purposes of this Title, a Member who is not a Cabinet Minister but is authorized to sit in the Cabinet is considered a Cabinet Minister.

2010, c. 30, s. 42.

APPENDIX B

CHAPTER II EXCLUSIVITY OF DUTIES

- 43.** Cabinet Ministers must devote themselves exclusively to the duties of office. No Cabinet Minister may, for example, hold the post of director or officer of a legal person, partnership or association.

2010, c. 30, s. 43.

- 44.** A Cabinet Minister must, as soon as possible after being sworn in, resign as a director or officer of any legal person, partnership or association and cease any activity other than carrying out the duties of office. Meanwhile, the Cabinet Minister is barred from taking part in Cabinet meetings and in meetings of Cabinet committees or the Conseil du trésor.

2010, c. 30, s. 44.

CHAPTER III CONFLICTS OF INTEREST

- 45.** A Cabinet Minister must, within 60 days after appointment to the Cabinet or after being conferred interests in an enterprise whose securities are listed on an exchange or for whose securities there is a published market, either dispose of such interests, place them in a blind trust managed by an independent trustee or entrust them to an independent mandatary under a blind management agreement. The Cabinet Minister must also comply with any other measure or condition imposed by the Ethics Commissioner.

However, this section does not apply in respect of an investment in an open-ended mutual fund, a guaranteed investment certificate or similar financial instrument, an interest in a pension plan, a registered retirement savings plan that is not self-directed, an employee benefit plan, a life insurance policy or similar annuity, an investment in the Fonds de solidarité des travailleurs du Québec (F.T.Q.) or Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi or any similar interest which the Ethics Commissioner considers should be excluded from the application of this section.

2010, c. 30, s. 45.

- 46.** A Cabinet Minister who, either directly or indirectly, has interests in an enterprise other than an enterprise described in the first paragraph of section 45 must, within 60 days after appointment to the Cabinet or after being conferred any such interests and subject to the exception provided in subparagraph 3 of the second paragraph of section 18, see to it that the enterprise abstain from becoming, directly or indirectly, party to a contract with the Government or a department or public body.

The first paragraph also applies, with the necessary modifications, if such interests are held by a family member of a Cabinet Minister. However, if, in the Ethics Commissioner's opinion, there is no resulting risk of the Cabinet Minister violating this Code or of the public interest not being served, the Ethics Commissioner may, after informing the Secretary General of the Conseil exécutif, authorize contracts or certain types of contracts between an enterprise in which a family member of a Cabinet Minister has interests and the Government or a department or public body, provided that

- (1) neither the department or a public body under the Cabinet Minister's responsibility nor the Ministère du Conseil exécutif are involved in such a contract;
- (2) the enterprise has already been a party to such contracts or types of contracts and the general conditions applicable to them remain identical, even if the department or a public body under the Cabinet Minister's responsibility or the Ministère du Conseil exécutif is involved in the contract;
- (3) no such contract is entered into by mutual agreement between the enterprise and the Government or a department or public body;
- (4) the enterprise is not a sole source supplier with respect to such contracts or types of contracts;
- (5) the Cabinet Minister concerned undertakes never to discuss, with Cabinet colleagues or any other interested person, even privately, any file even remotely connected to a contract that has been or could be made, directly or indirectly between the Government or a department or public body and the enterprise, not to exert or attempt to exert, directly or indirectly, any influence in relation to such a file and to withdraw from any Cabinet meeting or meeting of a Cabinet committee or the Conseil du trésor while such a file is being discussed;

- (6) the Cabinet Minister concerned attaches to his or her disclosure statement a signed document identifying the enterprise, and stating the interests the family member holds in it; and
- (7) the Cabinet Minister concerned informs the deputy minister of the department and the chief executive officers of the public bodies under the Cabinet Minister's responsibility, in writing, that there are to be no contracts between the department or such a public body and an enterprise identified in the document attached to the Cabinet Minister's disclosure statement.

In addition, the Ethics Commissioner may at any time impose any requirement the Ethics Commissioner considers appropriate, limit the contracts or types of contracts authorized or ask that authorized contracts be terminated.

Public notice of any authorization granted under this section or any change made to such an authorization must be given by the Ethics Commissioner without delay and must include the grounds for the authorization or change, the name of the enterprise, the name of the Cabinet Minister and the family member concerned, the nature of the contracts or types of contracts and the conditions imposed by the Ethics Commissioner.

2010, c. 30, s. 46.

- 47.** No Cabinet Minister may acquire, for speculation purposes, land in Québec, interests in land in Québec or interests in a land development company that carries on business in Québec.

2010, c. 30, s. 47.

- 48.** A Cabinet Minister must inform the Ethics Commissioner in writing of any serious effort he or she makes or participates in with respect to an appointment the Cabinet Minister could accept or to any employment, position or post the Cabinet Minister could hold after cessation of office.

In such a case, the Ethics Commissioner may request the Cabinet Minister either to terminate the effort or to comply with conditions the Ethics Commissioner determines. In the latter case, the Ethics Commissioner informs the Premier.

2010, c. 30, s. 48.

- 49.** As soon as a Cabinet Minister becomes aware of a situation described in section 22, 23 or 24, he or she must inform the Ethics Commissioner and the Secretary General of the Conseil exécutif. The Cabinet Minister must undertake in writing to abstain, for as long as the situation is not regularized, from discussing with Cabinet colleagues, even privately, any file even remotely connected to the interest concerned, not to exert or attempt to exert, directly or indirectly, any influence in relation to such a file and to withdraw from any Cabinet meeting or meeting of a Cabinet committee or the Conseil du trésor while such a file is being discussed. The Cabinet Minister must also expressly direct the deputy minister of the department and the chief executive officers of the public bodies under the Cabinet Minister's responsibility never to bring to the Cabinet Minister's attention any information concerning such a file, to deal themselves with such information and to make any decision relating to such a file on their own.

Moreover, if the Ethics Commissioner sets a compliance period different from that provided for in sections 22, 23 and 24, the Ethics Commissioner informs the Secretary General of the Conseil exécutif.

2010, c. 30, s. 49.

CHAPTER IV REMUNERATION

- 50.** Despite section 27, a Cabinet Minister who has not been elected to the National Assembly may receive from an authorized political party or an authorized party authority, from the date he or she becomes a Cabinet Minister until he or she ceases to be a Cabinet Minister or is elected as a Member, whichever occurs first, an amount not exceeding the amount the Cabinet Minister would receive under section 1 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (chapter C-52.1) if he or she were a Member.

That amount must not be taken into account in computing allowances, pensions or benefits provided for by that Act. However, the amount is income for the purposes of article 698 of the Code of Civil Procedure (chapter C-25.01).

2010, c. 30, s. 50; I.N. 2016-01-01 (NCCP).

CHAPTER V DISCLOSURE STATEMENT

- 51.** Within 60 days after being sworn in as a Cabinet Minister, and annually on or before the date set by the Ethics Commissioner, a Member must file with the Ethics Commissioner a statement disclosing his or her private interests and those of his or her family members. The statement is kept at the office of the Ethics Commissioner.

Such a statement must be filed even if the Cabinet Minister has already filed a Member's statement under section 37.

2010, c. 30, s. 51.

- 52.** The disclosure statement must
- (1) state the income, benefits, assets and liabilities of the Cabinet Minister and his or her family members, and their value, including
 - (a) the movable and immovable property, situated in Québec and elsewhere, in which the Cabinet Minister or a family member possesses a real right and the immovable property of which the Cabinet Minister or a family member is the lessee, except movable property intended for personal use; however, any property for which a notice of expropriation has been issued must be added to the disclosure statement;
 - (b) the value of all income and all benefits that the Cabinet Minister or a family member has received during the 12 months preceding the disclosure statement, and is entitled to receive during the next 12 months for services already provided, other than a dependent child's income not exceeding \$10,000, as well as the nature and source of that income and those benefits;
 - (c) information concerning any succession or trust under which the Cabinet Minister or a family member is a beneficiary entitled to a value of \$10,000 or more;
 - (d) (the name, occupation and address of any person, other than a financial institution or a family member, who owes money to the Cabinet Minister or a family member or to whom the Cabinet Minister or a family member owes money as a result of a loan in excess of \$3,000, and the balance owing if in excess of \$10,000;

- (e) the amount of any other debt or surety bond, except
 - i. a debt or surety bond of \$10,000 or less;
 - ii. a debt on movable property intended for personal use; or
 - iii. the balance on a credit card;
- (2) state the nature of any professional, commercial or industrial activity engaged in by the Cabinet Minister during the 12 months preceding his or her swearing in and state the name of the employer or enterprise on whose behalf the activity was engaged in or the fact that the activity was engaged in on the Cabinet Minister's own account;
- (3) state the nature of any professional, commercial or industrial activity engaged in by a family member of the Cabinet Minister during the 12 months preceding the disclosure statement, other than a dependent child's employment that generated income not exceeding \$10,000, and state the name of the employer or enterprise on whose behalf the activity was engaged in or the fact that the activity was engaged in on the family member's own account;
- (4) state all benefits that the Cabinet Minister has received during the 12 months preceding his or her swearing in, and is entitled to receive subsequently, from a contract entered into with the Government or a department or public body before his or her swearing in, other than a reimbursement or indemnity described in subparagraph 2 of the second paragraph of section 18 or a contract described in subparagraph 3 of that paragraph, and describe the subject-matter, value and nature of each such contract;
- (5) state all benefits that a family member of the Cabinet Minister has received during the 12 months preceding the disclosure statement, and is entitled to receive during the next 12 months, from a contract with the Government or a department or public body, other than a reimbursement or indemnity described in subparagraph 2 of the second paragraph of section 18 or a contract described in subparagraph 3 of that paragraph, and describe the subject-matter, value and nature of each such contract;

- (6) state the name of any enterprise whose securities are listed on an exchange or for whose securities there is a published market and in which the Cabinet Minister or a family member has an interest, including shares, stocks or pecuniary benefits, and specify the nature and value of that interest;
- (7) state the name of any enterprise, other than an enterprise described in paragraph 6, in which the Cabinet Minister or a family member has an interest, including shares, stocks or pecuniary benefits, specify the nature and value of that interest, and include any of the following information about any such enterprise that the Cabinet Minister is able to obtain by making reasonable inquiries:
 - (a) the enterprise's activities and sources of income;
 - (b) the ties that may exist between the enterprise and the Government, a department or a public body;
 - (c) the name and address of the persons who have interests in the enterprise; and
 - (d) the names of any legal persons related to the enterprise;
- (8) list all legal persons, associations and partnerships of which the Cabinet Minister has been a director, an officer or a partner, including a general or special partner, during the 12 months preceding his or her swearing in;
- (9) list all legal persons, associations and partnerships of which a family member of the Cabinet Minister has been a director, an officer or a partner, including a general or special partner, during the 12 months preceding the disclosure statement;
- (10) provide information concerning proceedings before a court of law or adjudicative body in respect of which the Cabinet Minister is involved as a party;
- (11) disclose any amount received under section 50; and
- (12) include any other information that the Ethics Commissioner may require.

2010, c. 30, s. 52.

- 53.** A Cabinet Minister must inform the Ethics Commissioner in writing of any material change in the information required in his or her disclosure statement within 60 days after the change occurs.

2010, c. 30, s. 53.

- 54.** After reviewing a Cabinet Minister's disclosure statement filed under section 51, the Ethics Commissioner may request a meeting with the Cabinet Minister to ensure that adequate disclosure has been made and to discuss the Cabinet Minister's obligations under this Code.

2010, c. 30, s. 54.

- 55.** A disclosure summary is prepared by the Ethics Commissioner for each Cabinet Minister and his or her family members after consulting with the Cabinet Minister. The summary must state the general nature of the interests mentioned in the disclosure statement and be made public by the Ethics Commissioner.

With respect to the Cabinet Minister, the summary must:

- (1) state the nature and source of income, benefits, assets and liabilities other than
 - (a) an asset or liability with a value of less than \$10,000;
 - (b) a source of income or benefits if the total of the income and benefits from that source during the 12 months before the relevant date is less than \$10,000; and
 - (c) any other asset, liability or source of income or benefits that the Ethics Commissioner determines should not be disclosed;
- (2) identify any immovable property among the Cabinet Minister's assets for which a notice of expropriation has been issued;
- (3) state the name, occupation and address of a person described in subparagraph *d* of paragraph 1 of section 52, if the Cabinet Minister owes money to that person, and state the balance owing if in excess of \$20,000;
- (4) state the nature of any professional, commercial or industrial activity engaged in by the Cabinet Minister during the 12 months preceding his or her swearing in and state the name of the employer or enterprise on whose behalf the activity was engaged in or the fact that the activity was engaged in on the Cabinet Minister's own account;

- (5) describe the subject-matter and nature of any contract described in paragraph 4 of section 52;
- (6) identify any interest with respect to which a blind trust or a blind management agreement has been created, and state the name and address of the trustee or mandatary and the date of the trust deed or management agreement;
- (7) list the names of any enterprises, legal persons, partnerships and associations mentioned in the Cabinet Minister's disclosure statement, and state the nature of the interest;
- (8) state the nature and source of any benefit received under section 50; and
- (9) provide any other information that the Ethics Commissioner sees fit to make public.

With respect to each family member of the Cabinet Minister, the summary must

- (1) state the names of the enterprises described in paragraph 6 of section 52, unless the interests in those enterprises have been transferred to a blind trust or a blind management agreement; in the latter case, the summary must state the name and address of the trustee or mandatary and the date of the trust deed or management agreement;
- (2) state the names of the enterprises described in paragraph 7 of section 52;
- (3) provide a list of all immovable property having a value of \$10,000 or more in which the family member possesses a real right for purposes other than personal residential use;
- (4) identify any immovable property included in the family member's assets for which a notice of expropriation has been issued;
- (5) provide information concerning any succession or trust under which the family member is a beneficiary entitled to a value of \$10,000 or more;

- (6) state the name, occupation and address of a person described in subparagraph *d* of paragraph 1 of section 52, if the family member owes money to that person, and state the balance owing if in excess of \$20,000; and
- (7) provide any other information that the Ethics Commissioner sees fit to make public.

2010, c. 30, s. 55.

CHAPTER VI POST-TERM ISSUES

56. For the purposes of this chapter, “State entity” means any of the following persons, agencies, bodies or institutions:

- (1) any public body or government agency within the meaning of the Auditor General Act (chapter V-5.01);
- (2) the Université du Québec and its constituent universities, research institutes and superior schools within the meaning of the Act respecting the Université du Québec (chapter U-1);
- (3) any university-level institution referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1), other than those mentioned in paragraph 2;
- (4) any general and vocational college established under the General and Vocational Colleges Act (chapter C-29);
- (5) any school board governed by the Education Act (chapter I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) or the Comité de gestion de la taxe scolaire de l’île de Montréal;
- (6) any private institution accredited for purposes of subsidies under the Act respecting private education (chapter E-9.1);
- (7) any other educational institution more than half of whose expenditures are provided for in the budgetary estimates tabled in the National Assembly otherwise than under a transferred appropriation;
- (8) any public or private institution that is a party to an agreement referred to in the Act respecting health services and social services (chapter S-4.2);

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- (9) the regional council established under the Act respecting health services and social services for Cree Native persons (chapter S-5);
- (10) any municipality or any body referred to in section 18 or 19 of the Act respecting the Pension Plan of Elected Municipal Officers (chapter R-9.3);
- (11) the James Bay Regional Administration and any delegate organization referred to in section 126.4 of the Municipal Powers Act (chapter C-47.1); and
- (12) any agency described in paragraph 4 of section 4 of the Lobbying Transparency and Ethics Act (chapter T-11.011).

2010, c. 30, s. 56; 2013, c. 16, s. 93; 2015, c. 8, s. 217.

- 57.** Former Cabinet Ministers must conduct themselves so as not to obtain undue benefit from their prior office.

2010, c. 30, s. 57.

- 58.** Former Cabinet Ministers must not disclose confidential information obtained in or in connection with the carrying out of the duties of office, and must not give advice to any person based on information not available to the public, obtained in or in connection with the carrying out of the duties of office.

2010, c. 30, s. 58.

- 59.** Cabinet Ministers who acted in connection with a proceeding, negotiation or other transaction may not act for or on behalf of anyone else in the same proceeding, negotiation or other transaction after leaving office.

2010, c. 30, s. 59.

- 60.** Cabinet Ministers may not, in the two years after they leave office,

- (1) accept any appointment to a board of directors or as a member of any body, agency, enterprise or other entity that is not a State entity and with which they had official, direct and significant dealings in the year preceding the cessation in office, or accept employment, a position or any other post within such an entity; and

- (2) unless they are still Members and subject to the prohibition set out in section 14, intervene on behalf of anyone else with any department or other State entity with which they had official, direct and significant dealings in the year preceding their cessation in office.

2010, c. 30, s. 60.

- 61.** A Cabinet Minister in office must, upon discovering that another person who is subject to this chapter is violating a provision of section 59 or paragraph 2 of section 60 in connection with a proceeding, negotiation or other transaction, abstain from dealing with that person within the context of the proceeding, negotiation or other transaction, and inform the Ethics Commissioner in writing. The Cabinet Minister must also see to it that the Minister’s staff and the personnel of the department or any State entity under the Minister’s responsibility also abstain from dealing with that person within the context of the proceeding, negotiation or other transaction.

2010, c. 30, s. 61.

TITLE IV		ADMINISTRATION AND ENFORCEMENT
CHAPTER I		ETHICS COMMISSIONER
DIVISION I		APPOINTMENT, FUNCTIONS AND ORGANIZATION
62.	On the joint motion of the Premier and the Leader of the Official Opposition, after consulting with the Leaders of the other authorized parties represented in the National Assembly and with the approval of two thirds of the Members, the National Assembly appoints an Ethics Commissioner to be responsible for the administration of this Code.	
	2010, c. 30, s. 62.	
63.	The Assembly determines in the same manner the remuneration, employment benefits and other conditions of employment of the Ethics Commissioner.	
	2010, c. 30, s. 63.	

- 64.** The Ethics Commissioner exercises the duties of office exclusively and on a full-time basis.

The Ethics Commissioner exercises any other function assigned by law to the Ethics Commissioner.

2010, c. 30, s. 64.

- 65.** In exercising the duties of office, the Ethics Commissioner focusses on information and prevention and maintains high standards of confidentiality, objectivity and impartiality.

In all interventions and more particularly in determining the rules of conduct applicable to Members, the Ethics Commissioner takes into account the Members' adherence to the values of the National Assembly and the principles set out in Title I.

2010, c. 30, s. 65.

- 66.** The Ethics Commissioner is appointed for a fixed term of five years or less. At the expiry of the term, the Ethics Commissioner remains in office until reappointed or replaced.

The Ethics Commissioner may resign at any time by giving notice in writing to the President of the National Assembly. The Ethics Commissioner may only be removed by a resolution of the Assembly approved by two thirds of the Members.

2010, c. 30, s. 66

- 67.** If the Ethics Commissioner leaves office or is unable to act, the Government, after consulting with the Leaders of the authorized parties that are represented in the National Assembly, may designate a person to act as Ethics Commissioner for a period not exceeding six months. The Government determines the designated person's remuneration and conditions of employment.

2010, c. 30, s. 67.

- 68.** Before entering into office, the Ethics Commissioner must take the oath set out in the schedule before the President of the National Assembly.

2010, c. 30, s. 68.

- 69.** The Ethics Commissioner may not

- (1) be related by blood, or connected by marriage or civil union, to a Member of the National Assembly, a person described in the second paragraph of section 2 or the Premier's chief of staff up to the third degree inclusively; or

(2) be a member of a federal, provincial or municipal political party or be a candidate on a ticket in a school election.

2010, c. 30, s. 69.

- 70.** The Ethics Commissioner must not place himself or herself in a situation involving any direct or indirect conflict between the Ethics Commissioner's private interests and the Ethics Commissioner's duties of office.

2010, c. 30, s. 70.

- 71.** The Office of the National Assembly may, by a regulation adopted by a unanimous decision, establish rules applicable to the Ethics Commissioner concerning conflicts of interest.

The Ethics Commissioner must make a disclosure statement every year in accordance with section 38 and publish a disclosure summary in accordance with section 40.

2010, c. 30, s. 71.

- 72.** If, in a specific case, the Ethics Commissioner finds that he or she cannot act in particular because of a conflict of interest situation or because his or her impartiality could be questioned, the Ethics Commissioner, after consulting with the Leaders of the authorized parties that are represented in the National Assembly, refers the case to an ad hoc commissioner.

The provisions applicable to the Ethics Commissioner apply, with the necessary modifications, to the ad hoc Commissioner, and any advisory opinion or report of the ad hoc Commissioner has the same effect as if it had been produced by the Ethics Commissioner.

2010, c. 30, s. 72.

- 73.** Subject to the appropriations voted by the Office of the National Assembly, the Ethics Commissioner determines the maximum number of staff members needed for the exercise of the Ethics Commissioner's functions, their assignment and the level of their positions.

Ethics Commissioner staff members are appointed in accordance with the Public Service Act (chapter F-3.1.1).

2010, c. 30, s. 73.

DIVISION II FINANCIAL AND ADMINISTRATIVE PROVISIONS

- 74.** The Ethics Commissioner prepares budget estimates every year and submits them before 1 April to the Office of the National Assembly, which approves them with or without modification.

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At the Ethics Commissioner's request, the Office of the National Assembly may determine the human, physical, financial and information management resource services to be provided at no charge to the Ethics Commissioner by the National Assembly.

2010, c. 30, s. 74.

- 75.** If, during a fiscal year, the Ethics Commissioner foresees that the budget estimates approved by the Office of the National Assembly will be exceeded, the Ethics Commissioner prepares supplementary budget estimates and submits them to the Office of the National Assembly, which approves them with or without modification.

2010, c. 30, s. 75.

- 76.** Chapter III, Chapter IV with the exception of section 44, of the second and fourth paragraphs of section 45, of sections 46 and 53 and of the third paragraph of section 57, Chapter VI and section 73 of the Public Administration Act (chapter A-6.01) apply to the Ethics Commissioner.

The Office of the National Assembly may, however, by a regulation adopted by a unanimous decision, derogate from that Act by specifying the provisions derogated from and the provisions that are to apply in their place.

2010, c. 30, s. 76.

- 77.** The provisions of the Financial Administration Act (chapter A-6.001) applicable to budget-funded bodies, except sections 30 and 31, apply to the management of the financial resources of the Ethics Commissioner.

The Office of the National Assembly may, however, by a regulation adopted by a unanimous decision, derogate from that Act by specifying the provisions derogated from and the provisions that are to apply in their place.

2010, c. 30, s. 77.

- 78.** The Ethics Commissioner may, by regulation, determine the conditions applicable to the contracts of the Ethics Commissioner.

A regulation under this section comes into force on the date it is approved by the Office of the National Assembly, and is published in the *Gazette officielle du Québec*.

2010, c. 30, s. 78.

- 79.** On or before 30 September each year, the Ethics Commissioner must submit a report on the Ethics Commissioner's activities to the President of the National Assembly, together with financial statements for the preceding fiscal year.

The President of the National Assembly lays the reports and the financial statements before the National Assembly within the next 15 days or, if the Assembly is not sitting, within 15 days of resumption.

2010, c. 30, s. 79.

- 80.** The sums required for the administration of this Code and for the carrying out of the duties of office assigned by law to the Ethics Commissioner are taken out of the Consolidated Revenue Fund.

2010, c. 30, s. 80.

DIVISION III	MISCELLANEOUS

- 81.** The Ethics Commissioner retains his or her authority in respect of a former Member for a period of five years after the end of the person's term. Even after the expiry of that period, the Ethics Commissioner may continue an inquiry that had already begun.

2010, c. 30, s. 81.

- 82.** The Ethics Commissioner must retain all documents relating to a Member for a period of 60 months after he or she ceases to be a Member. The documents are then to be destroyed unless an inquiry under this Code is in progress or has been suspended or a charge has been laid against the Member under an Act, and the documents may be relevant.

2010, c. 30, s. 82.

- 83.** The Ethics Commissioner and the Ethics Commissioner's staff members may not be prosecuted for an act or omission in good faith in the exercise of their functions.

2010, c. 30, s. 83.

- 84.** No civil action may be brought by reason of the publication of a report of the Ethics Commissioner or the publication, in good faith, of an extract from or summary of such a report.

2010, c. 30, s. 84.

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- 85.** The Ethics Commissioner and the persons the Ethics Commissioner has authorized to conduct an inquiry may not be compelled to give testimony relating to information obtained in the exercise of their functions or to produce a document containing such information.

2010, c. 30, s. 85.

- 86.** No remedy under the Code of Civil Procedure (chapter C-25.01), including an application for judicial review, may be made nor any injunction granted against the Ethics Commissioner or the persons the Ethics Commissioner has authorized to conduct an inquiry.

A judge of the Court of Appeal may, on an application, annul by a summary proceeding any decision rendered or order or injunction issued contrary to the first paragraph.

2010, c. 30, s. 86; 2014, c. 1, s. 779; I.N. 2016-01-01 (NCCP).

CHAPTER II ADVISORY OPINIONS OF THE ETHICS COMMISSIONER

- 87.** In response to a request in writing from a Member on any matter respecting the Member's obligations under this Code, the Ethics Commissioner provides the Member with a written advisory opinion containing reasons and any recommendations the Ethics Commissioner considers appropriate. The advisory opinion must be given within 30 days after the Member's request, unless otherwise agreed by the Member and the Ethics Commissioner.

An advisory opinion of the Ethics Commissioner is confidential and may only be made public by the Member or with the Member's written consent, subject to the Ethics Commissioner's power to conduct an inquiry and report on the facts alleged in or discovered in connection with the Member's request.

2010, c. 30, s. 87.

- 88.** An act or omission by a Member is deemed not to be a breach of this Code if he or she previously requested an advisory opinion from the Ethics Commissioner and the advisory opinion concluded that the act or omission did not contravene this Code, so long as the facts relevant to the request were fully and accurately presented to the Ethics Commissioner.

2010, c. 30, s. 88.

- 89.** The Ethics Commissioner may publish guidelines for the Members regarding the application of this Code, provided that no personal information is included.

2010, c. 30, s. 89.

- 90.** The Ethics Commissioner organizes educational activities for Members and the general public on the role of the Ethics Commissioner and the application of this Code.

2010, c. 30, s. 90.

CHAPTER III INQUIRY AND REPORT

- 91.** A Member who has reasonable grounds for believing that another Member has violated a provision of Chapters I to VII of Title II or a provision of Title III may request that the Ethics Commissioner conduct an inquiry into the matter.

The request must be made in writing and set out the reasonable grounds for the belief that this Code has not been complied with. The Ethics Commissioner sends a copy of the request to the Member named in it.

2010, c. 30, s. 91.

- 92.** The Ethics Commissioner may, on the Ethics Commissioner's own initiative and after giving the Member concerned reasonable written notice, conduct an inquiry to determine whether the Member has violated this Code.

2010, c. 30, s. 92.

- 93.** If the Ethics Commissioner considers it necessary, the Ethics Commissioner may specially authorize a person to conduct an inquiry.

The Ethics Commissioner and any such specially authorized person have, for the purposes of an inquiry, the powers and immunity conferred on commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

2010, c. 30, s. 93.

- 94.** The Ethics Commissioner may make agreements with other persons such as the Auditor General and the Lobbyists Commissioner for the conduct of joint inquiries, each under the legislative provisions that person administers.

2010, c. 30, s. 94.

- 95.** If, after a verification, the Ethics Commissioner is of the opinion that there are no grounds for a request for an inquiry, the Ethics Commissioner terminates the inquiry process and records that fact in the report on the matter. Section 98 applies, with the necessary modifications, to the report.

2010, c. 30, s. 95.

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96. The Ethics Commissioner must conduct inquiries in private and with due dispatch. The Ethics Commissioner must allow the Member concerned to present a full and complete defence, including an opportunity to submit observations and, if the Member so requests, to be heard

- (1) first, on whether the Member has violated this Code; and
- (2) after being informed of the Ethics Commissioner's conclusion and the grounds for it, on the sanction that could be imposed.

The Ethics Commissioner must not comment publicly on a verification or inquiry but may confirm that a request for a verification or an inquiry has been received or that a verification or inquiry is under way or has been completed. The Ethics Commissioner may also state why, after a verification, the Ethics Commissioner decided not to conduct an inquiry.

2010, c. 30, s. 96.

97. The Ethics Commissioner may, on the Ethics Commissioner's own initiative or at the request of the Member who was the subject of a request for an inquiry that led to a decision under section 95, conduct verifications to determine whether the complaint was made in bad faith or with intent to harm.

2010, c. 30, s. 97.

98. Following an inquiry, the Ethics Commissioner reports without delay to the President of the National Assembly, the Member under inquiry and the leader of the authorized party to which the Member belongs. The report must include reasons for its conclusions and recommendations.

However, if the Ethics Commissioner conducted the inquiry under section 92, no report is required.

The President of the National Assembly lays the report before the National Assembly within the next three days or, if the Assembly is not sitting, within three days of resumption.

2010, c. 30, s. 98.

99. If the Ethics Commissioner concludes that a Member has violated this Code, the Ethics Commissioner so states in the report and, according to the circumstances, may recommend that no sanction or one or more of the following sanctions be imposed:

- (1) a reprimand;
- (2) a penalty, specifying the amount;
- (3) the return to the donor, delivery to the State or reimbursement of the value of the gift, hospitality or benefit received;
- (4) the reimbursement of any unlawful profit;
- (5) the reimbursement of the indemnities, allowances or other sums received as a Member or a Cabinet Minister while the violation of this Code continued;
- (6) a suspension of the Member's right to sit in the National Assembly, together with a suspension of any indemnity or allowance, until the Member complies with a condition imposed by the Ethics Commissioner;
- (7) the loss of his or her seat as a Member;
- (8) the loss of his or her position as a Cabinet Minister, if applicable.

2010, c. 30, s. 99.

100. If the Ethics Commissioner concludes that a request for an inquiry was made in bad faith or with intent to harm, the Ethics Commissioner may recommend in the report on the matter that one or more of the sanctions provided for in section 99 be imposed.

2010, c. 30, s. 100.

101. The Ethics Commissioner may include in the report any guidelines for the general interpretation of this Code and any recommendations for revision of this Code.

2010, c. 30, s. 101.

CHAPTER IV DECISION OF THE NATIONAL ASSEMBLY

102. A person who is the subject of a report of the Ethics Commissioner and is a Member at that time has the right to reply to the report, within five sitting days after the tabling of the report in the National Assembly,

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by making a statement not exceeding 20 minutes at the time set aside during Routine Proceedings for complaints of breach of privilege or contempt and personal explanations.

If the person who is the subject of the report is not a Member, he or she may address a written notice to the President of the National Assembly within the time set out in the first paragraph asking to be heard by the Assembly. The President convenes the appropriate committee without delay to hear the person's statement, which must not exceed 20 minutes. The report of the committee is then laid before the National Assembly.

2010, c. 30, s. 102.

- 103.** At the sitting following the reply or the tabling of a committee report under section 102, or, if no reply is made or report tabled, on the expiry of the time specified in that section, the National Assembly votes, during Deferred Divisions, on the report of the Ethics Commissioner if the latter recommended the imposition of a sanction. No debate or amendments to the report are admissible.

2010, c. 30, s. 103.

- 104.** Any sanction recommended in a report of the Ethics Commissioner is applicable upon adoption of the report by the National Assembly by the vote of two thirds of the Members.

2010, c. 30, s. 104.

- 105.** The National Assembly is fully competent to apply a sanction under this chapter.

2010, c. 30, s. 105.

- 106.** If the National Assembly orders the payment or reimbursement of a sum of money or the delivery or reimbursement of the value of a benefit, it may have its decision homologated by the Superior Court or the Court of Québec, according to the amount or value involved.

In that case, the decision becomes enforceable as a judgment of that court in civil matters.

2010, c. 30, s. 106.

- 107.** Any sum of money collected under this Code is paid into the Consolidated Revenue Fund.

2010, c. 30, s. 107.

CHAPTER V ADVISORY OPINION OF JURISCONSULT

- 108.** The Office of the National Assembly appoints a jurisconsult by a unanimous vote of its members to be responsible for providing advisory opinions on ethics and professional conduct to any Member who requests it. The jurisconsult may not be a Member.

2010, c. 30, s. 108.

- 109.** The advisory opinions provided by the jurisconsult are confidential, unless the Member concerned consents to their being disclosed.

2010, c. 30, s. 109.

- 110.** The advisory opinions provided by the jurisconsult are not binding on the Ethics Commissioner.

The jurisconsult may not provide an advisory opinion to a Member who is under verification or under inquiry until the verification process or inquiry process is completed.

The Ethics Commissioner notifies the jurisconsult of the beginning and termination of a verification or inquiry. Such a notification is confidential.

2010, c. 30, s. 110.

- 111.** The Office of the National Assembly determines, if need be, the remuneration, employment benefits and other conditions of employment of the jurisconsult and of the personnel the jurisconsult requires.

Sections 69 and 70 and the first paragraph of section 71 apply, with the necessary modifications, to the jurisconsult.

2010, c. 30, s. 111.

- 112.** The jurisconsult is appointed for a term of five years or less. On the expiry of the term, the jurisconsult remains in office until reappointed or replaced.

2010, c. 30, s. 112.

TITLE V	MISCELLANEOUS, AMENDING, TRANSITIONAL AND FINAL PROVISIONS

- 113.** Despite section 168 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), that Act does not apply to this Code or to any other legislative provision that assigns a function to the Ethics Commissioner.
- _____
- 2010, c. 30, s. 113.
- 114.** No later than 1 January 2015 and every five years after that, the Ethics Commissioner must report on the carrying out of this Code and the advisability of amending it.
- The report is submitted to the President of the National Assembly, who tables it in the Assembly within 15 days or, if the Assembly is not sitting, within 15 days of resumption. The competent committee of the National Assembly subsequently examines the report.
- _____
- 2010, c. 30, s. 114.
- 115.** *(Amendment integrated into c. A-23.1, s. 17).*
- _____
- 2010, c. 30, s. 115.
- 116.** *(Amendment integrated into c. A-23.1, s. 37).*
- _____
- 2010, c. 30, s. 116.
- 117.** *(Omitted).*
- _____
- 2010, c. 30, s. 117.
- 118.** *(Amendment integrated into c. A-23.1, s. 85.1).*
- _____
- 2010, c. 30, s. 118.
- 119.** *(Amendment integrated into c. A-23.1, s. 124.3).*
- _____
- 2010, c. 30, s. 119.
- 120.** *(Amendment integrated into c. A-23.1, s. 132).*
- _____
- 2010, c. 30, s. 120.
- 121.** *(Amendment integrated into c. A-23.1, s. 134).*
- _____
- 2010, c. 30, s. 121.

- 122.** *(Amendment integrated into c. A-23.1, s. 137).*
2010, c. 30, s. 122.
- 123.** *(Amendment integrated into c. E-18, ss. 11.7-11.10).*
2010, c. 30, s. 123.
- 124.** *(Omitted).*
2010, c. 30, s. 124.
- 125.** *(Amendment integrated into c. J-3, Schedule II).*
2010, c. 30, s. 125.
- 126.** *(Amendment integrated into c. P-32, s. 15).*
2010, c. 30, s. 126.
- 127.** The Règlement sur les conflits d'intérêts du juriconsulte, made on 23 November 1983 by Decision 57 of the Office of the National Assembly, applies to the juriconsult appointed under section 108.
2010, c. 30, s. 127.
- 128.** Until the coming into force of rules of ethics adopted under section 124.3 of the Act respecting the National Assembly (chapter A-23.1), sections 56 to 61 of this Code apply, except in respect of support staff, to the office staff of the House officers of the National Assembly and the staff of the Members referred to in section 124.1 of the Act respecting the National Assembly if they work for a Member referred to in section 42 of this Code; however, the two-year compliance period prescribed in section 60 is reduced to one year.
2010, c. 30, s. 128.
- 129.** Until the coming into force of rules of ethics adopted under section 11.7 of the Executive Power Act (chapter E-18), the following provisions stand in lieu of such rules for the staff of a minister's office:
- (1) sections 35 and 36 of the Directive concernant le recrutement, la nomination, la rémunération et les autres conditions de travail du personnel des cabinets de ministre (Directive 4-83 consolidated by C.T. 164805 dated 30 June 1987); and

- (2) sections 56 to 61 of this Code, except in respect of support staff; however, the two-year compliance period prescribed in section 60 is reduced to one year.

Sections 35 and 36 referred to in subparagraph 1 of the first paragraph cease to have effect on the date of coming into force of the rules of ethics adopted under section 11.7 of the Executive Power Act.

2010, c. 30, s. 129.

- 130.** A Cabinet Minister in office on 1 July 2011 must, not later than 30 September 2011, file a disclosure statement with the Ethics Commissioner in accordance with section 51.

A Member who is not a Cabinet Minister and is in office on 1 October 2011 must, not later than 31 December 2011, file a disclosure statement with the Ethics Commissioner in accordance with section 37.

2010, c. 30, s. 130.

- 131.** No request for an advisory opinion submitted by a Member who is not a Cabinet Minister may be accepted by the Ethics Commissioner before 1 October 2011.

2010, c. 30, s. 131.

- 132.** The Office of the National Assembly may appoint a jurisconsult in accordance with section 108 before 1 July 2011. However, no request for an advisory opinion submitted by a Cabinet Minister may be accepted by the jurisconsult before 1 July 2011, and no such request submitted by a Member who is not a Cabinet Minister may be accepted by the jurisconsult before 1 October 2011.

2010, c. 30, s. 132.

- 133.** *(Omitted).*

2010, c. 30, s. 133.

| SCHEDULE

(Section 68)

OATH

I, *(name)*, declare under oath that I will exercise the functions of Ethics Commissioner with honesty and justice.

I further declare under oath that I will not reveal or disclose, unless duly authorized, anything that may come to my knowledge in or in connection with the exercise of my functions.

2010, c. 30, Schedule.

APPENDIX C

*STANDING ORDERS
OF THE NATIONAL ASSEMBLY*

STANDING ORDERS OF THE NATIONAL ASSEMBLY

TITLE I	THE ASSEMBLY
CHAPTER I	GENERAL PROVISIONS
SECTION 1	THE PRESIDENT

1 – OFFICE

- Duties** – The President of the National Assembly shall chair the meetings of the Assembly and direct its services; he shall likewise represent it, most particularly in its relations with other parliaments.
- Powers** – In addition to such powers as may be invested in the President by statute, it shall be his office to:
 - call to order, suspend, and adjourn the meetings of the Assembly;
 - preserve order and decorum, for which purpose he shall exercise all the necessary powers;
 - enforce the Standing Orders;
 - propose every motion from the Chair, put the question thereon, and declare the sense of the Assembly;
 - convene and preside over conferences with the House leaders of the parliamentary groups;
 - organize the limited debates;
 - choose the place in which the Assembly shall meet when it cannot meet in the Parliament Building;
 - exercise such other powers as he may require to perform his duties and to protect the privileges of the Assembly and its Members.
- Neutrality** – The Member called to the Chair of the Assembly as its President shall, during his tenure of that office, belong to no parliamentary group.
- Abstention and casting vote** – The President shall take no part in any debate before the Assembly, nor shall he vote: Provided that when the numbers are equal upon any division, he shall give the casting vote.

2 – WHEN ELECTION HELD

5. **Election of President** – At the opening of the first meeting in every Legislature and whenever thereafter the office of President may become vacant, the Members of the Assembly shall, by secret ballot, elect one of their number to be President.

The Secretary General shall report any vacancy in the office of President to the Assembly, which shall forthwith elect a new President; and such election shall take precedence over all other business.

2009.04.21

- 5.1. **Sole matter to be considered; hours of meeting; adjournment** – No other business shall be taken at any meeting of the Assembly during which a new President and, if necessary, new Vice-Presidents are to be elected.

Except as otherwise provided in Standing Order 8.10, any meeting of the Assembly held for this purpose shall continue until the new President and Vice-Presidents have been called to the Chair.

Such election being concluded, the Government House Leader shall move the adjournment of the proceedings; and the question on such motion shall be put without debate.

2009.04.21

3 – PRESIDING OFFICER DURING ELECTION

6. **Longest-serving Member** – Whenever it may be necessary to elect a new President, the Chair shall be taken by that Member who has served longest as a Member of this Assembly:

Provided that no Member who stands candidate for the office of President, nor any minister, nor the leader of any parliamentary group, nor any member of the Committee on the National Assembly shall be deemed to have served longest as a Member of the Assembly for the purposes of this Standing Order;

Provided further that when more than one Member satisfies the criteria set forth in the preceding paragraph, the eldest among them shall take the Chair as presiding officer during the election of the President.

Whenever the longest-serving Member is absent or unable to act, the Chair during such election shall be taken by some other Member who shall be chosen in the manner provided in the second and third paragraphs of this Standing Order.

2009.04.21

- 6.1. Powers of Presiding Officer** – The Presiding Officer shall exercise all the powers invested in the President of the Assembly. In particular, he may suspend the proceedings at any time during pleasure.

2009.04.21

- 6.2. Presiding Officer's vote** – The Presiding Officer shall be entitled to vote in the election of the President.

2009.04.21

4 – BALLOTING PROCEDURE

- 7. Eligibility and candidacies** – Every Member who wishes to stand candidate for the office of President shall, not later than at twelve o'clock noon on the day prior to the meeting at which a new President is to be elected, file a declaration of candidacy with the office of the Secretary General.

No Member who is a minister or the leader of a parliamentary group shall be eligible to stand in election for the office of President.

2009.04.21

(See R.C.P. 0.1)

- 7.1. List of candidates** – The Secretary General shall prepare an alphabetical list, by surname, of the candidates for the office of President.

2009.04.21

(See R.C.P. 0.1, 0.2 and 0.3)

- 8. Sole candidate** – If there is but one candidate for the office of President, the Presiding Officer shall declare that Member elected President.

2009.04.21

- 8.1. Multiple candidates; requisite majority** – When two or more Members stand as candidates for the office of President, that Member shall be elected President who shall have received a number of votes that is not less than that of the majority of ballots validly cast.

2009.04.21

- 8.2. Conduct of Members while voting** – No Member shall enter the Assembly Chamber after a ballot has commenced or leave it before the Presiding Officer has suspended the proceedings in order to count the votes.

2009.04.21

- 8.3. Vote** – Each Member shall vote in a booth and then deposit his ballot paper in an urn provided for that purpose and return to his place.

2009.04.21

(See R.C.P. 0.4 to 0.6)

- 8.4. Ballot paper** – The ballot paper shall provide the forename, the surname, and the electoral district of every candidate and shall list the candidates' names in alphabetical order by surname.

Each Member voting shall make his mark in the appropriate circle on the ballot paper using a pencil that the Secretary General shall have handed to him with the ballot paper.

2009.04.21

- 8.5. Counting the votes** – The Secretary General shall count the votes, in the presence of the Ethics Commissioner or, if the Ethics Commissioner is unable to act, in the presence of the Jurisconsult, in some place outside the Assembly Chamber. The election of the President having been concluded, the Secretary General shall destroy all ballot papers together with any record that may show the number of votes received by any candidate.

No person present when the ballots are counted shall divulge the number of votes received by any candidate.

2009.04.21; 2011.10.04

- 8.6. Announcing the result** – Five minutes before the result of a ballot is to be announced, the Presiding Officer shall cause the division bells recalling the Members to be rung.

If some candidate has received the requisite number of votes, the Presiding Officer shall declare that Member elected President.

2009.04.21

(See R.C.P. 0.7)

- 8.7. Subsequent ballot** – If no candidate has received the requisite number of votes, a new ballot shall be taken as provided in the present section.

2009.04.21

(See R.C.P. 0.8)

- 8.8. New list of candidates** – The Secretary General shall prepare an alphabetical list of the names of the candidates for the subsequent ballot.

He shall exclude from such list the names of the candidate or candidates who received the smallest number of votes during the previous ballot. He shall likewise exclude the name of every candidate who received five votes or fewer, unless in so doing he would exclude every candidate, or prevent the election of some candidate as President.

2009.04.21

(See R.C.P. 0.2 and 0.8)

- 8.9. Equality of numbers** – When every candidate has received the same number of votes during a ballot, the name of no candidate shall be excluded from the list of candidates prepared for the subsequent ballot:

Provided that when the numbers are equal during two consecutive ballots, the Presiding Officer shall, before any further ballot is taken, suspend the proceedings for sixty minutes.

2009.04.21

- 8.10. Adjournment of proceedings** – When the numbers are equal during three consecutive ballots, the Presiding Officer shall adjourn the Assembly and the proceedings respecting the election of a new President shall be resumed at the next meeting.

Except as otherwise provided, the rules set forth in the present section shall apply during such subsequent meeting.

2009.04.21

- 8.11. Withdrawal of candidacy** – A Member may, before any ballot, withdraw his candidacy for the office of President either orally before the Assembly or by prior written notice to the Secretary General.

2009.04.21

(See R.C.P. 0.3)

5 – ELECTION OF VICE-PRESIDENTS

- 9. Election of Vice-Presidents** – A First, a Second, and a Third Vice-President shall be elected severally, with the President in the Chair, as follows:

The First and Second Vice-Presidents shall be elected from among the Members of the parliamentary group forming the Government, and the Third Vice-President shall be elected from among those of the parliamentary group forming the Official Opposition.

1999.04.15

- 9.1. Nominations** – Any Member may, without notice, propose some other Member to assume the office of First, Second, or Third Vice-President. Each Member shall be proposed upon a separate motion, to which no amendment shall be received.

1999.04.15

- 9.2. Putting the question** – If only one Member is proposed for some office of Vice-President, that Member shall be deemed elected.

If two or more Members are proposed, the motions proposing them shall be debated together. The debate concluded, the question shall be put on the several motions in the order in which they were made, until one of them shall have been carried: Provided always that a motion by the Prime Minister respecting the offices of First and Second Vice-President shall be put before any other; and the same procedure shall apply with regard to a motion by the Leader of the Official Opposition respecting the office of Third Vice-President. In the event of an equality of numbers, a motion shall be declared defeated.

1999.04.15; 2009.04.21

- 9.3. Vacancy** – Whenever some office of Vice-President becomes vacant, there being no vacancy in that of the President, the election of a new Vice-President shall be held during the Routine Proceedings when Motions Without Notice are entered upon.

2009.04.21

6 – UNAVOIDABLE ABSENCE OF PRESIDENT AND VICE-PRESIDENTS

- 10. Unavoidable absence of President** – In the unavoidable absence of the President or whenever asked by him to do so, a Vice-President shall take the Chair, and he shall perform the duties of the President and exercise his authority in relation to all proceedings of the Assembly.

- 11. Unavoidable absence of President and Vice-Presidents** – Whenever the President and the Vice-Presidents are absent or unable to act, the Secretary General shall so advise the Assembly.

The Assembly shall appoint one of its Members to take the Chair temporarily; and the Member so appointed shall perform the duties of the President and exercise his authority in relation to all proceedings of the Assembly.

The longest-serving Member of the Assembly, as defined in Standing Order 6, shall chair the proceedings leading to the appointment of a Member to take the Chair temporarily.

2009.04.21

- 11.1. Nominations** – Any Member may, without notice, propose some other Member to take the Chair in the absence of the President. Each Member shall be proposed upon a separate motion, to which no amendment shall be received.

2009.04.21

- 11.2. Putting the question** – If but one Member is proposed, the Presiding Officer shall declare him elected to take the Chair in the absence of the President.

When two or more Members are proposed, the motions proposing them shall be debated together. The debate concluded, the question shall be put on the several motions in the order in which they were made, until one of them shall have been carried: Provided always that a motion by the Prime Minister shall be put before any other. In the event of an equality of numbers, a motion shall be declared defeated.

2009.04.21

- 12.** Repealed.

2009.04.21

SECTION 2 PARLIAMENTARY GROUPS

- 13. “Parliamentary group” defined** – Any group of not fewer than twelve Members returned to the Assembly by the same political party, or any group of Members returned by a political party that shall have received not less than twenty percent of the popular vote in the most recent general election, shall form a parliamentary group.

Members who do not belong to any parliamentary group, save the President, shall sit as independent Members.

APPENDIX C

- 14. **May join parliamentary group** – Any Member returned to the Assembly during the life of a Legislature may join a parliamentary group or sit as an independent Member.

- 15. **May change affiliation** – Any Member who ceases to belong to a parliamentary group without joining another shall sit as an independent Member.

Any Member sitting as an independent may join a parliamentary group.

- 16. **House leaders** – The leader of each parliamentary group may appoint one of the members of his group to be its House leader. The House leader of the parliamentary group forming the Government shall be known as the Government House Leader; that of the parliamentary group forming the Official Opposition shall be known as the Official Opposition House Leader.

- 17. **Deputy House leaders** – In the Assembly Chamber deputy House leaders may act in the stead of the Government House Leader and the Official Opposition House Leader. A minister may likewise act in the stead of the Government House Leader.

CHAPTER II

ORGANIZATION AND CONDUCT OF PROCEEDINGS

SECTION 1	SUMMONING, SESSIONAL PERIODS, AND HOURS OF MEETING
- 18. **Summoning** – The Assembly shall meet for the opening of a new Legislature on the day appointed for this purpose in the proclamation that summons it.

 - 19. **Sessional periods** – During the life of a Legislature the Assembly shall ordinarily hold two sessional periods each year, as follows:
 - (1) from the second Tuesday in February for sixteen weeks during ordinary hours of meeting followed by two weeks during extended hours of meeting;

 - (2) from the third Tuesday in September for ten weeks during ordinary hours of meeting followed by two weeks during extended hours of meeting.

2009.04.21

19.1. Work in electoral districts – At the beginning of each of the said sessional periods the President shall, after having conferred with the House leaders, allot in the following manner certain weeks for work in the electoral districts during which the Assembly may not ordinarily meet and during which no committee may meet:

- (1) three weeks within the period in which the Assembly may meet during ordinary hours as provided in subparagraph (1) of the first paragraph of Standing Order 19;
- (2) one week within the period in which the Assembly may meet during ordinary hours as provided in subparagraph (2) of the first paragraph of Standing Order 19 and one week after the conclusion of the period in which the Assembly may meet during extended hours as provided in the same subparagraph.

For the purposes of Standing Order 19 any week allotted for work in the electoral districts that falls within a period when the Assembly may meet shall be deemed a week in which the Assembly is meeting.

2009.04.21

20. Ordinary hours of meeting – In periods when the Assembly may meet during ordinary hours it shall meet as follows:

- (1) On Tuesdays from 1.40 o'clock until 9.30 o'clock p.m., the proceedings being suspended from 6.00 o'clock until 7.30 o'clock p.m.
- (2) On Wednesdays and Thursdays from 9.40 o'clock a.m. until 6.00 o'clock p.m., the proceedings being suspended from 1.00 o'clock until 3.00 o'clock p.m.

The Assembly may also resolve, on motion without notice by the Government House Leader, which motion may not be debated, to meet on a Monday during the hours provided in subparagraph (1) of the first paragraph of this Standing Order.

Whenever it may be expedient to do so in order to give effect to Standing Orders 271 or 278, and upon request to the President of the Assembly by the Government House Leader, a sitting envisaged in subparagraph (2) of the first paragraph of this Standing Order may continue as of 7.30 o'clock p.m. The President shall inform the Assembly of such request at the earliest opportunity, and the proceedings shall accordingly be suspended from 6.00 o'clock until 7.30 o'clock p.m.

1998.10.21; 2009.04.21; 2015.10.07

21. Extended hours of meeting – In periods when the Assembly may meet during extended hours it shall meet as follows:

- (1) On Tuesdays from 1.40 o'clock until 9.30 o'clock p.m., the proceedings being suspended from 6.00 until 7.30 o'clock p.m.;
- (2) On Wednesdays from 9.40 o'clock a.m. until 6.00 o'clock p.m., the proceedings being suspended from 1.00 o'clock until 3.00 o'clock p.m.;
- (3) On Thursdays from 9.40 o'clock a.m. until 10.30 o'clock p.m., the proceedings being suspended from 1.00 o'clock until 3.00 o'clock p.m. and from 6.00 o'clock until 7.30 o'clock p.m.;
- (4) On Fridays from 9.40 o'clock a.m. until 1.00 o'clock p.m.

The Assembly may also resolve, on motion without notice by the Government House Leader, which motion shall be moved during the Routine Proceedings when Motions Without Notice are entered upon, to meet on a Monday during the hours appointed in subparagraph (1) of the first paragraph of this Standing Order.

The mover of such motion and a representative of every parliamentary group in opposition may speak to the motion for up to five minutes each, and the mover may thereafter speak for up to two minutes in reply.

Whenever it may be expedient to do so in order to give effect to Standing Orders 271 or 278, and upon request to the President of the Assembly by the Government House Leader, a sitting envisaged in subparagraph (2) of the first paragraph of this Standing Order may continue as of 7.30 o'clock p.m. The President shall inform the Assembly of such request at the earliest opportunity, and the proceedings shall accordingly be suspended from 6.00 o'clock until 7.30 o'clock p.m.

1998.10.21; 2009.04.21; 2015.10.07

22. Introduction and passage of bill during same sessional period – No bill introduced after the fifteenth day of May or after the fifteenth day of November may be called for final passage during the sessional period in which it is introduced.

2009.04.21

23. Extraordinary sittings – Whenever the Assembly stands adjourned it may at any time, not being a period, day, or hour at which it may ordinarily meet as provided in the present section of these Standing Orders, meet for extraordinary sittings upon request by the Prime Minister.

24. Request for extraordinary sittings – Such request shall be made to the President or, in his absence, to the Secretary General.

25. Extraordinary sittings following prorogation – Whenever the Assembly, having been prorogued, is summoned to meet for extraordinary sittings, the rules pertaining to the opening of a session, save those regarding the address by the Lieutenant Governor, shall be suspended.

2009.04.21

26. Repealed.

2009.04.21

26.1. Extraordinary sittings; hours of meeting – The Government House Leader shall, during the Routine Proceedings when Motions Without Notice are entered upon, make a motion to appoint the hours during which such extraordinary sittings shall be held. Such motion shall specify the matters for which the Assembly has been summoned.

The Government House Leader may thereafter make a motion to introduce an exceptional procedure, pursuant to Standing Order 182.

2009.04.21

27. Limited debate – The causes for which the Assembly has been summoned, the motion envisaged in Standing Order 26.1, and that envisaged in Standing Order 182, if there be one, shall be discussed during one and the same limited debate; and such debate shall not be interrupted at the hours appointed in Standing Orders 20 and 21 for the suspension or the adjournment of the proceedings.

The limited debate having been concluded, the President shall put the question on the motion envisaged in Standing Order 26.1; he shall thereafter likewise put the question on that envisaged in Standing Order 182, if there be one. Should the latter motion be carried, the Routine Proceedings shall be concluded forthwith.

2009.04.21

27.1. Other business; limited debate – When the Assembly has been summoned for the consideration of more than one matter and, at the conclusion of the consideration of the first matter, motions for an exceptional procedure are made, each of the said motions shall be discussed during a limited debate that shall not exceed one hour.

2009.04.21

- 27.2. Conclusion of extraordinary sittings** – Any extraordinary sittings shall be concluded when the Assembly shall have dispatched the matters for which it was summoned.

2009.04.21

- 28.** Repealed.

2009.04.21

SECTION 2 ORDER AND DECORUM

- 29. Meetings in public or in secret** – The Assembly shall meet in public: Provided that it may, on a motion made during the time set aside for motions without notice, resolve to meet in secret.

The mover of such motion and a representative of every parliamentary group may speak to this question for up to ten minutes each, and the mover may thereafter speak for up to five minutes in reply.

- 30. Call to order** – Upon taking the Chair each day the President, having satisfied himself that a quorum is present, shall call the Assembly to order.

- 31. Conduct of Members and strangers** – When the President enters the Assembly Chamber, Members and strangers shall rise and, at his invitation, observe a moment of reflection.

While the Assembly or any committee of the whole is meeting, strangers admitted to the galleries shall remain seated and be silent, and they shall refrain from making any sign of approval or disapproval. In the event of misconduct the President may order any stranger to withdraw.

When the Assembly adjourns, Members and strangers shall rise in their places and remain standing, in silence, until the President has left the Assembly Chamber.

- 32. Decorum** – Members shall keep order and decorum in the Assembly.

They shall occupy the places that the President has assigned them, and they shall remain seated and observe silence unless called upon to speak.

They shall refrain from any course of action that may infringe another Member's freedom of speech or disrupt the orderly conduct of the proceedings.

During the time allotted for oral questions, Members shall also refrain from applauding.

2015.10.07

- 33. Member desiring to speak** – Every Member who desires to speak shall rise in his place and address himself to the President.
- 34. Questions asked of President** – Members may ask of the President questions only about the procedure of the Assembly or its business.
- 35. Words inadmissible in debate** – No Member speaking shall:
- (1) refer to the President or to any other Member except by his title of office;
 - (2) refer to the proceedings of any committee that is meeting in camera before such committee has reported to the Assembly;
 - (3) refer to any matter that is under adjudication before a court of law or a quasi-judicial body, or that is the subject of an inquiry, where such reference may be prejudicial to the interests of any person or party;
 - (4) direct his speech to another Member;
 - (5) cast reflections upon the conduct of another Member, unless he shall present some motion impugning that conduct;
 - (6) impute improper motives to another Member or refuse to take him at his word;
 - (7) use language that is violent, abusive, or insulting;
 - (8) use language that is unbecoming or disrespectful of the Assembly;
 - (9) threaten another Member;
 - (10) utter seditious words.
- 36. Interruption of Member speaking** – When a Member is speaking, no other Member shall interrupt him except to call attention to the want of a quorum or to a point of order or privilege suddenly arising.
- 37. President to be heard without interruption** – Whenever the President rises, any Member then speaking or offering to speak shall resume his seat. All Members shall remain seated while the President is standing.

- 38. President to raise points of order** – The President shall immediately call attention to any breach of order that comes to his notice.
- 39. Member may raise point of order** – A Member may rise at any time to speak to a point of order. He shall do so immediately the irregularity is perceived and shall name the Standing Order he believes to have been breached; and his comments must be strictly relevant to the point raised.
- 40. Arguments on point of order** – The President may allow arguments on a point of order, but they must be strictly relevant to the Standing Order named and the point raised.
- 41. Rulings** – The President shall make his ruling on any point of order at such time as he may deem expedient and, in so doing, he shall explain the reasons for his ruling: Provided that he may instead submit the matter to the Assembly for its decision.

There shall be no discussion of any ruling by the President or the Assembly.

- 42. Naming of Member** – When any Member, upon being called to order twice consecutively for an offence against these rules, wilfully disregards the authority of the Chair, the President may direct him to resume his seat and not again call upon him to speak during the remainder of that sitting day.

If that Member then continues to speak, the President shall again call him to order. Should he still persist in speaking, the President may order him to withdraw from the Assembly Chamber for the remainder of that sitting day.

- 43. Expulsion** – A Member who has been ordered to withdraw from the Assembly Chamber shall take no part in any committee meeting. Should he disregard this prohibition, the President may have him expelled from such meeting.
- 44. President may suspend or adjourn sitting** – The President may, at any time, adjourn the Assembly without question put, or suspend the sitting during pleasure.

SECTION 3 SESSIONS

- 45. First meeting** – Subject to Standing Orders 5 and 5.1, on the opening day of every session the Lieutenant Governor shall first read an address, after which the Prime Minister shall deliver an opening speech. In concluding his speech the latter shall move, “That this Assembly approves the general policy of the Government.”

2009.04.21

- 46. Adjournment of first meeting** – After the opening speech has been delivered, the President shall adjourn the Assembly.
- 47. Effects of prorogation** – Unless the Assembly shall otherwise order, upon the prorogation of a session every select committee appointed by the Assembly shall cease to exist, every order not fully executed shall cease to have effect, and every matter pending and every bill not passed shall lapse: Provided that a prorogation shall not have the effect of nullifying an order for the production or printing of papers.
- 48. Lapsed bill may be proceeded with in next session** – Except when the Assembly has been dissolved, any bill that would otherwise lapse by reason of a prorogation may, on motion without notice by the Government House Leader, be proceeded with in the next session at the stage it had reached when the Assembly was prorogued. Such motion shall be made before the third sitting that follows the conclusion of the debate on the opening speech, and the question thereon shall be decided without debate.

2009.04.21

SECTION 4 OPENING SPEECH DEBATE

- 49. Speech by Leader of Official Opposition** – The debate on the opening speech of the session shall commence on the next sitting day after it is delivered. The Leader of the Official Opposition shall open the debate, and his address shall have precedence.
- 50. Time limits on debate and on speeches; want of confidence motions; grievances** – The opening speech of the session and the debate thereon shall not exceed twenty-five hours. The Prime Minister and the Leader of the Official Opposition, or their representatives, shall be entitled to speak for up to two hours each, and the leaders of any other parliamentary groups, or their representatives, shall be entitled to speak for up to one hour each.

Every Member may speak once in the debate on the opening speech, and in so doing he may discuss any and all matters. While speaking, he may move a motion stating a grievance or a want of confidence motion, which motion shall require no notice and may not be amended.

A representative of the Government may thereafter speak for up to one hour in reply.

2009.04.21

- 50.1. Putting the question** – The debate having been concluded, the question shall be put on any motions stating a grievance, then on any want of confidence motions, and finally on the motion by the Prime Minister.

2009.04.21

SECTION 5 MEETINGS

- 51. Routine Proceedings and Orders of the Day** – Every meeting of the Assembly shall comprise two parts, the Routine Proceedings and the Orders of the Day.

- 52. When Routine Proceedings to be taken** – Every sitting of the Assembly shall commence with the Routine Proceedings.

1998.10.21; 2009.04.21

- 53. Routine Proceedings: sequence** – The Routine Proceedings shall be taken up in the following sequence:

(0.1) Statements by Members;

(1) Statements by Ministers;

(2) Introduction of Bills;

(3) Presenting:

(a) Papers;

(b) Reports from Committees;

(c) Petitions;

(3.1) Oral Answers to Petitions;

(4) Complaints of Breach of Privilege or Contempt and Personal Explanations;

(5) Oral Questions and Answers;

(6) Deferred Divisions;

(7) Motions Without Notice;

(8) Notices of Proceedings in Committees;

(9) Information on the Proceedings of the Assembly.

2009.04.21

54. Orders of the Day: sequence – The Orders of the Day shall be taken up in the following sequence:

- (1) Business Having Precedence;
- (2) Urgent Debates;
- (3) Debates on Reports from Committees;
- (4) Other Business Standing on the Order Paper;
- (5) Business Standing in the Name of Members in Opposition.

SECTION 6 ROUTINE PROCEEDINGS

0.1 – STATEMENTS BY MEMBERS

54.1. Notice of statement – Every Member may make a statement on a specific subject. He shall, not later than at 5.00 o'clock p.m. on the previous day, hand in a notice to be placed on the Order Paper and Notices. Such notice shall specify the subject of the statement.

Upon the expiry of the period envisaged in the first paragraph of this Standing Order the Secretary General shall forward a copy of any notices received to the House leaders and to the independent Members.

2009.04.21

54.2. Substitution – The statement shall be made by the Member who gave notice of it on the day on which it appears on the Order Paper and Notices: Provided that, with his leave, some other Member may make the statement in his stead.

2009.04.21

54.3. Number; time allotted – Not more than ten Members may make statements at any sitting. A Member may speak for up to one minute during his statement.

2009.04.21

54.4. Allocation – At the beginning of each Legislature, and as the need may arise during the life of a Legislature, the President shall, after having conferred with the House leaders, allocate statements among the parliamentary groups; and in so doing he must have regard to the presence of independent Members. He shall likewise determine the order in which such statements are to be made.

2009.04.21

APPENDIX C

- 54.5. End of statements; continuation of sitting** – Twenty minutes after the time appointed for calling the Assembly to order or, if Statements by Members is not yet finished, immediately thereafter, the Assembly shall continue the Routine Proceedings.

During extraordinary sittings, the period envisaged in the first paragraph of this Standing Order shall be ten minutes.

2015.10.07

1 – STATEMENTS BY MINISTERS

- 55. Time allotted; copies to be delivered** – A statement by any minister shall not exceed five minutes. A copy thereof shall have been delivered, in confidence, to the President and to the leaders of the parliamentary groups one hour before the Routine Proceedings are to be taken.
- 56. Comments and reply** – After every such statement the Leader of the Official Opposition and the leader of every other parliamentary group, or their representatives, shall be entitled to comment thereon for up to five minutes each; and the minister shall thereafter be entitled to speak for up to five minutes in reply.

2 – INTRODUCTION OF BILLS

- 57. Procedure** – Bills shall be introduced before the Assembly as provided under Title III of these Standing Orders at Chapter I, Section 2, and at Chapter IV.

3 – TABLINGS

- 58. List of papers required to be tabled** – It shall be the duty of the President to lay upon the Table at the opening of every session a list of the papers that are required in pursuance of any statute to be tabled in the Assembly.

This list shall be published in the Votes and Proceedings.

- 59. Presenting papers** – A minister may lay upon the Table any paper that he deems to be of public interest.
- 60. Answers to petitions and written questions** – The Government House Leader shall lay upon the Table any paper containing the answer to a petition or to a question that a Member has placed on the Order Paper and Notices.

2009.04.21

61. Presenting reports from committees – A report from any standing committee shall be laid upon the Table of the Assembly by the chairman of that committee or by such other member thereof as he may designate.

62. Right to petition – Every person or association of persons may petition the Assembly through one of its Members for the redress of some present grievance that lies within the competence of the State.

2009.04.21

63. Form of petition – A petition may be submitted on paper or in electronic form.

A petition submitted on paper must contain the original signatures of all the petitioners; a petition submitted in electronic form must be initiated and signed on the Assembly's website.

2009.04.21

(See R.C.P. 42 to 45)

63.1. Contents of petition – A petition must state the facts on which it is based as well as the intervention sought. It must contain a clear, concise, and accurate statement of the facts for which the intervention of the Assembly is sought. It must be written in temperate terms and must not exceed 250 words. The petition may identify the group to which the petitioners belong.

2009.04.21

(See R.C.P. 42 to 45)

64. Presenting petitions; abstract of petition – Every Member presenting a petition on paper shall lodge such petition with the Secretary General not later than one hour before the Routine Proceedings are to be taken. If a petition is to be presented in electronic form, it shall be sufficient to hand in notice thereof.

Members shall present petitions at the time set aside for this purpose during the Routine Proceedings: Provided that not more than fifteen minutes shall be allotted for presenting petitions.

A Member when presenting any petition shall lay upon the Table a paper that he shall certify to be true to the petition and in which he shall specify the parties from whom it comes, if any, the number of signatures attached to such petition, the material allegations it contains, and the redress sought.

2009.04.21

(See R.C.P. 44 and 46)

APPENDIX C

64.1. Conservation of petition – The Secretary General shall keep the original of the petition, or the file containing a petition in electronic form, not less than seven days after it has been presented, after which time he shall return it to the Member who lodged the petition.

2009.04.21

64.2. Transmittal of petition – Immediately a petition is presented, the Secretary General shall forward to the House leaders, the independent Members, and the appropriate committee a copy of the paper tabled:

Provided that when an individual petitions the Assembly by reason of a motion it has carried that explicitly blames such individual for words spoken or an act committed, not being words spoken or an act committed in the exercise of some public office, a copy of the paper tabled shall be forwarded to the Committee on the National Assembly.

2009.04.21

64.3. Deliberative meeting; time limit – A committee to which a petition has been referred shall, at the request of one of its members, hold a deliberative meeting within fifteen days of the presentation of such petition to determine whether it will examine the petition.

Whenever requests have been made with regard to more than one petition pursuant to the first paragraph of this Standing Order, a committee may agree to examine several such petitions at one and the same meeting.

2009.04.21

64.4. Motion; requisite majority – A committee shall determine whether to examine some petition as provided in Standing Order 149.

A committee that has agreed to examine more than one petition may choose to group together those concerning the same subject.

2009.04.21

64.5. Refusal to examine petition; notice to Government – If a committee decides not to examine some petition, or if, upon the expiry of the fifteen days provided in Standing Order 64.3, the committee has not agreed to examine the petition, the clerk of the committee shall so inform the Secretary General, who shall immediately forward notice to that effect to the Government House Leader.

2009.04.21

64.6. Acceptance of petition by committee; convening; report; notice to Government – If a committee decides to examine some petition, it may choose to hear its originator, or his representatives, as well as other persons or bodies. The clerk of the committee shall convene such persons or bodies not less than seven days before they are to be heard.

The committee shall lay its report upon the Table not later than 30 days after its decision to examine the petition. Such report shall not be debated in the Assembly.

Immediately the report is tabled in the Assembly, the Secretary General shall transmit a copy of the report together with a notice to the Government House Leader.

2009.04.21

64.7. Time limits not to run – The time limits provided in Standing Orders 64.3 and 64.6 shall not run when the Assembly stands prorogued, or when it stands adjourned for more than fifteen days, or during any week allotted for work in the electoral divisions. They shall likewise not run in any period when the Assembly may meet during extended hours or during the examination of the estimates of expenditure by the standing committees.

2009.04.21

64.8. Answer from the Government – The Government shall answer every petition in writing not later than 30 days after the Secretary General shall have forwarded to the Government House Leader the notice provided for in Standing Orders 64.5 and 64.6.

The answer shall be laid upon the Table at the time set aside during the Routine Proceedings for Presenting Papers. If upon the expiry of the time limit envisaged in the first paragraph of this Standing Order the Assembly is not then meeting, such answer shall be laid upon the Table not later than at the third sitting after the resumption of the proceedings.

The Secretary General shall forward a copy of the answer to the Member who presented the petition.

2009.04.21

64.9. Expiry of time limit; to be placed on Order Paper and Notices – Failing an answer from the Government within the period envisaged in Standing Order 64.8, a petition shall be set down upon the Order Paper and Notices for the next sitting day after the expiry of the said period.

The entry on the Order Paper and Notices shall consist of the subject of the petition and the date on which it was presented.

2009.04.21

- 64.10. Oral Answers to Petitions** – Not later than on the second sitting day after a petition has been set down upon the Order Paper and Notices, at the time set aside during the Routine Proceedings for Oral Answers to Petitions, a minister shall communicate to the Assembly the Government's answer to such petition:

Provided that when two or more petitions concern one and the same subject, the Government may give a single oral answer for all such petitions jointly.

The Secretary General shall inform the Member who presented the petition of the oral answer given by the Government.

2009.04.21

- 64.11. Answer deemed unsatisfactory** – The opinion that a minister's answer to a petition is unsatisfactory cannot be raised as a point of order.

2009.04.21

- 64.12. Prorogation of session** – Save when the Assembly has been dissolved, whenever a session has been prorogued, the provisions of Standing Orders 62 to 64.11 shall continue to apply, notwithstanding Standing Order 47.

2009.04.21

- 65. Tablings to be entered in Votes and Proceedings** – A record of every paper laid upon the Table shall be entered in the Votes and Proceedings.

4 – COMPLAINTS OF BREACH OF PRIVILEGE OR CONTEMPT AND PERSONAL EXPLANATIONS

- 66. Points of privilege** – Every breach of the privileges and immunities of the Assembly or one of its Members may be raised in the Assembly.
- 67. Privilege: general scope** – A point of privilege must raise a matter affecting the peculiar privileges and immunities that have been conferred upon the Assembly or its Members by statute or acquired by custom.
- 68. Statements to be brief** – A Member in raising a point of privilege shall confine himself to a brief statement of the matter that may not be debated.

- 69. How raised** – A Member may speak at any time to a matter of privilege suddenly arising.

He may also notify the President in writing, not later than one hour before the Routine Proceedings are to be taken, that he intends to rise on a matter of privilege. His notice shall state the privilege or immunity he alleges to have been breached and shall briefly set forth the facts complained of.

- 70. Notice of intent to move motion** – Any Member who, in the cases envisaged under Standing Order 317, intends to move a motion calling upon the Assembly to take some measure shall state his intent either in raising the point of privilege or in his notice to the President.

- 71. Notices and personal explanations** – By leave of the President, a Member may explain some matter that, though it not constitute any breach of privilege, yet concerns him as a Member of the Assembly. In particular, he may explain that he has been misquoted or misunderstood, or deny published accusations against him.

The Member's explanation must be concise and must not be so framed as to provoke debate. He shall hand in to the President, not less than one hour before the Routine Proceedings are to be taken, a written notice briefly setting forth the substance of his explanation.

- 72. Contents of notice** – If the Member's explanation is in reply to written words, he shall attach a copy thereof to the notice handed in to the President. If it is in reply to words uttered, these shall be set down in writing and shall accompany the said notice.

- 73. Explanations on behalf of absent Members** – Any Member may likewise explain a matter that concerns another Member who is then absent.

5 – ORAL QUESTIONS AND ANSWERS

- 74. Time allotted for oral questions** – The time allotted for Members to ask oral questions of ministers shall not exceed forty-five minutes: Provided that if at the hour appointed for the proceedings to be suspended oral question period has not been concluded, the proceedings shall not be suspended until oral questions have been concluded.

2009.04.21

- 75. Subject matter of questions** – Oral questions shall relate to matters of urgent or topical public importance for which a minister or the Government is officially responsible. All other questions shall be placed on the Order Paper and Notices.

76. How put – An oral question shall be concisely put. A brief preamble may be allowed in order to place a question in its context.

77. Inadmissible questions – A question should not:

- (1) offer any argument or express any opinion;
- (2) be founded upon a supposition;
- (3) seek a personal or professional opinion;
- (4) suggest its own answer;
- (5) be so framed as to provoke debate.

78. Supplementary questions – One or more supplementary questions may be asked. They must be brief and precise, and arise out of the main question and the Government's answers. The number of supplementary questions allowed shall be at the discretion of the President.

2009.04.21

79. Answers – The answer to an oral question must be concise, be confined to the subject matter of the question, and neither offer any argument nor express any opinion; nor shall it be so framed as to provoke debate.

80. Question taken as notice – The minister to whom an oral question is directed may take such question as notice and answer it at the end of oral question period or on a future sitting day.

If he chooses to answer on a future sitting day, he shall so notify the President in writing not less than one hour before the Routine Proceedings are to be taken on that day. The President shall communicate this notice to the Assembly at the beginning of oral question period and shall set aside after that period such time as may be needed for the minister's answer. He may then allow one supplementary question to be asked.

81. Answer deemed unsatisfactory – The opinion that a minister's answer to a question directed to him is unsatisfactory cannot be raised as a point of order.

82. Minister may decline to answer – A minister to whom an oral question is directed may decline to answer, in particular:

- (1) if he is of the opinion that it would be injurious to the public interest to provide the information sought;

- (2) if such information could be collected only through a considerable expenditure of effort that its usefulness does not warrant.

He must decline to answer such question if in providing the information sought he would contravene subparagraph (2) or (3) of Standing Order 35.

A minister's refusal to answer any question may not be discussed.

6 – DEFERRED DIVISIONS

- 83. Deferred divisions** – Every division that has been deferred to a future sitting day shall be taken during the Routine Proceedings. The division bells shall be rung throughout the Assembly five minutes before the end of oral question period.

7 – MOTIONS WITHOUT NOTICE

- 84. Prescribed motions** – The motions relating to the proceedings of the Assembly that may be moved without notice are prescribed by statute and in these Standing Orders. Such motions shall not be subject to the provisions of Standing Orders 84.1 to 84.3.

2009.04.21

- 84.1. How moved; number** – Notwithstanding Standing Order 188, any Member may, without prior notice, make a motion. Such motion may be debated only by leave of the Assembly without any dissentient voice:

Provided that only one Member from each parliamentary group and only one independent Member may make a motion during any sitting day;

Provided further that one and the same independent Member may make not more than one motion at every third sitting.

2009.04.21

- 84.2. Amendments; subamendments; motion to divide** – Such motion may not be divided; nor may it be amended, save with the leave of its mover. The debate shall be on both the amendment, if there be any, and the main motion; and no subamendment may be moved.

2009.04.21

- 84.3. Sequence** – The President shall determine the sequence in which such motions are to be moved during a sitting in such a way as to ensure rotation among the parliamentary groups.

APPENDIX C

Any motion made by an independent Member shall be the last to be moved.

2009.04.21

8 – NOTICES OF PROCEEDINGS IN COMMITTEES

- 85. Notices by Government House Leader and President** – The Government House Leader shall communicate to the Assembly the notices of proceedings on any business that is to be considered by committees pursuant to an order of reference from the Assembly.

The President shall communicate to the Assembly the notices of proceedings on any business that is to be considered by committees pursuant to an order made on their own initiative.

9 – INFORMATION ON THE PROCEEDINGS OF THE ASSEMBLY

- 86. Information from House leader** – The Government House Leader may, as a matter of course or at the request of some other Member, communicate to the Assembly information on its proceedings:

Provided that any information so requested shall pertain only to business standing on the Order Paper and Notices.

SECTION 7 ORDERS OF THE DAY

1 – BUSINESS HAVING PRECEDENCE

- 87. Business having precedence; sequence** – Subject to Standing Order 184.2, the Orders of the Day for business having precedence shall be taken up in the following sequence:

- (1) the opening speech of the session and, during the debate thereon, the addresses by the leaders of the parliamentary groups or their representatives;
- (2) motions relating to breaches of privilege or contempt;
- (3) motions relating to the conduct of Members of Parliament;
- (4) the budget speech and, during the debate thereon, the addresses by the leaders of the parliamentary groups or their representatives;
- (4.1) the consideration of interim supply;
- (5) the order for resuming the debate on the budget speech;

- (6) the limited debate on the reports from the committees respecting the main estimates;
- (7) the order for resuming the debate on the opening speech;
- (8) want of confidence motions.

Proceedings in all committees shall be suspended during the consideration of the Orders of the Day envisaged in subparagraphs (1) and (4) of this Standing Order.

2009.04.21

2 – URGENT DEBATES

- 88. Request for leave** – Any Member may ask leave to debate a definite and important matter involving the responsibility of the Assembly that requires urgent consideration and cannot be, or could not have been, otherwise discussed. The Member in asking leave may briefly state the arguments in its favour.
- 89. Notice to President** – The Member shall hand in to the President, not later than one hour before the Routine Proceedings are to be taken, a written notice of his request.
- 90. Ruling** – The President shall decide, without debate, whether or not the matter is proper to be discussed.
- 91. Limited debate** – If leave is granted, a limited debate shall arise on the matter submitted; but there shall be no right of reply.

The debate shall expire without question put.

2009.04.21

- 92.** Repealed.

1998.10.21; 2009.04.21

- 93. Number per sitting** – On any sitting day leave may be asked for not more than two such debates, and only one debate may be held.

3 – DEBATES ON REPORTS FROM COMMITTEES

- 94. Reports containing recommendations** – Subject to Standing Order 97, the Assembly shall, not later than fifteen days after a committee has laid upon the Table a report containing recommendations, take such

report into consideration; but this Standing Order shall not apply to any report relating to a bill or to financial commitments or issuing from a deliberative meeting:

Provided that the aforementioned fifteen days shall not run during the debate on the opening speech of the session or the budget speech, or when estimates are under consideration in any committee, or on any day when business having precedence is before the Assembly.

1998.10.21

- 95. Limited debate** – The Government House Leader shall designate the report that is to be discussed. A limited debate may be held on such report, but no amendment thereto shall be received.

This debate shall expire without question put.

4 – OTHER BUSINESS STANDING ON THE ORDER PAPER

- 96. Business to be taken: how determined** – Except as otherwise provided in Standing Order 97, items of business standing on the Order Paper shall be taken up at the discretion of the Government House Leader.

5 – BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION

- 97. When taken** – Business Standing in the Name of Members in Opposition shall be taken on Wednesdays from 3.00 o'clock p.m. until not later than 5.00 o'clock p.m.

This Standing Order shall not apply during any period in which the Assembly shall have extended hours of meeting.

1998.10.21; 2009.04.21

- 97.1. Notice** – A Member wishing to move a motion under Business Standing in the Name of Members in Opposition shall, not later than 12.00 o'clock noon on the sitting day prior to that on which such business is to be taken, hand in a notice thereof for publication in the Order Paper and Notices.

If such notice is handed in on the sitting day prior to that on which such business is to be taken, the President shall, at the time set aside during the Routine Proceedings for Presenting Papers on the day the said notice is handed in, lay upon the Table a copy of the said notice.

Notwithstanding Standing Order 188, a motion standing in the name of a Member in opposition may be moved on the sitting day on which it first appears in the Order Paper and Notices.

1998.10.21; 2011.10.04

- 97.2. Sequence of debates** – The President shall decide the sequence in which such matters are to be raised: Provided that in so doing he shall have regard to the order in which the notices thereof were placed on the Order Paper and Notices or received for publication therein, to rotation among the parliamentary groups, and to the presence of independent Members.

The President shall, at the sitting prior to that at which such business is to be taken, inform the Assembly of the matter that is to be debated.

1998.10.21; 2009.04.21

- 98. Length of debate and time allocation** – A motion, not being a motion respecting a stage in the consideration of a bill, may be debated at up to two consecutive Wednesday meetings. At the conclusion of the debate the question shall be submitted to the Assembly for its decision.

The President shall apportion the time for this debate among the several parliamentary groups, after he shall first have conferred with the House leaders thereof; and in so doing he must have regard to the presence of independent Members.

- 98.1. Amendments; subamendments; motion to divide** – Such motion may not be divided; nor may it be amended, save with the leave of its mover. The debate shall be on both the amendment, if there be any, and the main motion; and no subamendment may be moved.

2009.04.21

- 99. Debate on bill may be prolonged** – A motion respecting a stage in the consideration of a bill may be debated at more than two consecutive Wednesday meetings, and the rules set forth in Title III shall apply.

SECTION 8 ADJOURNMENTS

1 – ADJOURNMENT OF THE DEBATE

- 100. Moving adjournment** – A motion to adjourn the debate shall always be in order, but no subsequent motion to that effect may be made during the same sitting except by a minister or a Deputy Government House Leader. Such motion shall not require notice and may not be amended.
- 101. Time limits on speeches** – The mover of such motion and a representative of every parliamentary group may speak to the question for up to ten minutes each, and the mover may thereafter speak for up to five minutes in reply.

- 102. Resumption of debate** – The Member upon whose motion the debate is adjourned shall be entitled to be heard first when it is resumed. If the debate is adjourned before his address is begun he may, upon its resumption, defer his right to speak to a later period of the debate. But if the debate is adjourned after his address is begun he must claim his right to speak immediately the debate is resumed; otherwise, his address shall be deemed concluded.

2 – ADJOURNMENT OF THE PROCEEDINGS

- 103. Conclusion of sitting** – At the time appointed by these Standing Orders for the Assembly to rise the President shall interrupt the proceedings and adjourn the Assembly without question put. Any debate then in progress shall be deemed adjourned; and any dilatory or superseding motion, not being a hoist motion or a motion that a complicated question be divided, shall thereupon lapse:

If any division is in progress, or any question is then being put from the Chair, the proceedings shall not be adjourned or suspended until the sense of the Assembly shall have been declared.

- 104. When Assembly in committee of the whole** – If at the hour of rising the Assembly is in committee of the whole, the committee shall first report progress, and the President shall then adjourn the Assembly without question put.

- 105. Motion by Government House Leader** – A motion for the adjournment of the proceedings may be made only during the Orders of the Day when no other business is before the Assembly. Such motion must be moved by the Government House Leader, shall require no notice, and may not be amended.

1998.10.21; 2009.04.21

- 106. Time limits on speeches** – The mover of such motion and a representative of every parliamentary group in opposition may speak to the question for up to ten minutes each.

The mover may thereafter speak for up to five minutes in reply.

- 107. Adjournment for more than fifteen days** – Whenever a motion shall have been made to adjourn the proceedings for more than fifteen days, such motion may be discussed in a limited debate.

108. Resolution of Assembly into committee of the whole – When the Orders of the Day have been entered upon, the Government House Leader may move without notice that the Assembly resolve itself into a committee of the whole, which question shall be decided without debate.

109. Chair – The Chair of every committee of the whole shall be taken by a Vice-President of the Assembly.

2009.04.21

109.1. Decorum – Members in a committee of the whole shall not be required to occupy the places that the President has assigned them, save during a recorded division.

2009.04.21

110. Reports – When a matter referred to a committee of the whole has been fully considered, a Member present during the proceedings of the committee shall make an oral report to the Assembly; and the report shall be received without question put.

2009.04.21

111. Suspension of proceedings – If at the time appointed by these Standing Orders for the proceedings to be suspended a matter referred to a committee of the whole has not been fully considered, the chairman shall leave the Chair, and the proceedings shall thereupon be suspended.

1990.10.21; 2009.04.21

112. Adjournment of proceedings; progress – If at the time appointed by these Standing Orders for the Assembly to rise a matter referred to a committee of the whole has not been fully considered, the proceedings of the committee shall be adjourned to a future sitting day, unless a vote is in progress.

A Member present during the proceedings of the committee shall thereupon report progress to the Assembly, and the President shall then adjourn the Assembly.

2009.04.21

113. Motion to adjourn proceedings – Any Member may, without notice, move that the committee of the whole adjourn proceedings.

2009.04.21

114. Debate – Such motion may be made but once during any sitting, save by a minister. It may be discussed in a debate during which the mover of the motion and a representative of every parliamentary group may speak for up to ten minutes each. Such motion may not be amended, and the mover may speak for up to five minutes in reply.

114.1. Adjournment of proceedings; progress – If such motion is carried, the proceedings of the committee shall stand adjourned to a future sitting day.

A Member present during the proceedings of the committee shall thereupon report progress to the Assembly.

2009.04.21

114.2. Vote – Subject to Standing Order 223, the provisions of Standing Orders 219 to 228 shall apply to votes held in committees of the whole.

Before any recorded division is held in a committee of the whole, the chairman thereof shall invite any persons present, not being Members, to withdraw from the Assembly Chamber until the sense of the committee has been declared.

2009.04.21

CHAPTER III COMMITTEES

SECTION 1 COMMITTEE ON THE NATIONAL ASSEMBLY

115. Members – The Committee on the National Assembly shall consist of:

- (1) the President of the National Assembly, who shall be its chairman;
- (2) the Vice-Presidents of the National Assembly;
- (3) the House leaders and whips of the parliamentary groups;
- (4) the chairmen of the standing committees, as soon as they shall have been elected.

2009.04.21

116. Duties – In addition to such other duties as may be conferred upon it by statute and in these Standing Orders, this committee shall:

- (1) draft the Standing Orders and the Rules for the Conduct of Proceedings in the Assembly and its committees and submit them to the Assembly for its approval;

- (2) coordinate the proceedings of the other committees, in particular by naming the committee before which some government department or other body shall be answerable and, where necessary, by clarifying the area of competence of each committee;
- (3) authorize committees to travel or to meet in a place other than the precincts of the National Assembly;
- (3.1) if necessary, hear any persons who, in pursuance of some statute, must be appointed by the Assembly, and report to the Assembly thereon without formulating any observations, conclusions or recommendations;
- (4) attend to any matter not expressly referred to some other committee.

1991.06.20; 1998.10.21; 2009.04.21
(See R.C.P. 1 and 4.1.)

117. Subcommittee on parliamentary reform – The Committee on the National Assembly shall also have power to examine matters relating to parliamentary reform. To this end it shall have a standing subcommittee that shall consist of:

- (1) the President of the National Assembly, who shall be its chairman;
- (2) the Vice-Presidents of the National Assembly, who may not vote;
- (3) the House leaders and the whips of the parliamentary groups;
- (4) three committee chairmen, of whom one shall be a member of a parliamentary group sitting in opposition:

Provided that in the absence of the President or whenever asked by him to do so a Vice-President whom he shall designate shall take the chair of the committee in his stead;

Provided further that a deputy House leader may substitute for a House leader of a parliamentary group.

The standing subcommittee may, on motion by one of its members, consider any matter relating to the powers of the Assembly or its committees and the conduct of their proceedings. It shall make at least one report to the Committee on the National Assembly each year.

1991.06.20; 1999.04.15

117.1. Members – The Committee on Public Administration shall consist of:

- (1) ten permanent members, who shall be apportioned as follows:
 - (a) six Members from the parliamentary group forming the Government;
 - (b) four Members sitting in opposition, not fewer than three of whom shall be from the Official Opposition; and
- (2) eight temporary members, who shall be apportioned as follows:
 - (a) five Members from the parliamentary group forming the Government;
 - (b) three Members from the Official Opposition.

1998.10.21

117.2. Appointment and designation of members – The permanent members of this committee shall be appointed by the Committee on the National Assembly as provided in Standing Order 127; and they shall serve on the committee for two years.

The temporary members of this committee shall be designated by the whips of their respective parliamentary groups, who shall further specify whether each such member is to serve on the committee throughout the proceedings with respect to some particular matter or for a single meeting.

1998.10.21

(See R.C.P. 1.1 and 1.2)

117.3. Temporary members – The temporary members of this committee may take part in all its proceedings, but they may not vote.

1998.10.21

117.4. Participation of Members sitting in opposition – Any independent Member or Member from a parliamentary group sitting in opposition other than the Official Opposition may take part in the proceedings of this committee; but he may not vote or move any motion.

1998.10.21

117.5. Chairman and vice-chairman – The committee shall, at the opening of the first session of every Legislature and, as the necessity may arise, during the course of a Legislature, elect one of its permanent members to be chairman and another to be vice-chairman; and they shall hold office for two years:

Provided that the chairman shall be chosen among the Members from the Official Opposition, and the vice-chairman shall be chosen among those from the parliamentary group forming the Government.

1998.10.21

117.6. Duties – This committee shall:

- (1) examine the financial commitments;
- (2) hear the Auditor General every year with respect to his annual management report;
- (3) hear, as provided in the *Public Administration Act*, each minister who deems it expedient to be so heard and each deputy minister or chief executive officer of a public body, as the case may be, in order to discuss their administrative management when it has been the subject of any report from the Auditor General or the Public Protector;
- (3.1) hear, as provided in the *Public Administration Act*, each minister who deems it expedient to be so heard and each deputy minister or chief executive officer of a public body, as the case may be, at least once every four years in order to discuss their administrative management;
- (3.2) examine the annual report on the implementation of the *Public Administration Act*; and
- (4) examine any other matter that the Assembly may refer to it.

1998.10.21; 2009.04.21

(See R.C.P. 8.1 and 17 to 31)

117.7. Convocation at request of chairman – Unless it is to consider some matter referred to it by the Assembly, the committee shall meet upon notice that its clerk shall send to the members thereof at the request of its chairman. Such notice shall state the purpose, the day, the time, and the place of the meeting, and copies thereof shall be sent to the President, to the chairmen of the other committees, and to the House leaders and the whips of the parliamentary groups.

1998.10.21

117.8. Quorum – The quorum of the committee shall be one third of the number of its permanent members, including its chairman.

The quorum of any subcommittee thereof shall be a majority of its permanent members, including its chairman.

1998.10.21

SECTION 2 SECTORIAL COMMITTEES

118. Names and areas of competence – In addition to the Committee on the National Assembly and the Committee on Public Administration there shall be nine standing committees of the Assembly, whose names and areas of competence shall be as follows:

(1) Committee on Agriculture, Fisheries, Energy and Natural Resources:

Agriculture, fisheries, food, energy, natural resources;

(2) Committee on Planning and the Public Domain:

Land use planning and development, municipal affairs, housing, sport and recreation, local and regional community development;

(3) Committee on Culture and Education:

Culture, education, vocational training, higher education, communications;

(4) Committee on Labour and the Economy:

Industry, trade, tourism, labour, manpower, science, technology, income security;

(5) Committee on Public Finance:

Finance, the budget, government administration, the public service, revenue, services, supply, pension plans;

(6) Committee on Institutions:

Chairmanship of the Conseil exécutif, justice, public security, the Constitution, aboriginal affairs, international and intergovernmental relations;

(7) Committee on Citizen Relations:

Citizen relations, cultural communities, immigration, status of women, the family, seniors, youth, consumer protection;

(8) Committee on Health and Social Services:

Health, social and community services;

(9) Committee on Transportation and the Environment:

Transportation, the environment, wildlife, parks.

1986.03.11; 1994.12.01; 1998.10.21; 2009.04.21; 2009.12.02

119. Orders of reference – The said committees shall, when so ordered by the Assembly, examine:

(1) bills;

(2) the estimates of expenditure;

(3) any other matter that may be referred to them.

120. Orders of initiative – The said committees shall have power, without special reference from the Assembly, to initiate examinations of the following matters:

(1) draft regulations and regulations;

(2) the policy directions, activities, and management of the departments and bodies envisaged in Standing Orders 293.1 and 294;

(2.1) petitions;

(3) any other matter that may be of public interest.

1998.10.21; 2009.04.21

SECTION 3 MEMBERSHIP

121. Members – Every committee shall consist of ten Members, who shall be appointed for two years and shall be apportioned as follows:

(1) six Members from the parliamentary group forming the Government;
and

(2) four Members from the Official Opposition.

1998.10.21

122. Additional members – Notwithstanding Standing Order 121, any independent Member or Member from a parliamentary group sitting in opposition other than the Official Opposition may be appointed to serve as a member of a committee; and such committee shall accordingly consist of twelve Members, who shall be apportioned as follows:

- (1) seven Members from the parliamentary group forming the Government;
- (2) four Members from the Official Opposition; and
- (3) one Member from a group sitting in opposition other than the Official Opposition or one independent Member.

1998.10.21

123. Repealed.

1998.10.21

124. Member by order of Assembly – A minister shall be a member of a committee during its deliberations in pursuance of an order of reference from the Assembly if that order so provides.

125. Member when author of bill – A minister or a Member who introduces a bill shall be entitled to sit as a participating member of the committee that considers it.

126. Allocation of chairmanships – Six committees shall be chaired by Members from the parliamentary group forming the Government and three shall be chaired by Members sitting in opposition.

1998.10.21

127. Selection of chairmen and committee members – Not later than the third day on which the Assembly meets after the election of the President at the opening of a Legislature, and from time to time thereafter as the necessity may arise, the Committee on the National Assembly shall meet to select the committees that are to be chaired by a Member from the group forming the Government and those that are to be chaired by a Member sitting in opposition. It shall also prepare lists of Members to serve on the several committees and shall name the date on which they are first to meet. All such decisions must be unanimous.

The President shall report on this meeting to the Assembly; a Vice-President shall thereupon move concurrence in this report, and the Assembly shall decide the question forthwith.

2009.04.21

- 128. Allocation of chairmanships failing consensus** – Failing consensus on the manner in which the chairmanships of the several committees are to be allocated, the parliamentary groups shall select the committees they wish to be chaired by one of their own Members in the following sequence:

First choice: group forming the Government;

Second choice: group forming the Government;

Third choice: Official Opposition;

Fourth choice: group forming the Government;

Fifth choice: Official Opposition;

Sixth choice: group forming the Government;

Seventh choice: group sitting in opposition other than the Official Opposition, if there be any;

Eighth choice: group forming the Government;

Ninth choice: group forming the Government.

1998.10.21

- 129. Vacancies and permanent substitutions** – The Assembly may, on a motion moved without notice and decided without debate, fill any vacancy or make any permanent substitution in the membership of a committee.

Provided that when the Assembly stands prorogued or adjourned for more than five days, such vacancy may be filled or such permanent substitution may be made by the Committee on the National Assembly.

The President shall report to the Assembly at the earliest opportunity on the meeting of the said committee held for this purpose; a Vice-President shall thereupon move concurrence in this report, and the Assembly shall decide the question forthwith.

- 130. Temporary substitutions** – Any temporary substitution made for a member of a committee shall apply only while some particular matter is under consideration therein. The committee must be notified of such substitution as soon as its proceedings on the matter are begun.

(See R.C.P. 2)

- 131. Substitutions for one meeting only** – Notwithstanding the foregoing, when a committee is to consider some matter that has been referred to it by the Assembly, a substitution may be made for one of its members for an entire meeting. The committee shall be notified of such substitution as soon as this meeting is called to order.

(See R.C.P. 3)

- 132. Participation by other Members** – A Member who has not been appointed to serve on some committee of the Assembly may take part in the proceedings of any of its committees; but he may not vote therein.

A Member who has been appointed to serve on some committee of the Assembly may take part in the proceedings of any other committee, by its leave; but he may not vote or move any motion therein:

Provided that leave shall not be required when such committee is to consider estimates of expenditure.

1998.10.21; 2009.04.21

- 133. Participation by independent Members** – Any independent Member of the Assembly may take part in the proceedings of a committee with respect to a bill, but he may not vote.

SECTION 4 CHAIRMEN, VICE-CHAIRMEN, AND CLERKS

- 134. Chairmen and vice-chairmen to be elected** – Each committee shall, at the opening of the first session of every Legislature and, as the necessity may arise, during the course of a Legislature, elect a chairman and a vice-chairman, who shall hold office for two years.
- 135. How elected** – No member of any committee shall be deemed elected its chairman or its vice-chairman unless a majority of the members thereof from each parliamentary group shall have voted in his favour.
- 136. Presiding officer at election** – The President of the Assembly shall take the Chair of each committee for the election of its chairman.

- 137. Election of vice-chairmen** – The chairman of each committee shall preside at the election of its vice-chairman.

The members of a committee who belong to the same parliamentary group as its chairman shall not be eligible for the office of vice-chairman.

- 138. Duties and powers of chairman** – The chairman shall organize and direct the proceedings of his committee and take part in its deliberations, and he shall be entitled to vote.

- 139. Temporary chairmen** – At the request of its chairman or whenever the Assembly so directs in an order of reference, the proceedings of a committee shall be presided over by a temporary chairman whom the President of the Assembly shall appoint from a list approved by the Committee on the National Assembly.

The temporary chairman of a committee shall take no part in its deliberations.

Unless he is a member of that committee, a temporary chairman shall not be entitled to vote.

- 140. Vacancies** – Whenever the office of chairman of any committee becomes vacant, the vice-chairman of that committee shall take the Chair, and he shall perform the duties of the chairman and exercise his authority. The committee shall, within thirty days, elect a new chairman.

- 141. Absence or inability to act** – In the unavoidable absence of the chairman of any committee or whenever asked by him to do so, the vice-chairman of that committee shall take the Chair, and he shall perform the duties of the chairman and exercise his authority.

Whenever the chairman and the vice-chairman are absent or unable to act, the clerk shall so inform the committee, which shall take the appropriate measures.

(See R.C.P. 6)

- 142. Committee clerks** – In each committee there shall be a public servant appointed by the President of the Assembly to act as its clerk.

(See R.C.P. 7.1)

143. Ordinary hours of meeting – In periods when the Assembly may meet during ordinary hours committees may meet:

- (1) on Mondays from 2.00 o'clock until 6.00 o'clock p.m.;
- (2) on Tuesdays from 10.00 o'clock a.m. until 9.30 o'clock p.m., the proceedings being suspended from 12.00 o'clock noon until 1.40 o'clock p.m. and from 6.00 o'clock until 7.30 o'clock p.m.;
- (3) on Wednesdays and Thursdays from 9.40 o'clock a.m. until 6.00 o'clock p.m., the proceedings being suspended from 1.00 o'clock until 3.00 o'clock p.m.;
- (4) on Fridays from 9.30 o'clock a.m. until 12.30 o'clock p.m.

1998.10.21; 2009.04.21; 2015.10.07

143.1. Extended hours of meeting – In periods when the Assembly may meet during extended hours committees may meet:

- (1) on Mondays from 2.00 o'clock until 6.00 o'clock p.m.;
- (2) on Tuesdays from 10.00 o'clock a.m. until 9.30 o'clock p.m., the proceedings being suspended from 12.00 o'clock noon until 1.40 o'clock p.m. and from 6.00 o'clock until 7.30 o'clock p.m.;
- (3) on Wednesdays and Thursdays from 9.40 o'clock a.m. until 10.30 o'clock p.m., the proceedings being suspended from 1.00 o'clock until 3.00 o'clock p.m. and from 6.00 o'clock until 7.30 o'clock p.m.;
- (4) on Fridays from 9.40 o'clock a.m. until 1.00 o'clock p.m.

1998.10.21; 2009.04.21; 2015.10.07

143.2. Hours of meeting outside sessional periods – During any period, not being a period in which the Assembly may meet pursuant to Standing Order 19, committees may meet:

- (1) on Mondays from 2.00 o'clock until 6.00 o'clock p.m.;
- (2) on Tuesdays, Wednesdays, and Thursdays from 9.30 o'clock a.m. until 6.00 o'clock p.m., the proceedings being suspended from 12.30 o'clock until 2.00 o'clock p.m.;
- (3) on Fridays from 9.30 o'clock a.m. until 12.30 o'clock p.m.

2009.04.21

- 144. Changes in timetable** – By leave of its members without any dissentient voice, a committee may so change the timetable of its proceedings as to continue to meet after the hour appointed for their suspension or adjournment.

By leave of its members without any dissentient voice, a committee that is to hold a deliberative meeting may likewise meet before the hour appointed for its proceedings to begin.

- 145. Number of committees that may meet** – When the Assembly is meeting, no committee that is to meet in the precincts of the Assembly shall do so during the Routine Proceedings; but up to four committees may meet concurrently during the Orders of the Day.

When the Assembly is not meeting, up to five committees may meet concurrently.

2009.04.21

- 146. Referral of matter to committee** – The Assembly may refer any matter to a committee for its examination. Such reference may be ordered either on a motion made by the Government House Leader, which motion cannot be amended but may be discussed in a limited debate that shall not exceed one hour; or on a motion made pursuant to Standing Order 97 by a Member in opposition at a Wednesday meeting. Such order of reference from the Assembly shall have precedence. 1998.10.21

- 147. Convocation by House leader** – A committee that has received an order of reference from the Assembly shall be convened by its chairman upon notice from the Government House Leader. Such notice shall state the purpose, the day, the time, and the place of the meeting, and a copy thereof shall be sent to the President: Provided that if the Assembly is then meeting, the Government House Leader shall convene the committee at the time set aside for this purpose during the Routine Proceedings.

- 148. Convocation at request of chairman** – Unless it is to consider some matter referred to it by the Assembly, a committee shall meet upon notice that its clerk shall send to the members thereof at the request of its chairman. Such notice shall state the purpose, the day, the time, and the place of the meeting, and copies thereof shall be sent to the President and to the House leaders and the whips of the parliamentary groups.

- 149. Proceedings initiated by committee** – Every committee shall have power, on motion by one of its members, to initiate proceedings with respect to some matter; but no such motion shall be deemed carried unless a majority of the members from each parliamentary group shall have voted in its favour.

(See R.C.P. 8)

- 150. Subcommittees** – Every committee shall have power, on motion by one of its members, to appoint a subcommittee consisting of certain of its members for the purpose of examining a matter that has been referred to it by the Assembly or in respect of which it has initiated proceedings; but no such motion shall be deemed carried unless a majority of the members from each parliamentary group shall have voted in its favour.

(See R.C.P. 9 to 9.2)

- 151. Reports from subcommittees** – Every subcommittee shall report to the committee that appointed it.

The report of a subcommittee on an order of reference from the Assembly may be discussed in a limited debate that shall not exceed one hour and during which amendments may be moved thereto; but the committee shall vote only on such amendments. It shall thereafter report to the Assembly.

- 152. Procedure** – Except as otherwise provided, the rules pertaining to committees shall be observed in subcommittees, and subcommittees shall have the like powers as are exercised by committees.

- 153. Joint committees or subcommittees** – Two or more committees or subcommittees may, in conjunction, ask the approval of the Committee on the National Assembly to establish a joint committee or subcommittee, as the case may be, to examine some matter.

These committees shall determine in a deliberative meeting whether it is possible to establish a joint committee or subcommittee.

(See R.C.P. 10)

SECTION 6 MEETINGS

- 154. Procedure** – Except as otherwise provided, the rules pertaining to the Assembly shall be observed in committees.

- 155. Rules may be set aside** – Every committee may, by leave of its members without any dissentient voice, set aside the rules pertaining to the allocation of speaking time.

- 156. Quorum** – The quorum of any committee shall be one third of the number of its members, including its chairman; that of any subcommittee shall be a majority of the number of its members, including its chairman.

The presence of a quorum shall be required whenever a vote is taken, and no decision shall be deemed to have been arrived at by any vote taken when a quorum is not present.

A committee meeting having once been called to order, a quorum shall thereafter be held to be present; but if any member takes notice of the want thereof, or if it appears on a division that a quorum is not present, the chairman shall suspend the proceedings.

If no quorum is present within a reasonable time, the chairman shall adjourn the proceedings.

- 157. Voting** – Voting shall be by a show of hands unless a member of the committee demands a recorded division.

(See R.C.P. 11)

- 158. Notice not required** – No notice shall be required for any motion made in committee.

- 159. Meetings to be public** – Committee meetings, except deliberative meetings, shall be held in public.

- 160. Meetings in camera** – Any committee may resolve to meet in camera; but no motion to that effect shall be deemed carried unless a majority of the members from each parliamentary group shall have voted in its favour.

Any evidence a committee may hear or papers it may receive and any deliberations it may hold while meeting in camera shall be secret and may be disclosed only insofar and under such conditions as the concerned parties and the members of the committee without dissentient voice shall determine.

(See R.C.P. 12 and 13)

- 161. Journal des débats; minutes** – The *Journal des débats* shall record the proceedings of every committee that meets in public pursuant to an order of reference from the Assembly or any statute or Standing Order. In all other cases a committee may ask that its deliberations be so recorded.

Minutes shall be kept of the proceedings at every committee meeting.

(See R.C.P. 14)

162. Tabling of papers – No paper may be tabled before a committee except with the leave of its chairman.

163. Hearings of ministers – Every committee shall hear any minister who asks to speak to some matter that is before it for consideration.

(See R.C.P. 15)

164. Requests for appearance of ministers – A committee that wishes to hear a minister with respect to some matter shall so notify him in writing not less than fifteen days before he is to be heard, unless the minister shall forgo such notice.

The notice shall state the purpose, the day, the time, and the place of the committee's proceedings.

165. Adjournment of proceedings – Any member of a committee may move the adjournment of its proceedings.

Such motion may not be amended, and no subsequent motion to that effect may be made during the same meeting except by the chairman or by a minister who is a member of the committee, nor shall any debate be allowed thereon; but a representative from every parliamentary group may speak for up to ten minutes each.

SECTION 7 CONSULTATIONS

1 – GENERAL CONSULTATIONS

166. Notices of consultations – By means of a notice that the Committee Secretariat shall cause to be published in the *Gazette officielle* and in the newspapers a committee may:

- (1) invite any persons or bodies who may wish to do so to forward briefs to it on paper or in electronic form setting forth their views on some matter. Each brief must be accompanied by a concise summary of its contents;
- (2) invite any persons who may wish to do so to ask to be heard during its public hearings without forwarding a written brief. Such request shall be accompanied by a concise statement of the nature of the presentation to be made.

The notice shall specify that any papers submitted must be forwarded to the Committee Secretariat within a period of not less than thirty days.

2009.04.21

- 167. Public hearings; selection of persons and bodies to be heard** – The committee shall hold a deliberative meeting in which to peruse any briefs and any requests to be heard without a written brief that it may have received. It may then decide to hold public hearings.

Should the committee decide to hold public hearings, it may choose:

- (1) such persons and bodies having lodged briefs as it may wish to hear. It shall determine the total length of each hearing as well as the respective lengths of each witness' presentation and of his exchanges with the committee;
- (2) such persons having asked to be heard without having forwarded a written brief as it may wish to hear. A period not exceeding forty-five minutes shall be set aside for all such presentations. The committee shall determine the total length of each presentation, the respective lengths of each witness' statement and of his exchanges with the committee, and the moment at which he will be heard.

2009.04.21

- 168. Convening of witnesses** – The clerk of the committee shall, at least seven days before they are to attend, convene those persons and bodies that the committee has chosen to hear. The invitation shall state the day, the time, the place, and the total length of each hearing as well as the time that each witness will be allotted for his presentation.

(See R.C.P. 16.2 and 16.3)

- 169. Time allocation during hearings** – The chairman shall allocate among the Members from the parliamentary group forming the Government and those sitting in opposition such time as the committee has decided to allot to each person or body. Subject to the principle of alternation, every Member may speak as often as he wishes, but no Member may speak for more than ten minutes at any one time.

2009.04.21

2 – SPECIAL CONSULTATIONS

- 170. Special invitations** – A committee may also, by special invitation, solicit the views of persons or bodies that have expertise or experience specific to a field it is investigating.

171. Public hearings – The committee shall determine in a deliberative meeting the total length of each hearing and the respective lengths of each witness' presentation and of his exchanges with the committee.

172. Convening of witnesses – The clerk shall convene those persons and bodies that the committee has chosen to hear. The invitation shall state the day, the time, the place, and the total length of each hearing as well as the time that each witness will be allotted for his presentation.

(See R.C.P. 16.2 and 16.3)

173. Time allocation during hearings – The chairman shall allocate among the Members from the parliamentary group forming the Government and those sitting in opposition such time as the committee has decided to allot to each person or body. Subject to the principle of alternation, every Member may speak as often as he wishes, but no Member may speak for more than ten minutes at any one time.

2009.04.21

3 – ON-LINE CONSULTATIONS

173.1. On-line consultations – A committee may, pursuant to any order of initiative, decide to hold on-line consultations.

The Assembly may, when it makes an order of reference to some committee to hold a general consultation, likewise order it to hold on-line consultations.

2009.04.21

SECTION 8 REPORTS

174. Committee reports – When a committee has concluded its proceedings with respect to some matter, its chairman, or such other member thereof as he may designate, shall lay the committee's report upon the Table of the Assembly:

Provided that when a committee has considered some matter during one or more deliberative meetings not followed by a public meeting or a meeting in camera, its report shall instead be lodged with the Committee on the National Assembly.

175. Interim reports – Every committee may make an interim report to the Assembly, but only one motion to that effect may be moved during any committee meeting.

176. Report containing observations, conclusions, or recommendations – When the proceedings of a committee with respect to any matter referred to it by the Assembly have been completed, and upon the request of one of its members, such committee shall have three clear days in which to hold deliberative meetings for the purpose of agreeing upon any observations, conclusions, or recommendations it may wish to submit to the Assembly:

Provided that such committee shall have only one clear day when the matter referred to it is a bill.

For the purposes of this Standing Order a clear day is any day on which committees may meet.

2009.04.21

177. Contents of reports – A committee report shall comprise the minutes of its proceedings and its observations, conclusions, or recommendations to the Assembly, if there be any.

(See R.C.P. 16)

SECTION 9 SELECT COMMITTEES

178. Appointment; applicable rules – The Assembly may appoint one or more select committees. It shall define the terms of reference of each such committee and name its members. The Assembly may also order such committee to report within a certain time, and it may name its chairman and its vice-chairman.

Except as the Assembly may otherwise order, the rules pertaining to the standing committees shall be observed in select committees.

Every select committee having once laid its report upon the Table of the Assembly shall cease to exist.

TITLE II	GENERAL PROCEDURE

CHAPTER I	GENERAL PROVISIONS

SECTION 1	PROCEDURE IN THE ASSEMBLY

179. Sources – The proceedings of the Assembly shall be conducted in accordance with:

- (1) the statutes;
- (2) these Standing Orders and the rules for the conduct of proceedings;
- (3) such other orders as the Assembly may from time to time make.

180. Usages and precedents – In deciding all questions of procedure not so provided for, resort shall be had to the usages and precedents of this Assembly.

181. Interpretation Act – The *Interpretation Act* shall apply to these Standing Orders: Provided that where any section of the said Act conflicts with these orders, the latter shall prevail.

SECTION 2	EXCEPTIONAL PROCEDURE

182. Motion to introduce an exceptional procedure – The Government House Leader may, without notice, move a motion to introduce an exceptional procedure for the consideration of some matter that may or may not stand on the Order Paper and Notices: Provided that each such motion may introduce an exceptional procedure with regard to but a single matter.

Such motion may be discussed in a limited debate, but it may be neither amended nor divided.

The motion having been carried, any provisions of these Standing Orders that are at variance with the procedure envisaged in the motion shall, for the purposes of the consideration of the matter stated therein, be deemed suspended, subject to the provisions set forth in the present section of the Orders.

Only one motion to introduce an exceptional procedure may be before the Assembly at any time.

2009.04.21

183. Repealed.

2009.04.21

184. Motion or bill to be distributed – If the object of the motion to introduce an exceptional procedure is to allow to be carried some motion not yet standing on the Order Paper and Notices or to allow to be passed some bill not yet introduced in the Assembly, the text of the said motion or bill shall be distributed when the motion to introduce an exceptional procedure is moved.

2009.04.21

184.1. Exceptional legislative procedure – If the object of the motion to introduce an exceptional procedure is to allow the consideration of some bill, the exceptional legislative procedure set forth in Standing Orders 257.1 to 257.10 shall apply.

2009.04.21

184.2. Business having precedence; adjournment of debate – The limited debate on a motion to introduce an exceptional procedure and every debate in the Assembly relating to the matter to which such motion may apply shall have precedence of the business envisaged in the first paragraph of Standing Order 87.

Notwithstanding Standing Order 100, no Member other than a minister or a Deputy Government House Leader may move a motion to adjourn any debate relating to the matter to which a motion to introduce an exceptional procedure may apply.

Any exceptional procedure shall, until it has been concluded, take precedence over all other business before the Assembly.

2009.04.21

CHAPTER II MOTIONS

SECTION 1 GENERAL PROVISIONS

185. Matter submitted to Assembly for decision – A Member who wishes to obtain the decision of the Assembly on some matter shall make a motion for that purpose.

- 186. Orders and resolutions; discharge or rescission** – Every motion, when carried, becomes either an order or a resolution of the Assembly. By its orders the Assembly directs its committees, its Members, or any other person to do something; by its resolutions the Assembly declares its own opinions and purposes or affirms some fact or principle.

An order or a resolution may be discharged or rescinded only upon motion by a minister to that effect, which motion shall not require notice.

The question on any motion to discharge or rescind an order for an exceptional procedure shall be put forthwith, without debate.

2009.04.21

- 187. Substantive motions and formal motions** – Every motion is either substantive or formal.

A substantive motion is a self-contained proposal that places some matter before the Assembly for its decision.

A formal motion relates to the way in which a substantive motion is to be disposed of or concerns the procedure of the Assembly.

- 188. Notice** – Except as otherwise provided by statute or in these Standing Orders, any Member who wishes to make a motion shall give prior notice thereof.

Notice shall consist of the text of the motion, which may not be moved until the next sitting day after that on which it is first published in the Order Paper and Notices.

2009.04.21

- 189. Moving motions** – Every motion shall be moved by the Member in whose name it stands: Provided that some other Member may, with his leave, move such motion in his stead; and provided always that any minister may act on behalf of another.

- 190. Motions to be in writing** – Every motion other than a motion whose terms do not vary shall be in writing.

- 191. Inadmissible contents; exceptions** – No motion shall recite either the grounds on which it is moved or arguments in behalf of its object:

Provided that the motions envisaged in Standing Orders 50 and 274 may set forth briefly the grounds on which they are based.

2009.04.21

192. Ministerial prerogative – No Member other than a minister shall move any motion that proposes:

- (1) to appropriate a part of the public revenue;
- (2) to impose a charge upon the people;
- (3) to remit a debt due to the province;
- (4) to grant a property of the province:

Provided that this rule shall not apply to a motion that is couched in general terms or that merely expresses an abstract opinion on the matters enumerated above.

193. President to decline or correct inadmissible motion or notice of motion – The President shall rule out of order any motion or notice of motion that is contrary to these Standing Orders:

Provided that he may correct such motion or notice of motion in its form so that it complies with the rules and orders of the Assembly.

194. Lapsing of motion – Whenever any part of a motion lapses in the course of proceedings thereon, such motion shall be rendered irregular in its entirety.

195. Withdrawal of motion – The mover of a motion or, with his leave, some other Member may propose that it be withdrawn.

If such motion has not been proposed from the Chair, he may cause it to be withdrawn upon a written request to the Secretary General or upon an oral request to the President of the Assembly.

If such motion is in the possession of the Assembly, its mover and a representative of every parliamentary group may speak to the question for its withdrawal for up to ten minutes each; and the mover may thereafter speak for up to five minutes in reply: Provided that the question on any motion to withdraw a motion to introduce an exceptional procedure shall be put without debate.

2009.04.21

SECTION 2 AMENDMENTS

- 196. Main question may be amended** – Except as otherwise provided, any main question having been proposed may be amended.
- 197. Contents** – Every amendment must be relevant to the subject matter of the main question and must not reverse its principle. An amendment may propose only to strike out certain words, to insert or add certain words, or to strike out certain words and to substitute others therefor.
- 198. Receivability** – No notice shall be required for an amendment to any question; but when such amendment is moved, the text thereof shall be handed to the President, who shall determine whether it is in order.
- 2009.04.21
- 199. Effect when carried** – An amendment having once been carried, the debate shall resume on the main question, as amended, to which further amendments may then be moved.
- 200. Subamendments** – Subamendments may be moved to any amendment: Provided that each subamendment shall be disposed of before another may be moved. The rules pertaining to amendments shall apply to subamendments.
- 201. Putting the question** – The question on every subamendment shall be decided before that on any amendment may be put, and that on every amendment shall likewise be decided before the main question may be put.

SECTION 3 THE PREVIOUS QUESTION

- 202. Previous question** – Any Member while speaking may, if no amendment to the main question is then before the Assembly, move, “That this question be now put,” which motion may not be amended.
- 203. Motion may be declined** – The President may decline to put such motion if he is of the opinion that the debate on the original question has not been unduly prolonged or that to put this question forthwith would infringe the rights of the Members.
- 204. Time limits on speeches** – The mover of the previous question and a representative of every parliamentary group may speak thereto for up to ten minutes each, and the mover may thereafter speak for up to five minutes in reply.

SECTION 4 MOTION TO DIVIDE A COMPLICATED QUESTION

- 205. Contents** – Any substantive question containing two or more distinct propositions, each of which is capable of standing on its own, may, on motion without notice, be divided. Such motion shall state how the division is to be made.
- 206. Receivability** – The President shall determine whether the question can be divided as proposed. If he so rules, the motion to divide may be discussed during a limited debate, after which it shall be put to the Assembly for its decision.
- 207. Putting the question** – The new questions issuing from such division shall be separately discussed and decided by the Assembly in the order in which they were to be found in the original question.
- 208. Precedence** – A motion to divide a complicated question shall have precedence of that question.

■ CHAPTER III DEBATE

SECTION 1 TIME LIMITS ON SPEECHES

- 209. Allocation of time** – Except as otherwise provided, no Member may speak twice to any question before the Assembly; nor may he speak for more than ten minutes to a formal motion or for more than twenty minutes to any other matter:

Provided that the mover of a motion, the Prime Minister, and the leader of any other parliamentary group, or their representatives, may speak for up to one hour each to a substantive motion and for up to thirty minutes each to a formal motion.

SECTION 2 LIMITED DEBATES

- 210. Length; speaking time** – Except as otherwise provided, a limited debate shall last for not more than two hours. The President shall apportion this time among the several parliamentary groups, after he shall first have conferred with the House leaders thereof; and in so doing he must have regard to the presence of independent Members.

SECTION 3 RELEVANCE IN DEBATE

- 211. Rule** – Speeches shall be directed only to the matter under discussion.

APPENDIX C

SECTION 4 EXPLANATIONS

- 212. Contents** – Any Member who has spoken to a question may again be heard to explain himself very briefly in regard to some material part of his speech that may have been misquoted or misunderstood.

Such Member shall make his explanation immediately the remarks that give rise to it are concluded; and he may not then introduce any new matter, nor shall he provoke any debate.

- 213. Questions regarding speech** – Any Member may, immediately another Member has finished speaking and with his consent, ask him a question. Both the question and the answer shall be concisely put.

SECTION 5 QUOTATIONS FROM PAPERS

- 214. To be tabled if required** – Any Member may require that a minister who has quoted from some paper, even if only in part, forthwith lay such paper upon the Table; and the minister must comply unless he is of the opinion that it would be injurious to the public interest to do so.

SECTION 6 RIGHT OF REPLY

- 215. Mover of substantive motion has right of reply** – In addition to any other right of reply envisaged in these Standing Orders, a reply shall be allowed to a Member who has moved a substantive motion.
- 216. Speaking time in reply** – Except as otherwise provided, a Member may speak for up to twenty minutes in reply.
- 217. No right of reply in committee** – There shall be no right of reply in committee.
- 218. Effect of reply** – The reply shall close the debate.

■ CHAPTER IV PUTTING THE QUESTION

- 219. Voting** – All questions arising in the Assembly shall be decided by a majority of the votes cast.

The presence of a quorum shall be required whenever a vote is taken, and no decision shall be held to have been arrived at by any vote taken when a quorum is not present.

- 220. Show of hands or division** – Voting shall be by a show of hands unless five Members demand a recorded division.

221. Motion to be read from Chair – Before the question is put on any motion, it shall be read from the Chair.

222. Voting on amendments and subamendments – When any amendment is to be put, unless the terms thereof have been circulated among the Members, the President shall state first the main question, then the amendment, and finally the main question as it would read if so amended.

He shall proceed in a like manner with any subamendment.

223. Deferral of divisions – The President may, at the request of the Government House Leader, defer any division until later on the same sitting day. He may likewise defer such division until the Routine Proceedings on the next sitting day thereafter:

Provided that this Standing Order shall not apply to any motion for adjournment or for the previous question.

224. Division bells to be rung – Five minutes before a division is to be taken, the division bells shall be rung throughout the Assembly. The proceedings of any committee then meeting shall thereupon be interrupted.

When he is of the opinion that sufficient time has elapsed, the President shall put the question.

225. Conduct of Members while dividing – When the Assembly is to divide, no Member shall enter the Chamber after the question has been stated or leave it until the sense of the Assembly has been declared.

226. Divisions: how taken – The President shall direct the yeas, then the nays, and finally those wishing to abstain to rise in their places.

Members shall rise one by one. The Secretary General shall report the numbers to the President, who shall thereupon declare the sense of the Assembly.

227. Entitlement to speak during vote – While the Assembly is voting, no Member shall be entitled to speak except to a point of order or privilege suddenly arising.

228. Dissent or abstention – Any Member may, when a vote by a show of hands is taken, require that the Votes and Proceedings for that sitting day record his dissent or his abstention, or indicate that the concurrence of the Assembly in some matter was not unanimous.

TITLE III	LEGISLATIVE PROCEDURE

CHAPTER I	BILLS

SECTION 1	STAGES

229. Designation – The following are the five stages in the consideration of a bill:

- (1) introduction;
- (2) passage in principle;
- (3) committee stage;
- (4) report stage;
- (5) passage.

230. To be taken on separate sitting days – Each stage shall be taken on a separate sitting day:

Provided that the committee stage of a bill may be proceeded with during the sitting day on which such bill is passed in principle;

Provided further that when the committee stage of a bill is proceeded with in a committee of the whole, such bill may also be reported and the report concurred in during the same sitting day.

231. Effect when division deferred – The consideration of a bill at any stage on any sitting day shall not be precluded by the taking on that same sitting day of a division on the preceding stage of such bill that was deferred on the previous sitting day.

SECTION 2	INTRODUCTION

232. Notice – Every Member wishing to introduce a bill shall publish notice of his intent in the Order Paper and Notices not later than on the sitting day before it is to be introduced.

The title of the bill shall constitute notice. The Member shall provide a copy of the bill to the President before the Routine Proceedings are to be taken.

233. Explanatory notes – When the appropriate item of the Routine Proceedings is entered upon, the Member may move that leave be granted to introduce his bill, and he shall then read the explanatory

notes accompanying it or a summary thereof. Such notes shall briefly explain the purposes of the bill and shall recite neither arguments in behalf of its object nor the grounds for its introduction.

2009.04.21

234. Putting the question – A motion that leave be granted to introduce a bill in the Assembly shall be decided without debate.

235. Referral for consultations – The Government House Leader may, without notice, move that any bill be referred to a committee for a general consultation thereon, which committee shall invite submissions from any persons or bodies that may wish to make their views known; and such question shall be decided without debate.

He may also move, without notice, that any bill be referred to a committee for special consultations thereon, and such question shall likewise be decided without debate: Provided that if it is in derogation of any rule pertaining to special consultations, such motion may be discussed in a limited debate that shall not exceed one hour.

2009.04.21

SECTION 3 PASSAGE IN PRINCIPLE

236. Bill to be set down on Orders of the Day – The debate on the passage in principle of every bill shall be set down as an order of the day for the next sitting after it is introduced or after the committee has reported thereon, as the case may be.

237. When debate may begin – The debate on the principle of a bill may begin not less than one week after it is introduced:

Provided that this rule shall not apply during the week which follows the beginning of any sessional period; nor shall it apply during any extraordinary sitting.

2009.04.21

238. When debate may begin on reprinted bill – When the committee to which a bill has been referred upon its introduction recommends that such bill be reprinted, the debate on the principle thereof may begin on the third sitting day after that on which the bill, as reprinted, shall have been laid upon the Table.

2009.04.21

- 239. Scope of debate; time limits on speeches** – The debate shall be limited to the expediency, principles, and merits of the bill and to alternative means of achieving its purpose.

The time limits on speeches with respect to a motion for passage in principle shall be those that apply to a substantive motion, and the mover shall have a right of reply.

- 240. Hoist motion** – No amendment shall be received to any motion for the passage in principle of a bill, unless it be an amendment that proposes to defer such passage; and no subamendment may be moved thereto.

A motion to defer passage in principle may be discussed during a limited debate.

- 241. Motion to divide bill** – Any bill containing two or more distinct principles may, before the question is put for the passage thereof, be proposed to be divided. If such motion is carried, the bills issuing from the original bill, as divided, shall be again placed on the Order Paper and Notices at the introduction stage.

A motion to divide any bill may be made but once: Provided always that a minister may make some subsequent motion to that effect. Such motion shall not be amended, but it may be discussed during a limited debate.

- 242. When question put without debate** – The Government House Leader may, without notice, move that the question for the passage in principle of any bill be decided without debate, and no debate shall be allowed on such motion: Provided that this motion cannot be made if opposition thereto is taken by five Members.

SECTION 4 COMMITTEE STAGE

- 243. Committal** – When any bill has been passed with respect to its principle, the Government House Leader shall move, without notice, to commit such bill for clause-by-clause consideration to the appropriate standing committee or to a committee of the whole.

Such motion shall be decided without debate.

2009.04.21

- 244. Clause-by-clause consideration; special consultations** – The committee to which a bill has been ordered shall examine every clause thereof. The discussion shall be confined to the details of the bill, and any amendments proposed thereto shall be relevant to its subject matter and consistent with its nature and purpose.

Before entering upon the clause-by-clause consideration of a bill, the committee may resolve to hold special consultations within the terms of its order of reference.

(See R.C.P. 16.1)

- 245. Members' speaking times** – Every member of the committee may speak as often as he wishes but in any case for not more than twenty minutes to each clause, paragraph, or subparagraph of the bill, to each amendment or subamendment that may be moved thereto, and to each section that it may be proposed to amend within or insert into an existing act.
- 246. Mover's speaking times** – The minister or Member who introduced the bill shall be entitled to the same speaking time as any other member of the committee; and he shall in addition be permitted to speak for up to five minutes after each other member has spoken.
- 247. Discussion on principle of bill** – When a bill has been passed in respect of its principle without debate, every member of the committee to which it is ordered may, at the opening of the proceedings thereon, speak to the principle and general content thereof.
- 248. Contents of report** – The report from a committee on any bill shall consist of the minutes of its proceedings with respect to such bill and the text of the bill as agreed to by the committee.

When any bill has been considered clause by clause in a committee of the whole, the report on such bill shall consist of the text of the bill as agreed to by the committee. The question for concurrence in such report shall be disposed of without debate, and the bill shall thereupon be set down for final passage on a future sitting day.

2009.04.21

- 249. Agreement on tabling of report** – The Government House Leader may ask the President to convene the House leaders of the parliamentary groups in order that they may appoint the time when a committee shall be ordered to lay upon the Table of the Assembly its report in respect of a certain bill. The President shall inform the Assembly whether or not the House leaders have reached some agreement to that effect.

250. Agreement to be concurred in by Assembly – If an agreement has been reached, the Government House Leader shall thereupon move, without notice, that it be concurred in and made an order of the Assembly. The question shall be put forthwith and decided without debate.

251. Closure motion – If no agreement has been reached, the Government House Leader may thereupon make a motion appointing the time when the committee shall interrupt its proceedings on the bill and report to the Assembly. Such motion, which may be made without notice and cannot be amended, shall be debated on a future sitting day; and at the conclusion of such debate the Government House Leader shall be permitted to speak for up to ten minutes in reply.

If the motion is carried, no motion to introduce an exceptional procedure may be made with respect to the bill.

2009.04.21

SECTION 5 REPORT STAGE

252. Tabling of report; new amendments – Every Member may, at not later than 10.00 o'clock p.m. on the day when the report from a committee on its clause-by-clause consideration of a bill has been laid upon the Table of the Assembly, hand in to the Secretary General a copy of any amendment or amendments he may wish to move thereto.

The President shall decide whether such amendments are in order and shall select them so as to prevent repetition and overlapping. The Secretary General shall immediately forward copies thereof to the House leader of each parliamentary group. No subamendment to any such amendment may be received.

2009.04.21

253. When report stage to be taken; time limits on speeches – The report stage of any bill reported from a committee may be taken into consideration on the sitting day following that on which such report is laid upon the Table.

After conferring with the House leaders of the parliamentary groups the President shall organize the putting of the question on any amendments that may be proposed thereto.

The time limits on speeches shall be those that apply to a formal motion: Provided that the minister or Member who introduced the bill shall in addition be permitted to comment for up to five minutes after each other Member has spoken.

254. Putting the question – When the debate has concluded, the question shall be put on the amendments severally in such manner as the President shall specify. Any amendments carried shall be incorporated in the report; and the question for concurrence in the report shall thereupon be put.

255. Bill may be reprinted – A minister who is of the opinion that a bill he has introduced ought to be reprinted owing to the amendments made therein may, without notice, make a motion to that effect; and such motion shall be decided without debate.

2009.04.21

SECTION 6 PASSAGE

256. Debate on motion for passage – The debate on the motion for the passage of a bill shall be limited to the contents thereof, and no amendment to such motion shall be received.

Each Member may speak to this question for up to ten minutes: Provided that the minister or Member who introduced the bill and the leaders of the parliamentary groups, or their representatives, may speak thereto for up to one hour each.

The minister or Member who introduced the bill shall thereafter be permitted to speak for up to twenty minutes in reply.

257. Referral to committee of the whole – During the debate the Member who introduced the bill may, without notice, move that it be referred to a committee of the whole for the consideration of one or more amendments that he shall specify. The Member may briefly explain, and a representative of each parliamentary group may then briefly comment; but this motion shall not otherwise be debated.

The question on such motion, to which no amendment may be received, shall be put forthwith. The committee of the whole shall have power to consider only the amendment or amendments proposed.

2009.04.21

257.1. Introduction; when moved; allocation of time – Except as otherwise provided in Standing Order 251, the exceptional legislative procedure may be introduced with regard to any bill at any stage in its consideration. This procedure establishes limits on the time allotted for debate at each stage remaining to be completed in the consideration of the bill. The motion having been carried, the bill shall be debated during the number of hours specified below:

- (1) five hours for the debate on passage in principle, including the debate on a motion to divide the bill, if there be any;
- (2) five hours for clause-by-clause consideration in a committee of the whole;
- (3) one hour for the report stage;
- (4) one hour for the debate on the motion for the passage of the bill, subject to Standing Order 257.9.

The debate at any stage shall conclude when the number of hours specified shall have elapsed, or when all Members wishing to speak shall have been heard.

All of these stages may be taken during one and the same sitting.

2009.04.21

257.2. Motion to divide bill – If a motion to divide the bill is made during the debate on the passage in principle thereof, and if such motion is declared in order, the debate shall be on both the motion to divide and the principle of the bill.

If the motion to divide the bill is carried, the bills issuing from the original bill, as divided, shall again be placed on the Order Paper and Notices at the introduction stage.

2009.04.21

257.3. Report from standing committee – When the bill is being considered clause by clause in a standing committee, the latter shall interrupt its proceedings thereon immediately the motion to introduce the exceptional legislative procedure is carried, and it shall have not more than one hour thereafter in which to lay its report upon the Table of the

Assembly. The proceedings of the Assembly shall then be suspended until the expiry of this period. The report shall be laid upon the Table immediately the proceedings of the Assembly are resumed.

The report from the committee shall consist of the text of the bill at the stage it had reached when the committee interrupted its proceedings, together with the minutes of its proceedings with respect to the bill; and it shall state whether the committee has completed its consideration of the bill. When the clause-by-clause consideration of a bill has not been completed, it shall be resumed in a committee of the whole.

2009.04.21

- 257.4. Clause-by-clause consideration in committee of the whole** – The bill shall be considered clause by clause in a committee of the whole.

At the conclusion of the period provided for the committee stage of the bill the committee of the whole shall interrupt its proceedings and forthwith report to the Assembly.

2009.04.21

- 257.5. Report from committee of the whole** – The report from the committee of the whole shall consist of the text of the bill at the stage it had reached when the committee interrupted its proceedings; and it shall state whether the committee has completed its consideration of the bill.

2009.04.21

- 257.6. Amendments to report** – Not later than one hour after the committee of the whole shall have reported to the Assembly every Member may hand in to the Secretary General a copy of any amendment or amendments he may wish to move thereto. No subamendment to any such amendment may be received.

The Secretary General shall immediately forward a copy thereof to the House leader of each parliamentary group and to every independent Member. The President shall decide whether such amendments are in order and shall select them so as to prevent repetition and overlapping.

The Assembly may enter upon the debate on the report of the committee of the whole not less than one hour thereafter.

2009.04.21

257.7. Amendments; putting the question – Upon the expiry of the debate each amendment shall be read from the Chair before the question is put thereon; and the voting on every question shall be by a show of hands.

The question shall next be put severally on the sections of the bill so amended, then on any sections that the committee may not have disposed of, and finally on all remaining elements of the bill; but the text thereof shall not be read from the Chair before each question is put; and the voting on every question shall be by a show of hands.

Any sections or other elements of the bill so carried, whether amended not, shall be incorporated in the report; and the question for concurrence in the report shall thereupon be put.

2009.04.21

257.8. Amendments; putting the question; deferral – At the request of the Government House Leader the putting of the question on the amendments may be deferred until the Orders of the Day at a subsequent sitting. The question on any such amendments may be put not less than ten hours after the Secretary General shall have forwarded copies thereof as provided in the second paragraph of Standing Order 257.6.

The President shall convene the House leaders of the parliamentary groups in order to organize the putting of the question on such amendments as may have been proposed. Failing an agreement among the House leaders, the question on the amendments shall be put severally. The text thereof shall not be read from the Chair before each question is put; and the voting on every question shall be by a show of hands.

The question shall next be put on any sections so amended, then on those that the committee may not have disposed of, and finally on all remaining elements of the bill as provided in the second paragraph of this Standing Order.

Any sections or other elements of the bill so carried, whether amended or not, shall be incorporated in the report; and the question for concurrence in the report shall thereupon be put.

2009.04.21

257.9. Passage; referral to committee of the whole – During the debate on the motion for passage of the bill the Member who introduced it may, without notice, move that it be referred to a committee of the whole for the consideration of one or more amendments that he shall specify. The question on this motion shall be put forthwith and decided without

debate; and the vote thereon shall be by a show of hands. If the motion is carried, the debate on the motion for passage of the bill shall thereupon be suspended. The said amendment or amendments may be considered in a committee of the whole for a period that shall not exceed thirty minutes.

Each amendment shall be read from the Chair before the question is put thereon; and the voting on every question shall be by a show of hands. Upon the expiry of the period envisaged in the first paragraph of this Standing Order the question on any amendments not otherwise disposed of shall be put in a like manner.

The question on the report from the committee of the whole shall be put without debate; and the vote thereon shall be by a show of hands. The debate on the motion for passage of the bill shall thereupon resume.

2009.04.21

- 257.10. Procedure** – The general rules pertaining to bills, save Standing Order 240, shall apply to the exceptional legislative procedure insofar as they are not at variance with the motion to introduce an exceptional procedure.

2009.04.21

CHAPTER II BILL AMENDING TWO OR MORE ACTS

- 258. Bill within area of competence of more than one committee** – The Government may introduce a bill whose sole object is to make minor, technical, corrective, or consequential amendments to statutes that fall within the area of competence of two or more committees.

2009.04.21

- 259. Bill within area of competence of one committee** – Any minister may introduce a bill whose sole object is to make minor, technical, corrective, or consequential amendments to statutes that fall within the area of competence of a single committee.

2009.04.21

- 260. Principles** – The principles of such bill shall be:

- (1) any series of amendments proposed to be made to one or more statutes, where such series of amendments embodies but one principle;

- (2) any series of amendments proposed to be made to a single statute that embodies but one principle;
- (3) any series of amendments proposed to be made to one or more parts of a statute that embodies more than one principle, where every part thereof that such series of amendments proposes to amend embodies one and the same principle.

261. Committal of bill within area of competence of more than one committee – If such bill falls within the area of competence of two or more committees the Government House Leader may, after it has been passed in respect of its principles, move without notice to commit the bill for clause-by-clause consideration to a select committee, to a committee of the whole, or to such standing committee as he may designate.

If such motion proposes to appoint a select committee the Government House Leader and a representative of every parliamentary group in opposition may speak to this question for up to ten minutes each, and the Government House Leader may thereafter speak for up to five minutes in reply.

A minister shall be a member of the select or standing committee to which such bill is committed for as long as it shall examine the provisions thereof for which he has jurisdiction.

2009.04.21

262. Committal of bill within area of competence of one committee – If such bill falls within the area of competence of a single committee it shall, having once been passed in respect of its principles, be committed thereto for clause-by-clause consideration.

2009.04.21

CHAPTER III APPROPRIATION BILLS

263. Introduction and passage – An appropriation bill shall require no explanatory notes.

Such bill shall be introduced without notice; and the question for the passage in principle and the final passage thereof may not be debated but shall be put forthwith on the same sitting day.

CHAPTER IV PRIVATE BILLS

- 264. Notice and introduction** – Any Member may, at the request of an interested person, introduce a bill relating to private or local matters.

He shall give notice of his intent not later than the day preceding that on which such bill is to be introduced and shall provide a copy thereof to the President before the sitting at which it is to be introduced.

(See R.C.P. 33)

- 265. Report from Law Clerk** – Before such bill is introduced, the President shall communicate to the Assembly the contents of the report from the Law Clerk thereon.

(See R.C.P. 33 to 39)

- 266. Preamble** – A private bill shall require no explanatory notes; but every such bill shall contain a preamble setting out the facts on which it is founded.

- 267. Referral to committee** – When a private bill has been introduced the Government House Leader shall move, without notice, that it be referred to a committee; and such motion shall be decided without debate.

The committee shall hear the interested parties, examine the bill clause by clause, and report thereon to the Assembly. The question for concurrence in such report shall be put forthwith and decided without debate.

(See R.C.P. 40)

- 268. Motions for passage in principle and passage** – The passage in principle of the bill shall be set down for a future sitting day. No motion may be made to divide such bill or to defer its passage in principle.

A private bill when passed in principle shall not again be referred to a standing committee but may be passed during the same sitting day, and Standing Order 257 shall apply: Provided that the bill may not then be passed if opposition to its passage is taken by five Members.

- 269. Debate** – During the debates on the passage in principle and the final passage of a private bill, each Member may speak for up to ten minutes: Provided that the Member sponsoring the bill and the leaders of the parliamentary groups may each speak for up to thirty minutes.

- 270. Procedure** – Except as otherwise provided in this chapter of these Standing Orders, the general rules pertaining to bills shall apply to private bills.

APPENDIX C

TITLE IV THE BUDGET

- 271. Budget speech and comments** – The Minister of Finance, when delivering the budget speech, may speak for up to two hours; and in concluding it he shall move, “That this Assembly approves the budgetary policy of the Government.”

The Finance critic of each parliamentary group in opposition may thereupon comment for up to ten minutes.

- 272. Time limits on debate** – The budget speech, the comments by the Finance critics of the parliamentary groups in opposition, and the ensuing debate shall not exceed twenty-five hours, fifteen of which shall take place in the Assembly and ten of which shall take place in the Committee on Public Finance. The Orders of the Day for the budget speech and for the debate thereon in the Assembly shall have precedence.

1998.10.21

- 273. Commencement of debate** – On the second sitting day after the budget speech is delivered the representative of the Official Opposition shall commence the debate thereon. He may speak for up to two hours.

- 274. Members’ speeches; want of confidence motions; grievances** – Every Member may speak once in the debate on the budget speech, and in so doing he may discuss any and all matters. While speaking, he may move a motion stating a grievance or a want of confidence motion, which motion shall require no notice and may not be amended.

2009.04.21

- 275. Continuation of debate in committee** – When all Members wishing to speak have been heard, or when thirteen hours and thirty minutes have elapsed since the Minister of Finance began the budget speech, the debate thereon shall be suspended in the Assembly, and it shall be resumed by the Committee on Public Finance not later than on the next sitting day. The Minister of Finance shall be a member of the said committee during its proceedings with respect to the budget speech.

1998.10.21

- 276. Resumption and conclusion of debate in Assembly** – The chairman of the said committee shall report to the Assembly during the Routine Proceedings that next follow the conclusion of this debate in committee. Immediately the Orders of the Day for that sitting are called, the

representative of the parliamentary group forming the Official Opposition shall resume the debate for up to thirty minutes. The Minister of Finance may then reply for up to one hour, and his reply shall close the debate.

277. Questions to be put – The debate having been concluded, the question shall be put on any motions stating a grievance, then on any want of confidence motions, and finally on the motion by the Minister of Finance.

2009.04.21

278. Supplementary statement – The Minister of Finance may make a supplementary statement on the budget.

The rules relating to the budget speech and to the ensuing debate shall apply: Provided that a supplementary statement on the budget and any debate thereon shall not exceed twelve hours and thirty minutes in all, and the speaking times allowed the Minister of Finance and the Finance critics of the parliamentary groups shall be reduced by half.

TITLE V	PARLIAMENTARY POWERS OF SURVEILLANCE AND SUPERVISION
CHAPTER I	FINANCIAL PROCEDURE
SECTION 1	SUPPLY

279. Consideration – The Assembly, in exercising its powers of surveillance and supervision over the Government and the public administration, shall examine the estimates of expenditure that the Government shall place before it each year for its authorization.

280. Interim supply – The Assembly may, before the first day of April, grant interim supply, being one quarter of the main estimates of expenditure considered as a unit.

The proceedings in respect of interim supply shall take place before a committee of the whole and shall have precedence. The discussion may relate to any or all of the main estimates; but it shall not exceed five hours, and at the end of such period the question shall be put for concurrence in one quarter of the estimates.

2009.04.21

- 281. Concurrence in report; referral of main estimates to committee** – The chairman of the committee shall report the interim supply estimates to the Assembly; and the question for concurrence in such report and that for the passage of the consequent appropriation bill shall be put without debate.

On a motion that the Government House Leader shall thereupon move without notice and that may not be debated the main estimates of expenditure, save those for the National Assembly, shall be referred to the several standing committees for consideration.

- 282. Timetable for committee consideration** – The committees shall consider the estimates of expenditure that fall within their areas of competence.

Such consideration shall begin not less than fifteen days after the estimates have been laid upon the Table of the Assembly and shall continue for ten consecutive sitting days, from Monday to Friday, at the hours when committees may meet pursuant to the provisions for extended hours of meeting.

During this period the Assembly shall take only the Routine Proceedings.

2009.04.21

- 283. Duration of committee consideration** – The time allowed for considering the main estimates of expenditure in committee shall not exceed two hundred hours; that allowed for the estimates of any one government department shall not exceed twenty hours.

2009.04.21

- 284. Members' speaking times** – The speaking time available to each committee member shall apply to every program element and may be taken in one or more speeches.

2009.04.21

- 285. Organization** – The President shall hold a conference with the House leaders of the parliamentary groups in order to specify how the consideration of the estimates of expenditure is to be proceeded with.

- 286. Organization (continued)** – If two hundred hours have not elapsed at the end of the ten sitting days allotted therefor, the committees shall, as necessary, conclude their deliberations in the ensuing days, and the same rules shall apply. The consideration of the estimates for the

government departments having once been completed, a meeting of the committee of the whole shall be held to consider those for the National Assembly, and this matter shall have precedence.

2009.04.21

287. When President or minister may speak – The President and any minister called upon to defend his estimates before a committee shall be permitted to speak as often as they like.

288. Concurrence in supply – When the committees have carried all the estimates, or when the time allotted for this purpose has expired, the several reports on these proceedings shall together be laid upon the Table at one and the same sitting.

The said reports shall be discussed on the next sitting day thereafter in a limited debate during which no amendment shall be received unless it be moved by a minister for the purpose of reinstating some estimate or estimates reduced or negatived in committee. The debate having been concluded, the question shall be put on any amendment so moved, then for concurrence in the several reports together, be they amended or not, and finally on the consequent appropriation bill: Provided that the Assembly shall first have disposed of the motions envisaged in Standing Order 277.

1991.11.21; 2009.04.21

289. Supplementary estimates – When any supplementary estimates of expenditure have been laid upon the Table of the Assembly, the Government House Leader shall move without notice that they be referred for consideration to a committee of the whole; and such motion shall be decided without debate.

2009.04.21

290. Consideration in committee of the whole – At the opening of proceedings in committee of the whole, a representative of each parliamentary group may speak for up to twenty minutes, and the representative of the Government may speak for up to twenty minutes in reply.

291. Time limit on consideration; putting the question – The proceedings with respect to these estimates in committee shall not exceed eight hours. Upon the expiry of this period, the committee shall report to the Assembly; and the question for concurrence in this report and that for the passage of the consequent appropriation bill shall be put without debate.

SECTION 2 BUDGETARY POLICY

- 292. Examination in committee** – The Committee on Public Finance shall devote one meeting in each fiscal quarter to an examination of the Government's budgetary policy and the evolving state of the public finances.

Any meeting held by the said committee to resume the debate on the budget speech shall be deemed a quarterly meeting for the purposes of this Standing Order.

1998.10.21

SECTION 3 FINANCIAL COMMITMENTS

- 293.** Repealed.

1998.10.21

| CHAPTER II ACCOUNTABILITY

- 293.1. Accountability of government departments and public bodies** – Pursuant to the *Public Administration Act*, every sectorial committee shall, within its area of competence, hear each minister who deems it expedient to be so heard and each deputy minister or chief executive officer of a public body, as the case may be, at least once every four years to discuss their administrative management.

During the execution of any order regarding the accountability of some public body pursuant to the first paragraph of this Standing Order the committee shall likewise examine that body's policy directions and activities.

Public bodies shall be selected for examination as provided in Standing Order 149. Failing agreement thereon, the Committee on the National Assembly shall designate the departments and the bodies that are to be heard.

2009.04.21

- 294. Examination in committee** – Every committee shall examine each year the policy directions, activities, and management of at least one public body that is subject to its power of surveillance.

A public body is a body to which the National Assembly, the Government or a minister appoints the majority of the members, to which, by law, the personnel is appointed in accordance with the *Public Service Act* (R.S.Q., chapter F 3.1.1), or whose capital forms part of the domain of the State.

Public bodies shall be selected for examination as provided in Standing Order 149. Failing agreement thereon, the Committee on the National Assembly shall designate the bodies that are to be heard.

2009.04.21; 2011.10.04

CHAPTER II.I OFFICERS OF THE NATIONAL ASSEMBLY

294.1. Hearings in committee – The Committee on Institutions shall hear annually the Chief Electoral Officer and the Public Protector.

1998.10.21

CHAPTER III INTERPELLATIONS

295. Requests – Every Member sitting in opposition may interpellate a minister on a matter of general interest for which he is officially responsible.

296. Notice – Notice of an interpellation shall be published in the Order Paper and Notices not later than on the last sitting day of the week. Such notice shall state the subject to be discussed and name the minister concerned.

297. Subject to be chosen – If notice is given of two or more interpellations, the President shall decide which of them is to be proceeded with: Provided that in so doing he shall have regard to the sequence in which the notices were given, their allocation among the parliamentary groups, and the presence of independent Members. He shall announce to the Assembly the subject matter of the interpellation so chosen on the last sitting day of the week, at the time set aside during the Routine Proceedings for Information on the Proceedings of the Assembly.

298. Time – The interpellation shall be held the following week at a meeting of the appropriate committee, on Friday morning from 10.00 o'clock a.m. to 12.00 o'clock noon, in such place as the President may designate.

299. Number – One interpellation may be held in each week during the periods in which the Assembly may ordinarily meet: Provided that no interpellation may be held during any period in which the Assembly shall have extended hours of meeting or while the Assembly stands adjourned for more than five days.

1998.10.21

300. Order of speaking – The Member who gave notice of the interpellation shall be the first to speak therein, and he shall be followed by the minister. Each may speak for up to ten minutes.

APPENDIX C

301. Time limits on speeches; alternation – The members of the committee may thereafter speak for up to five minutes at a time, and there shall be alternation between those from the parliamentary group forming the Government and those sitting in opposition. The minister shall be permitted to comment after each Member in opposition has spoken.

2009.04.21

302. Time limits on speeches; conclusion of proceedings — Twenty minutes before the committee is to rise, the chairman shall allow the minister to conclude for up to ten minutes and the interpellant to speak for the same period in reply.

2009.04.21

303. Special rules – When an interpellation is held, no motion may be moved, nor shall any report thereof be made or any vote be taken; and the want of a quorum may not be noticed.

CHAPTER IV CONFIDENCE OF THE ASSEMBLY IN THE GOVERNMENT

303.1. Confidence of the Assembly in the Government: how raised – The confidence of the Assembly in the Government may be raised only by means of a vote on:

- (1) a want of confidence motion;
- (2) a motion by the Prime Minister, “That this Assembly approve the general policy of the Government”;
- (3) a motion by the Minister of Finance, “That this Assembly approve the budgetary policy of the Government”;
- (4) a motion for the passage of an appropriation bill introduced pursuant to Standing Order 288; or
- (5) any other motion that the Prime Minister, or his representative, shall have expressly declared a question of confidence in the Government.

2009.04.21

304. Want of confidence motions; number – Members sitting in opposition may move seven want of confidence motions during any session; and the said motions shall comprise those they are entitled to move during the debate on the opening speech of the session and during that on the budget speech.

2009.04.21

304.1. Purpose – A want of confidence motion shall state that the Assembly withdraws its confidence in the Government.

2009.04.21

305. Allocation – The President shall allocate such want of confidence motions among the parliamentary groups in opposition; and in so doing he must have regard to the presence of independent Members.

306. Notice; precedence; how disposed of – Except as otherwise provided, one clear day's notice shall be given of a want of confidence motion, and the debate on such motion shall have precedence. It must be held within a single sitting day and shall conclude one quarter hour before the Assembly is to rise, whereupon the question on the motion shall be put:

Provided that during any period when the Assembly may meet during extended hours the debate on a want of confidence motion shall conclude three hours after the time appointed in these Standing Orders for the Assembly to meet.

2009.04.21

306.1. Amendments – No amendment to a want of confidence motion may be received.

2009.04.21

307. Repealed.

1998.10.21; 2009.04.21

CHAPTER V DEBATES UPON ADJOURNMENT

308. Request; notice to President – Any Member who is of the opinion that a matter he has raised during oral question period has not been sufficiently discussed may debate it further upon adjournment.

He shall give notice to the President, not later than thirty minutes after the conclusion of oral question period, of the matter he wishes to debate.

1998.10.21; 2009.04.21

309. Announcement; when held – The President shall announce to the Assembly at the earliest opportunity any matter or matters that are to be debated upon the adjournment of a Tuesday or Thursday sitting. Such debates shall be held at 6.00 o'clock p.m., and the suspension or the rising of the Assembly shall be accordingly delayed.

1998.10.21; 2009.04.21

APPENDIX C

310. Time limits on speeches – The Member raising the matter and the minister responding thereto may each speak for up to five minutes.

The Member may thereafter speak for up to two minutes in reply.

311. Order of debates – When more than one Member has requested a debate upon adjournment, the President shall decide the order in which such matters are to be raised: Provided that in so doing he shall have regard to the sequence in which the notices were received, the urgency of the matters raised, rotation among the parliamentary groups, and the presence of independent Members.

312. Number of debates – Not more than three debates may be held upon adjournment on any sitting day. The want of a quorum may not be noticed.

There shall be no debates upon adjournment during any period in which the Assembly shall have extended hours of meeting.

1998.10.21

CHAPTER VI WRITTEN QUESTIONS

313. To be placed on Order Paper – Questions on matters that are not sufficiently urgent or important to justify an immediate answer, or that are of such a nature as to require research, shall be placed on the Order Paper and Notices.

Replies to written questions shall be tabled at the time set aside for this purpose during the Routine Proceedings.

314. Procedure – Except as otherwise provided, the Standing Orders pertaining to oral questions shall apply to written questions.

TITLE VI	THE PRIVILEGES OF PARLIAMENT AND THE CONDUCT OF ITS MEMBERS

CHAPTER I THE CONDUCT OF MEMBERS OF PARLIAMENT

315. Motions – Any Member of Parliament who wishes to impugn the conduct of some other Member acting in that capacity shall make a motion for this purpose.

316. Grounds – A Member may, by means of such motion:

- (1) Repealed;
- (2) complain that some other Member has breached the privileges of the Assembly or one of its members;
- (3) impugn an act, not being a situation envisaged in paragraph (2) of this Standing Order or in the *Code of ethics and conduct of the Members of the National Assembly*, accomplished by a Member of Parliament in the course of his duties.

2011.10.04

317. Announcement of motion – When it is complained that some Member has breached the privileges of the Assembly or one of its members, the Member so complaining shall first raise a question of privilege and then announce that he intends to move a motion impugning this conduct.

2011.10.04

318. Contents of motion – The motion shall contain an explicit but temperate statement of the complaint and of the facts adduced to substantiate it. It shall propose in conclusion that the Assembly rule on the alleged offence by voting on a report from the Committee on the National Assembly, which shall previously have inquired into the matter without special reference. Such motion may be neither amended nor divided.

319. Committee on the National Assembly – The mover of the motion and the Member whose conduct is impugned may speak to this question for up to twenty minutes each. The President shall then convene the Committee on the National Assembly for its inquiry into the matter.

In reporting to the Assembly the committee may, in addition to its conclusions respecting such matter, make recommendations.

320. Ruling by Assembly – The Assembly shall dispose of the committee's report not later than fifteen days after it shall have been laid upon the Table; but the Assembly may not amend such report with respect to its conclusions.

321. Penalty – If the complaint is found to be substantiated the Assembly shall determine the penalty that is to be imposed; and in so doing it shall have regard to the recommendations of the committee, if there be any.

322. Unsubstantiated complaint – Every Member who makes an unsubstantiated complaint against another may be found to have breached the privileges of the Assembly or one of its members. When ruling on the committee's report the Assembly may impose such penalty as it shall deem appropriate.

323. Committee on the National Assembly not convened – When complaint is made of an act accomplished by a Member of Parliament in the course of his duties, not being a breach of the privileges of the Assembly or one of its members or a situation envisaged in the *Code of ethics and conduct of the Members of the National Assembly*, the Assembly may dispose of the motion to that effect without the Committee on the National Assembly's first having been convened.

Such motion may be neither amended nor divided.

2011.10.04

CHAPTER II THE CONDUCT OF PERSONS OTHER THAN MEMBERS OF PARLIAMENT

324. Question of privilege and notice of motion – Any Member who believes that a person who is not a Member of Parliament has breached the privileges of the Assembly or one of its members may move a motion impugning his conduct.

The Member so complaining shall first raise a question of privilege and then announce that he intends to move a motion respecting the matter.

325. Ruling by Assembly – The Assembly shall dispose of this motion: Provided that the Committee on the National Assembly may first be convened for an inquiry into the matter.

Such motion may be neither amended nor divided.

326. Penalty – If the complaint is found to be substantiated the person whose conduct is impugned shall be liable to such penalty as the Assembly may determine; and in determining such penalty the Assembly shall have regard to the recommendations of the committee, if there be any.

327. Procedure – The rules pertaining to inquiries into the conduct of a Member of Parliament shall apply.

APPENDIX D

RULES FOR THE CONDUCT OF PROCEEDINGS IN THE NATIONAL ASSEMBLY

RULES FOR THE CONDUCT OF PROCEEDINGS IN THE NATIONAL ASSEMBLY

CHAPTER 0.I ELECTION OF THE PRESIDENT

- 0.1. List of candidates; forwarding** – As soon as the period envisaged in Standing Order 7 for the declaration of candidacies has expired, the Secretary General shall prepare an alphabetical list, by surname, of the candidates for the office of President and shall forward such list to the Members of the Assembly not later than at 4.00 o'clock p.m. the same day.

2009.04.21

(See S.O. 7 and 7.1)

- 0.2. List of candidates; distribution** – Before any meeting held for the purpose of electing a new President is called to order, the Secretary General shall cause the list of candidates to be placed upon the Members' desks in the Assembly Chamber. He shall likewise make the said list available to the Members in each voting booth.

2009.04.21

(See S.O. 7.1 and 8.8)

- 0.3. Communicating the list of candidates** – The Presiding Officer shall, before each ballot, communicate orally to the Assembly the names of the candidates for the office of President; and in so doing he shall indicate the name of any Member who may have withdrawn his candidacy.

2009.04.21

(See S.O. 7.1 and 8.11)

- 0.4. Voting booths** – Two booths shall be provided for voting, one on the west side of the Assembly Chamber and the other on the east side.

2009.04.21

(See S.O. 8.3)

- 0.5. Voting procedure** – When any ballot is to be taken, the Members having occupied their assigned places, the Prime Minister, the Leader of the Official Opposition, and the leaders of any other parliamentary groups shall be called, each in turn, to cast their ballots. The Members shall thereafter be called two by two to cast their ballots, as follows: First shall be called a Member who occupies a place on the west side of the Assembly Chamber, and next shall be called a Member who occupies a place on the east side of the Chamber.

Subject to the first paragraph of this Rule, the Members shall be called to cast their ballots in the same order as in a recorded division; and the Presiding Officer shall be the last to vote.

2009.04.21

(See S.O. 8.3)

0.6. Urn – The Members shall deposit their ballot papers in an urn placed upon the Table of the Assembly for that purpose.

2009.04.21

(See S.O. 8.3)

0.7. Communicating the result – Upon the resumption of the proceedings after the ballots have been counted, the Secretary General shall inform the Presiding Officer whether some candidate has received the requisite number of votes.

2009.04.21

(See S.O. 8.6)

0.8. Subsequent ballot – If no candidate has received the requisite number of votes, the Presiding Officer shall thereupon suspend the proceedings in order to allow the subsequent ballot to be prepared.

During such suspension the Secretary General shall cause a new list of candidates to be placed upon the Members’ desks in the Assembly Chamber.

2009.04.21

(See S.O. 8.7 to 8.9)

CHAPTER I PARLIAMENTARY COMMITTEES

SECTION 1 GENERAL RULES

- 1. Travel** – Every committee or steering committee that wishes to travel or to meet in a place other than the precincts of the National Assembly shall submit to the Committee on the National Assembly a written request in which it shall state the reason for such travel and provide an estimate of any costs that are to be incurred thereby.

Whenever the Committee on the National Assembly approves such a request and the costs thereby incurred exceed the budgetary envelope authorized by the Office of the National Assembly for committee expenses, the Office shall authorize an additional budgetary envelope in an amount equivalent to the cost overrun.

At the conclusion of its proceedings the committee or steering committee shall submit to the Committee on the National Assembly an account of its activities and expenditures.

1991.12.18; 2009.04.21
(See S.O. 116(3))

- 1.1. Members designated for a particular matter** – The Whip of each parliamentary group, or his representative, shall notify the clerk of the Committee on Public Administration of the Members he has designated to serve on this committee for the duration of the proceedings with respect to some particular matter.

The clerk shall inform the committee of the Members so designated as soon as the first meeting in respect of such matter is called to order.

1998.10.21
(See S.O. 117.2)

- 1.2. Members designated for a single meeting** – The Whip of each parliamentary group, or his representative, shall notify the clerk of the Committee on Public Administration of the members he has designated to serve on this committee for a single meeting.

The clerk shall inform the committee of the Members so designated as soon as each meeting is called to order.

1998.10.21
(See S.O. 117.2)

- 2. Temporary substitutions** – The Whip of each parliamentary group, or his representative, shall notify the clerk of a committee of every temporary substitution that is to be made in the membership of that committee; and the clerk shall inform the committee thereof as soon as its first meeting is called to order.

(See S.O. 130)

- 3. Announcement of substitutions** – When a committee is to consider any matter referred to it by the Assembly, the clerk shall, as soon as each meeting is called to order, announce any substitutions that the whips or their representatives may have indicated to him.

(See S.O. 131)

- 4. Steering committees** – A committee shall, at the request of its chairman, establish a steering committee consisting of its chairman, its vice-chairman, and its clerk.

The steering committee shall prepare and submit to the full committee a plan of the latter's proceedings. The steering committee shall also, between meetings of the full committee, take any decisions it may deem necessary.

- 4.1. Steering committee of the CNA; duties** – There shall be a steering committee of the Committee on the National Assembly, which shall consist of the President of the National Assembly, the House leaders of the parliamentary groups, and the clerk of the committee.

Between meetings of the Committee on the National Assembly the said steering committee shall:

- (a) authorize committees or steering committees to travel or to meet in a place other than the precincts of the National Assembly;
- (b) receive accounts from committees and steering committees respecting their travel;
- (c) approve the establishment of joint committees or subcommittees and appoint their co-chairmen;
- (d) fill vacancies and make permanent substitutions in committee memberships when the Assembly stands prorogued or adjourned for more than five days;
- (e) approve changes to the list of temporary chairmen;
- (f) adjust the budgetary envelope of the committees out of the budgetary reserve of the Committee on the National Assembly;
- (g) determine whether it is expedient to televise the proceedings of committees;
- (h) designate, on behalf of the Committee on the National Assembly, the committee to which any matter that is to be examined in pursuance of statutory provisions shall be referred;
- (i) coordinate, in respect of calendars, timetables, meeting rooms, and resources, the proceedings of any committees that are to consider matters not having precedence, and plan the proceedings of the Committee on the National Assembly.

- (j) decide whether it is expedient for the Committee on the National Assembly to hear, before he is appointed, any person whom it is the responsibility of the Assembly to appoint, and determine how such hearing is to be organized.

1991.06.20; 1991.12.18; 1998.10.21; 2009.04.21
(See S.O. 116)

- 4.2. Meetings of steering committee of CNA** – The President of the National Assembly shall establish the order of business for meetings of the steering committee.

The steering committee may meet by telephone.

1991.06.20

- 4.3. Duties of clerk of CNA** – The clerk of the Committee on the National Assembly shall participate ex officio in the meetings of the steering committee. He shall receive any requests, maintain contact with the members of the steering committee, and communicate its decisions to all members of the full committee.

1991.06.20

- 4.4. Reports from steering committee of CNA** – The steering committee shall report to the Committee on the National Assembly at the earliest opportunity.

1991.06.20; 2009.04.21

- 5. Places to be occupied** – The vice-chairman and the clerk shall be seated at the committee table on either side of the chairman.

The temporary chairman shall be seated between the chairman and the vice-chairman.

(See S.O. 138)

- 6. Unavoidable absence of chairman and vice-chairman** – Whenever the chairman and the vice-chairman are absent or unable to act, the chair of a committee may be taken by some other member thereof.

(See S.O. 141)

- 7. Committee clerks** – The clerk shall be selected from among the staff of the Committee Secretariat Directorate. He shall perform his duties under the authority of the chairman of the committee and under the administrative supervision of the director of the Committee Secretariat.

7.1. Duties – It shall be the duty of the clerk, in particular, to:

- (1) assist the President of the Assembly or the chairman of the committee whenever an election is to be held within his committee;
- (2) prepare the committee's order of business, keep its minutes, and arrange for the drafting of its reports;
- (3) give such notices as may be required by the Standing Orders and by these Rules, notify members when the committee is to meet, invite persons and bodies to appear before it, and summon witnesses;
- (4) receive and keep custody of such submissions and other papers as may be tabled before the committee or placed at its disposal;
- (5) attend to the committee's correspondence, certify and distribute its official papers, and communicate its decisions to those whom they may concern;
- (6) administer oaths to witnesses or receive their solemn affirmations;
- (7) advise the committee and its chairman, in collaboration with the Parliamentary Law Counsel Directorate, on questions of parliamentary procedure;
- (8) coordinate the efforts of such expert, research, and support staff as may be in the committee's service;
- (9) take all such measures as may be necessary to ensure the orderly operation of the committee, including its travel;
- (10) in general, carry out such orders as the committee may, from time to time, give him.

(See S.O. 142)

8. Orders of initiative – Whenever a committee has carried a motion envisaged in Standing Order 149, the clerk shall forward to the President and to the House leaders of the parliamentary groups an excerpt from the committee's minutes containing the text of such motion and the results of the vote thereon.

(See S.O. 149)

- 8.1. Accountability; notice** – Whenever the Committee on Public Administration shall adopt an order envisaged in subparagraph (3.1) of the first paragraph of Standing Order 117.6, it shall so notify the appropriate sectorial committee.

The sectorial committee shall have ten days in which to advise the Committee on Public Administration of its intention to execute the said order. If the sectorial committee chooses not to execute such order, or if upon the expiry of the period of ten days it shall have failed to respond, the Committee on Public Administration may execute the order.

2009.04.21

(See S.O. 117.6)

- 9. Membership of subcommittees** – A committee shall determine the membership of any subcommittee and appoint its chairman; but no motion to that effect shall be deemed carried unless a majority of the members from each parliamentary group shall have voted in its favour.

(See S.O. 150)

- 9.1. Clerk** – The clerk of the committee may act, ex officio, as clerk of a subcommittee.

(See S.O. 150)

- 9.2. Temporary chairman** – A temporary chairman shall preside over the deliberations of any subcommittee that is to meet in pursuance of an order of reference as provided under Standing Order 139.

(See S.O. 139 and 150)

- 10. Co-chairmen of joint committees** – The Committee on the National Assembly shall appoint the co-chairmen of any joint committee or joint subcommittee.

(See S.O. 153)

- 11. Member absent when question put** – No Member shall be entitled to vote unless he was present when the question was put.

(See S.O. 157)

- 12. Meeting held in camera; clerk** – The clerk shall participate ex officio in any meeting his committee may hold in camera.

(See S.O. 160)

- 13. Meeting held in camera; secrecy of evidence and papers** – Any evidence a committee may hear or papers it may receive while meeting in camera may be disclosed, whether wholly or in part, only upon a motion carried by the members of such committee without any dissentient voice, which motion must be accompanied by the written consent of the concerned parties.

The terms of such motion and of such written consent shall be public.

(See S.O. 160)

- 14. Recording of debates** – Any committee whose proceedings are not required to be recorded in the *Journal des débats* shall, in order to request that they be so recorded, obtain the assent of the majority of its members.

The President of the National Assembly shall decide each such request.

(See S.O. 161)

- 15. Hearings requested by ministers** – A minister who wishes to speak to a matter that is under consideration by a committee shall so advise the committee in writing.

(See S.O. 163)

- 16. Minutes** – The clerk of a committee shall sign, and its chairman shall countersign, the minutes of the committee's proceedings.

Every report from a committee shall become public immediately it is laid upon the Table of the Assembly.

(See S.O. 177)

- 16.1. Certification of bill** – The chairman or the clerk of a committee that considers any bill clause by clause shall sign with his initials, as soon as they are carried, every clause and schedule of the bill as well as its preamble, headings, and title, and likewise every amendment that the committee may make thereto.

The chairman who adjourns the proceedings of a committee that has completed its clause-by-clause consideration of a bill shall certify to the committee's concurrence in such bill by signing it, at the end thereof, with his name at length.

1987.06.04

16.2. Videoconference – Any witness may ask to be heard by videoconference.

The committee shall decide upon such request, and in so doing it shall have regard, in particular, to the following criteria:

- (1) the impossibility for the witness to travel or to be represented by some other person;
- (2) the contribution of the testimony to the proceedings of the committee;
- (3) the availability of the requisite equipment at the Assembly;
- (4) the committee's business calendar.

2009.04.21

(See S.O. 168 and 172)

16.3. Videoconference; costs – Any and all costs related to the use by a witness of videoconferencing equipment outside the precincts of the Assembly shall be assumed by the witness:

Provided that the committee shall assume any costs incurred by reason of the delay, the prolongation, the postponement, or the cancellation of a hearing by the committee.

2009.04.21

(See S.O. 168 and 172)

CHAPTER II EXAMINATION OF THE FINANCIAL COMMITMENTS

17. Financial commitments to be examined – The Committee on Public Administration shall examine all financial commitments equal to or exceeding \$25,000 that the Conseil du trésor, the Conseil exécutif, or any government department has authorized within a financial management system.

1998.10.21

(See S.O. 117.6)

18. Commitments not to be examined – The said committee shall not have power to examine the following:

- (1) indemnities paid in respect of expropriations;
- (2) expenditures of a confidential nature made for the collection of taxes and for national security;

APPENDIX D

- (3) expenditures inherent in the conveyance of securities and cash and in the protection of government property where the public interest is at stake;
- (4) expenditures relating to studies and inquiries undertaken to increase the efficacy of the administration where the public interest is at stake; and
- (5) expenditures relating to the appointment, remuneration, interchange, and pensioning of public servants and government employees.

1998.10.21

(See S.O. 117.6)

19. Categories of approvals to be excluded – The following categories of approvals shall likewise be excluded from the examination of the financial commitments by the said committee:

- (1) transfers of appropriations;
- (2) loans from the contingency fund;
- (3) loan guarantees;
- (4) a priori approvals.

1998.10.21

(See S.O. 117.6)

20. Examination in depth – The said committee shall have power to select, in a deliberative meeting, such financial commitments as it may wish to examine in depth in the presence of a minister during a meeting held for this purpose.

In particular, it may choose to examine in depth the financial commitments relating to some particular month or government department.

Any financial commitments that the committee may choose not to examine in depth shall be deemed to have been examined.

1998.10.21

(See S.O. 117.6)

21. Organization – During a deliberative meeting the said committee may determine:

- (1) the number of meetings it wishes to devote to the examination of financial commitments;
- (2) the order in which it wishes to examine these commitments;
- (3) the financial commitments it wishes to examine in depth in the presence of a minister;
- (4) the time it wishes to allot to the examination of the financial commitments envisaged in subparagraph (3) of this rule and the manner in which such time is to be allocated;
- (5) the minister in whose presence it wishes to examine in depth certain financial commitments;
- (6) the order of business for any such meeting:

Provided that no motion to the above effect shall be deemed carried unless a majority of the members from each parliamentary group shall have voted in its favour.

1998.10.21
(See S.O. 117.6)

22. List of commitments to be provided – The Secretary of the Conseil du trésor shall, on the fifteenth day of every month, forward to the clerk of the said committee the list of the financial commitments.

1998.10.21
(See S.O. 117.6)

23. Notice of convocation – The clerk of the said committee shall, not less than fifteen days before his committee is to hold a meeting for the examination of financial commitments, forward to the members thereof as well as to the House leaders, the whips, and the research services of the parliamentary groups the notice of convocation, the order of business for the meeting, and the financial commitments that are to be examined. He shall likewise forward to the chairmen of the other committees copies of the notice of convocation.

By leave of the committee without any dissentient voice, the notice of convocation, the order of business, and the financial commitments may be forwarded to the concerned parties upon shorter notice.

1998.10.21

(See S.O. 117.6)

- 24. Summoning of ministers** – When the said committee wishes to examine financial commitments in depth in the presence of some minister but cannot so notify him fifteen days before his presence is required, he may forgo the fifteen days' notice to which he is entitled under Standing Order 164.

1998.10.21

(See S.O. 117.6 and 164)

- 25. Substitutions for ministers** – A minister who is unable to attend a meeting for the examination of financial commitments may ask another minister who is a member of the Conseil du trésor to do so in his stead.

1998.10.21

(See S.O. 117.6)

- 26. Answers to requests for information** – A minister shall have fifteen days in which to provide any information requested by the members of the said committee during the examination of financial commitments.

He shall send his replies to the clerk of the committee, who shall forward copies thereof to all committee members and to the research services of the parliamentary groups.

1998.10.21

(See S.O. 117.6)

- 27. Production of papers** – Any request for information made by a member of the said committee may give rise to the production of papers, unless the minister is of the opinion that to produce such papers would be injurious to the public interest.

1998.10.21

(See S.O. 117.6)

- 28. Supplementary information and papers** – Any member of the said committee may, during a meeting for the examination of financial commitments, ask that a minister provide supplementary information or papers relating to a financial commitment examined at an earlier such meeting.

1998.10.21

(See S.O. 117.6)

- 29. Deferral of examination** – The said committee may defer to a future meeting day the consideration of any financial commitments whose examination has not been concluded: Provided that no motion to that effect shall be deemed carried unless a majority of the members from each parliamentary group shall have voted in its favour.

1998.10.21

(See S.O. 117.6)

- 30. Speaking time** – During the examination of financial commitments every member of the said committee may speak as often as he likes but in any case for not longer than twenty minutes.

The said speaking time shall apply to each financial commitment that the chairman shall call during a meeting to examine financial commitments.

1998.10.21

(See S.O. 117.6)

- 31. Report on examination to be tabled** – The said committee, having concluded the examination of the financial commitments, shall lay upon the Table of the Assembly a report thereon.

Such report shall consist of the minutes of the committee's deliberative meetings and of its meetings for the examination of financial commitments; and it may contain such observations, conclusions, and recommendations as the committee may wish to make to the Assembly.

1998.10.21

(See S.O. 117.6)

CHAPTER III PRIVATE BILLS

32. Objects – A bill relating to private or local matters must be introduced by a Member of the Assembly.

33. Deposit with Law Clerk – A Member who sponsors a bill relating to private or local matters shall deposit such bill with the Law Clerk.

The said Member shall not be answerable for the contents of the bill, nor shall he be required to endorse anything that may be provided therein.

(See S.O. 264 and 265)

34. Documents to be provided – Such bill shall be accompanied by a notice stating the name of the Member who is to introduce it and by a copy of every document mentioned therein and of every other document that may be pertinent thereto.

Any bill relating to a municipal corporation governed by the *Cities and Towns Act*, the *Québec Municipal Code*, or a special charter shall likewise be accompanied by a certified true copy of the resolution authorizing its introduction.

(See S.O. 265)

35. Introduction and passage during same sessional period – No bill deposited with the Law Clerk during a sessional period envisaged in Standing Order 19 may be passed within that same period.

2009.04.21

(See S.O. 265)

36. Notice in *Gazette officielle du Québec* – The applicant for a private bill shall cause to be published in the *Gazette officielle du Québec*, over his signature, a notice entitled “Avis de présentation d’un projet de loi d’intérêt privé”.

Such notice shall specify the objects of the bill and state that any party whose interest may be affected by it and who wishes to make submissions with respect thereto must so advise the Law Clerk.

(See S.O. 265)

37. Notices in newspaper – The said notice shall likewise be published in a newspaper in the judicial district wherein the applicant is domiciled; and if there be no newspaper in that district, it shall be published in a newspaper in the nearest district thereto.

Such notice shall be published once in each week for four weeks.

A copy of this notice shall accompany the bill upon its deposit with the Law Clerk.

(See S.O. 265)

- 38. Reports from Law Clerk** – The Law Clerk shall submit to the President of the Assembly a report stating whether such notice has been drafted and published in accordance with these Rules.

The President shall forward a copy of this report to the Government House Leader and to the Member sponsoring the bill.

(See S.O. 265)

- 39. Private bills register** – The Law Clerk shall keep a register in which he shall enter the name, the occupation, and the place of residence of the applicant for a private bill and those of every party who has advised him that his interest is affected by such bill and that he wishes to make submissions with respect thereto.

The Law Clerk shall provide to the Government House Leader and to the Member who is to introduce such bill a list of the parties who have advised him of their wish to make submissions with respect thereto.

(See S.O. 265)

- 40. Notices to interested parties** – The director of the Committee Secretariat shall convene the interested parties not less than seven days before such bill is to be considered in committee.

(See S.O. 267)

- 41. Annual publication of rules** – The Law Clerk shall publish in the *Gazette officielle du Québec*, in January of each year, the rules pertaining to private bills, together with Title III, Chapter IV, of the Standing Orders of the National Assembly.

SECTION 1 RECEIVABILITY AND COMPLIANCE

42. Grounds for refusal of petition; non-receivability – The President shall decline to allow any petition to be presented in the Assembly that is out of order on one of the following grounds:

- (1) the petition exceeds 250 words;
- (2) the petition contravenes the provisions of Standing Order 35;
- (3) the petition is printed on sheets of paper that are not of the usual size;
- (4) the petition, being in electronic form, was not initiated and signed on the Assembly's website.

2009.04.21

(See S.O. 63 and 63.1)

43. Grounds for refusal of petition; non-compliance; leave – The President shall decline to allow any petition to be presented in the Assembly that is non-compliant, in particular, on one of the following grounds:

- (1) the petition does not ask for the redress of some present grievance that lies within the competence of the State;
- (2) the petition, submitted on paper, is not a handwritten or typewritten original;
- (3) the petition, submitted on paper, does not contain the signatures of all the petitioners;
- (4) the intervention sought does not appear on every sheet of a petition, submitted on paper, that bears signatures:

Provided that a Member may present such petition by leave of the President and that of the Assembly without any dissentient voice.

2009.04.21

(See S.O. 63 and 63.1)

- 44. Acceptance by Member; notice; period for collecting signatures** – A Member who agrees to present a petition in electronic form shall hand in to the Secretary General a notice stating the period of time during which the said petition may be signed.

Such period may vary from one week to three months.

During this period no other petition having the same object may be initiated.

2009.04.21

(See S.O. 63, 63.1, and 64)

- 45. Receivability; time limit for ruling by President** – Within seven days of the receipt of such notice by the Secretary General the President shall rule on whether the petition is receivable and compliant.

2009.04.21

(See S.O. 63 and 63.1)

- 46. Time limit for presentation** – Subject to the second paragraph of Standing Order 64, a Member shall present a petition in electronic form not later than on the third sitting day that follows the conclusion of the period envisaged in Rule 44 in the present section.

2009.04.21

(See S.O. 67)

JUDGMENTS CITED

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Parliamentary Procedure
in Québec is a must-have
reference for anyone
interested in the fundamentals
of parliamentary procedure
and its application to
the conduct of parliamentary
proceedings.

