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QUÉBEC

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Parliamentary Procedure *in Québec*

ASSEMBLÉE NATIONALE
QUÉBEC

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NOTICE

This book may at times suggest interpretations for various rules of procedure. However, its contents do 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 to the end of the 39th Legislature in August 2012. 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* (L.Q., c. A-23.1)
Beauchesne	Fraser, Alistair, W. F. Dawson and John Holtby, *Beauchesne's Rules and Forms of the House of Commons of Canada*. 6th ed. Toronto: Carswell, 1991
Donahoe	*New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the Legislative Assembly)*, [1993] 1 S.C.R. 319
CAE	Committee on Planning and Infrastructures
CAN	Committee on the National Assembly
CAP	Committee on Public Administration
CAPA	Committee on Agriculture, Fisheries and Food
CAPERN	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

CS	Special committee
CSFP	Select Committee on Vocational Training
CSSS	Committee on Health and Social Services
CTE	Committee on Transportation and the Environment
Geoffrion 1941	*Règlement annoté de l'Assemblée législative* 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*
Member	Member of the National Assembly. Note the capital M; otherwise, member refers to a committee member or parliamentary group member, for instance.
R.C.P.	*Rules for the Conduct of Proceedings in the National Assembly*
R.C.P., T.R., 38th Leg.	Temporary amendments to the *Rules for the Conduct of Proceedings in the National Assembly* regarding committees in force throughout the 38th 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* (committees volume)
S.O.	Standing Order
T.S.O., 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
VP	*Votes and Proceedings of the National Assembly*
1972–1984 S.O.	*Standing Orders of the National Assembly of Québec* in force between 1972 and 1984

1985 S.O.	*Standing Orders of the National Assembly* in force between April 16, 1985 and April 21, 2009
2001–2003 T.S.O.	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 between December 6, 2001 and the end of the 36th Legislature
2002–2003 T.S.O.	Temporary amendments to the *Standing Orders of the National Assembly* regarding the election of the President by secret ballot, in force between June 5, 2002 and the end of the 36th Legislature

Preface

I am very pleased to present the first English edition of *Parliamentary Procedure in Québec*. Parliamentary procedure, like the National Assembly and Québec society, is constantly evolving. *Parliamentary Procedure in Québec* was first published under the French title *La procédure parlementaire du Québec* in the year 2000. A second French edition appeared three years later to reflect developments in parliamentary law. Eight years have passed since then, and during that time, two significant events have triggered major changes in the organization and functioning of the Assembly and its committees. The first event was the election in 2007 of Québec's first minority government in the modern era, and of a third parliamentary group, making it necessary for the Assembly to review its procedural rules, which were originally designed for a two-party system. The second event came after a long period of reflection over the course of several legislatures: in April 2009, the National Assembly unanimously adopted a significant reform of its Standing Orders and its Rules for the Conduct of Proceedings.

This edition presents the temporary and permanent amendments made to the rules of procedure in a contextual and historical perspective and traces the development of parliamentary jurisprudence. It also includes a chapter outlining the history of our political and parliamentary institutions, beginning under the French regime.

It goes without saying that this edition is the result of a collaborative effort involving all the directorates of the parliamentary sector of the National Assembly. I would like to thank the personnel of each of those directorates as well as all the other collaborators who made this edition possible.

Since first being published, *La procédure parlementaire du Québec* has become an invaluable reference for the Members of the National Assembly and for anyone else interested in the functioning of the National Assembly. This was the objective that guided the drafting of this edition, as demonstrated in particular by the last chapter, which deals with citizen relations. I hope that it will answer at least some of your questions concerning parliamentary procedure in Québec.

Michel Bonsaint

Secretary General

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Introduction

Québec has a rich heritage based on a long tradition. The bicameral parliamentary system it inherited under the Constitution of 1867 gradually evolved over the years and became a unicameral system in 1968, with a single house of assembly made up of elected Members and known as the National Assembly of Québec.

The Assembly is composed of 125 Members and, along with the Lieutenant-Governor, constitutes Parliament, which exercises legislative power in Québec. The Assembly has a maximum term of five years and is summoned, prorogued and dissolved by the Lieutenant-Governor, who is the only person who can put an end to its term before it expires. Its legislative powers are conferred on it by the Constitution, but it also exercises oversight powers with respect to the actions of the Government, its departments and its agencies.

Although Québec's parliamentary institutions are over two hundred years old, even today there are only a limited number of people who fully understand the procedures and inner workings of the National Assembly. Although the debates of the National Assembly have been broadcast live since 1978, enabling the general public to follow part of the work of Parliament on television, the fact remains that it is not easy to understand how that work is organized or the rules and principles governing it. This book endeavours to clarify these points.

While the Assembly as we know it arose from the Constitution of 1867, it is the culmination of 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 explains the foundations of parliamentary procedure, describing all the elements that, combined, form the foundation of the organizational structure of Québec's parliamentary institutions: the law, tradition, rules and usage, to mention but a few. In fact, the *Constitution Act, 1867* states

that the Constitution of Canada rests on the same principles as that of the United Kingdom. Chapter 3 goes on to study an extremely important subject: the parliamentary privileges that enable the Assembly to fulfill its mandate with complete independence, free of outside interference. These privileges also serve to protect the Members of the National Assembly, both individually and collectively, in the exercise 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, a person 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 the 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, on entering the House, either belong to a parliamentary group or sit as independent Members.

Chapter 6 explains how legislatures and sessions begin and end. The number of sittings in each session varies according to its length. In addition to ordinary sittings, which are held in accordance with the calendar and timetable set out in the Standing Orders, extraordinary sittings may be held occasionally, according to specific rules explained in this chapter.

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

The next few chapters cover the actual work of the Assembly. Chapter 8 concerns parliamentary publications, which make it possible to follow Assembly and committee proceedings on a daily basis. Chapter 9 deals with the conduct of proceedings, which normally follow a predetermined order. Routine Proceedings include a period for oral questions and answers, involving exchanges between opposition and government Members that shape the events reported each day by the media. Chapter 10 explains the written and unwritten rules governing those questions and answers. The conduct of Members during sittings—and the specific rules of order and decorum with which they must comply—is the subject of Chapter 11.

During a term, the Assembly is called on to take a stand on numerous issues that affect public affairs in Québec. Whether expressing an opinion or an intention or adopting a binding order, it uses a variety of means to initiate the decision-making process, explained in Chapter 12. The ensuing debates follow a set of rules that circumscribe both the time allotted to the various speakers and the total length of time spent on a given subject, as described in Chapter 13.

A great deal of parliamentary activity is dedicated to law-making. Chapter 14 examines all the stages 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 which bills may be tabled only by a minister and which are generally tabled by a Member who is not a minister.

While the consideration of legislation constitutes a significant portion of the Members' work, 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 moneys.

Although parliamentary activity is regulated by a set of explicit rules, Chapter 16 describes the mechanisms at the Assembly's disposal to override its own rules in special circumstances.

Parliamentary bodies have also 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 all topics that deserve special attention. Chapter 17 outlines the specific rules governing committees of the whole, while Chapters 18 and 19 deal with the functioning, procedural rules and mandates of the parliamentary committees.

The Assembly's efforts to connect with the citizens was a central thrust of the 2009 parliamentary reform. Chapter 20 outlines various means the Assembly has made available to enable those who so desire to express their point of view, for instance by means of petitions, and explains the rights and obligations of persons testifying before parliamentary committees.

Finally, this book includes several appendices. Appendix I presents the composition of the Assembly at different times during the 37th, 38th and 39th Legislatures, while Appendix II sets out the resulting allocation of parliamentary measures and speaking times for that period. Appendix III

presents the document recognizing the Action démocratique du Québec as a parliamentary group during the 39th Legislature and sets out the allocation of measures among the opposition Members during that legislature. Appendix IV explains the random draw procedure established during the 39th Legislature for the allocation of measures among the independent Members. Lastly, Appendix V traces the jurisprudence relating to the motion to suspend the rules of procedure until its replacement in 2009 by the motion to introduce an exceptional procedure.

1

History of Québec's Political and Parliamentary Institutions

In the course of their four-hundred-year history, Québec's political institutions have undergone profound changes. From France, with its absolute monarchy, and then from Britain, with its constitutional democracy, the colony inherited the administrative models of Versailles and London respectively. However, very early on, these European constitutional models took on a local colour: the *Canadiens* under the French Regime, the French Canadians under the British system and the Quebecers of today all appropriated these political institutions and, in the wake of ongoing democratic progress, fashioned them according to their needs.

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

1.1 NEW FRANCE

Under the French Regime there were two branches of political power, the civil and the military. At the top, embodying both branches, was the King of France. The separation of power into three branches (the legislative, the executive and the judicial) of the British system did not exist as such in the institutions which prevailed under the French system of royal absolutism.

To govern New France, the King delegated his powers to a number of administrators who were in charge of applying the policies and decisions of Versailles. From the founding of Québec City in 1608 to the British Conquest of 1760, New France was governed under a series of administrative models.

1.1.1 The Trading Company Era (1608–1663)

From 1608 to 1612, New France had no institutions to speak of. While Samuel de Champlain, as Lieutenant to Pierre Dugua de Mons, was given authority over the enlisted men living in Québec, François Gravé Du Pont retained all powers in matters of trade and commerce.[1]

L'Arrivée de Champlain à Québec

A work by artist Henri Beau, commissioned in 1902 to hang in the Legislative Council room

From 1612 to 1627, New France was governed through its viceroys. The machinery of this administration was rudimentary. Trading-company monopolies continued to finance colonization. Champlain, as the Viceroys' Lieutenant, retained his original powers but shared some of his duties, such as that of judging misdemeanours, with the chief factors of the companies.

1. For more on the period 1608–1663, see Blais et al., *Québec: Quatre siècles d'une capitale*, c. 2 and 3.

From 1627 to 1663, New France was administered by the *Compagnie des Cent-Associés*. After Champlain's death in 1635, governors were appointed to represent the King in the colony. These men 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 Amerindians.

Sometime around 1643–1644, New France was divided into three administrative regions—in Québec, Trois-Rivières and Montréal—each headed by a Governor. The governors shared military and administrative powers and acted as judges in disputes arising in their jurisdictions.[2]

With the creation of the *Communauté des Habitants* in 1645, the inhabitants of New France began to assume the public offices of the colony. The *Compagnie des Cent-Associés* retained ownership of the Seigneury of New France and continued to appoint the governors. At the head of the *Communauté*, a council of 12 directors, chosen from among "the principal and most considerable" inhabitants of New France, regulated the fur trade and paid the costs of maintaining the governors, ecclesiastics and soldiers.[3]

In 1647, a new administrative system was implemented. Management of the *Communauté des Habitants* was placed in the hands of the *Conseil de Québec*, whose upper echelon consisted of the Governor of New France, the Governor of Montréal and the Superior of the Jesuits. Three procurator-syndics, elected by the communities of Québec, Trois-Rivières and Montréal, could attend council meetings but had no voting rights. Major changes were made in 1648: the Governor of Trois-Rivières became a member of the council and the procurator-syndics, while remaining in office, were replaced on the council by three men elected by the procurator-syndics and the councillors ex officio.

The *Conseil de Québec* was further reorganized in 1656. The procurator-fiscal of the *Compagnie des Cent-Associés* became a member, while the Superior of the Jesuits was excused from attending. 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 procurator-fiscal and four elected

2. The Governor of New France was also Governor of Québec City.
3. Marcel Trudel, *La seigneurie des Cent-Associés*, pp. 175–177.

councillors of whom two were elected by the inhabitants of Québec, one by the inhabitants of Trois-Rivières and one by the inhabitants of Montréal.

In 1661, acting in his capacity as Governor, Pierre Dubois Davaugour replaced the *Conseil de la traite* by a new *Conseil général*, to which he appointed three, then 10 councillors, as he saw fit. The following year he also abolished the offices and elections of the procurator-syndics. As there were no such things as municipal officials in New France, these elected officials had naturally tended to assume that role and to represent the interests of their communities with the higher authorities. Monsignor François de Laval, who had been excluded from the *Conseil général* in 1661, appealed to Louis XIV to divest Davaugour of his authority. The Sun King, who had assumed his position as ruling head of State in that year, set about establishing a new colonial program. The *Compagnie des Cent-Associés* understood that it would have to cede New France to the Royal prerogative. In 1663, the colony became a royal province to be administered from Versailles by the Secretary of State of the Navy.[4]

1.1.2 The Royal Government (1663–1760)

On September 18, 1663, a *Conseil souverain* was inaugurated in Québec.[5] 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 police regulations, manage public funds and administer the *Communauté des Habitants*.

In 1665, Jean Talon landed at Québec as Intendant of justice, police and finances. The appearance on the scene of this new political figure diametrically transformed the administration of New France. Responsible for all civil affairs, Talon oversaw the justice system, made regulations for the maintenance of law and order, was in charge of road building and controlled the revenues and expenditures of the Administration.

The Governor remained the colony's highest official and was therefore the Intendant's hierarchical superior. 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. The Governor and the Intendant also held powers in common, such as the granting of seigneuries.

4. 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 Inde*s for the Crown.
5. For the period 1663–1760, see Blais et al., *Québec*, c. 2 and 3.

The Intendant's broad functions proportionately reduced those of the Governor and the *Conseil souverain*. In the end, the colonial Governor and the regional governors would retain only their military and diplomatic roles. The *Conseil souverain* would be limited to judicial functions, becoming a court of appeal with the additional power of registering deeds, ordinances, edicts and royal declarations.

From 1665 to 1760, New France had a government with two heads, the Governor and the Intendant, that was officially nothing more than an intermediary between the King and his colony. But the colonial leaders did more than merely carry out orders. The influence they had on the Minister of the Navy was sometimes reflected in his colonial policy decisions. The leading residents of New France also had their word to say, and by various means could make their voices heard by the colonial and home-country authorities.

From 1647 to 1677, procurator-syndics elected in Québec, Trois-Rivières and Montréal acted as spokesmen for the general public. In Québec, from 1673 onwards, three elected aldermen were responsible for law and order. Minister Jean-Baptiste Colbert (who in 1667 had undertaken to strip France's municipal bodies of much of their power) nonetheless asked Governor Louis de Buade, comte de Frontenac et de Palluau, to abolish the positions of syndic and alderman. This was done in 1677.

In exchange, the colonial administration created a new forum for prominent residents to promote their interests. In 1677, Intendant Jacques Duchesneau called a series of public meetings. It was during these "police assemblies" that the colony's notables could give their opinions on various subjects. This process was kept alive until 1712. Alongside it, from 1706 to 1711, annual information and consultation meetings were held by Governor Philippe de Rigaud, marquis de Vaudreuil, and by Intendant Jacques Raudot.

With the initial goal of promoting trade and commerce, Attorney General Mathieu-Benoît Collet revived the idea of electing syndics for Québec and Montréal. Hence, as of 1717, the bourgeoisie could assemble and express themselves freely on the economic, civil, political and military affairs of the colony. Briefs and requests were sent to the Governor and the Intendant who, whether supporting them or not, passed them on with their comments to the Minister of 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 Britain's conquest of New France, governors James Murray and Guy Carleton modeled their governance of the civil affairs of the Province of Quebec* on the parliamentary traditions of Westminster. Québec's parliamentary procedure originated during this key period, when the London model was adapted to the context of a special British province. More specifically, the parliamentary institutions of post-1791 were already adumbrated in the Québec parliamentarianism that originated with the Council of Quebec of 1764 and continued to develop under the Legislative Council of 1775.[6]

1.2.1 The Military Rule (1759–1764)

After the surrender of Québec in 1759 and Montréal in 1760, the British set up a system of military occupation. The governments of Québec, Trois-Rivières and Montréal were administered by James Murray, Ralph Burton and Thomas Gage respectively. They implemented a policy of conciliation.

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 agents of the State for the maintenance of peace among the local populations. At the next judicial level, temporary tribunals were set up by the governments of Québec, Trois-Rivières and Montréal. In accordance with the terms of surrender, French civil law remained in effect and citizens were free to practice the 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)

On October 7, 1763, the *Royal Proclamation* defined new administrative and judiciary structures for the province. It referred to a general assembly to be held "in such Manner and Form as is used and directed in those Colonies

* 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.

6. Christian Blais, *Aux sources du parlementarisme dans la Province de Québec, 1764–1791*, PhD diss. (Québec: Université Laval [forthcoming]).

and Provinces in America".[7] The commission that designated Murray as Captain General and Governor of the Province of Quebec, on November 28, 1763, also empowered him to call "General Assemblies of the Freeholders and Planters" as soon as conditions permitted.[8]

The King, who had initially planned to create a chamber of assembly, eventually changed his mind. Under the royal instructions Murray received on December 7, 1763, he was to administer the colony with the assistance of a privy council combining legislative, executive and judiciary powers, at least until circumstances permitted the Government to establish a legislative assembly. As was recommended by the Board of Trade of England, the Province of Quebec would be governed solely by the Governor in Council.

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

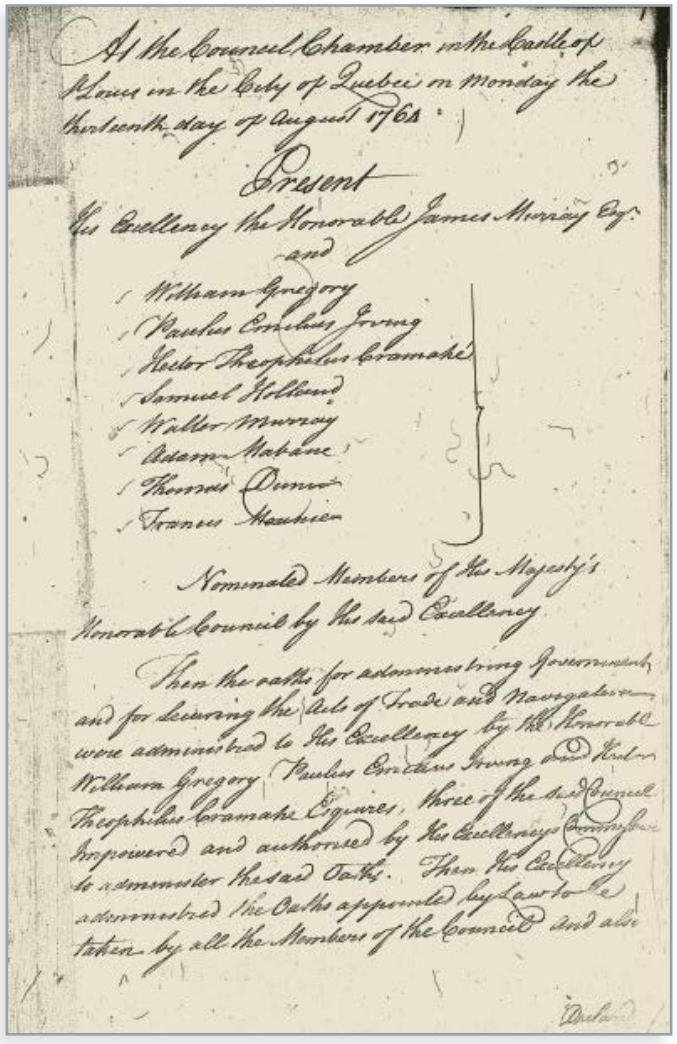
In the Province of Quebec, civil government replaced military rule on August 10, 1764. The Council of Quebec was formed of the Governor and eight councillors, including the Chief Justice of the province. As councillors were required to take the "Test Oath", Catholics were effectively barred from participating in the government unless they repudiated their religion. The first meeting of the Council was held in the Château Saint-Louis on August 13, 1764.

Until March 23, 1775, this "legislature" sat 281 times to make regulations on matters of justice, law and order, trade and grants of Crown land. The councillors were empowered to enact ordinances necessary for peace, order and good government, but not to impose taxes.[9]

Certain mechanisms of the British Parliament also found their place in the colonial administration: the right to petition; the official but summary minutes of each sitting; quorum to ensure the legality of the civil administration's proceedings; committee consideration of briefs and petitions; the tabling of committee reports before the Council; the three readings required before an ordinance could be adopted; the amendments made to draft ordinances; addresses; etc.

7. The *Royal Proclamation of 1763* (reprinted in R.S.C. 1985, app. II, no. 1).
8. Adam Shortt and Arthur G. Doughty, *Documents relating to the constitutional history of Canada*, p. 175.
9. Christian Blais, *Procès-verbaux du Conseil de Québec, 1764-1775* (Québec: Bibliothèque de l'Assemblée nationale du Québec [forthcoming]).

Council of Quebec – 1764


At the Council Chamber in the Castle of St Louis in the City of Quebec on Monday the thirteenth day of August 1764.

Present

His Excellency the Honorable James Murray Esq.
and

William Gregory
Paulus Emilius Irving
Hector Theophilus Cramahe
Samuel Holland
Walter Murray
Adam Mabane
Thomas Dunn
Francis Maseres

Nominated Members of his Majesty's Honorable Council by the said Excellency

Then the oaths for administering Government and for securing the Rights of Trade and Navigation were administered to His Excellency by the Honorable William Gregory, Paulus Emilius Irving and Hector Theophilus Cramahe Esquires, three of the said Council impowered and authorised by His Excellency's Commission to administer the said Oaths. Then His Excellency administered the Oaths appointed by Law to be taken by all the Members of the Council and also

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

Public expenditures were paid by Britain but the colonial government could also avail itself of the revenues derived from Crown lands. Under Guy Carleton's governorship, a committee was formed to examine government 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, formed of Council members. The fiscal year was divided into two periods: June 25 to December 24 and December 25 to June 24.

What is more, province-wide elections were held every year from 1764 to 1775. To ensure harmony between the central administration and the local communities, new civil officers were elected in the parishes: these were the bailiffs, who 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*, besides being dissatisfied with the judicial system and calling for a return to French civil law, felt victimized as a result of their exclusion from the public service 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.

Ultimately, the very constitutionality of the Council's ordinances was called into question. For while the royal instructions of 1763 authorized the colonial administration to legislate, they also specified that its decisions could not in any way "tend to affect the life, limb, or liberty" of the inhabitants.[10] The fact is, however, that making ordinances which did not in some way infringe against this stricture was close to impossible. In 1774 the *Quebec Act* confirmed this contention, so that 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.[11]

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*.[12] This was the first Québec constitution, handed down by Westminster. The Quebec Act, as it was known, abolished the Test Oath, thus making it possible for Catholics to participate in public life. French civil law was reinstated as part of Québec's justice system. Former captains of the militia were again called up, this time to perform the duties of the bailiffs, whose offices were abolished under the new system. Lastly, the boundaries of the province were extended westward as far as the Great Lakes.

The *Quebec Act* created the Legislative Council to act as the colony's legislative body, with a membership of between 17 and 23 prominent residents.

10. See Edmond Lareau, *Histoire du droit canadien depuis les origines de la colonie jusqu'à nos jours*, p. 23, who quotes Chief Justice Hey in *Wilcox v. Wilcox*, L.C.J., app. no. 1, VIII.
11. Shortt and Doughty, *Documents*, pp. 571–572.
12. (U.K.), 14 Geo. III, c. 83, also known as the *Quebec Act, 1774* (reprinted in R.S.C. 1985, app. II, no. 2).

Initially, 12 British immigrants and eight *Canadiens* were appointed to the Council by London, 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, barring urgent necessity.[13]

The legislative councillors could make ordinances for the peace, welfare and good government of the province,[14] but to have force of law ordinances required the assent of both the Governor and the Council. Hence, despite the existence of a "Quebec chamber", the Imperial Parliament retained unlimited legislative power over the colony.[15] 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 War of Independence (1776–1783). The Council met only three times in 1775, and then again only in 1777. Martial law was in effect, reducing legislative work to the absolute minimum.

The Executive Council remained separate from the Legislative Council. However, in 1777, the British government directed Governor Carleton to ensure that his privy council consisted of all the members of the Legislative Council.[16] It was only in 1781 that the Legislative Council finally became both the Governor's privy council and a distinct legislative body. Although the boundaries between the legislative and executive powers were porous, the proceedings of the legislative and executive councils were recorded in separate registers. The Governor, moreover, was not authorized to attend sittings of the Legislative Council, unless to convene or prorogue a session.

Under Frederick Haldimand's governorship (1778–1784), new rules of parliamentary procedure, à la Westminster, were introduced in the Legislative Council. Hence, on January 11, 1779, the new session began with a "harangue" (Throne Speech), delivered by the Governor in English and French.[17] Also

13. Alfred Leroy Burt, *The Old Province of Quebec*, p. 173. The councillors met initially in the Château Saint-Louis but moved to the Episcopal Palace sometime in 1781–1782: Blais, *Procès-verbaux* (note 9).
14. Joseph Desjardins, *Guide parlementaire historique de la province de Québec*, p. 45.
15. Henri Brun, *La formation des institutions parlementaires québécoises*, p. 8; C. Blais et al., *Québec*, p. 198.
16. It was not before 1781 that Governor Frederick Haldimand followed through on this order.
17. Blais, *Procès-verbaux* (note 9).

making their appearance for the first time were motions, recorded votes, councillor-sponsored bills, etc. The Lieutenant-Governor, or in his absence the Chief Justice of the province, presided over the sittings of the Legislative Council. In short, until 1791 the Administration functioned under a unicameral system in which there was no lower house.

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 British merchants continued to demand the creation of a house of assembly and the *Canadiens* joined suit. After 1784, joint committees were formed for the purpose of advancing their common cause.

1.3 THE PROVINCE OF LOWER CANADA

The American Revolution (1774–1781) and US independence (1783) brought waves of British loyalists northward. This new political situation compelled Britain to rethink its approach to the organization of its North American colonial empire.

The constitutional act of 1774, known as the *Quebec Act*, was amended on June 10, 1791. The *Constitutional Act, 1791* or, in its long title, 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, in North America; and to make further Provision for the Government of the said Province*,[18] divided the Province of Quebec into two distinct political entities: Upper Canada (today's Ontario) and Lower Canada (today's Québec).

Once a truly representative assembly was established in Québec, the three organs of the Legislature—the Governor, the Legislative Council and the Legislative Assembly—developed collaborative methods to ensure that the colonial government would run smoothly and efficiently.[19] Which is to say that, beginning in 1792, Québec's parliamentary system was built from the ground up, empirically and on the foundations of tradition.[20]

18. (U.K.), 31 Geo. III, c. 31 (reprinted in R.S.C. 1985, app. II, no. 3).
19. Brun, F*ormation des institutions parlementaires*, p. 253.
20. Henri Brun, Guy Tremblay and Eugénie Brouillet, *Droit constitutionnel*, 5th ed., p. 596. For constitutionalist Henri Brun, parliamentary law was born of the confrontations brought on by the exercise of the legislative function: Brun, *Formation des institutions parlementaires*, p. 253.

1.3.1 The Parliament of Lower Canada (1792–1838)

The chapel of the Bishop's Palace, which housed Parliament

On December 17, 1792, the first Members for Lower Canada met in the capital. The chapel of the Bishop's Palace served as a Parliament Building. The Chamber of the Assembly of Lower Canada comprised 50 Members.[21] Subsequent re-drawings of the electoral map brought this number to 84 Members 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 during elections, and the ballot was not secret: voters had to write their names in a poll book and check the name of the candidate or candidates of their choice (a single riding could be represented by two Members).

The monetary qualification for the franchise consisted only of a small amount of capital. However, electors had to be 21 years old and be a freeholder or a tenant paying quitrent;[22] be a British subject by birth, naturalization or right of conquest; and not have been convicted of treason.[23] Suffrage was quasi-universal since, contrary to Britain during the same period and by sheer oversight to exclude them, women[24] and Jews had the right to vote in Lower Canada.

On December 18, 1792, Jean-Antoine Panet, Member for Upper Town Québec City, 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

21. In 1792, some of the 27 ridings were represented by two Members each. For the first session there were only 48 Members out of a possible 50: 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 itself came to redefine its electoral divisions.
22. This would have included 15 to 20% of the population (Pierre Tousignant, *La genèse et l'avènement de la Constitution de 1791*, p. 308).
23. Brun, *Formation des institutions parlementaires*, p. 90.
24. 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*, Provincial Statutes of Lower Canada, 1834, c. 28).

Britain" and also requested, by order of the House, "access to the person of His Excellency the Governor" for the public good.[25]

The Language Debate

The Language Debate illustrates the January 21, 1793 sitting of the Chamber 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 room.

At issue during the first session of the first Parliament was the language of parliamentary debate. On January 23, 1793, the House enacted legislation recognizing French as a parliamentary language. As to legislation, however, London's interpretation conferred official status on the English version of the statutes only.

Also in 1793, on the express recommendation of Lieutenant-Governor Alured Clarke, the Members adopted a first set of Standing Orders designed to expedite the business of the House.[26] 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.[27]

Although Lower Canadian Members could frame, debate and vote on legislation, they shared the legislative power with the Legislative

25. *Journal of the House of Assembly, Lower Canada*.
26. André Beaulieu, "Genèse du premier règlement de l'Assemblée (1793)". The Legislative Council, for its part, adopted its first Standing Orders in 1817: H. Brun, p. 161.
27. *Rules and Regulations of the House of Assembly, Lower-Canada/Règles et Règlements de la Chambre d'Assemblée du Bas Canada*.

Council—effectively an upper house consisting of "not fewer than Fifteen" legislative councillors.[28] In this bicameral system, the Legislative Council acted officially as a temporizing body. Councillors were not empowered to introduce bills involving taxation (money bills) or public spending: this remained the prerogative of the lower house, even though all allocation of public funds had to be recommended by the Governor.[29]

The executive power resided solely with the Governor. In the Lower Canadian Administration, he was the highest-ranking civil servant of the British government department that looked after colonial affairs.[30] He convened the two Chambers and delivered the "harangue" to inaugurate each session; he could arbitrarily prorogue a session or dissolve the House of Assembly; and, by exercising his right to refuse assent, he had final veto power over all bills.

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".[31] These councillors also served the Administration in other capacities, such as judge, legislative councillor or Member. Strictly speaking there were no government departments, and the Executive Council was not structured according to specialized functions. Until 1832 it was a Lieutenant-Governor who, by virtue of office, replaced the Governor whenever he was absent from the province.[32]

Until the outset of the 19th century, the three branches of the Legislature worked co-operatively. But, increasingly confronted by the limits of their representative institution within the colonial State, the Lower Canadian Members grew restless. Their leaders began to call for more autonomy, to be achieved by decentralizing the legislative function in a manner consistent with the institutional and parliamentary law of Great Britain. But both the British Parliament and the colonial government remained opposed to any constitutional change.

At about the same period, a local oligarchy subordinate to the Governor's views and employed by the State filled positions as civil servants, judges, executive councillors and legislative councillors. These bureaucrats, known as

28. Shortt and Doughty, p. 1032. According to the *Constitutional Act, 1791,* the King could create a heredity right to be summoned to the Legislative Council, but this was never done.
29. Brun, *Formation des institutions parlementaires*, pp. 35 and 235.
30. Brun, *Formation des institutions parlementaires*, p. 29.
31. Brun, *Formation des institutions parlementaires*, p. 42.
32. Frédéric Lemieux, Christian Blais and Pierre Hamelin, *L'histoire du Québec à travers ses lieutenants-gouverneurs*, p. 27.

the "Château Clique", were mostly of British origin, a fact which did not sit well with the majority of the Members of the House of Assembly, who were allied with the Parti Canadien, later to become the Parti Patriote (in 1826).

In the years between the debate on schools legislation (1801), which had the potential to accelerate the anglicization of *Canadiens*, and the insurrections of 1837 and 1838, acrimonious political battles were fought 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 prison funding, with the *Canadiens* favouring a sales tax to raise funds and the British merchants favouring a land tax. From 1808 to 1810, the two parties fought bitterly over the eligibility of judges to sit as Members.[33]

The House of Assembly's claim that it should have the right to examine public finances and the civil list, which listed the salaries of state employees, further exacerbated its relations with the Governor. This power struggle, a 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. Not only was the government of Lower Canada not answerable to a simple deliberative assembly, but it perennially represented the will of the minority.

Pierre-Stanislas Bédard,[34] leader of the Parti Canadien, continued to argue for the supremacy of the legislative branch.[35] The Assembly, he maintained, must have the power to censure the actions of the Executive and to hold the Administration accountable for its actions.[36] A first parliamentary crisis occurred between 1808 and 1810. Parliament after Parliament was dissolved because it did not see eye to eye with Governor James Craig. In each general election the Parti Canadien conserved and even increased its majority.

In 1810, Bédard and other major figures from the parliamentary majority, along with various contributors to the opposition newspaper *Le Canadien*, were imprisoned without a trial. Incarcerated and unable to campaign, Bédard was nonetheless re-elected. The impasse was finally resolved with the release of Bédard 13 months later, and the arrival, in 1812, of a new Governor, George Prevost, who would prove more conciliatory with the *Canadiens*.

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33. On February 9, 1810, the House of Assembly passed a bill that barred judges from sitting as Members.
34. Pierre-Stanislas Bédard was Member for Northumberland from 1792 to 1808 and Member for Lower Town Québec City from 1808 to 1812.
35. Bédard was one of the greatest thinkers on constitutional law of his time (Gilles Gallichan, "Pierre Bédard, le devoir et la justice", p. 206).
36. Blais et al., *Québec*, p. 208.

This first parliamentary crisis contributed to the emergence of democratic thinking on the part of the Lower Canadian majority and of a corresponding willingness to take concerted political action. It was in this atmosphere that, in 1815, Louis-Joseph Papineau[37] became leader of the Parti Canadien and Speaker of the House. Henceforth the office of Speaker was considered as belonging to the leader of the parliamentary majority.

There followed a period of parliamentary calm. But after 1820, the key issues of public finances and the civil list resurfaced as subjects of dispute between the Administration and the Parti Canadien. Seeking to reduce the *Canadiens*' political clout, the British Party proposed a legislative union of Upper and Lower Canada as a solution to the problem. Such a plan had been in the air since at least 1806, but it re-emerged in 1822–1823, and the British Party found spokesmen for the idea at Westminster.

Opposition to the union proposal was enormous. Resolutions against it were passed at public meetings and a petition was signed by 60,000 citizens. Papineau, dispatched to England to plead the *Canadiens*' case with fellow Member John Neilson, received assurances from the Colonial Office that such a union would not undergo further consideration in the British House of Commons. Papineau nevertheless came away with a bitter view of London and the British political model.[38] Back in Lower Canada, he proceeded to map out a new liberal program calling for responsible government and an elected Legislative Council.

The quarrel over public finances dragged on. 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. The Members had nevertheless endeavoured to oversee public spending by examining public accounts in a committee of the whole since 1793 and, after 1812, by submitting those accounts to a special five-member committee. It so happened that from 1818 onwards Crown revenues were no longer sufficient to meet the Administration's ordinary expenses. Accordingly, the Executive Council began to request budget appropriations from the House. A spending budget was tabled in the House and examined by the Special Committee, but the Members could do nothing more than voice their criticisms and vote on the package as a whole.[39]

37. Louis-Joseph Papineau was Member for Kent from 1808 to 1814, for Montréal-West from 1814 to 1837, for Saint-Maurice from 1848 to 1851 and for Deux-Montagnes from 1852 to 1854.

38. Blais et al., *Québec*, p. 221.

39. Gary O'Brien, *Pre-Confederation Parliamentary Procedure: The Evolution of Legislative Practice in the Lower Houses of Central Canada, 1792–1866*, pp. 175–176, cited in Audrey O'Brien and Marc Bosc, *House of Commons Procedure and Practice*, p. 828.

After 1828, the House obtained a few minor changes in the approval of public spending. However, each year it was obliged to vote on appropriations without subjecting them to examination. In 1831, an eleven-member public accounts committee was created. During the 1832–1833 session, the committee 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".[40] Insisting on its prerogative to legislate on the use of public funds, the House thereafter refused to vote on the budget as a whole. 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 Québec City. This measure was blocked by the Legislative Council until 1833 and only took effect in 1835.[41]

The privileged circle of colonial power brokers, privy to the Governor's ear and able to influence his decisions, continued to reap advantages from the system. This situation fuelled schemes for colonial emancipation among Parti Patriote Members, whether *Canadien*, English, Irish or Scottish. On February 21, 1834, in the new Parliament Building constructed between 1831 and 1833, the House adopted 92 Resolutions, which amounted to a manifesto of the Parti Patriote's grievances and demands for reform, and sent them to London.

The political climate deteriorated. Royal commissioners began an inquiry into the colonial government's administration, but they were not mandated to propose real constitutional change. The impasse in public finances continued, leading to the parliamentary "strike" of 1836 and the subsequent boycott of British commercial products.

The British reply to the 92 Resolutions came in 1837. In 10 resolutions of his own, British Secretary of State for the Home Department John Russell not only categorically rejected the 92 Resolutions, but also authorized the colonial government to pass its budget without a vote in the House.

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.

40. *Journals of the House of Assembly of Lower-Canada, . . . session 1832–33*, p. 282.
41. Blais et al., *Québec*, p. 225.

Meanwhile, insurrection had also erupted in Upper Canada. Here, 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".[42]

1.3.2 The Special Council of Lower Canada (1838–1841)

On February 10, 1838, the British Parliament passed the *Act to make temporary Provision for the Government of Lower Canada*,[43] which suspended the Constitution of 1791.[44] A special council formed of "such and so many special Councillors as to Her Majesty shall seem meet" was to assist the Governor—jointly with the Executive Council[45]—in his functions. A quorum of five special councillors was required for the Council to pass ordinances.

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 Montréal. On April 18, 1838, Colborne swore in 22 councillors; two days later, the Special Council of Lower Canada adopted 25 rules to govern its proceedings.[46] These rules could nonetheless be suspended under certain circumstances, on the recommendation of at least two councillors.[47]

May 27, 1838 marked the arrival in Québec 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 June 1, he dissolved both the Special Council and the Executive Council; the next day he established a new Executive of five councillors and, on June 28, a new Special Council of 12. This Special Council was to meet only four times, in Québec, during the brief five-month term of his 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

42. J. Murray Beck, "Howe, Joseph".
43. 1838, (U.K.), 1 Vict., c. 9.
44. J. Desjardins, *Guide parlementaire*, p. 74; Blais et al., *Québec*, p. 250.
45. J. Desjardins, *Guide parlementaire*, p. 24.
46. *Journals of the Special Council of the Province of Lower Canada*, pp. 19–21.
47. A. Perrault, "Le conseil spécial, 1838-1841", (1943) vol. 3, no. 4, p. 218.

set at 11.[48] The Council's power to levy taxes was limited, except where public improvements and certain municipal purposes were concerned.[49]

Durham sent the principal leaders of the insurrection into exile without a trial and granted amnesty to the other prisoners. London disallowed these actions, adopting legislation to do so, and Durham resigned as a result. Colborne again installed his government in Montréal. On November 1, 1838, he recalled his former "advisors" to the Special Council and added new members. The same year, further rebellions erupted and were again put down by military might.

The Durham Report was tabled on January 31, 1839. On the grounds that a francophone majority in the House would always be a political handicap, Durham recommended a union of the two Canadas. But he also recommended that the new entity thus formed be granted responsible government for its own administration.

The new Governor, Charles Edward Poulett Thomson, future Lord Sydenham, administered Lower Canada from Montréal. 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 Toronto, Parliament had taken similar action on February 24, 1838, having passed resolutions to transfer its debt to Lower Canada, ensure an equal number of seats for the two Canadas (despite Upper Canada's lower population), prohibit the use of French and establish the new capital in Upper Canada.[50]

Until February 9, 1841, the Special Council continued to administer Lower Canada under Thomson or, in his absence, under a member designated by him. The 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 after examination by a special committee, the ordinances (totalling 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*, published under the authority of the Government. The British Parliament maintained its power to disallow legislation.

48. Lareau, *Histoire du droit canadien*, p. 227.
49. Perrault, "Le conseil spécial, 1838-1841", no. 3, p. 136.
50. Blais et al., *Québec*, p. 255. In December 1839, the Upper Canadian Parliament adopted another address in favour of union.

1.4 THE PROVINCE OF CANADA

The *Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*[51] was given royal assent by Queen Victoria on July 23, 1840. On February 10, 1841,[52] this new Constitution was proclaimed in Montréal. The first capital of United Canada was established in Kingston. Montréal became the capital and the seat of Parliament in 1844 and remained so until 1849, when Tory rioters burned down the Houses of Assembly. Parliament then alternated between Toronto (1850–1851 and 1855–1859) and Québec City (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.

Burning of the Houses of Assembly in St. Ann's Market on April 25, 1849

Though lacking official federal status, the new legislative and financial union nevertheless operated along the lines of a federation. In practice, there were two Parliaments—one for Canada West (formerly Upper Canada) and another for Canada East (formerly Lower Canada)—sitting under one roof, with two administrations corresponding to two distinct legal systems.[53] However inconvenient the arrangement may have seemed to some, the principle of "equal justice" allowed French and English Canadians to stake out their separate political spheres; this nonetheless required the parliamentary collaboration of the two Canadas.

51. (U.K.), 3 & 4 Vict., c. 35, better known as the *Union Act* (reprinted in R.S.C. 1985, app. II, no. 4).
52. A British ministerial order dated August 10, 1840, authorized Lord Sydenham to promulgate the new imperial law. This proclamation is dated February 5, 1840 (Perrault, no. 6, p. 303).
53. Blais et al., *Québec*, p. 256.

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 from each of Canada East and Canada West, for a total of 84; from 1854 to 1867, these numbers were 65 for each of the Canadas, for a total of 130 Members. Anyone who wished to run in a general election had to own property worth £500. The property qualification for franchise was higher than under the old constitution, but it would be lowered in 1855.[54] It should also be noted that women had the right to vote until 1849.

At the sitting of June 19, 1841, the Members adopted the *Rules and Regulations for the Government of the Legislative Assembly*[55] to govern the conduct of parliamentary proceedings. Its 91 articles dealt with adjournments, quorum, the Speaker, questions, motions, supply, public bills, private bills, petitions, the tabling of documents, committees, orders of the day, the library, etc. For situations not provided for in the *Rules*, article 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 reality French continued to maintain a presence in the new Parliament. The Assembly rules themselves provided for a certain degree of latitude in this regard. Hence, 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.

54. 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 actual value of at least 75 pounds 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.

55. *Journals of the Legislative Assembly of the Province of Canada, . . . first session of the first Provincial Parliament of Canada, session 1841,* pp. 40–49. Updated editions were published in 1845, 1851, 1856 and 1860.

Louis-Hippolyte LaFontaine[56] stands out among those who fought to gain recognition for the legal and parliamentary status of French. It was largely thanks to his efforts that on January 31, 1845, after much political wrangling, the Assembly unanimously adopted an address in which it asked the Queen to recommend that the British Parliament amend the Constitution with regard to French.[57] London obliged in 1848.[58]

The other branch of the Legislature, the Legislative Council, was initially composed of not fewer than 20 members appointed by the Crown.[59] Appointees were chosen from among the most successful and wealthy citizens. This haute bourgeoisie was supposed to provide a counterweight to the apprehended hotheadedness and radicalism of the lower house.[60] 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.[61] Forty-eight electoral divisions were defined, 24 for each of 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.[62]

56. Louis-Hippolyte LaFontaine was Member for Terrebonne from 1830 to 1838, Member for York from 1841 to 1843, Member for Terrebonne from 1844 to 1848 and Member for Montréal from 1848 to 1851.
57. On February 26, 1845, the address was also approved by the Legislative Council.
58. On January 18, 1849, in Montréal, Governor James Bruce, 8th Earl of Elgin, delivered the Throne Speech in both French and English.
59. 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*. Updated editions were published in 1847, 1853, 1858, 1861 and 1864.
60. André Garon, "Le Conseil législatif du Canada-Uni : révision constitutionnelle et composition socio-économique", p. 61.
61. *Act to change the Constitution of the Legislative Council by rendering the same Elective*, Statutes of the Province of Canada, 1856, c. 140. It should be noted that the electoral requirement 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.
62. Blais, "Le Québec n'est pas une province comme les autres : le Conseil législatif, 1775-1968".

Another reform concerned the Speaker of the Legislative Council. Since 1792 he had been appointed by the Governor; henceforth (from 1860 to 1867) he would be elected by the councillors themselves.[63]

The Governor remained head of the Executive. On February 13, 1841, Sydenham formed the first Executive Council of the Province of Canada.[64] In a break with the past, however, members of the new Council were assigned specific offices: Attorney General, Provincial Secretary, Solicitor General, member of the Office of Public Works, etc. In Cabinet there were two Attorneys General, one for each of the Canadas, who were ultimately designated as co-Premiers, even though ordinarily only one of them was called upon to form the Administration.[65] There were also two Solicitors General and, in due time, two education systems, each with its own superintendent.

On September 16, 1842, the new Governor Charles Bagot formed another Cabinet, choosing his minister-councillors from the Members of the parliamentary majority. Bagot showed open-mindedness in appointing former Patriote leaders to the Baldwin-LaFontaine administration. But Bagot died in 1843 and the Governor who succeeded him, Charles Metcalfe, turned back the clock, as it were, by refusing to play second fiddle to "a party government". His preference was for a government of parliamentarians without party affiliations, a prospect which rendered all but meaningless the principle of responsible government.

After resigning from the Cabinet in November 1843, Reformers Robert Baldwin and Louis-Hippolyte LaFontaine continued to campaign for a truly responsible government.[66] They believed not only that members of the Executive Council should ordinarily be appointed from among the Members of the majority party in the House, but in particular that loss of confidence of the Assembly should compel the Government's resignation. This was not about to happen. In fact, given that Metcalfe, in the general election of 1844, gained the support of a slim majority of Members that included Tories, moderate Reformers and *Canadiens*, the new "non-partisan" Executive Council was not at all subject to the sanction of the Assembly.

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63. *Act to provide for the election of the Speaker of the Legislative Council*, Statutes of the Province of Canada, 1860, c. 3. This Act took effect at the following legislature, and the first election was held on March 20, 1862.
64. This first Council comprised eight members; three were from Canada East, but none were francophones.
65. Antoine Gérin-Lajoie, *Catéchisme politique ou éléments du droit public et constitutionnel du Canada : mis à la portée du peuple*, p. 48.
66. Amnestying the condemned Patriotes and indemnifying the victims of the Rebellions of 1837 and 1838 were high-priority concerns for LaFontaine both as head of the Government (1842–1843/1848–1851) and as opposition Member (1843–1847).

The political and economic conditions pressing in upon Britain in the 1840s were such as to favour change. In exchange for liberalizing its protectionist policies (abolition of preferential rates for its colonies), Britain agreed to transfer more powers to the provinces for the administration of their internal affairs. In 1846–1847, without changing the constitutions of its British North American provinces, London accepted the principle of responsible government,[67] while maintaining its right to disallow the laws of its colonies and control their trade laws and external affairs.

The Reformers emerged as the big winners in the general election of 1847. The Conservative government of Henry Sherwood held on to power until the new session of the new Legislature. A Reformer was elected Speaker by his peers and, on March 6, 1848, the Government lost the confidence of the House on being defeated by an opposition amendment concerning the address in reply to the Throne Speech. The next day, Governor James Bruce (Lord Elgin) announced that he would take measures to form a new Executive Council.[68] Sworn in on March 11, the LaFontaine-Baldwin Cabinet was the seventh Cabinet since 1841 and the first truly responsible government of the colony.

1.4.2 Responsible Government (1848–1867)

With the advent of responsible government, the issue of the Assembly's right to oversee public spending was finally put to rest. To be sure, 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 under the Union.[69] This was the first consolidated revenue fund. Since 1845 the Assembly, by carrying out a detailed examination of appropriations, had had oversight of all amounts allocated by the Government. Although the Legislative Assembly of the Province of Canada then held the initiative on all bills authorizing any portion of the surplus of the said revenue fund or authorizing the imposition of any new tax or duty, this financial legislation nonetheless needed to be approved beforehand in a message from the Governor.[70] In short, with responsible government the executive power was bound to the legislative power, and the initiative with regard to spending (money bills) and oversight of appropriations was transferred into the hands of the parliamentary majority.

67. Jacques-Yvan Morin and José Woehrling, *Les constitutions du Canada et du Québec : du régime français à nos jours*, vol. 1, p. 74; Phillip Buckner, "Le ministère des Colonies et l'Amérique du Nord britannique, 1801-1850", p. xxxiii.
68. *Journals of the Legislative Assembly of the Province of Canada . . . Session 1848*, p. 22.
69. Morin and Woehrling, *Les constitutions du Canada et du Québec*, vol. 1, p. 70.
70. Morin and Woehrling, *Les constitutions du Canada et du Québec*, vol. 2, p. 111.

With regard to public employees, the Constitution of 1840 (i.e. the *Union Act*) imposed a permanent civil list in the amount of £75,000 without the consent of the Assembly.[71] 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.[72] As in the past, the Executive Council maintained its power to appoint the highest public officials;[73] however, after 1848 the "patronage" by which these civil-service positions were filled was controlled by the party in power.

Responsible government also hastened the development, increasingly pronounced, of political parties. Already in 1764 a "French Party" supporting the *Canadiens* existed within the Council of Quebec, and within the Legislative Council after 1775. During the period of the *Constitution, 1791*, the Parti Canadien, and later the Parti Patriote, lined themselves up in opposition to the British Party. With the passage of the *Union Act*, Reformers, Anti-Union Reformers, Clear Grits (radical Canada West Reformers), Conservatives (Blues, Tory Imperialists, Tory Annexationists) and Liberals (Louis-Joseph Papineau's Reds in Canada East) confronted each other in election campaigns and formed coalitions to obtain or preserve a parliamentary majority.[74] However, the structure of political parties remained ill-defined, and parties could not yet be described as associations of citizens.[75]

The Speaker and Responsible Government

The practice of having a Member elected as Speaker by his peers goes back to 1792. The Standing Orders of 1793 note that his role is to "preserve order and decorum". While the Speaker could not take any part in debates, he 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 in 1848, the Speaker was ordinarily from the governing party. Consequently, his 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 his *Catéchisme politique* published in 1851:

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71. Lareau, *Histoire du droit canadien*, p. 239.
72. Lareau, *Histoire du droit canadien*, p. 248; Gérin-Lajoie, *Catéchisme politique*, p. 41.
73. Gérin-Lajoie, *Catéchisme politique*, p. 47.
74. The "party line", if it could be said to exist at all, was more flexible than it is today, and each Member voted as he saw fit.
75. Paul-André Linteau, René Durocher and Jean-Claude Robert, *Histoire du Québec contemporain*, vol. 1, p. 309.

> [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 which 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 it. He may not vote except in the case of a tie in the House, when he has the casting vote. ■

In addition, since authority and the levers of power under responsible government tended to pass into the hands of the Executive Council, in 1857 the Legislative Assembly passed the *Act to further secure the Independence of Parliament*[76] to more clearly distinguish between the legislative and executive powers. Under this Act, a Member could no longer accept a position on the Executive Council without first resigning his seat and running in a by-election as a means of gaining his electors' approval of his appointment. However, this rule did not apply to ministers who resigned their office to take up another within one month's time.

Responsible government in United Canada had the peculiarity of being based on the principle of double or simple 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 both the Members of Canada East and the Members of Canada West, and sometimes simply sought an absolute majority in the House. 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 1856.[77]

After 1856, governments found it difficult to muster majority support in both of the Canadas. Hence United Canada was characterized by the instability of its governments. Until 1867, Parliament was on shaky ground, and a number of governments resigned after suffering defeats in the House on the great political issues of the day.

76. Statutes of the Province of Canada, 1857, c. 22.
77. The principle of Cabinet solidarity did not yet carry the weight of an inviolable rule.

In addition, the question of whether to introduce a system of proportional representation provoked debates between the two Canadas. When the 1851 census confirmed the larger population of Canada West, Reformer Members and Canada West's Clear Grits demanded representation proportionate to the population—"Rep by Pop"—in each of the Canadas. Changing the Constitution required a two-thirds majority in the House, which effectively meant that no change was possible, since the Members of Canada East refused to relinquish the principle of equal representation for the two Canadas that had prevailed in Parliament since 1841. Even after 1856, 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.

Meanwhile, Conservatives and Reformers were promoting a federal union of British North America. At the same time, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland were discussing the possibility of a union of maritime provinces. John A. Macdonald, Étienne-Paschal Taché, George-Étienne Cartier and other political leaders of the Province of Canada attended the Charlottetown Conference from September 1 to 9, 1864. The four Atlantic colonies and the Province of Canada agreed on the proposal to form a federation of British provinces in North America. At the Quebec Conference, which was held from October 10 to 27, 1864, the delegates adopted 72 resolutions which 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 CONSTITUTION OF 1867

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*.[78] On July 1 of that year, the Canadian Confederation consisted of the provinces of Québec, Ontario, Nova Scotia and New Brunswick, all under a federal administration. The federal government had jurisdiction in some matters, the provincial governments in others.

Nova Scotia and New Brunswick had constitutions of their own, dating back to 1758 and 1784 respectively, and each had a legislative assembly and a legislative council. The provinces of Ontario and Québec were created under 15 resolutions of the Parliament of United Canada in 1866, with their borders

78. (U.K.), 30 & 31 Vict., c. 3 (reprinted in R.S.C. 1985, app. II, no. 5). In 1982, the *British North America Act*, commonly referred to as the *BNA Act*, was renamed the *Constitution Act, 1867*.

reverting back to those of Upper and Lower Canada of 1791.[79] It was decided that Ontario would be governed under a unicameral, and Québec under a bicameral system.[80]

1.5.1 The Parliament of the Province of Quebec (1867–1968)

The Parliament of Quebec 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 gaining the support of a majority of 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.

The parliamentarians during Honoré Mercier's administration, created in 1890. In this composite, the Lieutenant-Governor is depicted above the Legislative Council, the Legislative Assembly and the Executive Council.

79. The creation of these provinces was provided for in the 72 resolutions of the Quebec Conference.

80. Later to join the Confederation were 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).

Québec's 65 electoral districts remained the same as they had been in United Canada, having been defined 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 1874, when such dual representation was abolished, a Member from Québec could hold a provincial and a federal seat concurrently.[81] Similarly, between 1792 and 1952, a candidate could run in two ridings simultaneously; if elected in both, he simply chose which riding he would represent in the House.[82] Prior to 1875, the ballot was not secret, and voting could take several days and be held at different times in different ridings.[83]

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*,[84] 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 and $200 in other municipalities, or who were registered as tenants paying annual rent of at least $30 in city municipalities and at least $20 in other municipalities.[85] In 1912, the government of Lomer Gouin lowered these requirements and abolished multiple voting, which allowed an individual to vote in each riding in which he possessed property. Finally, in 1936, the government of Maurice Duplessis abolished the property qualification altogether.

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-Adélard Godbout's government, that women were granted the right to vote and stand for a seat in the Assembly. The age of majority was lowered to 18 in 1963.[86]

The powers of the Legislative Council (Québec's upper house) were set out in the *BNA Act* of 1867. There were 24 legislative councillors, one for each of the electoral divisions established for Canada East in 1856. 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

81. In New Brunswick and Nova Scotia, dual representation was prohibited from the outset, in 1867; it was abolished by Ontario in 1872, and by the federal Parliament the following year.
82. *An Act to amend the Quebec Election Act*, L.Q., 1951–52, c. 19, ss. 2–3.
83. A 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.
84. L.Q., 1875, c. 7.
85. It was also in 1875 that the first measure on election expenses was adopted.
86. The franchise was extended to Amerindians in 1969, to judges in 1978 and to prisoners in 1979.

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.[87]

The Legislative Council, 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 on June 21, 1886 by the Legislative Assembly and the Legislative Council, sanctioned the principle of the 1867 financial legislation, which states 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".[88] However, the definition of "money bills" was extremely broad and the Legislative Council continued on occasion to amend this type of bill.[89]

Nor was there anything to prevent the Council from rejecting the budget in its entirety. The budget of Henri-Gustave Joly's government met with precisely this outcome on August 28, 1879. The Council adopted an address to the Lieutenant-Governor, in which it "declared that it believed it to be its duty 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".[90] Joly, having lost the support of the majority in the House, resigned on October 30, 1879 after being defeated on three separate votes. In 1892, the Council again defended its right to reject a supply bill, but it no longer dared do so.

Governments Defeated in the House

Two governments in the 19th century 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).

87. *Act to amend the Legislature Act and respecting the pensions of members of both Houses*, L.Q. 1963, c. 12. The other councillors could sit for life if they so desired; however, the Act stipulates that any councillor who has 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" may retire on a lifetime annual pension of 75% of his contributions.
88. *Act respecting the Legislative power*, s. 32.
89. The definition of "money bill" leaves room for interpretation in the Standing Orders of the Legislative Council (*Québec Rules & Orders of the Legislative Council*, p. 15; *Rules, Orders and Forms of Proceedings of the Legislative Council of the Province of Quebec*, p. 15).
90. *Journals of the Legislative Assembly of the Province of Quebec* (Québec: Augustin Côté, 1879), p. 354.

In the general election of 1878, Joly's Liberals won 31 seats as against 32 for the Conservatives; two more Conservatives sat as independents. To maintain his party 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, in voting with the Government, allowed it to remain in power until five Liberals—nicknamed "les cinq veaux" [the five simpletons]—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 as against 33 for Honoré Mercier's Liberals. Three independent Conservatives and three Nationalists had taken 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, leaving it to fellow Conservative Louis-Olivier Taillon to form a Cabinet. The new session opened on January 27, 1887, 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 three 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 this was not a confidence vote, Taschereau remained in power. ■

The third branch of Québec's Parliament, the Lieutenant-Governor of the Province of Quebec, was appointed by the Governor General in Council. Today the Lieutenant-Governor convenes, prorogues and dissolves Parliament, but only on the advice of the Premier. Formerly, however, the Lieutenant-Governor was 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,[91] 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 were not constrained to follow the advice of the Governor General in Council.[92] The view of the Lieutenant-Governor's role as neutral and non-partisan increasingly gained currency. The power to reserve a bill fell gradually by the wayside, as did the power (used for the last time in Québec in 1910) to disallow a bill.

The Executive Council and the Lieutenant-Governor together constituted the government, and the executive power was designated by the name "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.

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 of recommending to the Assembly a bill which 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 Treasurer, a Solicitor General, 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 was appointed by the Executive and 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.[93] On the other hand, the *Act respecting the Speaker of the Legislative Council*, assented

91. 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, he requested that the Lieutenant-Governor dissolve Parliament and call a general election, which Joly won by a slim margin.

92. *Maritime Bank of Canada (Liquidators of) v. New Brunswick (Receiver General)*, [1892] A.C. 437 (P.C.). 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 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.

93. *Act relating to the Speaker of the Legislative Council*, L.Q., 1882, c. 4, s. 7. The Act was passed as a result of a disagreement between Premier Joseph-Adolphe Chapleau and Speaker of

to on January 12, 1895, stated that "the Speaker may be a member of the Executive Council of the Province".[94] In any case, the practice was abandoned after 1905.[95]

Finally, as of April 1, 1927, under an amendment to the *Act respecting the Independence of the Legislature*,[96] 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.

On December 28, 1867, as an interim measure, the Assembly decided to conduct its debates according to the rules of procedure of the House of Commons of Canada.[97] During the same sitting, a special committee headed by Speaker Joseph-Godric Blanchet was created to draft rules, regulations and Standing Orders for the management of the Assembly.

Adopted on February 22, 1868, the *Rules and regulations of the Legislative Assembly of the Province of Quebec* consisted of 116 articles divided into seven sections.[98] The last article concerns 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*".[99]

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the Legislative Council Pierre Boucher de la Bruère concerning the Conservative government's railway policy.

94. *Act respecting the Speaker of the Legislative Council*, L.Q., 1895, c. 13, s. 1.
95. Louis Massicotte, *Le Parlement du Québec de 1867 à aujourd'hui*, p. 116. Thomas Chapais and Horace Archambeault were the last Speakers of the Legislative Council to 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 (1874–1878/1891–1892) and John Jones Ross (1884–1887) directed the affairs of the province from the upper house.
96. L.Q., 1927, c. 13.
97. Massicotte, *Le Parlement du Québec*, p. 34.
98. The sections were divided 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.
99. *Journals of the Legislative Assembly of the Province of Quebec*, (Québec: Augustin Côté, 1868), pp. 137–147. Following this there are 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*.

The regulations of 1868 were updated 11 times before being completely re-edited.[100] On May 9, 1885, the House adopted the *Rules, Orders, and Forms of Proceeding of the Legislative Assembly of Quebec*.[101] These consisted of 123 articles divided into 14 sections.[102] In cases of disputed meaning, it was stipulated that the French original would take precedence over the English translation.

In 1912, a special committee recommended that the Assembly's unwritten rules of procedure be incorporated into the Standing Orders.[103] This job was given to the clerk of the Assembly, Louis-Philippe Geoffrion. 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. Its 688 articles were grouped under 18 titles and 77 chapters, with 40 appendices dealing with motions.[104] It was the longest set of Standing Orders in the history of the British Empire.[105] In contrast to previous versions, unprovided cases situations were to be resolved "in the manner recognized in the House of Commons of Canada on January 1, 1904" and, if necessary, according to the 1868 Standing Orders of the English Commons. Five updates were made before 1941. In 1939, the Members' speaking time was limited for the first time, speeches being reduced to one hour except in the cases of the Premier and the Leader of the Opposition.

100. Massicotte, *Le Parlement du Québec*, p. 35. See also Louis-Georges Desjardins, *Decisions of the Speakers of the Legislative Assembly of the Province of Quebec*.

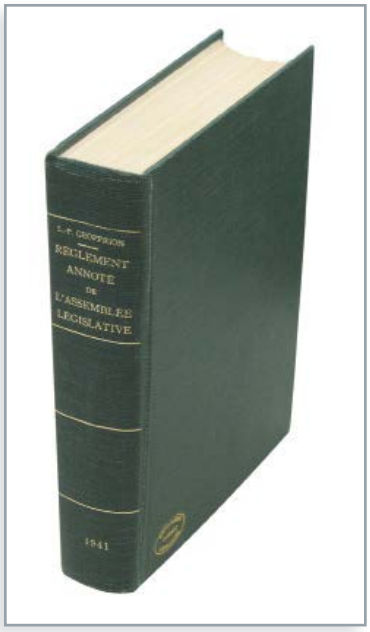
101. *Journals of the Legislative Assembly of the Province of Quebec* (Québec: Augustin Côté, 1885), pp. 301–316.

102. 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.

103. Massicotte, *Le Parlement du Québec*, p. 38. According to André Beaulieu, in "Les éditions du règlement de l'Assemblée depuis 1793", N.p., n.p., n.d., 33 Québec usages were compiled by Speaker Jonathan Saxton Campbell Würtele; J. S. C. Würtele, *Manual of the Legislative Assembly of Quebec*.

104. Bernard Bissonnette, *Refonte du règlement de l'Assemblée législative de Québec : préparée conformément à une résolution du 19 juin 1940 et précédée d'un avant-propos*; Louis-Philippe Geoffrion, *Règlement annoté de l'Assemblée législative du Québec*.

105. Massicotte, *Le Parlement du Québec*, p. 38.



Clerk of the Legislative Assembly Louis-Philippe Geoffrion (1875–1942) supervised 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 in progress had been prorogued. The structure of the new edition remained substantially the same, but the Standing Orders now contained 812 articles and 89 appendices.[106] In the foreword, Speaker Bernard Bissonnette, former Speaker Télesphore-Damien Bouchard and clerk Louis-Philippe Geoffrion described this version as seemingly complete, even excessive compared to the Standing Orders of other Canadian legislative bodies; however, they added, despite its size, it was far from containing all the essential rules. They explained that the purpose of the re-editing process was to bring certain articles in line with habitual practice and to sanction established unwritten rules and usages in formal texts, making of the Standing Orders a code of parliamentary procedure as complete and as close to perfect as possible.

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" underwent little change from 1792 until the abolition of the Legislative Council in 1968.

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

106. Geoffrion, 1941.

The session began in an atmosphere of formal solemnity when the Lieutenant-Governor, wearing a gold-fringed costume and a two-cornered hat, arrived at the Parliament Building in a horse-drawn carriage with mounted escort. In the Legislative Council Room, 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 which 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 Your Honour has been pleased to address to us at the opening of the present session."[107] The length of the debate on the address varied from session to session. It 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.

107. The wording was altered slightly in 1912.

After the budget had been adopted in a plenary session, a detailed examination of estimates was begun. One by one, the amounts allocated to each government department were voted on.[108] The process ended when the Assembly, 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 forthcoming fiscal year.[109]

The steps in the passage of bills had remained largely unchanged since 1792: first, the bill was introduced for first reading; then, if the Members deemed it necessary, the bill was examined by one of the Assembly's standing committees;[110] on second reading, the bill was adopted in principle; the bill was examined section by section in a committee of the whole; and, finally, the bill was generally adopted without debate on third reading. 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.

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.[111] If the bill was passed by the councillors, it came back to the Assembly, where the Members voted on any amendments the Council may 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 the bill before it could be assented to.

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 Room (Red Room). The clerk of the Legislative Council, placing his right hand on the bills stacked on the table of the upper house, assented to the bill in the right following words: "In Her Majesty's name, His Honour the Lieutenant-Governor thanks Her loyal subjects, accepts their benevolence and assents to these bills."

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

109. Massicotte, *Le Parlement du Québec*, p. 101.

110. In such cases, the committee's report had to be tabled in the House before the bill could proceed to the next step.

111. Damase Potvin, *Aux fenêtres du Parlement de Québec : histoire, traditions, coutumes, usages, procédures, souvenirs, anecdotes, commissions et autres organismes*, pp. 59–60.

It was also in the Red Room that the Lieutenant-Governor delivered the prorogation, which marked the end of the session. The Speaker of the Legislative Council had the last word: "It is His Honour the Lieutenant-Governor's will and pleasure that this provincial parliament be prorogued *sine die*, and this provincial parliament is accordingly prorogued *sine die*."[112]

1.6 THE NATIONAL ASSEMBLY OF QUÉBEC, 1968 TO THE PRESENT

The Quiet Revolution and the birth of the welfare State brought with them a pronounced increase in the work to be done by the Members. For this reason, in 1963, the Assembly began to look at ways of modernizing its proceedings. The Comité de refonte des règlements (Standing Orders review committee, or CRR) was created in February 1964.[113] This special committee was formed of seasoned parliamentarians, and also included Jean-Charles Bonenfant, director of the National Assembly Library from 1952 to 1969 and professor of law at Laval University. A new committee was formed in February 1967 and remained active until 1969.[114]

1.6.1 Abolition of the Legislative Council (1968) and the "Lavoie" Edition of the Standing Orders (1973)

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".

The abolition of the Council was followed by a series of reforms. The ceremonial side of things was pared down. The speech formerly delivered by the Lieutenant-Governor in the Legislative Council Room was now delivered

112. That is, without setting a date. Until the 3rd Session of the 14th Legislature, in 1919, the Lieutenant-Governor set the date for the following session on proroguing the current one.

113. Blais et al., *Québec*, pp. 523–524.

114. Jean-Charles Bonenfant, *La réforme du travail parlementaire au Québec*; Procès-verbaux du Comité institué pour étudier l'opportunité d'amender le règlement de l'Assemblée législative du 12 février au 22 juillet, 1964, Division des archives de l'Université Laval, Jean-Charles Bonenfant Collection, P120/4/1/5, Comité de refonte des règlements de l'Assemblée nationale (1958–1968).

in the National Assembly Room. The Speaker no longer donned the traditional robes, gloves and three-cornered hat. Parliamentary vocabulary was brought more into line with idiomatic French usage. Thus "orateur" (for "Speaker") became "président" and thus President in English; "greffier" (for "clerk") became "secrétaire général" and Secretary General in English; "bill" became "projet de loi"; "comité permanent" (for "standing committee") became "commission permanente"; "subside" (for "supply") became "crédit" and so on.

Other CRR recommendations were implemented on a temporary basis, at the beginning of each session, as of 1969. Among the British practices to fall away were the Throne Speech, the pro forma bill and the expression of thanks.[115] The right to appeal the rulings of the Speaker was abolished in 1969.[116] In addition, the order of the day now officially included statements by ministers and oral questions and answers.[117]

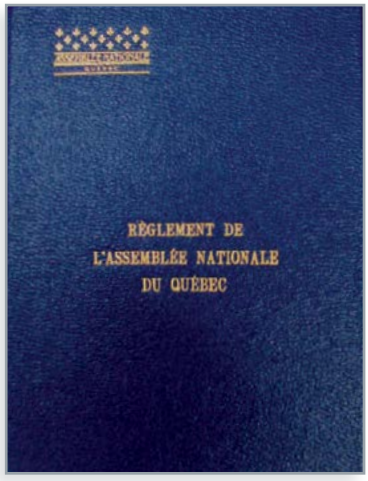
The reform of parliamentary institutions continued apace in 1970. The role of parliamentary committees was thoroughly reviewed. The standing committees created at the start of each session since 1867 had fallen into disuse after the 19th century, except the private bills committee and the public bills committee.[118] After 1970, the practice of examining certain bills in "elected" committees allowed more and more individuals and organizations to testify before the parliamentarians.

115. From 1970 to 1972, sessions were opened 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 speak first. 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 interim Standing Orders state that after the Lieutenant-Governor's message, the head of the Government delivers the opening speech. None of this was retained in the 1973 Standing Orders, under which the Lieutenant-Governor's speech is to be followed by a debate on the inaugural message. Since no order of priority is given, this debate was initiated by an opposition Member. This was the case until 1976. Then, on December 23 of that year, Standing Order 22 was amended to the effect that the Members, at the beginning of each session, 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).

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

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

118. The public accounts committee had been inactive after 1912 and from 1922 to 1924. An historically memorable moment occurred when, in 1936, Maurice Duplessis, then Leader of the Opposition, reconvened the committee to examine the Government's use of appropriations voted by the Legislature.



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

After ten years' work, the *Standing Orders of the National Assembly of Québec* were adopted on March 13, 1973. 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 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".[119]

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, better still, made provision for standing committees (or the appropriate elected committees) to sit when the House was adjourned, including between sessions.[120]

In 1976, under the presidency of Clément Richard, the Assembly applied Standing Order 32, which calls for a "moment of reflection" to begin each sitting; this replaced the prayer, which dated from 1922. The Québec flag took up its position at the right-hand side of the President's chair. Parliamentary debates were first televised in 1978, when the "Green Room" was painted a camera-friendly blue.

1.6.2 The *Act respecting the National Assembly* (1982) and the Reform of 1984

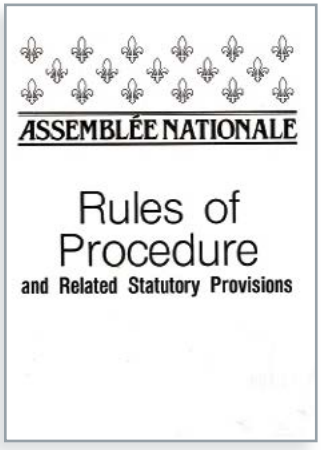
On December 18, 1982, the *Act respecting the National Assembly*[121] was assented to, replacing the *Legislature Act*.[122] The new Act granted a power of derogation to the National Assembly, which increased the Assembly's autonomy and power of initiative in relation to the public administration. The Office of the National Assembly was constituted to oversee and regulate various administrative

119. *Standing Orders of the National Assembly of Québec*, 1973, p. [11].
120. Since 1982, section 13 of the *Act respecting the National Assembly* has provided that "A committee or a subcommittee may sit even when the Assembly is not in session."
121. L.Q., c. A-23.1.
122. L.Q., c. L-1.

aspects of the Assembly. The creation of the Office as an administrative board ensured the Assembly's independence from the Cabinet, since it replaced the former internal economy committee, which had been composed of the President and three ministers.

The year 1982 was also marked by significant parliamentary reform. Some Members had criticized the "Lavoie Code", claiming that it diminished the political importance of the Assembly by limiting the time for important debates. The avowed purpose of the new reform was to modernize the Assembly's operations so as to increase its autonomy in relation to the executive power.

On March 13, 1984, the Assembly adopted the new *Rules of Procedure and Related Statutory Provisions* on a trial basis. These new rules became the Standing Orders on April 16, 1985. They consisted of 6 titles, 19 chapters and 319 sections.



The Standing Orders of the National Assembly were implemented temporarily in 1984 and made permanent in 1985, while Richard Guay was President of the National Assembly.

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. Given the need to consolidate the principle of separation between the legislative and executive 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.[123]

Specifically, the operations of parliamentary committees were brought up to date, with committees now able to examine, on their own initiative, regulatory measures, financial commitments, the management of public bodies and any other matter of public interest. This major restructuring 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.[124]

123. Richard Guay, "Mémoire sur la réforme parlementaire présenté par le président de l'Assemblée nationale".

124. 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 4 or from

These Standing Orders still govern the proceedings of the Assembly today, though parliamentary reform remains, by its nature, an ongoing operation. Indeed, 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.

In April 1998, President Jean-Pierre Charbonneau tabled a reform proposal organized under 11 themes. The following year, on March 2, 1999, the Assembly put to the test, for the first time, rules of procedure under the first theme, that is, the election of the President by secret ballot. The same day, an amendment to the *Act respecting the National Assembly* had provided for the election of a third Vice-President to be chosen from among the Members forming the Official Opposition. In 2001, the Assembly adopted temporary rules concerning two of the themes contained in the 1998 reform proposal, that is, the presentation of, and follow-up on, petitions, and the introduction of a new exceptional procedure more restrictive for the governing party.

In June 2004, Government House Leader Jacques Dupuis and President Michel Bissonnet each tabled a parliamentary reform project; during the following legislature (2007), the new Government House Leader, Jean-Marc Fournier, followed suit with a reform project of his own. A consensus gradually emerged, and on April 21, 2009, the new Standing Orders were unanimously adopted. This reform, similar in nature to that which preceded it, comprises 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.

December 22 to January 21. Outside 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 Monday (Louis Massicotte, "Le calendrier parlementaire québécois").

2

The Foundations of Parliamentary Procedure

It is important to study the sources and underlying principles of parliamentary procedure before undertaking an in-depth examination. In fact, 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 be equated with pointless ritual.

2.1 PRINCIPLES

Québec has had its own assembly of representatives elected by the people since the *Constitutional Act, 1791*,[1] so both the institution and its rules of procedure have a long history. The preamble to the *Constitution Act, 1867*[2] explicitly states that the Constitution of Canada is similar in principle to that of the United Kingdom. Québec's system of government draws inspiration from the same source and is deeply rooted in parliamentary tradition, as is noted by Brun, Tremblay and Brouillet:

1. *Constitutional Act, 1791* (U.K.), 31 Geo. III, c. 31 (reprinted in R.S.C. 1985, app. II, no. 3).
2. *Constitution Act, 1867* (U.K.), 30 & 31 Vict., c. 3 (reprinted in R.S.C. 1985, app. II, no. 5).

> [TRANSLATION] The British system is the oldest of modern parliamentary systems. The fruit of its 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]

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 legislative and executive functions, which is why constitutional mechanisms fostering or imposing co-operation between them are necessary.[4] These include mechanisms for maintaining contact, exercising oversight and imposing constraints.[5]

Parliamentary law is the set of rules applicable to legislative assemblies and their Members, as well as to a government in its relations with the legislative assembly in order to ensure *organized* co-operation 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 little known, parliamentary law is extremely important since it establishes a democratic balance in parliamentary debates. In a system like Québec's, parliamentary law confirms the primordial role played by the Government in the exercise of legislative power. However, the drafting of parliamentary law is the exclusive jurisdiction of the Assembly and not 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 probably explain, in part at least, why Québec's parliamentary system has endured. These principles, which work to ensure the efficient and democratic functioning of an assembly, are as follows:

> 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

3. Henri Brun, Guy Tremblay and Eugénie Brouillet, *Droit constitutionnel*, 5th ed., pp. 591–592.
4. Brun, Tremblay and Brouillet, *Droit constitutionnel*, 5th ed., p. 591.
5. Brun, Tremblay and Brouillet, *Droit constitutionnel*, 5th ed., p. 598.

> 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]

The rules of parliamentary procedure as a whole, then, must reflect these principles and create a balance between them. Procedure is thus at the service of noble ideals that ensure the highly democratic nature of the parliamentary institution. Even though they may sometimes be considered 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

By virtue of their constitutional parliamentary privileges, legislative assemblies derived from the British model, such as Québec's National Assembly, have exclusive power to govern their internal affairs without any outside interference. It is this power that enables assemblies to adopt written rules establishing the procedure under which they will function. While the Standing Orders of such assemblies contain the essential elements of the rules of parliamentary procedure, a number of rules are drawn from other sources, including the Constitution, statutes, special orders, precedents, usage and doctrine. Parliamentary law, however, derives from unwritten rules that "are being used, not to codify existing practice, but rather to trim and adjust historic traditions to modern needs".[7]

In Québec, parliamentary law is in a sense an independent branch of constitutional law since the rules of procedure are interpreted and enforced by the National Assembly itself. In fact, the exclusive power of an assembly to govern its internal affairs without outside interference means that the courts generally cannot intervene in its deliberations, even if the assembly does not respect its own rules of procedure. The President 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, and rulings made by the President may not even be discussed (S.O. 41).

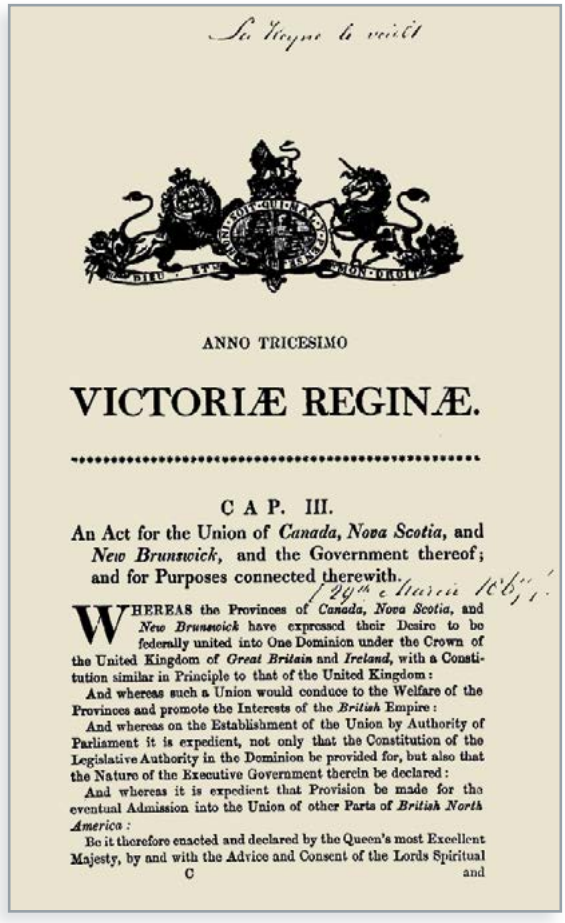
Despite the particular nature of parliamentary law and the exclusive power of the President of the National Assembly to interpret that law, the President must always bear in mind the order of precedence governing the rules of parliamentary law as set out in Standing Orders 179 and 180, which

6. John George Bourinot, *Parliamentary Procedure and Practice*, pp. 200–201.
7. Beauchesne, p. 6.

codify the sources of parliamentary procedure in the National Assembly.[8] In this respect, parliamentary law does not differ greatly from the other branches of law that make up our legal system.

2.2.1 The Constitution

Preamble to the *Constitution Act, 1867*



ANNO TRICESIMO

VICTORIÆ REGINÆ.

CAP. III.

An Act for the Union of *Canada, Nova Scotia,* and *New Brunswick,* and the Government thereof; and for Purposes connected therewith.

WHEREAS the Provinces of *Canada, Nova Scotia,* and *New Brunswick* have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of *Great Britain* and *Ireland,* with a Constitution similar in Principle to that of the United Kingdom:

And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the *British* Empire:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual Admission into the Union of other Parts of *British North America*:

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual

C and

8. Standing Orders 179 and 180 read as follows:
"**179.** The proceedings of the Assembly shall be conducted in accordance with:
(1) the statutes;
(2) these Standing Orders and rules for the conduct of proceedings;
(3) such other orders as the Assembly may from time to time make.
180. In deciding all questions of procedure not so provided for, resort shall be had to the usages and precedents of this Assembly."

Regardless of the legal system governing a society, the Constitution is always the first source of law. In Québec and Canadian parliamentary law, the preamble to the *Constitution Act, 1867* is without a doubt the most important provision. First of all, as noted earlier, it states that the Canadian Constitution is similar in principle to that of the United Kingdom and, therefore, that the Canadian parliamentary system is also based on that of the United Kingdom. Moreover, in 1993, the Supreme Court of Canada ruled that the parliamentary privileges inherent in Canadian legislative assemblies were among the principles enshrined in the Constitution.

Other aspects of parliamentary procedure are also governed by the *Constitution Act, 1867*, namely, the prescriptions concerning the royal recommendation of appropriations (ss. 54 and 90), royal assent (s. 55), the oath of allegiance (s. 128) and the use of French and English in the debates and journals of the Assembly (s. 133). The *Constitution Act, 1982*[9] sets out the maximum term of a legislature (s. 4) and requires a legislature to sit at least once every 12 months (s. 5).

2.2.2 Statutes

The *Act respecting the National Assembly*[10] is undoubtedly the most important statute for Québec's parliamentary institution. It is pivotal to the organization of the National Assembly and, since it deals with the actual functioning of this organ of the State of Québec, it is part of Québec's Constitution.[11] As a matter of fact, a number of measures set out in that Act were initially found in the *Constitution Act, 1867*. Since the National Assembly has the power to

9. Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.
10. L.Q., c. A-23.1.
11. In *Ontario (Attorney General) v. OPSEU*, [1987] 2 S.C.R. 2, at 83 and 84, the Supreme Court of Canada says the following with respect to the Constitution of the Province of Ontario: "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, for instance the *Legislative Assembly Act*, R.S.O. 1970, c. 240, the *Representation Act*, R.S.O. 1970, c. 413, and the *Executive Council Act*, R.S.O. 1970, c. 153. Another part of the constitution of Ontario consists of the rules of the common law, developed or recognized over the years by the courts. Many of these common law rules concern the royal prerogative."

legislate on the provincial Constitution, it was able to amend constitutional provisions affecting the Assembly through the *Act respecting the National Assembly*.[12]

The *Act respecting the National Assembly* contains prescriptions on the composition, term and powers of the Assembly, and others on procedure and the laws adopted by the Assembly. It also includes a number of provisions on the rights, privileges and immunities attached to Parliament and its Members. Essentially, the Act codifies the constitutional privileges the Assembly and its Members already enjoyed as a matter of course.[13] The Act also governs the administration of the Assembly and, to that end, created the Office of the National Assembly, which supervises and regulates all administrative matters.

There are a number of other statutes that set out requirements or rules of procedure to be observed in the Assembly and in parliamentary committees. When a statute establishes a procedural rule, it 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,[14] a rule of procedure contained in a statute, which is an act of Parliament, cannot be set aside by unanimous consent or by the adoption of a special order of the National Assembly,[15] as the Assembly is merely one component of Parliament.[16]

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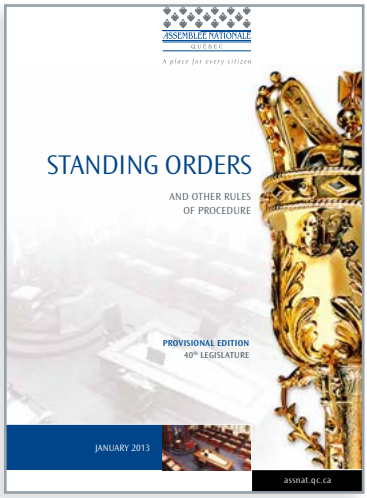
12. These provisions concern the composition of the National Assembly (ANA, s. 1; *Constitution Act, 1867*, s. 80); the President (ANA, ss. 19–24; *Constitution Act, 1867*, ss. 44–47 and 87); quorum (ANA, s. 8; *Constitution Act, 1867*, ss. 48 and 87). The power to legislate on the provincial Constitution is provided for in section 45 of the *Constitution Act, 1982*, which states that "subject to section 41, the legislature of each province may exclusively make laws amending the constitution of the province". This power was initially provided for in section 92(1) of the *Constitution Act, 1867*.
13. See Chapter 3, "Parliamentary Privilege".
14. As an example, section 22.3 of the *Act respecting the Ministère des Relations internationales*, L.Q., c. M-25.1.1, reads as follows:
"**22.3.** The Minister may present a motion proposing that an important international commitment tabled in the National Assembly be approved or rejected by the Assembly. No prior notice is required if the motion is presented immediately after the tabling of the commitment. Unless the Assembly, with the unanimous consent of its members, decides otherwise, the motion 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 only amendment that may be received is an amendment proposing to defer the approval or rejection of the commitment by the Assembly."
15. See Chapter 12, "The Decision-Making Process".
16. Section 2 of the *Act respecting the National Assembly* states that "the National Assembly and the Lieutenant-Governor form the Parliament of Québec". See also Chapter 16, "Unanimous Consent and the Motion to Introduce an Exceptional Procedure".

The rules of parliamentary procedure found in the statutes deal mainly with the appointment and dismissal of certain public officers by the Assembly,[17] the assignment of special mandates to parliamentary committees,[18] the tabling of certain documents, and the procedure governing certain debates, such as the debate on a referendum question.[19]

2.2.3 Standing Orders and Rules for the Conduct of Proceedings

As mentioned previously, legislative assemblies can establish rules of procedure and have exclusive power to interpret those rules by virtue of their power to govern their own internal affairs without any outside interference. In Québec, this power is codified in section 9 of the *Act respecting the National Assembly*, under which the Assembly determines its rules of procedure and has sole authority to see that they are observed.

In application of that power, on March 13, 1984, the National Assembly adopted the *Standing Orders of the National Assembly* and the *Rules for the Conduct of Proceedings in the National Assembly*, which govern its work today, to replace the previous Standing Orders passed in 1972. Originally adopted on a temporary basis, the Standing Orders were reintroduced on June 20, 1984. On April 4, 1985, the Assembly decided to make them permanent as of April 16, 1985. Subsequently, permanent amendments were made six times[20] before a major parliamentary reform resulted in further amendments on April 21, 2009.[21] The current *Standing Orders of the National Assembly* is the largest 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 a



17. See Chapter 12, Section 12.3.4, "Required Majority".
18. See Chapter 18, Section 18.1.3.4, "Mandates".
19. *Referendum Act* (L.Q., c. C-64.1), ss. 8–9.
20. Permanent amendments were made on March 11, 1986, June 20 and November 21, 1991, December 1, 1994, October 21, 1998 and March 2, 1999.
21. Throughout this book, references to permanent provisions in force between April 16, 1985 and April 21, 2009 are identified as the "1985 Standing Orders".

sitting is conducted, the procedures governing debates and speaking time, and the mechanics of parliamentary oversight. The *Standing Orders of the National Assembly* and the *Rules for the Conduct of Proceedings in the National Assembly* are permanent orders of the Assembly and they remain in force despite the prorogation or dissolution of Parliament.[22]

The Committee on the National Assembly is responsible for drafting the Standing Orders as well as the rules governing proceedings in the National Assembly and its committees. It then submits them to the Assembly for approval (S.O. 116(1)). The rules of procedure are constantly evolving to ensure that the National Assembly remains in tune with the society it serves. In some cases, the Members adopt minor amendments to the rules. In other cases, they 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 subcommittee (S.O. 117).[23]

To maintain a democratic balance during parliamentary debate, tradition dictates that the rules of parliamentary procedure be determined by a

22. Geoffrion 1941, S.O. 10, note 1: [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."

23. Established under an order of the Assembly made on June 22, 1983 and amended on April 17, 1984, the Subcommittee on Parliamentary Reform met 13 times between September 12, 1983 and March 1, 1984 to draft new Standing Orders. Once the Standing Orders had been adopted by the Assembly on March 13, 1984, the Subcommittee held nine deliberative meetings before its existence was permanently integrated into the Standing Orders on April 16, 1985. Since then, the Subcommittee has met eight times, that is, once on June 18, 1991 to address organizational matters, and seven times during the 37th Legislature between November 25, 2004 and May 17, 2006 to examine the reform proposals tabled before the Assembly by Government House Leader Jacques Dupuis on June 10, 2004 and those tabled by President Michel Bissonnet at the following sitting. At the Subcommittee's November 24, 2004 sitting, it was decided to form a technical committee whose mandate would be to assist the Subcommittee in its work. Composed of the National Assembly's Secretary General and the representatives of the House leaders and the independent Members, the technical committee continued to work beyond the 37th Legislature. During the 38th Legislature, a new reform proposal was tabled by Government House Leader Jean-Marc Fournier. At the beginning of the 39th Legislature, the technical committee's proposals were presented to the House leaders and the independent Members, which led, on April 21, 2009, to the tabling by Government House Leader Jacques Dupuis of proposed new Standing Orders, which were adopted unanimously by the Assembly.
In the meantime, the Committee on the National Assembly itself, not the Subcommittee, spent six sittings examining a proposal for parliamentary reform tabled by President Jean-Pierre Charbonneau on April 8, 1998, following which the Assembly adopted temporary amendments to the Standing Orders and the Rules for the Conduct of Proceedings on December 6, 2001, which were in force until the end of the 36th Legislature.

consensus of the Members of the Assembly. As mentioned by the President in a 2011 decision,[24] dictionaries do not provide a clear and consistent definition of the word "consensus", but they do agree that a consensus requires some form of partial or unanimous agreement. There is no precise, mathematical formula to determine the number of Members needed to meet that requirement. It is more a matter of context. That said, it must be determined when and in what circumstances a consensus is to be sought. In a 2011 decision, the President used the positions clearly expressed by both sides of the House to garner a consensus on amendments to the *Election Act*,[25] concerning electoral representation in particular, in the hope that all Members would feel bound by the decision. Drawing an analogy with constitutional conventions,[26] the President believed this to be a "parliamentary convention", since there existed a strong sense of political necessity to obtain the broadest possible consensus.

Whether or not the concept of "parliamentary convention" can be transposed to amend the rules of procedure that govern the work of the Assembly, it is customary for any amendments to the Standing Orders or the Rules for the Conduct of Proceedings to be unanimously adopted by the Members of the Assembly, although there have been exceptions.[27] Such

24. JD, May 26, 2011, pp. 2137–2140 (Jacques Chagnon)/*RDPP*, no. 233/8.
25. L.Q., c. E-3.3.
26. JD, May 26, 2011, pp. 2137–2140 (Jacques Chagnon)/*RDPP*, no. 233/8. The President quotes Brun, Tremblay and Brouillet, who 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. Later in the text, the authors write that the determining element of a constitutional convention is the agreement by which the actors feel bound (Brun, Tremblay and Brouillet, *Droit constitutionnel*, 5th ed., p. 43).
27. From the 30th to the 39th Legislature, the Standing Orders were amended only once without the support of the Official Opposition: on July 31, 1974, when the Assembly was made up of 110 Members, 102 of whom belonged to the governing Québec 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. All other amendments to the Standing Orders were unanimously adopted, except for the following: on March 21, 1974, Fabien Roy (Beauce-Sud) and Camil Samson (Rouyn-Noranda) abstained on a sessional amendment regarding the right to speak of Members who do not belong to a recognized party; on March 25, 1976, 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, 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; on June 21, 1977, seven Members abstained from voting on a motion to extend Question Period from 30 to 45 minutes; lastly,

amendments may be temporary or permanent. Temporary amendments are adopted by the Assembly to replace Standing Orders for a set period of time or until a predetermined date.[28]

2.2.4 Special Orders of the Assembly

For any number of reasons, the Assembly may adopt a motion establishing a procedure that differs from the one provided for in the Standing Orders so as to deal temporarily with a particular situation. Such a motion is usually made during the course of a sitting. Once it has been carried, the motion becomes an order of the Assembly, in keeping with Standing Order 186. This special order has precedence over any other provision of the Standing Orders and departs implicitly from those orders.[29]

2.2.5 Precedents

Parliamentary precedents constitute another major source of procedure. In carrying out their functions, the presiding officers of the Assembly and the parliamentary committees must interpret the Standing Orders. When applying those orders to specific cases in a variety of situations, ambiguities and difficulties of interpretation may come to light. The numerous points of order raised by the Members force the presiding officer to clarify countless details of procedure. Moreover, the Standing Orders require that any violation be pointed out the moment the President becomes aware of it (S.O. 38). The President also has decision-making power concerning certain procedural acts.

on December 6, 2001, the independent Member for Rivière-du-Loup, Mario Dumont, abstained on temporary amendments regarding petitions, an exceptional procedure and the time frame for the passage of a bill.

28. On December 6, 2001, the Assembly adopted temporary amendments governing petitions, exceptional procedure, extraordinary sittings and the time frame for the passage of bills. The amendments, which were to be in force "until 23 June 2002, notwithstanding the prorogation of the session", were reintroduced on June 5, 2002 and once more on September 19, 2002, to be in force "until 23 June 2003, notwithstanding the prorogation of the session". The motion passed on June 5, 2002 also provided for temporary amendments concerning the election of the President of the National Assembly by secret ballot, to be in force for the duration of the 36th Legislature. On May 24, 2007, the Assembly adopted temporary amendments concerning committee membership and the quorum of the Assembly, to be in force for the duration of the 38th Legislature. Lastly, 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 contained in a document presented on the same day to stand in lieu of any incompatible rule contained in the Standing Orders.

29. Geoffrion 1941, S.O. 218; JD, March 3, 1999, pp. 22–23 (Jean-Pierre Charbonneau)/*RDPP*, no. 18/1. 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).

Over the years, the President's office has drawn up criteria for exercising this power.

Standing Order 41 calls for the President to rule on points of order at the most appropriate moment, giving the reasons for his or her decision. This means the President can render a decision whenever it is most convenient.[30] Depending on the circumstances, the President may make a ruling on the spot during the sitting, or take the point of order under advisement in order to study all aspects of the question and examine the precedents and the authorities. The President renders a public ruling during a sitting or, occasionally, a private ruling. "The Speakers' rulings, whether given in public or in private, 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."[31]

However, the President always has the leeway and the 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".[32]

30. 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.
31. Beauchesne, p. 6.
32. Beauchesne, p. 6.

Lastly, as mentioned previously, the President has exclusive power to interpret the rules of parliamentary law. That is why there is no appeal from the President's rulings. The second paragraph of Standing Order 41 expressly states that there may be no discussion of a ruling by the President or the Assembly.[33]

2.2.6 Usage, Tradition and Practice

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

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.[34] 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.[35] Although the Chair 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, it may not do so when it is clear that the Assembly intentionally did away with certain provisions.[36] That is why any reference to a former provision must be preceded by a conscientious analysis.

The situation would doubtless be much simpler if, as many other assemblies have done, the National Assembly had repealed its previous Standing Orders. These 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.

33. See Chapter 4, "The Office of President".
34. JD, April 12, 1976, pp. 594–595 (Jean-Noël Lavoie)/*RDPP*, no. 180/1.
35. JD, March 23, 1999, pp. 723–725 (Jean-Pierre Charbonneau)/*RDPP*, no. 308/7.
36. JD, December 15, 2003, pp. 2667–2669 (Michel Bissonnet)/*RDPP*, no. 180/2. Temporary rules adopted during the 36th Legislature to replace the procedure in the Standing Orders were not brought back during the following legislature. Consequently, the President decided that the temporary rules did not constitute precedents or usage that could dilute the scope of the procedure provided in the Standing Orders.

Reference to the usage, tradition and practice of other legislative assemblies that function in the same way as the National Assembly is also possible. Prudence is once again imperative when importing rules of procedure or usage. They may certainly serve to inform reflection,[37] but vigilance is as important here as when referring to Standing Orders the National Assembly no longer uses. It must be remembered that the main sources of procedure in the National Assembly are, first of all, the Constitution, followed by the statutes, the Standing Orders and the Rules for the Conduct of Proceedings and, finally, the precedents and usage created by the National Assembly itself.

2.2.7 Authorities

It can be helpful to consult various works on parliamentary law and procedure. A handful of specialists who have collected, organized 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, reference is often made to authors who have studied the functioning of such assemblies. It is nevertheless important to evaluate the pertinence of any outside doctrine in interpreting a rule specific to the National Assembly.[38]

37. For example, at the beginning of the 38th Legislature, when the Assembly was formed by a minority government and two opposition groups, the President, while taking into account certain particularities of Québec parliamentary law, drew from the practice prevailing in Canadian legislative assemblies where the Opposition was formed by more than one parliamentary group, and allocated oral questions according to a criterion of proportionality based on the number of seats held by each opposition group (JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/*RDPP*, no. 74/19).

38. The bibliography at the end of this book lists the main authorities consulted at the National Assembly.

3

Parliamentary Privilege

The question of privilege is one of the most complex parliamentary procedures that the Speaker of a British-style legislative assembly, like Québec's National Assembly, may ever have to deal with. By raising a question of privilege, a Member informs the Assembly of either a breach of a recognized parliamentary privilege or contempt of Parliament. Members are sometimes quick to raise questions of privilege; yet, the question of privilege is not a panacea. In fact, parliamentary privilege is an exceptional right outside the scope of the general law, and should therefore only be invoked with discretion; otherwise, it will lose all significance. Moreover, questions of privilege are often confused with points of order, which are used to call the Speaker's attention to a departure from the Standing Orders or from the customary modes of proceeding in debate or in the conduct of legislative business. It is incumbent on the Speaker to ensure that parliamentary privileges retain their distinctive status.

The preamble to the *Constitution Act, 1867*[1] states that the Constitution of Canada is founded on the same principles as that of the United Kingdom. Given that the system of parliamentary democracy in Canada is borrowed from Westminster, Canadian legislative assemblies, including the National

1. *Constitution Act, 1867* (U.K.), 30 & 31 Vict., c. 3 (reprinted in R.S.C. 1985, app. II, no. 5).

Assembly of Québec, enjoy parliamentary privileges similar to those of the British Parliament and its Members.

Members of a legislative assembly enjoy parliamentary privileges as against the Crown and the Judiciary. "This state of affairs arose from a history of conflict between Parliament, the Crown and the Judiciary in the United Kingdom."[2] The Houses of Parliament in the United Kingdom once found it very difficult to have their privileges recognized and respected by the Crown. Repeatedly, the Sovereign flouted the privileges that the Members of those Houses claimed in their pursuit of independence.[3] In certain cases, the conflict with the Judiciary turned into a real battle.[4] It was only in 1689 that the United Kingdom acquired an official legal foundation for parliamentary privilege. With the adoption of the *Bill of Rights*,[5] Parliament saw its independence from the other branches of Government confirmed (see Section 3.2.1).

Parliamentary privileges are necessary if Members of a legislative assembly are to exercise their role with complete independence. "The content and extent of parliamentary privileges have evolved with reference to their necessity."[6] For this reason, "categories of privilege did not develop in the same way in the colonial legislatures of Canada and elsewhere, and the case law makes clear that the powers deemed necessary in the Houses of Parliament of the United Kingdom were not always deemed necessary in other contexts".[7]

Accordingly, British courts have recognized that, from their creation, colonial legislative assemblies possessed the inherent powers deemed necessary for the exercise of their functions. However, these powers were not as far-reaching as those of the Houses of the imperial Parliament (see Section 3.2.4). It was not until 1896 that the Judicial Committee of the Privy Council

2. *Donahoe* at 342 (See List of Abbreviations, p. ix).
3. For example, in 1629, at the initiative of Charles I, certain Members of the House of Commons were arrested and found guilty of uttering seditious words in the course of parliamentary debate. See May, *Treatise*, 23rd ed., p. 81. See also Moore and Robert, pp. 3–4.
4. The Newfoundland example in *Kielley v. Carson*, (1842) 4 Moo. P.C. 63, 13 E.R. 225 [*Kielley*], is rather eloquent in this regard. Concerning this case, Maingot writes that "when the court found the process by which Dr. Kielley was held in custody to be void (i.e. the order of the House of Assembly committing Dr. Kielley), the House ordered that the judge and sheriff be imprisoned, and 'On the morning of August 13, 1838, the citizens of St. John's were treated to the spectacle of a venerable judge of the Supreme Court, being marched through the town to a common goal [*sic*] by the Sergeant-at-Arms bearing the mace'" (Maingot, *Parliamentary Privilege*, p. 272).
5. 1688, 1 Will. & Mar., sess. 2, c. 2 [*Bill of Rights*].
6. *Donahoe* at 343.
7. *Donahoe* at 343–344.

recognized the right of Canadian provincial legislative assemblies to take on the same parliamentary privileges as the British House of Commons, by ruling that the provincial legislatures had the authority to legislate parliamentary privilege.[8]

In 1993, the Supreme Court of Canada handed down a pivotal decision concerning parliamentary privilege in *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)* or *Donahoe* for short. Donahoe, the appellant, was then Speaker of the House of Assembly of Nova Scotia. For the first time, the highest court of the land was seized with a case in which the question at issue dealt mainly with the exercise of parliamentary privilege in the Canadian context. In 1996, the minority judges considered the matter of privilege anew in *Harvey v. New Brunswick (Attorney General)*,[9] when the Court was asked to rule on the constitutionality of section 119(*c*) of New Brunswick's *Elections Act*. In 2005, the Supreme Court looked at the question of parliamentary privilege again in *Canada (House of Commons) v. Vaid*.[10] In this case, the Court had to decide whether the Canadian Human Rights Commission had the jurisdiction to investigate a complaint made by the chauffeur of the Speaker of the House of Commons.

Although certain issues remain unresolved, the Supreme Court has clarified some points about the nature and scope of the privileges stemming from the British parliamentary system and about parliamentary privilege as it applies in Canada.

This chapter will discuss the different parliamentary privileges in greater detail and look at how they are exercised in the National Assembly of Québec and at the procedure for reporting breaches of the privileges of either the Assembly or its Members. But first, the concept, scope and legal status of parliamentary privileges must be defined.

3.1 THE CONCEPT OF PARLIAMENTARY PRIVILEGE

3.1.1 Definition

Parliamentary privileges are limited rights and immunities granted individually or collectively to the Members of a legislative assembly acting as such. They are called privileges because they deviate from the general law. Although not well known, these privileges are deemed necessary for the discharge of

8. *Fielding v. Thomas*, [1896] A.C. 600 (P.C.) [*Fielding*].
9. *Harvey v. New Brunswick (Attorney General)*, [1996] 2 S.C.R. 876 [*Harvey*].
10. *Canada (House of Commons) v. Vaid*, [2005] 1 S.C.R. 667 [*Vaid*].

the legislative and deliberative functions of an assembly and its work in holding the Government to account for the conduct of the country's business.[11] The definition of parliamentary privilege under the British model, universally accepted by legal doctrine and case law, is that proposed by Erskine May:

> Parliamentary privilege is the sum of the peculiar 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. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the general law. Certain rights and immunities such as freedom from arrest or freedom of speech belong primarily to individual Members of each House and exist because the House cannot perform its functions without the unimpeded use of the services of its Members. Other such 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, 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.[12]

In parliamentary law, although authors normally agree on the existence of parliamentary privileges, the vocabulary used in designating and classifying them varies considerably, and the list of privileges can be longer or shorter depending on the classification system chosen. However, it is not the name of a privilege that is most important but rather the ground the privilege covers. Maingot's system for designating and classifying parliamentary privileges will be used here. According to Maingot, the individual privileges generally conferred on Members of a legislative assembly are "freedom of speech, freedom from arrest in civil process, exemption from jury service, and the privilege relating to Members summoned as witnesses".[13] Also according to Maingot, the corporate privileges of Parliament, that is to say, those conferred collectively on the Members of a legislative assembly, generally include

> 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

11. Ibid.
12. May, *Treatise*, 23rd ed., p. 75.
13. Maingot, *Parliamentary Privilege*, p. 15.

> for witnesses (persons, papers and records); and the right to settle its own code of procedure.[14]

Parliamentary privileges are sufficiently wide-ranging to shield democracy by ensuring that parliamentarians have very broad freedom of speech and action.[15] However, parliamentarians are not sheltered from the application of the general law. Although they are special, these privileges are restricted to what is necessary for the exercise of the parliamentary and deliberative functions of a legislative assembly. In a manner of speaking, the privileges are secondary.

> The distinctive mark of a privilege is its ancillary character. The privileges of Parliament are rights which are "absolutely necessary for the due execution of its powers". They are enjoyed by individual Members, because the House cannot perform its functions without the unimpeded use of the services of its Members; and by each House for the protection of its Members and the vindication of its own authority and dignity.[16]

3.1.2 The Legal Status of Parliamentary Privilege: The Test of Necessity

The question of the legal status of parliamentary privilege in Canada as it relates to the applicability of the *Canadian Charter of Rights and Freedoms*[17] to legislative assemblies was raised for the first time in *Donahoe*. The Supreme Court of Canada determined in its decision that the principal parliamentary privileges need not be included in a law in order to be recognized, a determination later confirmed by *Vaid*. In fact, the *Donahoe* decision confirmed the decision reached in earlier cases, namely, that Canadian legislative assemblies inherently possess the parliamentary privileges necessary to their smooth functioning. The constitutional status of these inherent privileges is affirmed by means of the necessity test.

Recognizing a parliamentary privilege through the application of the necessity test is by no means a new concept. As early as 1839, in *Stockdale v. Hansard*, Lord Chief Justice Denman asserted that "if the necessity can be made out, no more need be said: it is the foundation of every privilege of

14. Maingot, *Parliamentary Privilege*, p. 15.
15. *R. c. Fontaine*, (9 January 1992) Québec 200-01-001581-911 and 200-01-001582-919 (C.Q. (Crim. & Pen. Div.)).
16. May, *Treatise*, 20th ed., pp. 70–71.
17. Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 (reprinted in R.S.C. 1985, app. II, no. 44).

Parliament, and justifies all that it requires".[18] Recent case law has however shed a different light on the application of the necessity test in relation to the *Canadian Charter of Rights and Freedoms*, although a number of questions remain unresolved.

3.1.2.1 The *Donahoe* Decision

The *Donahoe* case provided the Supreme Court with its first opportunity to rule on the legal status of parliamentary privileges in Canada following the adoption of the *Canadian Charter*. The decision speaks volumes about the Court's degree of comfort with the concept of parliamentary privilege. The decision is in fact four separate decisions by four different judges, based on widely divergent grounds.

The facts of the case were as follows: The Canadian Broadcasting Corporation (New Brunswick Broadcasting) made an application for an order allowing it to film the proceedings of the Nova Scotia House of Assembly with its own cameras or by the Speaker providing full television coverage to all members of the television media, or otherwise. The application was based on section 2(*b*) of the *Canadian Charter of Rights and Freedoms*, which guarantees freedom of expression, including freedom of the press. The House of Assembly had prohibited the use of television cameras on the grounds that they would interfere with decorum and orderly proceedings. It had raised three parliamentary privileges in support of its ban on television cameras: freedom of speech, the right to regulate internal affairs without external interference and the right to exclude strangers from the precincts of the Assembly.

Under an inherent parliamentary privilege, the National Assembly has exclusive control over the broadcasting of its proceedings. Proceedings are broadcast from its television production control room.

The majority opinion, written by Justice McLachlin, was that inherent parliamentary privileges form part of the group of principles constitutionalized by virtue of the preamble to the *Constitution Act, 1867*. Thus, the written Constitution does not "negate the manifest intention expressed in the preamble . . . that Canada retain the fundamental constitutional tenets upon which British parliamentary democracy rested".[19]

18. *Stockdale v. Hansard*, (1839) 9 Ad. & El. 1, 112 E.R. 1112 at 1169 [*Stockdale*].
19. *Donahoe* at 377.

The majority in *Donahoe* did not find, however, that all parliamentary privileges share the same constitutional status. In their view, only "the inherent privileges of Canada's legislative bodies . . . fall within the group of principles constitutionalized by virtue of this preamble",[20] that is, "those 'certain very moderate privileges which were necessary for the maintenance of order and discipline during the performance of their duties'".[21] Again according to the majority opinion, in order to determine if a privilege is an inherent privilege, that is, a privilege enjoying a constitutional status, it is necessary to apply the test of necessity.

The majority in *Donahoe,* therefore, ruled that the inherent privileges of Canadian legislative assemblies have a constitutional status by virtue of the preamble to the *Constitution Act, 1867*. As these privileges are necessary to the proper functioning of an assembly, the majority proposed a test of necessity drawn from earlier major decisions on the inherent parliamentary privileges of colonial and Canadian legislative assemblies. The test of necessity put forward by the Supreme Court is not a new concept in parliamentary law. The Court simply applied the same test used by courts in the past to define inherent parliamentary privileges, using it this time to justify the constitutional status of those privileges.

Regarding the application of the test of necessity, the majority of the Supreme Court wrote:

> 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 …
>
> … The parameters of this jurisdiction are set by what is necessary to the legislative body's capacity to function. So defined, the principle of necessity will encompass not only certain claimed privileges, but also the power to determine, adjudicate upon and apply those privileges.[22]

20. *Donahoe* at 377.
21. Dawson, *Government of Canada*, p. 338.
22. *Donahoe* at 383–384.

Thus, the inherent constitutional privileges are those that are necessary to preserve the dignity and efficiency of the Assembly and those required to ensure that the Assembly can function. These privileges are of necessity very limited.[23]

23. In *Donahoe*, the Supreme Court judges were far from unanimous on the constitutionalization of the inherent privileges of legislative assemblies. La Forest J. agreed with the reasons put forward by the majority judges:
"The legislative assembly, with its concomitant privileges, was part of the colony's constitution, and in the case of the pre-existing provinces, like Nova Scotia, was continued by the *Constitution Act, 1867*. Parliamentary legislative privileges in Nova Scotia are, therefore, ultimately anchored in the grant of a legislative assembly and incorporated into the *Constitution Act, 1867*. The new legislative bodies created by that Act and subsequent constitutional instruments over the years are governed by the same principle. The preambular statement in the *Constitution Act, 1867*, that what was desired was 'a Constitution similar in Principle to that of the United Kingdom', among other things, gives expression to the nature of the legislative bodies that were continued or established by it. The privileges of these bodies are similar in principle, though not identical, to those of the Parliament of the United Kingdom."
Lamer C.J., in his dissenting reasons, saw parliamentary privileges from an altogether different angle. Without formally taking a stand on the constitutional nature of parliamentary privileges, he opined that the exercise by the Legislative Assembly of Nova Scotia of its privilege to exclude strangers from its precincts is not subject to Charter review because the Charter does not apply. His conclusion was that the Assembly is neither a legislature nor a government within the meaning of section 32 of the Charter, which provides that the Charter applies to the legislature and government of each province. Therefore, section 2(*b*) of the *Canadian Charter of Rights and Freedoms* cannot be asserted against the exercise of a parliamentary privilege:
"It refers only to the 'legislature and government' and, as submitted by the appellant, the House of Assembly is neither legislature nor government properly speaking. The House of Assembly is a component of the legislature but only together with the Lieutenant Governor does it comprise the legislature. As pointed out earlier, this is more than a semantic difference in the context of the exercise of parliamentary privileges. The legislature as a whole cannot exercise parliamentary privileges as those privileges are held by the members of the Assembly, individually or collectively, against the Lieutenant Governor in his or her capacity as the Crown's representative."
Lamer C.J. added, however, that the courts nonetheless have a role to play when a parliamentary privilege is asserted:
"It should be noted here that this does not mean that the members of legislative assemblies can exercise parliamentary privileges with absolute immunity. First, the courts can still review the validity of claims of privilege to the same degree they have always done. That is, they can pronounce upon the existence or extent of a particular privilege. Second, even if the members are not accountable to the judiciary with respect to the exercise of parliamentary privileges, they are, obviously, still accountable to the electorate."
Sopinka J., for his part, was not convinced that parliamentary privileges should be considered inherent in the Constitution. He argued that, had the framers of the Constitution intended to entrench parliamentary privileges in the Constitution, they would have done so otherwise than by a general reference such as that found in the preamble. He was of the opinion that the Charter applied but that the ban on television cameras was justified under section 1, that is, that it was a reasonable limit and demonstrably justified in a free and democratic society.

3.1.2.2 The *Harvey* Decision

In 1996, the Supreme Court again ruled on the legal status of parliamentary privileges. Although the majority did not broach the question of parliamentary privilege, the opinion of Justice McLachlin—shared by Justice L'Heureux-Dubé—must be given serious consideration, because it was Justice McLachlin who wrote the majority opinion in *Donahoe*. In *Harvey*, the Court was asked to rule on the constitutionality of section 119(*c*) of New Brunswick's *Elections Act*, which prescribes that any person convicted of a corrupt electoral practice is disqualified from sitting in the Legislative Assembly for a period of five years and that the seat of a Member of the Legislative Assembly convicted of such an offence must be vacated. Fred Harvey, who was required to vacate his seat under that provision, based his appeal on sections 3 and 12 of the *Canadian Charter of Rights and Freedoms*.

In *Harvey*, Justice McLachlin seems to be of the opinion that the courts have a role to play in determining whether the specific exercise of a constitutional privilege is necessary for the proper functioning of the House and the preservation of its integrity. Concerning the possible conflict between individual rights and parliamentary privilege, she wrote:

> Under the British system of parliamentary supremacy, the courts arguably play no role in monitoring the exercise of parliamentary privilege. In Canada, this has been altered by the *Charter's* enunciation of values which may in particular cases conflict with the exercise of such privilege. To prevent abuses cloaked in the guise of privilege from trumping legitimate *Charter* interests, the courts must inquire into the legitimacy of a claim of parliamentary privilege . . .

Cory J. held an opposite view from that of the majority judges. In his opinion, the Charter should be given a broad, liberal interpretation. The Charter should apply not only to "legislation passed by the Assembly but also [to] its own rules and regulations. The rules and regulations, if they are found to violate the *Charter*, can, like the Acts passed by the Assembly, be saved under s. 1. Such a procedure would ensure that the courts never unduly interfere with the inherent and enacted rights and privileges possessed by a legislature which enable it to effectively carry out its role."

He found that a complete prohibition on television cameras was not necessary to the operation of the House. To arrive at this conclusion, Cory J. considered the right to exclude strangers but extended the scope of his review to examine how that privilege was exercised. Looking at both the existence and the exercise of the privilege claimed, he concluded that the ban on television cameras could not be justified under section 1. In doing so, he applied the test of necessity much more rigorously to the new context of the Charter, thus going against decades of jurisprudence on parliamentary privilege and judicial interference.

> This, in broad outline, suggests how the constitutional principle of parliamentary privilege may be reconciled with the democratic guarantees of the *Charter*. Section 3 of the *Charter* guarantees that candidates will not be denied electoral office by reason of discrimination on the basis of such grounds as race, class or gender. It does not, however, oust the historic privilege of the legislature to deny membership to those who disqualify themselves by crime, corruption or other misconduct . . . This approach preserves parliamentary privilege and the principle of the separation of powers, while at the same time assuring the protection of the right under s. 3 of the *Charter* not to be excluded from public office on grounds unrelated to the need of the legislature to maintain order and the integrity of its processes.[24]

Thus, while acknowledging that the authorities have established that "the power of Parliament to expel a member is undoubted",[25] the Honourable Justice seems of the opinion that a court would be justified in examining a legislative assembly's ruling made by virtue of this privilege in order to determine whether the privilege was used for valid reasons. In other words, a Member who was expelled from the House could have the decision reviewed on the grounds that she or he was a victim of discrimination.

This opinion extends the scope of the necessity test, which it seems must now consider both the existence and the exercise of a privilege.

3.1.2.3 The *Vaid* Decision

In 2005, the Supreme Court ruled anew on the question of parliamentary privilege, but this time in more than an incidental manner. In *Vaid*, the Court had to determine whether the *Canadian Human Rights Act* (CHRA)[26] is applicable to the Senate and the House of Commons. The question at issue was the dismissal by the Speaker of the House of Commons of his chauffeur, Satnam Vaid. The latter alleged that he was fired on grounds that were discriminatory and qualified as harassment within the meaning of the CHRA while the House of Commons justified the dismissal on the grounds that Vaid was not bilingual. The House of Commons also argued that its right to control its internal affairs included the hiring and dismissal of House of Commons staff and that the case was not, therefore, within the jurisdiction

24. *Harvey*, *supra* note 9 at 918 and 920.
25. Ibid. at 921.
26. R.S.C. 1985, c. H-6.

of the courts. In its decision, the Supreme Court first reiterated what was meant by necessity:

> The historical foundation of every privilege of Parliament is necessity. If a sphere of the legislative body's activity could be left to be dealt with under the ordinary law of the land without interfering with the assembly's ability to fulfill its constitutional functions, then immunity would be unnecessary and the claimed privilege would not exist.[27]

The Court then stated that the necessity test should be applied only to demonstrate the existence and scope of a category of privilege. Once the category is established, it is for Parliament to determine whether the exercise of the privilege is necessary or appropriate. The Court went on to provide further clarification:

> In order to sustain a claim of privilege, the assembly or member seeking its immunity must show that the sphere of activity for which privilege is claimed is 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 government to account, that outside interference would undermine the level of autonomy required to enable the assembly and its members to do their legislative work with dignity and efficiency.[28]

The justices concluded that it was the role of the courts to determine whether, in the case in point, the management of employees was a privilege that could be claimed for all categories of employees or only for those categories of employees whose work was connected with the parliamentary functions of the House. While the justices recognized that a privilege attaches to the House's relations with some of its employees, they were of the opinion that the existence of a broader privilege that would be applicable to all the employees of the House of Commons had not been demonstrated.[29] In the absence of proof of the existence of a privilege extending to all categories of employees, the Court concluded that Vaid's complaint ought to have been pursued by way of a grievance under the *Parliamentary Employment and Staff Relations Act*.[30]

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27. *Vaid*, *supra* note 10 at 686.
28. Ibid. at 699–700.
29. The existence of a privilege as regards certain employees whose work is connected with the legislative and deliberative functions of an assembly was recognized in *Québec (Conseil du trésor) c. Association des juristes de l'État*, 2011 CanLII 7882 (Québec CSE), aff'd 2011 QCCS 4015, leave to appeal granted 2011 QCCA 1857.
30. R.S.C. 1985, c. 33 (2nd Supp.).

In adopting this position, the Supreme Court went beyond simply acknowledging the existence of a privilege as in *Donahoe*. And the issue here is not the appropriate exercise of a privilege, as in *Harvey*, but rather the scope of the privilege. The Court is therefore backtracking on the interpretation proposed by the minority judges in *Harvey* and submitting a new interpretation of the necessity test based on the scope of the privilege claimed.

The Supreme Court's decisions in *Donahoe*, *Harvey* and *Vaid* illustrate that the issue of the legal status of parliamentary privileges is far from settled. Each of these decisions casts a different light on the necessity test to be applied to determine the existence of a claimed privilege. The Court appears to modulate its interpretation of the test according to the circumstances of the case under consideration. Many questions remain. For example, would an assembly have the privilege of dismissing, on a discriminatory ground, an employee who belongs to a category of employees essential for the proper conduct of its proceedings? In such a case, would there not be some overlap between control over the scope of the privilege and control over its exercise?

3.2 THE PRIVILEGES

Inherent constitutional privileges are those that are necessary to maintain the dignity and efficiency of the House and ensure its proper functioning. These are of necessity very limited privileges. Whether or not they are considered inherent constitutional privileges, parliamentary privileges fall into two categories: individual privileges and collective privileges. Privileges accorded to every Member of an assembly are said to be "individual" while those granted to the assembly as the sum total of its Members are said to be "collective". Maingot wrote:

> Generally speaking, it will be seen that the powers, rights, immunities, and privileges of both the elected assembly and its Members exist to enable the Members to attend the assembly without disturbance, to enable the assembly to perform its functions, and to guard the functions of Parliament undisturbed.[31]

The preamble to the *Act respecting the National Assembly* states the raison d'être of collective privileges in forceful terms: "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."[32]

31. Maingot, *Parliamentary Privilege*, p. 15.
32. L.Q., c. A-23.1.

As seen earlier, these privileges are those exercised by assemblies as legislative bodies to preserve their dignity and ensure the proper conduct of business.

Individual privileges are conferred on members of legislative assemblies to enable them to carry out their duties unimpeded. In addition to the individual privileges listed in section 3.1.1, Members enjoy immunity for the publication or dissemination of an official report or account of proceedings. This immunity is different from the other privileges, however, in that it is not exclusive to elected representatives.

3.2.1 Freedom of Speech

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".[33] It is explicitly guaranteed by article 9 of the British *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".

In *Reference Re Resolution to Amend the Constitution*, the Supreme Court of Canada affirmed that article 9 of the *Bill of Rights* is "undoubtedly in force as part of the law of Canada".[34] However, its application was qualified by the Supreme Court in *Donahoe*:

> The wording of the preamble [of 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.[35]

It therefore follows that article 9 of the British *Bill of Rights* does not expressly apply to Canada, but that the underlying principles of the article form part of Canadian law by virtue of the preamble to the *Constitution Act,*

33. Beauchesne, p. 22.
34. *Reference Re Resolution to Amend the Constitution*, [1981] 1 S.C.R. 753.
35. *Donahoe* at 374.

1867, which provides, notably, that the Constitution of Canada is "similar in Principle to that of the United Kingdom".

Erskine May defines the privilege of freedom of speech:

> Subject to the rules of order in debate . . . a Member may state whatever he thinks fit in debate, however offensive it may be to the feelings, or injurious to the character, of individuals; and he is protected by parliamentary privilege from any action for defamation, as well as from any other question or molestation.[36]

In *Club de la Garnison de Québec v. Lavergne*, the Court of King's Bench explained the privilege of freedom of speech as follows:

> [TRANSLATION] A Member of Parliament must not be hindered or impeded in any way with regard to his right to speak openly and freely on any question that could be discussed in Parliament. No fear or apprehension must restrict this privilege which, according to the authorities, forms an essential part of the Constitution that governs us.[37]

The Québec Court of Appeal further clarified the privilege of freedom of speech in *Michaud c. Bissonnette*, stating that it may also protect an opinion expressed by the Members of the National Assembly collectively.[38]

This important privilege is enshrined in the *Act respecting 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.

However important, the privilege of freedom of speech is not without limits: it only protects Members for remarks made in the course of parliamentary proceedings, and it is circumscribed by the rules of parliamentary debate themselves.

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36. May, *Treatise*, 23rd ed., p. 96.
37. (1918) 27 K.B. 37 at 40–41. In the same vein, *R. v. Fontaine* reads as follows: [TRANSLATION] "Freedom of speech and 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."
38. *Michaud c. Bissonnette*, [2006] R.J.Q. 1552 at 1558 (C.A.) [*Bissonnette*].

3.2.1.1 First Limitation: The Scope of Parliamentary Proceedings

Of course, "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".[39] The statements must nevertheless have been made during proceedings in Parliament:

> 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 . . . Absolute privilege is a drastic denial of the right of every citizen who believes himself wronged to have access to the courts for redress and should not be lightly or easily extended.[40]

Moreover, the privilege of freedom of speech does not protect a Member in all aspects of the Member's 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 a [*sic*] party supporters does not even enjoy a qualified privilege.[41]

This limitation of the privilege of freedom of speech to proceedings in Parliament means "that no parliamentary privilege attaches to the repetition outside Parliament of statements previously made in the course of a parliamentary

39. *Roman Corp. v. Hudson's Bay Oil & Gas Co.* (1971), 18 D.L.R. (3d) 134 at 139 (H.C.J. Ont.) [*Roman*], aff'd by (1972) 23 D.L.R. (3d) 292 (C.A. Ont.), aff'd on other grounds by [1973] S.C.R. 820.

40. *R. v. Ouellet*, [1976] C.S. 503 at 511–512 [*Ouellet*], aff'd by [1976] C.A. 788. Along the same lines, see *Church of Scientology of California v. Johnson-Smith*, [1972] 1 Q.B. 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."

41. *Ouellet*, *supra* note 40 at 512, [1976] C.A. 788 at 791. In the same vein, according to *Re Clark and Attorney General of Canada*, (1977) 81 D.L.R. (3d) 33 (H.C.J. Ont.): "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."

debate. That is to say, they form no part of 'proceedings in Parliament', nor do they form part of 'debates' in Parliament."[42]

However, in *Roman Corp.*, the High Court of Justice for Ontario seems to have followed a different approach. In that case, the Prime Minister of Canada and another Minister of the Crown confirmed by telegram the content of a declaration previously made in the House of Commons. This declaration led to the failure of a private transaction. The Prime Minister and the Minister in question were sued for damages. In its decision, the Court mentioned that the telegram was nothing more than an extension of statements made in Parliament and therefore the Prime Minister and the Minister were covered by parliamentary privilege:

> I do not propose to attempt to lay down an exhaustive definition of what falls within the phrase *Proceedings in Parliament*, but on a careful examination of the wording used in the telegram of the defendant Trudeau and the press release issued by the defendant Greene, I agree with the submission of counsel for the defendants that they are extensions of the statements made by the defendants Trudeau and Greene in the House of Commons, and, therefore, come within the privilege, which I have referred to earlier in this judgment, regarding statements made in the House of Commons.[43]

In *Ouellet*, the Superior Court of Québec made a clear distinction between the case before it and the *Roman* decision since, in the former, the statement the Minister made to a journalist had no relationship to any statement made in the House:

> It is, of course, clear that on the facts the *Roman* case can be easily distinguished from the case at bar. As appears from the reports, the defendants Trudeau and Greene were doing no more, outside the House of Commons, than repeating and giving effect to a Government policy which had previously been announced inside the House. Nothing of the sort obtains here, as the evidence indicates that the respondent was simply giving an interview to a journalist on a matter of public interest, similar interviews having previously been sought and obtained from Members of opposition parties. There is nothing in the evidence to indicate that the matter had been discussed in the House of Commons or that there had been any previous announcement of Government policy. Assuming that

42. Maingot, *Parliamentary Privilege*, p. 101.
43. *Roman*, *supra* note 39 at 142.

> the pronouncements of the Ontario courts above cited are good law, I would not be prepared to extend them to every statement made by any member to the press on any matter whatsoever.[44]

According to Maingot,

> By equating a repetition or extension outside the House of what was said in the House in determining whether or not it was part of a parliamentary proceeding, the Court . . . in the *Roman* decision appears to cast aside decisions made over the last 200 years to the contrary.[45]

Also according to Maingot, " [English case law] and *Re Ouellet* express the law of Canada rather than *Roman Corp v. Hudson's Bay Oil & Gas Co.*".[46]

3.2.1.2 Second Limitation: The Rules of Parliamentary Debate

The privilege of freedom of speech is also limited by the rules of parliamentary debate adopted by the Members themselves. For example, a Member of the National Assembly must respect Standing Order 35, which deals with unparliamentary language and prohibited words, or be called to order by the presiding officer. Also, Members cannot invoke the privilege of freedom of speech to escape the disciplinary power of the Assembly. The privilege of freedom of speech may be limited by the rules of parliamentary debate, despite the constitutional status of this privilege, since the rules of debate are adopted by the Assembly by virtue of another parliamentary privilege, the collective privilege of regulating the internal affairs of the House without external interference (see Section 3.2.5). The Québec Court of Appeal clarified this further:

> [TRANSLATION] It follows that it is up to the parliamentary assembly, the Québec 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

44. *Ouellet*, *supra* note 40 at 512.
45. Maingot, *Parliamentary Privilege*, p. 90.
46. Maingot, *Parliamentary Privilege*, pp. 101–102.

> constitutionally endowed, without which its work would be hindered or even prevented.[47]

Although one of the main roles of the presiding officer is to ensure that the Standing Orders are respected, he or she must act with circumspection when the interpretation of a procedural rule could limit the privilege of freedom of speech. In that regard, a Speaker of the House of Commons had this to say about the application of the sub judice rule:[48]

> 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 that freedom of speech only in exceptional cases where it is clear that to do otherwise could be harmful to specific individuals.[49]

In other words, when acting within the framework of parliamentary proceedings, Members may only be restricted in their freedom of speech by the rules of parliamentary law. In October 1997, a Minister requested a ruling from the President of the National Assembly of Québec on whether the privilege of freedom of speech would allow a Member, during an intervention in the House, 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 question therefore was to decide whether, under parliamentary law, there was a particular restriction on 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. Given that there are no rules in Québec parliamentary law expressly governing privacy, the President declared that nothing permitted the Chair to restrict the privilege of freedom of speech of Members. The ruling was as follows:

> [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 right 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 . . .

47. *Québec (Procureur général) c. Confédération des syndicats nationaux (CSN)*, 2011 QCCA 1247.
48. See Chapter 11, "Order and Decorum".
49. Canada, *House of Commons Debates*, (January 27, 1986), p. 10194 (Speaker John William Bosley). See also Beauchesne, p. 154; *R. v. Vermette*, [1982] C.S. 1006, aff'd [1984] C.A. 466, rev'd [1988] 1 S.C.R. 985.

> 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 explicitly with privacy, one might justifiably wonder whether the President should take the initiative in this matter . . . Even if, I'm sure, some people would wish it so, I have no choice but to note that the President is not authorized to play such a role. In fact, it is understood that the Speaker of a legislative assembly may not interpret the law, except when it deals with parliamentary procedure.[50]

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. In 2009, the President of the National Assembly aptly emphasized that each Member must assume responsibility for the substance of anything he or she says in the Assembly. The office of elected representative and the important privilege of freedom of speech attached to that office are a heavy responsibility.[51]

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50. JD, November 13, 1997, pp. 8433–8435 (Jean-Pierre Charbonneau)/*RDDP*, no. 66/2. The President decided that there was no rule limiting the privilege of freedom of speech in the case under study, but 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." See also JD, June 10, 1998, pp. 11815–11817 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/38.
51. JD, October 29, 2009, pp. 3696–3697 (Yvon Vallières)/*RDPP*, no. 67/57.

3.2.2 Freedom From Arrest in Civil Cases, Exemption From Jury Duty and Exemption From Being Subpoenaed as a Witness

The Assembly has a pre-eminent claim to its Members' presence. That is the rationale for the immunities under discussion here. But section 45 of the *Act respecting the National Assembly* 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.

Freedom from arrest applies only in civil actions. In other words, it cannot be invoked to protect a Member accused of a criminal or penal offence or of contempt of court in a criminal case. Moreover, Members enjoy this immunity for only a finite period of time.

Exemption from jury duty is codified as a privilege in the *Jurors Act*[52] rather than in the *Act respecting the National Assembly*, while the exemption from being called as witnesses is clearly set out in section 46 of the *Act respecting the National Assembly*:

> **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.

Furthermore, section 47 of the same Act grants the President of the Assembly the power to exempt a member of the personnel of the Assembly from appearing as a witness if the personnel member's presence is required for the proper functioning of the Assembly and its services.[53]

The Supreme Court took advantage of *Vaid* to recognize the inherent constitutional character of the immunity of Members from subpoenas.[54] As for exemption from jury duty and freedom from arrest in civil cases, despite the Court's silence, it is not unreasonable to maintain that they too could be classified as inherent privileges. In fact, these privileges are akin to those of

52. L.Q., c. J-2, s. 4(*c*).
53. As early as 1982, the Assembly limited its privilege on the basis of a test similar to the one used by the Supreme Court years later in *Vaid*. As in *Vaid*, the Assembly limited its privilege to employees whose work is connected to its legislative and deliberative functions.
54. *Vaid, supra* note 10 at 689.

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".[55]

3.2.3 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*,[56] which determines the common law in the matter. The case involved an action for libel against the publishers of the British House of Commons, the Hansards, for publishing, by order of the House, a report qualifying a book of physiology and anatomy found in the Newgate prison library as disgusting and as indecent and obscene in the extreme. Stockdale, the publisher of the report, sued the Hansards for libel. The Hansards pleaded in their defence that they had published the report by order of the House and thus under the protection of parliamentary privilege.

The judges found that, despite the order of the House, the protection afforded by parliamentary privilege did not extend to the publication of a report. Justice Littledale provided the following reasons:

> The privileges of Parliament appear to me to be confined to the walls of Parliament, for what is necessary for the transaction of the business there, to protect individual members so as that they may always be able to attend their duties, and to punish persons who are guilty of contempts to the House, or against the orders and proceedings or other matters relating to the House, or to individual members in discharge of their duties to the House, and to such other matters and things as are necessary to carry on their Parliamentary functions; and to print documents for the use of the members. But a publication sent out to the world, though founded on and in pursuance of an order of the House, in my opinion, becomes separated from the House; it is no longer any matter of the House, but of the agents they employ to distribute the papers; those agents are not the House, but, in my opinion, they are individuals acting on their own responsibility as other publishers of papers.[57]

55. May, *Treatise*, 19th ed., p. 101.
56. *Supra* note 18.
57. Ibid. at 1182.

Lord Chief Justice Denman, for his part, wrote:

> True it is, the practice of so printing and publishing has proceeded with little interruption till this hour. But the question is not on the lawfulness or expediency of printing and publishing in general; it is whether any proof can be found of a practice to authorize the printing and publication of papers injurious to the character of a fellow subject. Such a privilege has never been either actually or virtually claimed by either House of Parliament.[58]

To justify its position, the Court added that it is the prerogative of Parliament to grant such a privilege through the passage of a law and that the order to publish adopted by the House of Commons cannot, alone, alter the law.[59]

The British Parliament echoed the court ruling in its *Parliamentary Papers Act* of 1840,[60] passed to protect the publication of papers, reports, votes or proceedings.

In Québec, 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 different from the other privileges examined so far in that it is afforded not only to elected representatives but to everyone, provided the conditions of sections

58. Ibid. at 1171.
59. "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).
60. 1840 (U.K.), 3 & 4 Vict., c. 9.

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 decides to publish on his or her own initiative can therefore claim protection under those sections.

3.2.4 Power to Legislate on Parliamentary Privilege

As seen earlier, provincial legislative assemblies patterned on the British example, like the National Assembly of Québec, inherently enjoy, from their creation, the parliamentary privileges necessary for the exercise of their functions. In Canada, these inherent privileges have had a constitutional status since 1867 by virtue of the preamble to the *Constitution Act, 1867*. Some decisions in the 19th century led to the presumption, however, that colonial legislative assemblies possessed inherent parliamentary privileges similar to those of the Houses of Parliament of the United Kingdom, that is, all of the privileges then held by Westminster. It was rapidly established that, on the contrary, these colonial Houses only enjoyed at common law the powers necessary for the free exercise of their legislative functions[61] and, accordingly, their inherent powers were not as vast as those of the imperial Parliament. The following passage from *Wallace v. British Columbia (Attorney General)* summarizes the application of British parliamentary privileges to the colonial legislative assemblies:

> The *lex et consuetudo Parliamenti* as known in England, unlike the major part of the common law, has not been transplanted to Canada. The creation of legislative bodies overseas did not endow those bodies with privileges and powers of the English Parliament, which as stated above were primarily judicial in origin. Such creation did imply however, that these legislatures would need to exercise certain very moderate privileges which were necessary for the maintenance of order and discipline during the performance of their duties.[62]

Regarding the inherent powers necessary for the functioning of a colonial assembly, the following statements are contained in *Barton v. Taylor*:

> The intention of that plea seems to have been to justify the trespass on the ground of an inherent power in every Colonial Legislative Assembly to protect itself against obstruction, interruption, or disturbance of its proceedings by the misconduct of any of its members in the course of those proceedings. The nature, grounds, and limits

61. Brun, Tremblay and Brouillet, *Droit constitutionnel*, 5th ed., p. 320.
62. *Wallace v. British Columbia (Attorney General)*, [1978] 1 W.W.R. 411 at 413–414 (BCSC).

> of that power (which undoubtedly exists) have been several times considered at this board . . . It results from those authorities that no powers of that kind are incident to or inherent in a Colonial Legislative Assembly (without express grant), except "such as are necessary to the existence of such a body, and the proper exercise of the functions which it is intended to execute." Whatever, in a reasonable sense, is necessary for these purposes, is impliedly granted whenever any such legislative body is established by competent authority. For these purposes, protective and self-defence powers only, and not punitive, are necessary.[63]

It is clear then that colonial legislative assemblies inherently enjoyed parliamentary privileges which, although not as vast as those given the Houses of Parliament of the United Kingdom, were necessary in order to effectively exercise their legislative role. Once the Judicial Committee of the Privy Council recognized, in *Fielding v. Thomas*,[64] the power of colonial and provincial legislatures to legislate on parliamentary privilege, Canadian assemblies, in addition to the powers they already held inherently, possessed the tools to acquire the same privileges as the Houses of the imperial Parliament. The Judicial Committee began by mentioning that, since 1865, the colonial legislatures had had the power to legislate on parliamentary privilege in accordance with section 5 of the *Colonial Laws Validity Act*.[65]

The Judicial Committee went on to say that, since 1867, the principal foundation of the power of Canadian provincial legislatures to legislate on parliamentary privilege had been in section 92(1) of the *Constitution Act, 1867*, which reads: "In each Province the Legislature may exclusively make Laws in relation to . . . the Amendment . . . of the Constitution of the Province". This subsection was repealed by the *Constitution Act, 1982*, but its substance

63. *Barton v. Taylor*, (1886) 11 A.C. 197 at 202-203 (P.C.). See also *Kielley*, *supra* note 4; *Fenton v. Hampton*, (1858) 11 Moo. P.C. 347, 14 E.R. 727; *Doyle v. Falconer*, (1866) L.R. 1 P.C. 328 [*Doyle*]; *Landers v. Woodworth*, (1878) 2 S.C.R. 158 [*Landers*].

64. *Supra* note 8.

65. Ibid. at 610. Section 5 of the *Colonial Laws Validity Act*, 1865 (U.K.), 28 & 29 Vict., c. 63 reads as follows: "**5.** Every Colonial Legislature shall have, and be deemed at all Times to have had, full Power within its Jurisdiction to establish Courts of Judicature, and to abolish and reconstitute the same, and to alter the Constitution thereof, and to make Provision for the Administration of Justice therein; and every Representative Legislature shall, in respect to the Colony under its Jurisdiction, have, and be deemed at all Times to have had, full Power to make Laws respecting the Constitution, Powers, and Procedure of such Legislature; provided that such Laws shall have been passed in such Manner and Form as may from Time to Time be required by any Act of Parliament, Letters Patent, Order in Council, or Colonial Law for the Time being in force in the said Colony." (Maingot, *Parliamentary Privilege*, pp. 3–4).

is now found in section 45 of that Act.[66] The Committee declared that parliamentary privileges form part of the provincial constitution with the following words:

> It surely cannot be contended that the independence of the provincial legislatures from outside interference, its protection, and the protection of its members from insult while in the discharge of their duties, are not matters which may be classed as part of the constitution of the province, or that legislation on such matters would not be aptly and properly described as part of the constitutional law of the province.[67]

If it is established that Parliament and the legislatures may legislate on parliamentary privilege, it is also clear that they alone can repeal or define them. "It is a well established principle that an express provision of a statute is necessary to abrogate a privilege of Parliament or its members."[68] However, this power does not extend to inherent constitutional privileges.[69]

In accordance with its power to legislate on parliamentary privilege, the Parliament of Québec codified certain rights and privileges of the National Assembly and its Members in the *Act respecting the National Assembly*, including most of the privileges required to discharge parliamentary duties, which it already enjoyed inherently. On this subject, Brun, Tremblay and Brouillet made the following comments:

> [TRANSLATION] Following the Parliament of Canada's example, the Parliament of Québec could have conferred on the National Assembly the entire body of privileges that existed in the United Kingdom, with a general reference to the *lex et consuetudo parliamenti*. Instead, the *Act respecting the National Assembly* specifically enumerates the principal situations that must be considered as privileged. This method has the advantage of clarifying many facets of this area of law. And parliamentary custom in Québec is sufficiently well established to complement the general provisions of the Act and occasionally sway the courts. The latter, however, may refuse to recognize certain privileges claimed unilaterally by the National

66. Section 45 of the *Constitution Act, 1982*, reads as follows: "**45.** Subject to section 41, the legislature of each province may exclusively make laws amending the constitution of the province."
67. *Fielding*, *supra* note 8 at 610–611.
68. *Canada (House of Commons) v. C.L.R.B.*, [1986] 2 F.C. 372 (C.A.) at 384. See also *Newcastle (Duke of) v. Morris*, (1870) L.R. 4 H.L. 661.
69. See Pelletier, *Modification constitutionnelle*, pp. 101–102 and 121–122.

> Assembly, where the Act does not clearly grant them, unless of course, it is a matter of inherent privileges.[70]

In addition to codifying the main individual and collective privileges required to discharge parliamentary duties, the *Act respecting the National Assembly*, in section 55, lists situations that could constitute a breach of the Assembly's rights. These are acts or omissions that could constitute either a breach of a recognized privilege or contempt of Parliament (see Section 3.3).

The provincial legislative assemblies clearly have the power to legislate on parliamentary privilege. However, that power is subject to a limitation: it can be applied only to the areas of parliamentary jurisdiction identified in the Constitution. Such is the conclusion reached by the Court of Appeal for Ontario in a reference on the privileges of a Member of the Legislature. The Court was asked to rule on whether an MLA was under the obligation to appear as a witness in a criminal case and on the Assembly's power to legislate on the matter. The majority judges ruled as follows:

> We are of the view that the member of the Legislative Assembly does not have an absolute privilege, in a criminal proceeding, which would allow him to refuse to disclose the source or content of a communication made to him by an informer. No such privilege is granted, or could properly be granted, by the *Legislative Assembly Act* . . .
>
> It is our opinion, therefore, that members of the Legislative Assembly do not possess any statutory or common law privilege founded on their status exempting them from their obligation to testify. They receive no special immunity in that respect.[71]

In separate reasons concurred in by the majority, Justice Houlden writes that laws and procedures in criminal matters are not within the jurisdiction of the provincial legislatures, but rather within that of the federal Parliament.[72] The provincial legislatures must stay within the areas over which they are granted legislative authority by the Constitution.[73] It follows that the Legislative Assembly of Ontario could not pass legislation creating a privilege that

70. Brun, Tremblay and Brouillet, *Droit constitutionnel*, 5th ed., pp. 324–325.
71. *Reference Re Legislative Privilege*, (1978) 18 O.R. (2d) 529 (C.A.), 83 D.L.R. (3d) 161, at paras. 19–20.
72. See section 91(27) of the *Constitution Act, 1867*, which states that the Parliament of Canada has exclusive legislative authority over matters related to "the Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters".
73. *Reference Re Legislative Privilege*, *supra* note 71 at para. 42.

falls outside those areas. It could not, therefore, exempt an MLA from the obligation to testify in a criminal proceeding because it does not have the constitutional authority to do so.

Lastly, a privilege conferred in a law passed in accordance with the privilege to legislate on privilege does not necessarily have constitutional status. It is the power to legislate on privilege that is recognized as constitutional. As seen in the discussion of *Vaid*, there is no difference between inherent and legislated privileges. Both must be subjected to the test of necessity to determine whether they enjoy constitutional status. Privileges conferred in accordance with the privilege to legislate on privilege thus have the same status as any other privilege until a court is asked to rule on their constitutional status.

3.2.5 The Right to Regulate Internal Affairs Free from External Interference

The right to regulate internal affairs free from external interference is one of the categories of collective privileges retained by Maingot. It is a vast category, including almost all the collective privileges listed above, in particular, the right to enforce discipline on Members, the right to deliberate and 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 its own affairs in and outside of the House, the right to establish its own code of procedure, and the right to send for persons in custody.[74]

This right is codified in sections 9 and 42 of the *Act respecting the National Assembly*, which prescribe that the Assembly establishes its own rules of procedure, that "it alone has authority to see that they are observed" and that it "has the power to protect its proceedings against all interference".

3.2.5.1 Judicial Intervention in the Internal Affairs of Legislative Assemblies

The main effect of this privilege is without a doubt to enable a legislative assembly to govern exclusively almost all that happens within its walls, and to do so free from all judicial intervention. It is in some ways an extension of the individual privilege of freedom of speech. In fact, if the words uttered by a Member during the internal proceedings of the legislative assembly cannot be examined by the courts, it follows that those proceedings are themselves excluded from all judicial control.

74. Maingot, *Parliamentary Privilege*, pp. 191–192.

The following passage from *Canada (Auditor General) v. Canada (Minister of Energy, Mines and Resources)*, citing *British Railways Board v. Pickin*, clearly summarizes the relationship that must exist 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.[75]

Similarly, in *Donahoe* 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.[76]

Even though the sphere of intervention of the law courts in the internal affairs of legislative assemblies is still not entirely determined, it does seem to be agreed that "the courts may determine if the privilege claimed is necessary to the capacity of the legislature to function".[77] Yet, the courts "have no power to review the rightness or wrongness of a particular decision made pursuant to the privilege".[78] It should be kept in mind, however, that the line between control over the scope of privilege and control over its exercise can be a very fine one.[79]

75. *Canada (Auditor General) v. Canada (Minister of Energy, Mines and Resources)*, [1989] 2 S.C.R. 49 at 88. See *British Railways Board v. Pickin*, [1974] A.C. 765 at 799 (H.L.).
76. *Donahoe* at 389.
77. Ibid. at 384.
78. Ibid. at 385.
79. See Section 3.1.2, "The Legal Status of Parliamentary Privilege: The Test of Necessity".

It is on the basis of the privilege of legislative assemblies to regulate their internal affairs without interference that the Supreme Court, in *Donahoe*, recognized that assemblies have the privilege to exclude strangers from their precincts. More recently, the Québec Superior Court refused to rule on a decision by the President of the National Assembly to deny accreditation to certain journalists for admission to the Press Gallery on the grounds that they were employed by a media organization or conglomerate involved in a labour dispute. On that occasion, the Superior Court emphasized the absolute nature of the Assembly's privilege to exclude strangers.[80]

In another case, on the basis of the same privilege to self-regulate, the courts refused to rule on the constitutionality of a Standing Order of the National Assembly that temporarily made it impossible for citizens to petition the Assembly.[81]

The right to regulate internal affairs free from interference means that the courts cannot generally intervene in the proceedings of a legislative assembly, even if the latter is not in compliance with its own rules of procedure. Only the President of the Assembly has jurisdiction. The President even has the exclusive power to apply and interpret laws regarding parliamentary procedure. On this subject, the Court of Queen's Bench of England stated the following in *Bradlaugh v. Gossett*:

> 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 reason 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

80. *Charrette c. Vallières*, 2010 QCCS 4424.
81. *CSN, supra* note 47. See also *Bissonnette, supra* note 38 at 1561–1562.

> that interpretation should be erroneous, this Court has no power to interfere with it directly or indirectly.[82]

It follows that the courts of justice cannot intervene to verify whether a legislative assembly complied with procedure during the passage of a bill. "Courts come into the picture when legislation is enacted and not before":[83]

> 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.[84]

In *Drewery v. Century City Developments Ltd. (No. 1)*, a summons to appear was addressed to the Minister of the Environment of Ontario, as well as to another Member of that province's Legislature, requiring them both to testify before the Court regarding the procedure followed by the Legislative Assembly during the passage of a bill. Century City argued that it had grounds to oppose the passage of the bill by the Assembly, and that the fact that it was not heard by the Assembly rendered the adopted bill null and void. In a word, Century City argued that the rule known as *audi alteram partem* (literally, hear the other side) applied to legislative assemblies. The High Court of Justice for Ontario quoted the passage cited above from *Proprietors of the Edinburgh and Dalkeith Ry. Co. v. Wauchope* and added:

> The Act in question before me has been approved, it has received Royal assent, and my only power, the only power of this Court, is to examine whether or not the Act is constitutionally operative. I have a recollection, but I cannot put my mind on the case which somewhere says that Parliament can do anything except make a man a woman . . .
>
> This is important with respect to the litigants themselves, but it is even more important with respect to the members of the Legislature or Ministers of the Crown, that they cannot be hailed before a Court to explain what went on prior to the passing of an Act, so

82. *Bradlaugh v. Gossett*, (1884) 12 Q.B.D. 271 at 280–281.
83. *Reference Re Resolution to Amend the Constitution, supra* note 34.
84. *Edinburgh and Dalkeith Ry. Co. (Proprietors of) v. Wauchope*, (1842) 8 E.R. 279 (H.L.), 8 Cl. & F. 710 at 725. In *Authorson v. Canada (Attorney General)*, [2003] 2 S.C.R. 40 at 53 the Supreme Court of Canada states that "long-standing parliamentary tradition makes it clear that the only procedure due any citizen of Canada is that proposed legislation receive three readings in the Senate and House of Commons and that it receive Royal Assent. Once that process is completed, legislation within Parliament's competence is unassailable".

> that all that may be examined into, and then have the whole of that evidence disregarded before the Court.[85]

Similarly, in *Reference Re Resolution to Amend the Constitution*, the Supreme Court had to decide in particular whether Canada's two Houses of Parliament had the power to proceed by resolution to send Her Majesty the Queen the address and the attached bill providing for the patriation of the *British North America Act*. First, the Supreme Court recalled that the privileges, immunities and powers of the two Houses of the Parliament of Canada are related to those of the British House of Commons. Regarding the internal procedure of these Houses, the Court wrote as follows:

> How Houses of Parliament proceed, how a provincial 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 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.[86]

An assembly's right to regulate its internal affairs without outside interference not only precludes court intervention in the legislative process during parliamentary proceedings, but also seems to exclude *a priori* court intervention in the legislative process, which could create an obstacle to the Government or a Member wishing to present a bill in the Assembly.

In *Reference Re Canada Assistance Plan (B.C.)*,[87] the Supreme Court was asked to rule on whether the federal government could table Bill C-69, *Government Expenditures Restraint Act*, given that its adoption would have modified an agreement between the Government of Canada and the Government of British Columbia to share costs incurred by the province for social

85. *Drewery v. Century City Developments Ltd. (no. 1)* (1974), 52 D.L.R. (3d) 512 at 514 (Ont. H.C.J.).
86. *Reference Re Resolution to Amend the Constitution, supra* note 34.
87. *Reference Re Canada Assistance Plan (B.C.)*, [1991] 2 S.C.R. 525.

assistance and welfare. According to one of its provisions, the Agreement could only be amended or terminated by mutual consent of the parties, or terminated on one year's notice from either party. After demonstrating that the courts have no interest in parliamentary procedure, Justice Sopinka, speaking for the Court, noted the following:

> 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.[88]

In reply to the submission that, as regards legislative process, a distinction had to be drawn in this particular case between the bill's presentation by the executive branch and its subsequent examination by the Houses of Parliament, Justice Sopinka was of the opinion that "this submission ignores the essential role of the executive in the legislative process of which it is an integral part".[89]

In another case, the Superior Court, unwilling to interfere in the procedure of the National Assembly, refused to issue an interlocutory injunction to prevent a corporation from introducing a private bill and lobbying for its passage. It ruled that by issuing such an injunction, it would violate the right of the legislative assembly to adopt or reject the bills laid before it.[90]

In 1995, a resident of Québec applied to the Superior Court for a series of declaratory judgments and injunctions to be issued against the Québec government, which was taking steps to hold a referendum on the sovereignty of Québec in the fall of 1995.[91] In particular, the applicant wanted the Court to rule that the "Prime Minister [of Québec] and his government do not have

88. Ibid. at 559.

89. Ibid.

90. *Rail & Water Terminal of Montreal Ltd. v. Compagnie de Gestion de Matane*, [1976] C.S. 102 at 104. See also *Bilston Corp. v. Wolverhampton Corp.*, [1942] L.R. 1 Ch. 391; *Berthiaume v. Du Tremblay*, [1955] R.P. 328 (C.S.). In the latter case, an interim injunction was issued 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). Also, in *Rediffusion (Hong Kong) Ltd. v. Hong Kong (Attorney General)*, [1970] A.C. 1136 (H.L.), the Judicial Committee of the Privy Council refused to allow an injunction to prevent the Legislative Council of Hong Kong from passing a statute ultra vires.

91. *Bertrand c. Québec (Procureur général)*, [1995] R.J.Q. 2500 (C.S.), (1995), 127 D.L.R. (4th) 408 (*sub.nom. Bertrand v. Québec (Procureur Général)* (translation)).

the constitutional authority to table in the National Assembly a bill essentially contemplating the separation of Québec from Canada"[92] and to declare that "the government of Québec is acting in fraudulent violation of the law in preparing to make every effort to use its majority in the National Assembly to force the Assembly to adopt a bill contemplating the destruction of Canada".[93]

The applicant asked the Court, among other things, to order the members of the Québec government "to take all the necessary steps not to table any bill respecting the sovereignty of Québec in the National Assembly"[94] and "to ensure that the draft bill respecting the sovereignty of Québec . . . is not tabled in the National Assembly of Québec to be debated and/or adopted in accordance with the *Act respecting the National Assembly* and the relevant regulations".[95]

The respondents submitted the following arguments to the Court:

> Through the conclusions sought, the applicant is soliciting the Court's interference in the exercise of the legislative authority and functioning of the National Assembly, which would constitute an unjustifiable infringement of the fundamental powers of the National Assembly, and a violation of its most fundamental privileges.[96]

In his decision, Justice Lesage concluded as follows:

> 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.[97]

The inability of the courts to prevent anyone from submitting a matter to the legislative assembly is supported by parliamentary law. By virtue of its power to establish its own code of procedure, and given that it has sole jurisdiction to ensure compliance with 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 question. When it believes that the

92. Ibid. at 413.
93. Ibid.
94. Ibid. at 414.
95. Ibid. at 415.
96. Ibid. at 418.
97. Ibid. at 431.

procedural requirements are met, an assembly must, freely and without interference, decide whether or not it will take up the matter. If the courts could intervene in the process leading up to the introduction of a bill in an assembly for example, under the pretext that they would not intervene in an assembly's proceedings, an assembly could be paralyzed until it obtained their consent to consider the bill in question.

3.2.5.2 Application of Statutes to the Assembly

Since the Supreme Court has ruled that the parliamentary privileges legislative assemblies require in order to function have a constitutional status, it is clear, given their paramountcy in the hierarchy of the sources of law, that these privileges override any law passed by Parliament. This is why the laws of Québec apply to the National Assembly, subject to the parliamentary privileges it enjoys. In this regard, although the *Act respecting Access to documents held by public bodies and the Protection of personal information*[98] expressly applies to the National Assembly, the Court of Québec has ruled that the Act cannot oblige the Assembly to grant access to parliamentary documents, even if those documents are held by an administrative service of the Assembly.[99] The Court recognized that the right to regulate its internal affairs free from interference is a constitutional privilege, since it is necessary for the functioning of the Assembly. As it was a question, in the case at bar, of documents relating to the proceedings of Parliament, and as there was no doubt that those proceedings were covered by the parliamentary privilege of regulating internal affairs free from 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 administrative matters in the Assembly would appear to be a riskier business. Indeed, if the Assembly decided to invoke its privilege to that end, it could be called before the courts to prove that the administrative matter in question fell within parliamentary privilege, as in *Québec (Conseil du trésor) c. Association des juristes de l'État*.[100] In that particular case, the essential services board recognized the exclusive authority of the President of the National Assembly to designate the work of the lawyers assigned to the proceedings of the Assembly as essential services. It should be noted, however, that this ruling echoed *Vaid* in that it was founded on the privilege to manage personnel whose duties

98. L.Q., c. A-2.1.
99. *Québec (Assemblée nationale) c. Bayle* (January 22, 1998), Montréal 500-02-030647-965 (C.Q. (Civ. Div.)).
100. *Supra* note 29.

are closely related to the Assembly's legislative and deliberative functions, rather than on the privilege to regulate its internal affairs.

To spare the Assembly from constantly having to prove the existence of a privilege, in 1982 the legislator decided to grant the Office of the National Assembly major powers of derogation. Section 110 of the *Act respecting the National Assembly* now provides that, subject to the provisions of the Act, the Assembly will continue to be run in accordance with the statutes, rules and regulations that apply to it. However, the same section states that the Office of the National Assembly may, by regulation, derogate from those statutes, rules and regulations by specifically identifying the provisions in question and those that will apply in their stead.

In sum, a statute applies to the Assembly unless there is a conflict with a parliamentary privilege or the Office of the National Assembly derogates from it by regulation. In fact,

> [TRANSLATION] a number of general laws . . . may apply to Members or to Assemblies without challenging a parliamentary privilege . . . Accordingly, civil law and criminal law apply to Members, unless there is an explicit provision to the contrary.[101]

A police corps leading an investigation may need to enter the precincts of the Assembly in order to interrogate Members or members of their staff or again, personnel members of the Assembly, to execute a search warrant in a Member's office or in the offices of an administrative unit of the Assembly,[102] or even to arrest someone. Although parliamentary privilege does not generally prevent the application of criminal or penal law within the precincts of the Assembly, the police do not have access to the Assembly automatically since police intervention may hinder the functioning of the Assembly, and, as a result, breach the privilege of regulating internal affairs without external interference. Moreover, the Supreme Court of Canada has ruled that legislative assemblies are not accessible as a matter of course and that strangers can be expelled from any part of the 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 S.C.R. 400. In that case, it was recognized that access to the chamber of

101. Brun and Tremblay, *Droit constitutionnel*, 4th ed., p. 336.

102. When executing a search warrant within the precincts, before authorizing access to the police, the President, as guardian of the privileges of the Assembly and its Members, must ensure that the warrant respects the criteria of content and form set out in the law, jurisprudence and parliamentary practice. However, the President must co-operate with the police force in charge of the search in the interests of the administration of justice.

> the Nova Scotia House of Assembly was strictly a matter of privilege which could be withdrawn at any time as a matter of decorum.[103]

Also in *Donahoe*, the Supreme Court was of the opinion that the right of the Legislative Assembly of Nova Scotia to exclude strangers from its precincts—and, as a corollary, the right to control access to those precincts—is a constitutional right necessary for the efficient functioning of the Assembly.[104] 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.[105]

Thus, police forces may not enter the precincts of the Assembly without having first obtained authorization from the President. Authorization is required regardless of the nature of the intervention. According to Maingot, serving a process on a Member within the precincts of the House while the House is sitting constitutes contempt of Parliament because the process is deemed to have been served in the presence of the House. Furthermore, Maingot writes that immunity from service extends to persons who are not Members, that is, to officers of the House and other strangers who are temporarily in the House.[106] In sum, it is the act of serving the process in the precincts of the House that constitutes contempt of Parliament. Since access to the parliamentary precincts is controlled by the President, a process could not be served in the National Assembly without the President's authorization, even if the Assembly were not sitting.

3.2.6 Power to Punish for Contempt

One of the collective parliamentary privileges of legislative assemblies patterned on the British model is the power to punish for contempt.

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103. *Donahoe* at 386.
104. *Donahoe* at 374–375. On this subject, the majority of the Supreme Court stated the following: "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."
105. *Donahoe* at 386.
106. Maingot, *Parliamentary Privilege*, p. 171.

The Judicial Committee of the Privy Council ruled, in *Kielley*, "that the House of Assembly [of the Island of Newfoundland—then a colonial assembly] did not possess the power of arrest with a view to adjudication on a complaint of contempt committed out of its doors".[107] The Committee based its ruling on the principle of necessity:

> The power of punishing any one for past misconduct as a contempt of its authority, and adjudicating upon the fact of such contempt, and the measure of punishment as a judicial body, irresponsible to the party accused, whatever the real facts may be, is of a very different character, and by no means essentially necessary for the exercise of its functions by a local Legislature.[108]

In the same vein, the Judicial Committee of the Privy Council had to determine, in *Doyle v. Falconer*,[109] whether the power to punish for contempt of Parliament in its presence was necessary for the existence of a colonial assembly like that of Dominica. The Committee went even further than in *Kielley* and established that the legislative assembly did not have such a power. Basing itself once again on the principle of necessity, the Committee made the following remarks:

> It is necessary to distinguish between a power to punish for a contempt, which is a judicial power, and a power to remove any obstruction offered to the deliberations or proper action of a Legislative body during its sitting, which last power is necessary for self-preservation. If a Member of a Colonial House of Assembly is guilty of disorderly conduct in the House whilst sitting, he may be removed, or excluded for a time, or even expelled; but there is a great difference between such powers and the judicial power of inflicting a penal sentence for the offence. The right to remove for self-security is one thing, the right to inflict punishment is another.[110]

In fact, in addition to the right to punish a violation of its privileges or those of its Members, the Assembly has the right to punish acts or omissions that, while not necessarily a breach of a parliamentary privilege, nevertheless hinder its work or threaten its authority or its dignity. As contempt of Parliament can take on a multitude of forms, it is difficult to provide a precise

107. *Kielley, supra* note 4 at 233.
108. Ibid. at 235.
109. *Supra* note 63.
110. *Kielley, supra* note 4 at 340. In *Landers, supra* note 63, which dealt with the power of the Legislative Assembly of Nova Scotia to punish for contempt, the Supreme Court of Canada applied *Doyle*.

definition or an exhaustive list of the acts or omissions that would correspond to such a definition. In practice, the Assembly 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, the power to punish for such an offence being of its nature discretionary.[111]

Referring to doctrine, the President has defined contempt of Parliament as any act or omission that hinders the work of the Assembly or that undermines its authority or dignity.[112]

While it would be impossible to draw up an exhaustive list of the acts or omissions that would constitute contempt of Parliament, the Parliament of Québec, in accordance with its power to legislate in the area of parliamentary privilege, 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 or, put differently, a series of acts or omissions that could constitute contempt of Parliament.[113] Certain situations that have been recognized by

111. May, *Treatise*, 23rd ed., p. 128.

112. JD, November 28, 2001, pp. 3986–3987 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/48.

113. The list reads as follows:
"(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;

the Chair as constituting contempt of Parliament are discussed in greater detail in Section 3.3.2.

3.2.7 Power to Conduct Inquiries, Call Witnesses and Demand Papers

The power of provincial legislative assemblies to conduct inquiries, call witnesses and demand papers was recognized in *Canada (Attorney General) v. MacPhee*.[114] This ruling granted provincial legislative assemblies the right to call federal public servants to testify as part of an inquiry on a matter in an area of provincial jurisdiction. The judge found that the Legislative Assembly of Prince Edward Island has the power to call witnesses and compel them to produce documents and that this power is constitutional since it is necessary for the proper functioning of the Assembly.

This power is codified in section 10 of the *Act respecting the National Assembly*, which provides that the Assembly may appoint committees "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". A power to compel is also granted to the Assembly and to parliamentary committees:

> **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.

Refusing to obey an order of or submitting a false document to the Assembly or a parliamentary committee constitute breaches of the Assembly's rights or, in other words, contempt of Parliament, under section 55 of the *Act respecting the National Assembly*.

3.2.8 Power to Administer Oaths

The National Assembly has the power to administer oaths to persons testifying before it or before a parliamentary committee. Section 52 of the *Act respecting the National Assembly* provides that a witness may be sworn in on

(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."

114. *Canada (Attorney General) v. MacPhee*, 2003 PESCTD 6.

the President's or a Member's request while section 53 extends immunity to witnesses testifying before the Assembly or a parliamentary committee:

> **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.
>
> **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.

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.
>
> ***Act respecting the National Assembly***
> (L.Q., c. A-23.1, Schedule II)

Section 53 has a narrower scope than the letter of the law seems to suggest. While it could be thought to mean that everyone enjoys immunity, a court ruling has strictly limited its application to witnesses under oath.[115] In addition, giving false testimony goes against section 55 of the *Act respecting the National Assembly* and is therefore a breach of the Assembly's rights. The courts have yet to rule on the issue of whether the power to administer oaths is a constitutional privilege. However, given that this power is closely tied to freedom of speech, it may very well be given that status.

3.3 PROCEDURE FOR RAISING POINTS OF PRIVILEGE OR CONTEMPT

3.3.1 Points of Privilege

Standing Order 66 states that any breach of the 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.

115. *Turgeon c. Théberge* [1987] R.R.A. 120 (C.S.). In a very short decision, the judge found that the term "testimony" used in section 53 of the *Act respecting the National Assembly* applies only to statements made by a witness who is under oath or who has made the solemn declaration set out in Schedule II to the Act. The judge's conclusion seems surprising given that witnesses must enjoy freedom of speech if the Assembly is to obtain all the information it needs to discharge its functions effectively. A restrictive application of the immunity provided for in section 53 would appear to go against that principle.

A Member, through a procedure commonly called a point or question of privilege, may draw the Assembly's attention to an alleged breach.[116] 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 concept of *immediacy* has been interpreted by the Chair as referring to an event that happens on the spot in the House,[117] i.e. in the precincts of the Assembly. Otherwise, a Member must follow the procedure set out in the second paragraph of Standing Order 69, that is, advise 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.[118]

A question of privilege may only be raised in the Assembly, not in committee. Therefore, a Member who witnesses a breach in committee may only raise the point of privilege after giving written notice to the President one hour before Routine Proceedings, in accordance with Standing Order 69.[119]

As seen above, parliamentary privileges are limited to what is necessary to enable the Assembly to perform its parliamentary functions; consequently, there are not many of them (see Section 3.1.2). Moreover, it is difficult to enumerate contempts of parliament, since they may be defined as any act or failure to act that undermines or obstructs the functions of the Assembly, its committees or its Members (see Section 3.2.6). When raising 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.[120]

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116. See Chapter 9, "Conduct of a Sitting".

117. JD, June 10, 2003, p. 162 (Michel Bissonnet)/*RDPP*, no. 69/4. See also Maingot, *Parliamentary Privilege*, p. 219; Geoffrion 1941, S.O. 198. The Chair referred in the ruling to an exception according to which a question of privilege cannot be raised immediately after the fact; the exception is the Finance Minister's budget speech. It is not customary to accept any points of privilege during the speech, but the Chair could accept one directly afterwards, that is, after the finance critic for each opposition group has spoken, as long as the question is based on a matter suddenly arising 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).

118. In the past, the Chair has stressed that, given the importance of the procedure and its possible consequences, Members must be rigorous, paying attention to both the form and the content, when handing in a notice under the second paragraph of Standing Order 69 (JD, June 10, 1998, pp. 11815–11817 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/38). The Chair has also advised Members that, in the future, those who hand in a notice that does not clearly state the facts that could constitute contempt of Parliament will be asked to prepare a new notice in accordance with the Standing Orders (JD, May 26, 1998, pp. 11329–11330 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/37).

119. JD, February 13, 1986, p. CBA-160 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 66/1.

120. In a ruling made in October 1999, the President noted that when a Member claims a breach of privilege, it is essential that the privileges concerned be clearly identified. The President did not, however, reject the point of privilege on this basis, but, given the facts

In the latter case, it could be one of the situations contemplated in section 55 of the *Act respecting the National Assembly*, or any other situation of the same nature not specifically referred to, for the list in section 55 is not exhaustive.[121]

A Member's privilege applies only to his or her role as a 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 purview of parliamentary privilege. And neither does an allegation that a minister permitted a budget leak constitute a matter of privilege.[122]

In other words, a Member's duties include those of legislator and of controller of governmental activity, but not those of intermediary between citizens and State. Consequently, work done by Members in their riding is not protected by parliamentary privilege.

3.3.1.1 Breach of an Individual Privilege

The cornerstone of parliamentary privilege is without a doubt the privilege of freedom of speech. Of all the individual privileges, it is the one most likely to be violated, and thus, to be the subject of a point of privilege. As seen above, this privilege, although very important, is not unlimited, applying only to words pronounced within the context of parliamentary debate.[123]

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submitted, made an assumption as to what privileges the Member wished to invoke (JD, October 20, 1999, pp. 3027–3028 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/40).

121. Ibid.

122. Maingot, *Parliamentary Privilege*, p. 224. 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 section 55(8) of the *Act respecting the National Assembly*. The Minister claimed that he had been defamed by two members of the Official Opposition who apparently said in a press conference that the Minister had made a "gift" to the Minister of Tourism in 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.

123. The President of the National Assembly has ruled that a formal notice ordering a Member to cease speaking about the contents of a contract brought before the Courts in order to have them determine whether the contents were confidential or not constitutes at first blush a breach of the Member's freedom of speech, adding, however, that even though a point of privilege could be raised, the Member must nonetheless respect the principle of *sub judice* (JD, April 23, 1991, pp. 7535–7536 (Jean-Pierre Saintonge)/*RDPP*, no. 67/21).

Other individual privileges include exemption from jury duty and from being called as a witness, which are justified by Parliament's paramount right "to the attendance and service of its Members":[124] "Parliament will not tolerate impediments to Members who are on their way to attend . . . sittings."[125] The corollary to this paramount right is that a question of privilege may be raised with regard to any hindrance or intimidation of a Member in the course of parliamentary duties.

The final individual privilege is immunity from arrest in civil matters, which is also justified by the paramount right of Parliament to benefit from the attendance and service of its Members. This privilege has very little application in practice, however, since a Member may still be arrested for criminal, penal and quasi-penal offences.[126]

3.3.1.2 Breach of a Collective Privilege and Contempt

The collective privileges of British-style legislative assemblies are much more difficult to circumscribe than the individual privileges of Members. These privileges mainly enable a legislative assembly to govern its internal affairs exclusively—without external interference—and their chief effect is to prevent all judicial interference in the internal workings of the assemblies. Any act or omission that hinders the proper conduct of the proceedings of an assembly, while not necessarily a breach of a recognized privilege, constitutes contempt of Parliament.

Practically speaking, a breach of a legislative assembly's collective privileges frequently, if not always, constitutes contempt of Parliament. While it is not uncommon for Members to submit to the President facts that could constitute a breach of privilege or contempt, the President does not often rule that those facts constitute *prima facie* contempt.

In 1992, the President declared that Québec's Régie de l'assurance-maladie was *prima facie* in contempt of the National Assembly when it sent out a press release announcing the immediate implementation of changes to the health insurance program before the Assembly had even passed the bill

124. Maingot, *Parliamentary Privilege*, p. 158.
125. Maingot, *Parliamentary Privilege*, p. 151.
126. "In most Western European and socialist countries, Members are immune from arrest for criminal offences but not for civil offences. In . . . Parliaments which model themselves on the United Kingdom system, the pattern is reversed." (*Parliaments of the World: A Comparative Reference Compendium*, 2nd ed., vol. I, International Centre for Parliamentary Documentation of the Inter-Parliamentary Union (New York: Facts on File, 1986, p. 135).

amending the program.[127] Following this ruling, the president and chief executive officer of the Board apologized in writing to the President. The matter was then closed, and no action was taken by the Assembly against the Board.

The President of the National Assembly has also ruled that failure by a government department or public body to table an annual report within the time imposed by its constituting Act was a *prima facie* case of contempt of Parliament. The case led to the Assembly's adoption of a motion reiterating the importance for parliamentarians of timely access to information on the activities of government departments and public bodies and calling for compliance with the various legislative provisions in this regard.[128]

Finally, the President ruled on several occasions that threats addressed to a Member constitute at first glance a breach of the rights of the Assembly or contempt of Parliament (see Section 3.3.2.1).

3.3.2 *Prima Facie* Breach of a Privilege

When a question of privilege 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".[129] The President's role is to verify whether the alleged facts enable a *prima facie* conclusion to be drawn that there was a breach of a right or privilege.[130] In this regard, Maingot writes as follows:

> 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.[131]

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 to the Chair, the ruling must be based both on the facts and on

127. JD, May 19, 1992, pp. 1101 and 1131–1132 (Jean-Pierre Saintonge)/*RDPP*, no. 67/24.
128. JD, March 11, 1993, pp. 5292–5294 (Jean-Pierre Saintonge)/*RDPP*, no. 67/28.
129. Maingot, *Parliamentary Privilege*, p. 221.
130. 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.
131. Maingot, *Parliamentary Privilege*, p. 221.

the *lex parlementi*.[132] In order to do this, 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 based uniquely on the facts invoked by the Member raising the point of privilege. Certainly, by virtue of Standing Order 35(6), the President must accept the word of the Member,[133] but the facts in question must still be supported by sufficient proof to allow the President to conclude that there may be a contempt or a breach.[134] 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.[135]

The Chair, in a manner of speaking, has the responsibility of ensuring that the question is serious, for it would not do to be regularly transforming the Committee on the National Assembly into a tribunal of enquiry into facts that analysis by the President shows, at first blush, to be unfounded. This role of the President is particularly important in the National Assembly, where the Committee on the National Assembly is automatically convened to investigate the matter when a question of privilege concerning one of the Members is declared in order. In most other legislative assemblies, a motion is required to send the matter to committee.[136]

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 per se a point of order, in the past the Chair 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.[137]

132. JD, October 20, 1999, pp. 3027–3028 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/40.
133. 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.
134. 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.
135. JD, June 15, 2001, pp. 2381–2382 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/47.
136. In order for the Committee on the National Assembly to be convened, the Member raising the question of privilege must have presented a motion in accordance with Standing Orders 70 and 315, and those following.
137. JD, May 30, 1990, pp. 2719–2725 (Jean-Pierre Saintonge)/*RDPP*, no. 41/1. In this ruling, the President reminded Members that there are precedents for a President delivering a ruling at her or his convenience.

Furthermore, when the notice of intent to raise a question of privilege under the second paragraph of Standing Order 69 is sufficiently clear, the Chair does not necessarily have to hear any arguments. However, it may choose to do so if the declared facts lack precision.[138] According to custom, no copies of the notice or documents submitted to the Chair are distributed, unless the Chair decides otherwise, given the circumstances.[139]

Lastly, the Chair has ruled inadmissible a question of privilege that raised facts a Member had already raised in a previous notice.[140]

3.3.2.1 Threatening or Exerting Undue Pressure on a Member

Section 55(7) of the *Act respecting the National Assembly* stipulates that threatening a Member in the exercise of the duties of parliamentary office constitutes a breach of the privileges of the Assembly. Under section 55(10), influencing the vote, opinion, judgment or action of a Member by deceit, threats or undue pressure also constitutes a breach of the privileges of the Assembly.

The Chair of the Assembly has allowed questions involving a breach of privilege under paragraph 7 or 10 of section 55 of the Act on several occasions. Most of the cases had to do with the way a minister behaved or spoke to another Member. In one case, the Chair ruled that when a minister informed the lawyer of an organization interested in the adoption of a private bill that the bill would be blocked if the Member of the Official Opposition sponsoring the bill did not consent to the adoption of another bill introduced by the minister, the privileges of the Assembly had at first sight been breached.[141] The Chair based its ruling on the fact that a Member must not be hindered in the exercise of the duties of parliamentary office and that any threat made to influence a Member's vote or behaviour constitutes a breach of the privileges of the Assembly.

The Chair has also ruled that the following constituted a *prima facie* breach of the privileges of the Assembly: a minister's declaration to a Member that if the Member criticized him, it meant that she did not want any road

138. 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.
139. JD, October 27, 2009, pp. 3616–3620 (Yvon Vallières)/*RDPP*, no. 69/5.
140. JD, October 26, 1999, p. 3126 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/41.
141. JD, December 19, 1986, pp. 5845–5846 and 5886–5887 (Pierre Lorrain)/*RDPP*, no. 67/11.

repairs done in her riding,[142] and a threat of reprisals by a minister who said that a Member was going to "pay" for what she said in debate.[143]

On two occasions, actions by people other than Members have given rise to questions of privilege. Thus, the Chair has ruled that sending a formal notice to a Member to prevent the Member from speaking about a certain matter before the Assembly constituted a *prima facie* breach of the privileges of the Assembly.[144] According to the Chair, not only did this constitute a breach of the Member's privilege of freedom of speech, it also influenced the vote, opinion, judgment or action of the Member by threats or undue influence, which is contrary to paragraph 10 of section 55 of the *Act respecting the National Assembly*. Moreover, according to the Chair, threatening to ransack a Member's constituency office if the Member voted in favour of a bill constitutes at first glance a violation of the privileges of the Assembly.[145]

On the other hand, the Chair has refused to allow a question of privilege against an independent Member who had sent a letter to a minister stating that he would withdraw the legal challenge to a law if the minister agreed to amend it.[146] In another case, the Chair declared out of order a question of privilege against the Minister of Revenue whose staff had purportedly consulted a Member's tax file. The Chair stated that there was no proof that the tax information had been used to interfere with a Member in the exercise of the functions of office.[147] Lastly, in another decision,[148] the Chair refused to allow a question of privilege against a minister accused of seeking reprisals against an organization when he declared that he had better be prudent and see to it that money received from his department was well spent. The Chair noted that, in the past, whenever it concluded that paragraph 10 of section 55 of the *Act respecting the National Assembly* had been contravened, it was

142. JD, October 30, 1991, pp. 10237–10238 (Jean-Pierre Saintonge)/*RDPP*, no. 67/22.
143. JD, December 7, 2000, p. 8564 (Jean-Pierre Saintonge)/*RDPP*, no. 67/45. In this case, the remark in question was 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 served a notice of breach of a right or privilege; otherwise no question of that nature could be *prima facie* admissible.
144. JD, April 23, 1991, pp. 7535–7536 (Jean-Pierre Saintonge)/*RDPP*, no. 67/21.
145. JD, December 1, 1993, pp. 8990–8991 (Jean-Pierre Saintonge).
146. JD, June 2, 1992, pp. 1438–1439 and 1492–1493 (Jean-Pierre Saintonge)/*RDPP*, no. 67/25. In its ruling, the Chair 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 a law amended.
147. JD, October 20, 1999, pp. 3027–3028 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/40.
148. JD, December 16, 2004, p. 6878 (Michel Bissonnet)/*RDPP*, no. 67/53.

because action had been taken that was knowingly and directly aimed at dissuading a Member from exercising the functions of office.[149]

In a last case, the Chair had to determine whether a question of privilege was founded when a minister was accused of having challenged the Members in opposition to stop asking her or her Cabinet colleagues for funds out of their discretionary budgets to support projects in their constituencies. The minister had made the comments during the debate on the budget speech, in her reply to opposition Members' criticism of the budget. An Official Opposition Member retorted that this was tantamount to preventing the Members in opposition from doing their work as elected representatives. The minister then invoked Standing Order 212, which allows Members who feel their words may have been misquoted or misunderstood to take the floor again to explain themselves very briefly, and said that her intent was not to prevent the Members across the floor from doing their jobs but rather to highlight the fact that their actions did not mirror their words. The Chair found there was, *prima facie*, no contempt of Parliament as the minister's explanations could not be called into question, in accordance with the rule that no Member can refuse to take another Member at his or her word (S.O. 35(6)). The Chair added that it could have found otherwise had the minister not invoked Standing Order 212.[150]

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 Chair must take into account all the facts that can help it determine, *prima facie*, whether the words and actions in question are intended to threaten a Member in the exercise of his or her duties.

3.3.2.2 Invoking Unadopted Legislative Provisions

Of the possible cases of contempt of Parliament raised by Members of the National Assembly, one has attracted particular attention: the disclosure or communication to the public, by a government department or public body, of information on measures prescribed in legislation yet to be adopted.

In April 1990, the Chair of the Assembly described as follows the circumstances in which invoking legislation still before the House could constitute contempt of Parliament:

149. Ibid.
150. JD, March 31, 2011, pp. 1301–1303 (Yvon Vallières).

> [TRANSLATION] Thus, it seems fair to say that a minister who knowingly invokes legislation still being studied by the Assembly could be accused of contempt of Parliament . . .
>
> . . . This conclusion must nonetheless be supported by clear evidence that the Minister acted as though the bill had the force of law.[151]

Accordingly, the disclosure and communication of information on bills still being studied by the Assembly does not constitute *prima facie* contempt of Parliament, unless it is suggested that the bill already has the force of law.[152] It was under such circumstances that, in May of 1992, the President of the National Assembly ruled that the fact that the Régie de l'assurance-maladie du Québec had 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 adoption of a bill before the Assembly, constituted at first glance contempt of Parliament.[153] This is the only case in the National Assembly when the Chair ruled such a question admissible, although a number of cases have been submitted to it.[154]

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151. JD, April 25, 1990, p. 1843 (Jean-Pierre Saintonge); JD, April 25, 1990, pp. 1842–1846 (Jean-Pierre Saintonge)/*RDPP*, no. 67/16.
152. JD, December 18, 1997, pp. 9672–9674 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/36.
153. JD, May 19, 1992, pp. 1101 and 1131–1132 (Jean-Pierre Saintonge)/*RDPP*, no. 67/24.
154. The following are incidents that were not considered by the President to be *prima facie* cases of contempt of Parliament: publication by the Minister of Revenue in daily newspapers of ads concerning the coming into effect of changes to the Québec sales tax, even though the changes were in a bill still before the Assembly (JD, December 14, 1990, pp. 6410–6412 (Jean-Pierre Saintonge)); ads placed in Québec's main newspapers by the Régie de l'assurance-maladie concerning changes to the health insurance plan, even though the ads concerned measures included in a bill still being studied by the Assembly (JD, May 19, 1992, pp. 1101 and 1131–1132 (Jean-Pierre Saintonge)); the acquisition by a state-owned enterprise of goods and services totalling several million dollars, in light of the eventual application of a bill still before the National Assembly (JD, May 26, 1994, pp. 1426–1428 (Jean-Pierre Saintonge)); the placing of ads in daily newspapers by the Ministère de la Santé et des Services sociaux to publicize the new prescription drug insurance plan, despite the fact that the enabling legislation was still before the National Assembly (JD, June 12, 1996, pp. 2093–2094 (Jean-Pierre Charbonneau)); the initiation of the implantation process for local development centres (CLDs) by the Minister responsible for the Regions before the National Assembly had adopted the bill on the Ministère des Régions (JD, December 18, 1997, pp. 9672–9674 (Jean-Pierre Charbonneau)); the public announcement by the Government of the content of bills that it was intending to introduce in the National Assembly and the provision of a schedule for the adoption and the coming into force of those bills (JD, May 3, 2000, pp. 5701–5702 (Jean-Pierre Charbonneau)); the adoption by the Government of an order in council suspending the obligation of taxi permit holders to pay annual fees to the league of taxi owners in their agglomeration, while there was a bill before the National Assembly seeking to reform transportation services by taxi (JD, April 5, 2001, pp. 787–788 (Jean-Pierre Charbonneau)).

Regarding publicity and the communication of information that do not take for granted the adoption of a bill by the Assembly, the Chair mentioned, on December 14, 1990, 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.[155]

In another ruling handed down in 1996, the Chair added that

> [TRANSLATION] the powers that be have the legal right, in our political system, to make public the decisions and choices they make in their areas of jurisdiction. The decisions announced could then take the form of legislative provisions and Members, if necessary, would have to decide whether or not to support the government initiative in question.[156]

As for publishing or communicating information on the legislative process, the Chair is of the opinion that

> [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 public 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.[157]

As a corollary of the Government's responsibility to inform the public, the President delivered the following ruling on December 14, 1990:

> [TRANSLATION] In the future, advertisements and the communication of information to the public initiated by a government

155. 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 this last ruling, the Chair 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 even the Assembly had been informed of them.

156. JD, June 12, 1996, pp. 2093–2094 (Jean-Pierre Charbonneau). In a ruling handed down on March 13, 1997, the Speaker of the House of Commons of Canada, the Honourable Gilbert Parent, cited this passage from the ruling made by the President of the National Assembly of Québec Jean-Pierre Charbonneau, on June 12, 1996.

157. JD, December 12, 1989, pp. 543–545 (Jean-Pierre Saintonge)/*RDPP*, no 67/13. See also 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. 7128–7129 (Louise Harel)/*RDPP*, no. 67/49.

> department or a public body and concerning measures introduced in a bill pending adoption, with the exception of measures of a financial nature, must refer to the role of the Assembly and its Members in the adoption process for the measure.
>
> This is so that the public will clearly understand that the information being communicated is in no way intended to undermine the role of the National Assembly and its Members. The public will thus be informed, the authority of the Assembly, preserved, and the important role of Members of this Assembly, shown greater respect.[158]

On May 19, 1992, the President noted that the ruling cited above was simply the expression of a wish. Specifically, the President stated:

> [TRANSLATION] Regarding the advertisements published in the main dailies . . . announcing immediate changes to the Québec health insurance plan without any reference . . . to the bill . . . I can only deplore the fact that the wish expressed in the ruling of December 14, 1990 was not heeded. I stated then that it would be preferable if publicity campaigns touching measures stipulated by legislative provisions that have not yet been passed mention the role of the Assembly and its Members. Although this act does not constitute a *prima facie* contempt of Parliament, I regret that the message included in my December 1990 ruling has not had the desired effect. I can only repeat myself and encourage actions and attitudes that reflect the respect and deference due to the institution of Parliament and its Members.[159]

However, a ruling made on May 3, 2000 suggested a hardening of tone by the Chair regarding the absence, in documents published by the Government, of a clear indication of the Assembly's role in the legislative process. In this case, although a document published by the department of municipal

158. JD, December 14, 1990, pp. 6410–6412 (Jean-Pierre Saintonge)/*RDPP*, no. 67/19. The President qualified his ruling by specifying that these requirements must be tempered in financial matters. In practice, the application of a financial measure precedes legislative authorization. The process is reversed because of the secrecy surrounding fiscal and budgetary matters. However, the President was of the opinion that, even in this field, it is preferable to mention the role of Parliament and its Members.

159. JD, May 19, 1992, pp. 1131–1132 (Jean-Pierre Saintonge); JD, May 19, 1992, pp. 1101 and 1131–1132 (Jean-Pierre Saintonge)/*RDPP*, no. 67/24. This wish was reiterated in the following rulings: 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, June 12, 1996, pp. 2093–2094 (Jean-Pierre Charbonneau); JD, December 18, 1997, pp. 9672–9674 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/36.

affairs did state that bills would be introduced in the Assembly, the President was nevertheless of the opinion that it should have contained a more explicit statement of the role played by the Assembly and its Members in the adoption of the bills:

> [TRANSLATION] In fact, the government press releases should have indicated that the Government would like to have its legislative proposals adopted by such and such a date rather than affirming that the bills would be introduced and would definitely be adopted at a given moment.
>
> By acting as it has done, the Ministère des Affaires municipales gave the impression that the role of Parliament and its Members is more cosmetic than anything else. Once and for all, things must be clear. It is the National Assembly that decides the content and the schedule of adoption of bills, and nothing must be done or said that would give any other impression.[160]

Despite these reservations about the actions of the department, the Chair nonetheless concluded that there were no *prima facie* grounds for contempt of Parliament, given that there was no clear evidence that the Minister had acted as though the bills already had force of law.[161]

When the Chair must decide whether a minister acted upon a provision of a bill still under consideration by the Assembly, it must in fact determine whether the minister acted on a rule contained in a bill rather than under an existing rule. Thus, the Chair ruled in one case that a minister did not invoke legislation not yet passed to announce the creation of a new state-owned enterprise and the nomination of the chair of the board, since the company in question was not created under that bill but rather under Part III of the *Companies Act*.[162] Along the same lines, the Chair has ruled that a minister did not take for granted the adoption of a bill instituting Héma-Québec, which was created by letters patent in accordance with Part III of the *Companies Act* before the introduction of the bill.[163] Similarly, the acquisition by a state-owned enterprise of goods and services worth several million dollars was not considered an act constituting *prima facie* contempt of Parliament, even though the acquisitions were made in light of the eventual application of a bill under consideration. According to the President, the company had

160. JD, May 3, 2000, pp. 5701–5702 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/44.
161. Ibid.
162. JD, April 25, 1990, pp. 1842–1846 (Jean-Pierre Saintonge)/*RDPP*, no. 67/16.
163. 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.

not been authorized to contract the sums of money by legislative provisions yet to be passed but rather by its own general mandate.[164]

The Chair 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.[165] In a similar ruling, the Chair 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.[166]

In short, parliamentary jurisprudence shows that providing information on measures to be tabled in the House does not, at first glance, constitute contempt of Parliament unless the information suggests that the measures have immediate force of law.[167] However, the role of the National Assembly and of its Members must be mentioned in such cases.[168] As a general rule, government departments and bodies must be careful when issuing press releases about matters that may be brought before the House.[169] Even if the Chair came to the conclusion that a public body had 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.[170]

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164. JD, May 26, 1994, pp. 1426–1428 (Jean-Pierre Saintonge)/*RDPP*, no. 67/33.
165. JD, December 8, 1999, pp. 4182–4183 and 4187–4189 (Jean-Pierre Saintonge)/*RDPP*, no. 67/42.
166. JD, April 5, 2001, pp. 787–788 (Jean-Pierre Charbonneau).
167. JD, November 14, 2007, pp. 2008–2010 (Michel Bissonnet)/*RDPP*, no. 67/56.
168. JD, November 26, 2004, p. 5950 (Michel Bissonnet)/*RDPP*, no. 67/52. The Chair took into account not only that there was no proof that the minister had acted as though the bill had force of law, but also that the information provided actually stated that the bill was under consideration in committee, which was an acknowledgement of the role of the National Assembly and its Members in the legislative process.
169. JD, May 4, 2004, pp. 4329–4330 (Michel Bissonnet)/*RDPP*, no. 67/51. A press release reporting that the National Assembly had unanimously supported a motion was issued before the end of the vote. The President put this incident down to bungling rather than a deliberate attempt to undermine the authority and dignity of the Assembly and its Members.
170. JD, October 16, 2002, pp. 7128–7129 (Louise Harel)/*RDPP*, no. 67/49. In this matter, an opposition Member raised a question of privilege against the Minister of State for Health and Social Services, submitting that a regional board had invoked legislation not yet adopted in having the Saguenay–Lac-Saint-Jean central emergency call centre transferred to the Québec City health communication centre before the Assembly had finished studying Bill 96, *An Act respecting pre-hospital emergency services and amending*

3.3.2.3 Making a Bill Public Before it is Tabled in the House

In recent years, a number of questions of privilege have been founded on the argument that a minister is in contempt of Parliament when he or she makes the content of a bill public before the bill is tabled in the House. These questions of privilege are usually the result of press releases issued by a minister's office or newspaper articles referring to measures in the bill. The Chair has ruled that there are no grounds for a point of privilege when a press release or article refers to the general thrust of a bill.[171] In a ruling handed down in 2006, the Chair summarized the jurisprudence in the matter as follows:

> [TRANSLATION] Generally speaking, the Chair 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 and programs are to be part of a bill introduced in the House.
>
> Lastly, the Chair 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.[172]

This being said, only if the text of a bill is made public before its introduction does the Chair consider that there are grounds for contempt of

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various legislative provisions. According to the Member, the bill proposed the establishment of health communication centres and authorized the transfer of emergency services. In the Member's opinion, the Minister was guilty of contempt of Parliament, since the Government nominates the members of regional boards under the *Act respecting health services and social services* and the Minister was responsible for applying that Act. The President concluded that there was no *prima facie* violation of privilege for several reasons. First, the motion of the Member was not based on a press release from the board, but only on a press release by a third party (the regional president of the corporation of ambulance owners) announcing a transfer of 9-1-1 services to what was described as the Québec City health communication centre. Moreover, even supposing that the board had really authorized such a transfer, that did not mean that it had acted as though the bill had the force of law, since, first, such a transfer had been discussed well before the introduction of the bill and, second, the body to which the service was transferred was not created by the bill, but existed already. The President then added that even if she had come to the conclusion that the board had invoked legislation yet to be adopted, the link between the action of the board and the Minister would have been too tenuous to affirm that the Minister was in contempt of Parliament.

171. JD, November 6, 2003, p. 1321 (Michel Bissonnet)/*RDPP*, no. 67/50; JD, October 25, 2005, p. 9667 (Michel Bissonnet)/*RDPP*, no. 67/54.

172. JD, November 15, 2006, p. 3324–3325 (Michel Bissonnet)/*RDPP*, no. 67/55.

Parliament.[173] However, a ruling made in 2007 seems to indicate a change in jurisprudence. The Chair, having concluded that there was nothing to support the claim that the text of a bill had been made public before it was tabled in the House, went on to express his concern over the fact that a number of the measures contained in the bill were mentioned in the press release issued by a minister or were reported in the papers:

> [TRANSLATION] The current state of jurisprudence is such that only the disclosure of the actual text of a bill could constitute contempt of Parliament. Must the jurisprudence be tightened up and all communication of information on the content of a bill yet to be tabled forbidden? On March 19, 2001, the Speaker of the Canadian House of Commons ruled that there had been *prima facie* contempt of the House when information on the content of a bill was released during a media briefing held before the bill was introduced in the House, even though no copies of the bill or other document had been distributed to the media. The Speaker of the Legislative Assembly of Alberta referred to this ruling in his own ruling of March 5, 2003. It is not my intention at this point to reverse the jurisprudence. I would rather begin by alerting the Members to the situation and calling on them to act with prudence. This applies in particular to ministers, who present most of the bills to be debated in the House.
>
> However, all Members 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. Ministers, even if they are responsible for communicating with the public, must always have in mind the role of Members in the legislative process. For many people, a ministerial declaration during a press conference may well mean that the decision has been made and that the Members will not be asked to vote on the matter. Respect for the institution of the National Assembly in our democratic society demands otherwise. I hope that everyone hears this appeal from the Chair and understands its purpose. If not, the Chair could be obliged to strengthen the jurisprudence.[174]

173. Ibid.
174. JD, November 14, 2007, pp. 2008–2010 (Michel Bissonnet)/*RDPP*, no. 67/56.

3.3.2.4 Failure by a Department or Public Body to Table its Annual Report in the National Assembly

Another act on which the Chair has had to rule in regard to contempt of Parliament concerns the legal obligation of government departments and public bodies to table their annual report in the National Assembly. The Chair ruled that failure to respect this legal obligation constitutes *prima facie* contempt of Parliament. The Chair is of the opinion that the communication of the information contained in the annual report is important for the exercise by the Members of their parliamentary functions and that failure to table the reports could hamper their work.[175]

3.3.2.5 Misleading the Assembly

In 2003, the Chair was asked to decide whether an allegation that a Member had deliberately misled the Assembly could give rise to a question of privilege against the Member for contempt of Parliament. After pointing out that the allegation of deliberately misleading the House was not a fact but rather an assertion, the Chair ruled as follows:

> [TRANSLATION] My predecessors have ruled a number of times that nothing in the statutes, the Standing Orders or the jurisprudence authorizes the Chair to associate an allegation that the House has been misled with a breach of privilege or a contempt.
>
> The presumption set forth in Standing Order 35(6) whereby a Member must be taken at his or her word can be overturned only if the Member admits to having deliberately misled the Assembly, thus placing him or herself in contempt of Parliament.[176]

In 2011, the Chair was again asked to rule on the question. A Member of the Official Opposition had sent the Chair a notice of breach of privilege claiming 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 the 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

175. JD, March 11, 1993, pp. 5292–5294 (Jean-Pierre Saintonge)/*RDPP*, no. 67/28.

176. 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, June 19, 1996, pp. 2574–2575 (Jean-Pierre Charbonneau); JD, November 25, 1997, pp. 8686–8687 (Jean Pierre Charbonneau) /*RDPP*, no. 67/35. The reference here is to the *Profumo case* (*Journal of the House of Commons*, June 20, 1963, p. 246): "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."

that a permit had been issued by the minister over the summer although the parliamentary committee had not yet tabled its report.

The Chair considered that, unless the former minister admitted to having misled the House or 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 to the refinery before the tabling of the committee report. Such an inquiry was the Government's prerogative, not the Chair's. There were therefore no grounds on which the former minister could be accused *prima facie* of contempt of Parliament.[177]

3.3.2.6 Refusing to Comply With an Order of the Assembly, a Committee or a Subcommittee

The Chair of the Assembly has also examined questions of privilege with reference to section 55(1) of the *Act respecting the National Assembly*, under which refusing to comply with an order of the Assembly, a committee or a subcommittee is a contempt of Parliament. In order to rule on the matter, the Chair had first to determine whether the motion adopted by the Assembly or a committee was an order or a resolution within the meaning of Standing Order 186.

A motion that becomes an order creates an obligation to act or to do something. Through its orders, the Assembly governs its committees,[178] its

177. JD, September 28, 2011, pp. 2626–2628 (Jacques Chagnon)/*RDPP*, no. 67/60. The facts submitted were examined from two angles, namely, misleading the Assembly and ridiculing it. The Chair explained that the second point should be analyzed from the perspective of an offence against the Assembly's authority or dignity. The Chair 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. That being said, while it is the Government's prerogative to make decisions within its jurisdiction as regards government administration, the Chair 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 Chair, 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.

178. In another case submitted to the Chair, 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 by arranging for the consultation to be held instead on a document containing possible solutions proposed by the Government. The Chair 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

Members, its public servants, the conduct of its own proceedings and the actions of any specified person. However, the Assembly can make orders only within the ambit of its prerogatives and its authority. In Québec parliamentary law, the executive branch cannot be required to follow up on a motion adopted by the legislative branch and is bound only by express legislation.[179] Thus, 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.[180] That is why the Chair of the Assembly has ruled on a number of 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.[181]

Orders to produce documents are, however, an exception to this principle. A ruling made by the Chair in 2010 found that such orders are binding on both the Government and the Administration:

> [Translation]The right to order the production of documents is one of the Assembly's most indisputable constitutional privileges.

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the Minister was to set out the solutions contemplated by the Government. As it had done in the past, the Chair pointed out that there was nothing wrong with the Government's 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 the committee hearings (JD, March 14, 2000, pp. 4499–4501 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/43).

179. JD, June 11, 1990, pp. 3022–3023 (Jean-Pierre Saintonge)/*RDPP*, no. 67/18.

180. Ibid.; JD, June 2, 2010, pp. 7004–7005 (Yvon Vallières)/*RDPP*, no. 67/58.

181. JD, June 29, 1973, pp. 1947–1948 (Jean-Noël Lavoie)/*RDPP*, no. 67/2; April 18, 1984, pp. 5793–5794 (Richard Guay)/*RDPP*, no. 186/1; 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. In the last case, the Official Opposition House Leader opposed the introduction of a bill, saying that that would go against a motion carried a few weeks earlier in which the Assembly demanded of the Liberal government that "it reject any solution whose effect would be to allow the parents of children who are currently ineligible for the English schools to purchase a right of access to the English schools for their children by way of a temporary stay in an unsubsidized private school". The House Leader's arguments were based on a ruling handed down some weeks before by the Speaker of the Canadian House of Commons in which the Speaker recognized that the Government's failure to comply with a motion adopted by the House ordering the production of documents constituted *prima facie* a question of privilege (*House of Commons Debates*, April 27, 2010, pp. 2039–2045 (Speaker Peter Milliken)). The Chair of the Assembly rejected the comparison and described the situation at hand as very different: [translation] "The motion adopted by the House of Commons ordered the Government to produce necessary documents enabling Parliament and its Members to exercise their prerogatives, in other words, giving Parliament the information it needed to perform its role of overseeing government action. In the case before us, disallowing the introduction of the bill on the grounds of the motion carried on May 19, 2010 would have the opposite effect in that it would prevent the Assembly from performing one of its fundamental roles, namely, exercising its legislative functions."

> 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 exercise of its functions.[182]

In the case at hand, a state-owned enterprise was accused of contempt of Parliament by refusing 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 Chair took two elements into consideration. First, it had to establish the legislator's intention when asking that the documents be released "as expeditiously as possible".[183] Then it had to assess the enterprise's intent to follow up on the order made by the Assembly. As the order did not set a specific time limit, the Chair felt it was its duty to determine whether enough time had elapsed to allow the state-owned enterprise to comply with it.

Order to produce documents

QUE l'Assemblée nationale exige d'Hydro-Québec qu'elle transmette à l'Assemblée dans les plus brefs délais les informations relatives à tous les contrats octroyés de 2000 à 2010, notamment le nom de toutes les entreprises qui ont soumissionné, le mode d'attribution, le montant de chacune de leur soumission ainsi que le montant réel des déboursés, incluant les dépassements de coûts, pour chacun des contrats octroyés et que cette motion devienne un ordre de l'Assemblée.

COPIE CONFORME DE LA MOTION ADOPTÉE À L'UNANIMITÉ PAR L'ASSEMBLÉE NATIONALE LE 29 SEPTEMBRE 2010.

Québec, ce vingt-neuvième jour de septembre 2010

MICHEL BONSAINT
Secrétaire général de l'Assemblée nationale

Order of the National Assembly, made September 29, 2010

182. JD, November 23, 2010, pp. 8426–8428 (Yvon Vallières)/*RDPP*, no. 67/59.
183. Ibid. An analysis by the Chair 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 if it also implies an 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 or privilege was received by the Chair, the Chair expressed its 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 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 Chair 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.[184] In conclusion, even though the facts adduced led the Chair to believe, at first glance, that there was contempt of Parliament, the Chair gave the state-owned enterprise nine days to produce the documents, failing which the contempt procedure would follow its course. The Chair acknowledged, however, that the concerns raised by the enterprise, especially as to trade and security issues, were legitimate. It therefore invited the enterprise, on releasing all the documents requested, to identify the information it considered to be of strategic importance. The Chair could then consult with the House leaders and determine to what extent the Assembly would take these concerns into consideration.

In another ruling handed down in 2011, the Chair 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 the body in question 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 be held a few days before then. The steering committee, after discussing the matter, decided to maintain the subpoena without changing the date of the hearing. In his decision, the President of the National Assembly 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 constituted a breach of the Assembly's privileges. He said he felt he would be failing in his duty if he disallowed the question of privilege, despite the fact that the board

184. Ibid.

chair had expressed his intention to appear before the parliamentary committee on a different date. Although the President acknowledged that the board chair did not seem to want to evade his obligation, this could not change his ruling since, at that stage, the Chair's role was limited to determining whether the facts raised were sufficiently compelling to constitute contempt of Parliament.[185] Speaking from the Chair, 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 at all times keep in mind 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 will serve as a warning to any person who would choose to disobey an order to appear before a parliamentary committee.[186]

3.3.2.7 Impugning a Member's Conduct

The Chair of the Assembly has ruled that impugning the conduct of a Member otherwise than through the procedure provided for that purpose may constitute contempt of Parliament. This fundamental rule is warranted by the fact that Members may not use their privilege of freedom of speech in the Assembly to attack the conduct of other Members.[187]

In a ruling handed down in 2009,[188] the Chair explained that, 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. However, to the extent that a Member's words do not breach the rules of parliamentary debate, the Chair cannot intervene and must allow the Member to exercise his or her right to speak freely in the House; nor can it rule on the substance of a Member's remarks.

185. JD, October 4, 2011, pp. 2745–2746 (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.

186. Ibid. See also Chapter 20, Section 20.3, "Rights and Obligations of Witnesses Appearing Before a Committee".

187. JD, October 29, 2009, pp. 3696–3697 (Yvon Vallières)/*RDPP*, no. 67/57.

188. Ibid.

In the same ruling, the Chair further explained that to impugn another Member's conduct, a Member must explicitly disparage that other Member's work or criticize his or her behaviour.[189] If every comment that is critical of a Member provided grounds for a question of privilege, the privilege of freedom of speech would be in serious jeopardy. Criticism aimed at the Chair is another matter. According to another ruling made in 2001,[190] no Member may criticize the behaviour or actions of a presiding officer without incurring a sanction for breach of privilege. 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.[191]

3.3.3 Conduct of Members

According to Standing Order 315, the conduct of a Member acting in his or her official capacity can only be called into question by means of a motion. This is simply the codification of a fundamental rule justified by the fact that a Member may not use the constitutional privilege of freedom of speech within the Assembly to attack the conduct of a colleague. 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 has breached the privileges of the Assembly or of one of its Members (S.O. 316(2)) or to call into question any other action carried out in the course of a Member's parliamentary functions (S.O. 316(3)).[192]

In the case of a breach of privilege or a contempt, the Member raising the question or preparing the notice for the Chair must express the intention of presenting a motion calling for sanctions against another Member (S.O. 70 and 317). 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 ask that the Assembly rule on the alleged offence by voting on the report the Committee on the National Assembly will draw up

189. Ibid. The Chair 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 one of its Members, or explicitly question anything done by a Member in the exercise of his or her parliamentary functions.

190. JD, June 13, 2001, pp. 2216–2217 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/46.

191. See Chapter 4, Section 4.1.3, "Questioning the Conduct of a Presiding Officer."

192. 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* (L.Q. 2010, c. 30) came into force (V.P., October 4, 2011, pp. 555–559). See Section 3.4.2 of this chapter, "Complaints for Violations of the *Code of Ethics and Conduct of the Members of the National Assembly*".

after investigating the case as a matter of course. The motion may not be amended or divided.

If there is more than one breach of privilege or act of contempt, one motion is necessary for each. On the other hand, the same event cannot give rise to more than one motion. 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 cases raised. Since it is up to the National Assembly to decide the appropriate sanctions, taking into consideration any recommendations made by the Committee on the National Assembly, motions may not propose a punishment (S.O. 321 and 326).[193]

If the President rules that the question of privilege is *prima facie* admissible, Standing Order 319 provides that the mover of the motion and the Member involved may each address the Assembly for 20 minutes. The President then convenes the Committee on the National Assembly to investigate the matter. In addition to the conclusions its report may contain, the Committee may also make recommendations. The President must necessarily convene the Committee on the National Assembly, without giving the Assembly occasion to debate the motion calling the Member's conduct into question.[194]

Under Standing Order 320, the Assembly must rule on the Committee's report within 15 days after it is tabled and 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.[195] However, the Standing Orders do not provide for the manner in which sanctions are imposed. It is not clear whether the adoption by the National Assembly of a report that includes recommendations on the penalty is sufficient to impose the penalty. It might be more appropriate to present a motion on the penalty recommended in the

193. JD, March 18, 1993, pp. 5480–5481 (Jean-Pierre Saintonge)/*RDPP*, no. 316(2)/2.

194. Since the coming into force of the current Standing Orders in 1984, the Committee on the National Assembly has held only one enquiry on the conduct of a Member. On December 19, 1986, the President of the National Assembly declared admissible a question of privilege from a Member of the Official Opposition who accused a minister of exercising undue pressure in order 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 the investigation, which led to the adoption on May 5, 1987, during a deliberative meeting, of a report declaring the complaint of the Member of the Official Opposition unfounded. The Committee severely reprimanded the Member.

195. 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 removal from office [ANA, s. 134].

report. If the report offers no recommendation in this regard, how the Assembly decides which sanction to impose is also unclear. It would appear that, sooner or later, the President will have to decide these matters.

If the complaint is unfounded, the Member who made it may be found guilty of breach of privilege. When the Assembly considers the report of the Committee on the National Assembly, it also determines the fate of the Member who moved an unfounded motion (S.O. 322).

A Member who wishes to impugn something another Member did in the course of his or her duties that is not a breach of the rights or privileges of the Assembly or its Members must do so by means of a motion (S.O. 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 (S.O. 323).

According to Canadian jurisprudence, the conduct of the Chair may be called into question only by a motion of censure, as set out in Standing Orders 316(3) and 323, and not by a question of privilege followed by a motion. In a ruling delivered on March 14, 1995, the President of the National Assembly explained how an act by the Chair is called into question:

> [TRANSLATION] In the case before us, an act by the Chair 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 censure or of non-confidence, is required. All Parliaments styled on the British model accept this interpretation. Furthermore, I 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.[196]

196. JD, March 14, 1995, p. 1383 (Roger Bertrand)/*RDPP*, no. 316(3)/5. See also JD, June 15, 2001, pp. 2381–2382 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/47. Motions to censure the Chair are not uncommon in the Canadian provinces. In Québec, such a motion, moved on March 20, 1974, was debated and defeated, the Official Opposition being behind the President. Moreover, on two occasions, once in 1973 and again in 1976, the conduct of the Vice-President of the National Assembly was the subject of a motion of censure. These two motions were defeated. On September 21, 1983, in British Columbia, an opposition Member placed a motion to censure Speaker Walther Davidson on the Order Paper, accusing the Speaker of making a decision favouring the Government. Unable to present the motion, the Member tried to raise a question of privilege, but was not recognized by the Speaker. In Manitoba, on December 13, 1982, the Speaker was the object of a motion of censure, allegedly for having changed a ruling and for having accepted, outside of the Legislature, the representations from the Premier and the Government House Leader. Speaker John Brockelbank from Saskatchewan faced a motion of censure on three different occasions in 1980 and 1981. However, only one was debated and followed by a vote, on April 29, 1980, in which it was defeated. In Alberta, on November 24 and 25, 1981,

Moreover, according to parliamentary jurisprudence, not only is it impossible to call into question the conduct of the Chair without a substantive motion, but doing so could constitute a breach of the Assembly's privileges.[197] A Member wishing to challenge the neutrality of the Chair must therefore introduce a substantive motion, putting his or her own conduct on the line if the accusations turn out to be unfounded.[198]

3.3.4 Conduct of a Person Other than a Member

When a person other than a Member breaches a privilege or is in contempt of Parliament, the general rules apply (S.O. 327), but, under the Standing Orders, investigation by the Committee on the National Assembly is optional rather than a right, unlike the procedure when a Member's conduct is in question. Although the Assembly may immediately convene the Committee on the National Assembly in order to examine the issue, it can also decide the motion directly (S.O. 325). However, in a private ruling handed down on March 18, 1993, the Chair stated that a person other than a Member whose conduct is in question should be given the same right to be heard as a Member in the same circumstances.[199]

Under Standing Order 326, if the complaint is founded, the person is subject to the penalty determined by the Assembly, which takes into account any recommendations of the Committee on the National Assembly. The procedure set out in the Standing Orders for imposing a penalty on non-Members, however, like that for imposing a penalty on Members, is deficient.

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a motion to censure Speaker Gerard Amerongen was debated and rejected. In Ontario, on November 16, 1981, a motion to censure the Speaker was debated and defeated. See Maurice Champagne, "Censure Motions Against Speakers of Legislative Assemblies", *Canadian Parliamentary Review*, vol. 9, no. 4 (1986–1987), pp. 22–23. A number of censure motions have also been presented against the Speaker in Australia. See Ian C. Harris, *House of Representatives Practice*, pp. 192–194.

197. JD, June 13, 2001, pp. 2216–2217 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/46. In this case, a number of Members of the group forming the Government had sent the President a notice of a breach of privilege in which they accused a Member of the Official Opposition of having questioned the integrity of a Vice-President during a previous sitting and stated their intention of presenting a motion that measures be taken against the Member. The question of privilege having been ruled in order, a motion calling into question the conduct of the Member was put on the Order Paper on June 14 and presented the next day. However, it was withdrawn after a short debate, as the Member acknowledged a share of responsibility.

198. JD, June 12, 2001, pp. 2125–2128 (Jean-Pierre Charbonneau)/*RDPP*, no. 3/2.

199. JD, March 18, 1993, pp. 5480–5481 (Jean-Pierre Saintonge)/*RDPP*, no. 316(2)/2.

3.4 OTHER PROCEDURES PERTAINING TO MEMBERS

3.4.1 Personal Explanations

Members may also defend their rights through a procedure referred to as a personal explanation. Standing Order 71 stipulates that, when the facts do not give rise to a question of privilege, Members may, by leave of the President, explain themselves on a fact concerning 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 made.

According to the second paragraph of Standing Order 71, the Member's explanations must be brief and formulated in such a manner as to avoid provoking debate. At least one hour before Routine Proceedings, the Member must submit to the President a notice briefly setting forth the substance of the intervention. The President renders a decision during Routine Proceedings under the heading "Complaints of Breach of Privilege or Contempt and Personal Explanations" (Standing Order 53(4)).

Erskine May describes personal explanations as follows:

> In regard to the explanation of personal matters, the House is usually indulgent, and will permit a statement of that character—also referred to as personal explanations—to be made without any question being before the House provided that the Speaker has been informed of what the Member proposes to say, and has given leave. Because the practice of the House is not to permit such statements to be subject to intervention or debate, the precise contents of the proposed statement are submitted in advance to the Speaker to ensure that they are appropriate. The Member granted the privilege of making such a statement may not therefore depart from the agreed text. Such statements are made . . . before the commencement of public business; no debate should ensue thereon, but if another Member is involved in the personal statement, he is generally allowed to give his own view of the matter and to say whether he accepts it or not. Personal statements may not be made when the House is in Committee.[200]

A Member may be tempted to use a personal explanation instead of a question of privilege because the procedure is not as cumbersome. A personal explanation must also serve the ends for which it was intended; it cannot be invoked in every circumstance. The Chair has ruled that a personal

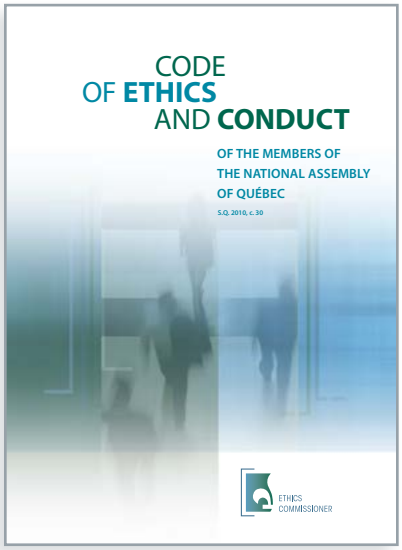
200. May, *Treatise*, 22nd ed., p. 312.

explanation must relate directly to the person invoking it in that person's role 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; if leave is granted, the Member must keep to the essentials, limiting any remarks to the facts at the origin of the intervention; the matter must be at first blush without controversy; the intervention must be devoid of argumentation, not be formed 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.

The Chair has also ruled that a personal explanation may not be used to rehash old debates. If Members used 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, entire days could be spent on personal explanations.[201] In addition, to demonstrate the personal nature of the matter, a Member must raise facts directly related to him or her.[202] The facts in question must be linked to the Member's parliamentary duties and affect the Member as a Member.[203] This means that, as is the case with questions of privilege, ministers may not use a personal explanation to justify their ministerial activities.[204] Nor may a Member rise for a personal explanation for the simple reason that he or she considers the remarks another Member made during a sitting to be insulting or offensive, even if those remarks are reported in a newspaper. In such a case, the Member must immediately invoke Standing Order 35.[205] Finally, the procedure set out in Standing Order 71 must not be mistaken for that in Standing Order 212, which allows a Member to give an explanation when of the opinion that his or her speech has been misquoted or misunderstood.[206]

201. 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.
202. 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 to things he had done in the course of his duties, that was too indirect an association to constitute a personal fact. The President added that other Members of the Assembly could feel targeted by the same articles (JD, June 5, 1991, p. 8887 (Jean-Pierre Saintonge)).
203. 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.
204. Maingot, *Parliamentary Privilege*, p. 224.
205. JD, April 25, 2002, pp. 5668–5669 (Louise Harel)/*RDPP*, no. 71/9; JD, December 9, 1996, p. 4001 (Jean-Pierre Charbonneau).
206. JD, March 16, 2005, pp. 7134–7135 (Michel Bissonnet)/*RDPP*, no. 71/10.

3.4.2 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*.[207] The Code was assented to on December 8, 2010, and has been fully in force since January 1, 2012. The Ethics Commissioner appointed under the Code is now responsible for receiving and handling complaints about alleged breaches to the Code.

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,[208] were repealed when section 117 of the Code came into force. The Code enacts rules to be observed by all Members and special rules for Members holding Cabinet positions; it includes provisions similar to those that were removed from the *Act respecting the National Assembly* and further provisions that deal with remuneration, gifts and benefits, attendance, the use of State property and services, and the Members' obligation to file a disclosure statement. There are also rules for former Cabinet members.

A Member who has reasonable grounds for believing that another Member has violated a provision of the Code may request that the Ethics

207. L.Q., c. C-23.1.

208. 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).
Such opinions are now 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)

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). The Ethics Commissioner may also, on his or her own initiative and after giving the Member concerned reasonable written notice, conduct an inquiry to determine whether a Member has violated the Code (Code, s. 92).

If of the opinion, after verification, that there are no grounds for a request for an inquiry, the Ethics Commissioner terminates the inquiry process and records that fact in a report on the matter (Code, s. 95). The Commissioner may, on his or her own initiative or at the request of the Member named in the request, conduct verifications to determine whether the complaint was made in bad faith or with intent to harm (Code, s. 97). If the Ethics Commissioner concludes the request was so made, he or she may, in the Commissioner's report, recommend one or more of the sanctions provided for in section 99 of the Code (Code, s. 100).

Once the inquiry is completed, 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 (Code, s. 98, 1st par.). The report must state the Commissioner's findings and recommendations and the grounds on which they are based. No report is required, however, if the inquiry was conducted on the Commissioner's own initiative (Code, s. 98, 2nd par.). If the Ethics Commissioner finds that a Member has violated the Code, the Commissioner so states in his or her report and, according to the circumstances, may recommend that no sanction or that one or more sanctions be imposed. These range from the Member being reprimanded to the Member losing his or her seat in the National Assembly or position as a Cabinet minister (Code, s. 99).

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 par.). 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 par.).

If the person concerned is not a Member, he or she may, within five sitting days after the report is laid before the National Assembly, address a written notice to the President of the Assembly asking to be heard. The President convenes the appropriate committee without delay to hear the

person's statement, which must not exceed 20 minutes without debate. The report of the committee is then laid before the National Assembly (Code, s. 102, 2nd par.).

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. 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).

4

The Office of President

Throne 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 following a general election—is the election of a President* and three Vice-Presidents from among the Members (ANA, s. 19; S.O. 5, 9 and 45). This step precedes the Lieutenant-Governor's address and the opening speech delivered by the Premier.[1] 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 the three Vice-Presidents are in place (ANA, s. 22), all of which illustrates the importance of the President in parliamentary life. Indeed, the President embodies the powers, duties and dignity of the National Assembly.

* Note: The President of the National Assembly is the counterpart of the Speaker in other legislative assemblies.

1. See Chapter 6, "Legislatures, Sessions and Sittings".

The status of the President is a reflection of the importance of the functions associated with the office. In a manner of speaking, the President is the guardian of the democratic rights of the citizens represented in the Assembly, since he or she is responsible for seeing that the rights and privileges of the Assembly and its Members are upheld. The President must ensure that Members are free to exercise their parliamentary duties without any outside interference, and that the Assembly's rules of procedure are observed in such a way as to maintain a democratic balance in parliamentary debates. In short, the President 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 present if the President is to have the credibility required to exercise the functions of office: legitimacy and impartiality. The legitimacy of the Chair is ensured by the fact that the President is first and foremost a Member of the Assembly and 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. The legitimacy of the Chair also derives from the fact that the President is elected to office 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 legitimacy of the Chair stems primarily from the rules that govern the selection process, the impartiality of the Chair is essentially determined by the attitude adopted by the President 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 incumbent oversees the proceedings and follows those rules that determines whether actual impartiality and the appearance of impartiality are maintained.

4.1 STATUS

4.1.1 Electing the President

Choosing a President is an extremely important step for a deliberative assembly. Since the President will be seeing that their rights and privileges are upheld, the parliamentarians themselves must be able to choose the candidate who will best represent them. That candidate, in turn, must possess the legitimacy required to carry out his or her role.

Electing the Speaker of the National Assembly between 1867 and 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 and Gentlemen of the Legislative Assembly, the Honourable the Lieutenant-Governor does not see fit to declare the causes of his summoning the present session until a Speaker of the Legislative Assembly shall have been chosen, according to law, but when such choice shall have been made, the Honourable the Lieutenant-Governor will declare the causes of his calling the Legislature.

Once the Members had returned to the Legislative Assembly Chamber, one of them was elected to the Chair 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, heavy with consequences: between 1399 and 1535, seven Speakers of the English House of Commons were beheaded on the King's orders.

In the opening words of his acceptance speech, the new Speaker declared that he was "sensible of [his] unfitness for the position" and asked for the understanding and support of all the Members of the lower house so that he might carry out his duties with firmness 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."

Back in the Legislative Council Chamber, the Speaker of the Assembly addressed the Lieutenant-Governor, as had Jean-Antoine Panet in 1792, and in practically the same terms:

> Honourable Sir, the Legislative Assembly have elected me as their Speaker, though I am but little able to fulfil the important duties thus assigned to me. If, in the performance of those duties I should at any time fall into error, I pray that the fault may be imputed to me and not to the 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 person at all seasonable time, and that their proceedings may receive from you the most favourable interpretation.

The Speaker of the Legislative Council replied that the Lieutenant-Governor recognized and confirmed the Speaker of the Chamber of the Legislative Assembly in that role. He continued:

> I am commanded also to assure you that the Legislative Assembly shall have ready access to the Honourable the Lieutenant-Governor upon all seasonable occasions, and that their proceedings as well as your words and actions, shall constantly receive from him the most favourable construction.

In Québec, this legacy from London was kept alive until the abolition of the Legislative Council in 1968. ■

An election may be held in the course of a legislature if the office of President or Vice-President becomes vacant. The Assembly must then act with diligence since no business can be transacted before a new President has been chosen (ANA, s. 22; S.O. 5). 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 power—is placed on the Table at the centre of the Chamber. Now that the President is elected by secret ballot, Members may vote freely and confidentially for the candidate of their choice.

Moving Toward the Secret Ballot

Under the former permanent rules governing the election of a President, any Member could present a motion without notice proposing another Member as President. Each name was submitted under a separate motion, which could not be amended.

If only one Member was proposed, 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 were made, until one of them was carried. All the others lapsed. In the case of a tied vote, the motion was declared defeated. As of 1972, however, a motion by the Premier was always the first to be put to the vote (1972–1984 Standing Orders, S.O. 9(3)).

The right of any Member to propose 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 of the Assembly on a motion by the Premier. This explains why the President was always elected from among the members of 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. After being

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tested twice, the procedure was written into temporary rules that were in force from June 5, 2002 until the end of the 36th Legislature.

The National Assembly elected its President by secret ballot for the first time during the first sitting of the 36th Legislature, on March 2, 1999. The Members of the National Assembly unanimously agreed to set aside Standing Orders 7 and 8 (1985 Standing Orders) in order to elect a 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.* The same scenario was played out again on March 12, 2002, when incumbent President and Member for Borduas Jean-Pierre Charbonneau resigned upon being appointed Minister and the office became vacant. Member for Hochelaga-Maisonneuve Louise Harel then 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 had been 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. The President was not elected by secret ballot that day, however, for lack of unanimous consent to set aside the Standing Orders in force.[2] The Assembly adjourned to the following day when it elected its new President, Member for Jeanne-Mance Michel Bissonnet, 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 same year. The Quebec Liberal Party then formed a minority government and a candidate from the Second Opposition Group, Member for Abitibi-Ouest François Gendron, won out over the governing party's candidate. However, on November 5, the National Assembly was dissolved and an election was called. On January 13, 2009, the Assembly met in an extraordinary session and proceeded to elect a President

2. The June 3, 2003 meeting of the Assembly was not considered a sitting since it did not satisfy the conditions imposed by the first paragraph of section 19 of the *Act respecting the National Assembly*, L.Q., c. A-23.1, which reads as follows: "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." As mentioned above, the Assembly cannot take up any business before it has elected a President, which is why there are no *Votes and Proceedings* for June 3, 2003. The first sitting of the 37th Legislature thus took place on June 4, 2003, when the National Assembly elected its President.

for the 39th Legislature. Since only one candidate, Member for Richmond Yvon Vallières, was in the running, he was proclaimed elected in accordance with the secret ballot rules the National Assembly had 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: the President is now elected by secret ballot by his or her peers. The first election of a President under the new permanent rules took place on April 5, 2011, following the resignation of Mr. Vallières. Jacques Chagnon, Member for Westmount–Saint-Louis, thus acceded to the President's chair. ■

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 to the election of the President and, if necessary, the Vice-Presidents (S.O. 5.1, 1st par.). Once the election is over, the Government House Leader moves adjournment; the motion cannot be debated (S.O. 5.1, 3rd par.). However, if there is a tie between candidates after three consecutive ballots, the election is resumed at the next sitting, at which time the same rules, except incompatible provisions, apply (S.O. 8.10).

The longest-serving Member of the National Assembly who is neither a candidate to the office of President, a minister, the leader of a parliamentary group nor a member of the Committee on the National Assembly presides over the election (S.O. 6).[3] If there are two or more Members with the same number of years of service, the most senior in age takes the chair (S.O. 6).[4]

3. Prior to 1984, the election of the President was presided over by the Secretary General or Clerk of the National Assembly (Geoffrion 1941, S.O. 11, note 2 (in French only); 1972–1984 Standing Orders, S.O. 8).
4. During the election by secret ballot of March 12, 2002, the longest-serving Member of the Assembly, François Gendron (Abitibi-Ouest), who had presided over the election of March 2, 1999, was Minister of Natural Resources, while the second longest-serving Member, Yvon Vallières, Member for Richmond, was Chair of the Committee on Planning and the Public Domain and, as such, was a member of the Committee on the National Assembly. The next two longest-serving Members had the same number of years of service. The older of the two, Robert Middlemiss, Member for Pontiac, therefore presided over the election of the President. The next election by secret ballot, held on May 8, 2007, was presided over by the longest-serving Member, François Gendron. In the election of 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, Member for Brome-Missisquoi Pierre Paradis, chaired a parliamentary committee and was therefore a member of the Committee on the National Assembly. As a result, the election was presided over by the Member for Verdun, Henri-François Gautrin. At the opening of the 39th Legislature, since Mr. Gendron continued to sit as President,

Longest-serving Member of the National Assembly presiding over the election of the President

The presiding officer has all the powers vested in the President of the National Assembly, including the power to suspend proceedings at any time (S.O. 6.1), and is entitled to vote (S.O. 6.2).

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 (S.O. 7). Once the nomination period has ended, the Secretary General prepares an alphabetical list of the candidates (S.O. 7.1) and sends it to the Members by 4 p.m. the same day (R.C.P. 0.1).

If there is only one Member in contention for the office of President, that Member is elected by acclamation and the presiding officer announces the fact to the Assembly (S.O. 8). If there is more than one candidate, the Secretary General sees that a copy of the list 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 (R.C.P. 0.2). Before each ballot, the presiding officer reads the names on the list out loud, specifying whether any of the candidates have withdrawn (R.C.P. 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 leaders of parliamentary groups are called upon 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 House, in the same order as for a recorded division. The presiding officer is the last to cast a ballot (R.C.P. 0.5). Members vote in the booth installed on the side of the House on which they sit, place the ballot paper

the election was presided over by Mr. Paradis. On April 5, 2011, when Mr. Paradis was a member of the Committee on the National Assembly, Mr. Gautrin presided over the election of a new President.

in a ballot box on the Table and return to their seat (S.O. 8.3; R.C.P. 0.6). The ballot paper lists the candidates' names in alphabetical order, along with their ridings. Each Member marks the appropriate circle on the ballot, using the pencil received, along with the ballot paper, from the Secretary General or the Secretary General's representative (S.O. 8.4).

In order to ensure the credibility of the process, the Secretary General counts the ballots outside the House, in the presence of the Ethics Commissioner or, if the latter is unable to act, the jurisconsult.[5] 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 (S.O. 8.5).

The Secretary General leaving the Chamber with the Sergeant-at-Arms in order to count the ballots

As soon as the sitting resumes, the Secretary General informs the presiding officer whether or not anyone has received the requisite number of votes (R.C.P. 0.7). A candidate who obtains a majority of the votes validly cast is declared elected (S.O. 8.1).[6] If no candidate receives the requisite number of votes, a second ballot is taken (S.O. 8.7). To that end, the Secretary General must prepare another list, excluding the candidate or candidates who received the lowest number of votes, as well as any who received five or fewer votes, as long as this does not eliminate all the candidates or prevent the election of a President (S.O. 8.8). No candidate is excluded if everyone received the same number of votes (S.O. 8.9).

If there is a tie vote in two consecutive ballots, the presiding officer suspends

5. The jurisconsult is a person, other than a Member, appointed by the Office of the National Assembly by a unanimous vote of its Members under section 108 of the *Code of ethics and conduct of the Members of the National Assembly*, L.Q., c. C-23.1, to provide advisory opinions on ethics and professional conduct to any Member who requests it.
6. 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 a number of votes equal to a majority of the Members of the National Assembly (2002–2003 Temporary Standing Orders, S.O. 8.3). Since there are 125 Members of the National Assembly, 63 votes were required to obtain a majority at the beginning of a legislature. This provision was not included in the permanent rules adopted on April 21, 2009.

the proceedings for 60 minutes before the next ballot (S.O. 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 (S.O. 8.10).

A Member who wishes to withdraw his or her candidacy before a ballot may do so either orally before the Assembly or by written notice sent to the Secretary General (S.O. 8.11). Once the President has been chosen, the Assembly elects the Vice-Presidents.

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, the administrative duties of office. Since the Vice-Presidents are not elected by secret ballot, the election process in their case is essentially the same as it once was for the President.

A third Vice-President was elected for the first time during the first sitting of the 36th Legislature, on March 2, 1999.[7] At the same time, a hierarchy was introduced among the Vice-Presidents. The *Act respecting the National Assembly* 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 among the Members of the parliamentary group that forms the Government, while the third Vice-President is a Member of the parliamentary group that forms the Official Opposition (ANA, s. 19, 2nd par.; S.O. 9, 2nd par.). Before that first election of a third Vice-President, there were two Vice-Presidents who were always Members of the parliamentary group that formed the Government, although there was no rule to that effect.

It is the President of the National Assembly, rather than the longest-serving Member, who presides over the election of the Vice-Presidents (S.O. 9, 1st par.). Any Member may, without notice, propose another Member to serve as first, second or third Vice-President. Each proposal is the subject of a separate motion that may not be amended (S.O. 9.1). If only one Member is proposed for any of the offices of Vice-President, that Member is elected by acclamation. If more than one Member is proposed, all the motions are debated at the same time (S.O. 9.2).[8] The motions are put to the vote in the

7. The election of two Vice-Presidents has been provided for in the Standing Orders since 1973 (1972–1984 Standing Orders, S.O. 12).
8. Although 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, the President asks if there are any other motions and, if not, immediately calls for a vote on the motion,

order in which they were made until one of them is carried. A motion by the Premier for the election of the first and second Vice-Presidents is always put to the vote first. 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 (S.O. 9.2, 2nd par.).

4.1.1.3 Term of Office of the President

Under section 6 of the *Act respecting the National Assembly*, the maximum duration of a legislature is five years.[9] 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, 2nd par.). The President's and Vice-Presidents' terms, however, outlast the term of the Assembly. Under section 24 of the *Act respecting the National Assembly*, the President and Vice-Presidents remain in office until they are replaced or re-elected by the new Assembly. Moreover, when the Assembly is dissolved, they perform the functions of the Office of the National Assembly (ANA, s. 94).

Death, resignation or another cause may put an end to the incumbent's term of office, creating a vacancy in the office of President or Vice-President. A Cabinet appointment, for example, is incompatible with the office of presiding officer and must necessarily result in the appointee's resignation from that office.[10]

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; S.O. 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

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 and the leaders of the parliamentary groups or their representatives, and 20 minutes for other Members.

9. See Chapter 6, "Legislatures, Sessions and Sittings".

10. Bergougnous, *La présidence des assemblées parlementaires nationales*, p. 34. On November 6, 1980, Clément Richard resigned as President of the National Assembly when he was named Minister of Communications (JD, November 6, 1980, pp. 17–21); on January 29, 1996, Roger Bertrand resigned as President of the National Assembly when he was appointed Minister for Revenue (JD, March 12, 1996, p. 6013); on January 30, 2002, Jean-Pierre Charbonneau resigned as President of the National Assembly when he became Minister for Canadian Intergovernmental Affairs, Minister responsible for Relations with French-speaking and Acadian Communities and Minister responsible for the Reform of Democratic Institutions (JD, March 12, 2002, p. 4849).

Assembly, which then designates a Member to temporarily take on the President's parliamentary duties (ANA, s. 21; S.O. 11). The process used to designate an interim 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 (S.O. 11, 3rd par.). 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; S.O. 5).

In administrative matters, however, the *Act respecting the National Assembly* does take the hierarchy established among the Vice-Presidents into consideration (ANA, ss. 96 and 117). The law 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 for as long as necessary. If a vacancy occurs while the Assembly is not sitting, it cannot elect a new President, but the life that revolves around the Assembly goes on. 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 unable to act or continue 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 Impartiality of the Chair

Impartiality is an essential characteristic of presiding officers. Generally speaking, they have an obligation to exercise reserve and to behave in such a manner as to ensure that they have the parliamentarians' confidence when presiding over debates of the National Assembly.[11] Given the neutral nature of the duties of the Chair, the Member holding the office of President does not belong to any parliamentary group, does not participate in deliberations and does not vote, except to break a tie (S.O. 3 and 4).

Since the President does not take part in Assembly debates, in principle he or she may not make motions. There have been instances, however, where the President has entered the debate and made a motion with the unanimous consent of the Assembly.[12] The President has also spoken a number of times

11. JD, November 9, 2006, p. 3240 (Diane Leblanc)/*RDPP*, no. 235/3.
12. With the unanimous consent of the Assembly, President Jean-Pierre Charbonneau introduced, 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). Again with the unanimous consent of the Assembly, President Charbonneau moved that the National Assembly mark the 20th

during debates on special events the entire Assembly wished to acknowledge, whether catastrophes, deaths[13] or withdrawals from public life,[14] and debates on subjects under the President's responsibility.[15] Furthermore, in all British-style parliaments, the President or Speaker may make statements to the Assembly at any time.[16]

It is a basic right of all Quebecers to ask a Member to table a petition in the Assembly. The President is the one who decides whether a petition meets the conditions required for presentation in the House (S.O. 63.1; R.C.P. 42 and 43) and is consequently the only Member who may not table a petition.[17] When the President's constituents want a petition tabled, the President may ask another Member to do so.[18]

Given the necessity of being impartial, the President votes only to break a tie (*Constitution Act, 1867*, ss. 49 and 87; S.O. 4)[19] and may then do so

anniversary of the broadcasting of debates, an initiative under the responsibility of the President (JD, October 21, 1998, p. 12318).

13. President Jean-Pierre Charbonneau spoke up during the debate on a motion on "the human drama . . . experienced by the displaced populations of Zaire" (VP, November 14, 1996, p. 527). Mr. Charbonneau also intervened in the debate on a motion to express the Assembly's "deepest sympathy to the families who lost one or more loved ones in the tragic Egypt Air Boeing 767 accident" (VP, November 2, 1999, p. 557).
14. President Jean-Pierre Charbonneau spoke to a motion that the Assembly "pay homage to Mr. Daniel Johnson", who had just resigned as a Member of the National Assembly (VP, May 12, 1998, p. 2001). 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).
15. On June 16, 2000, the President spoke to a motion by the Premier on the appointment of the president of the Commission de l'accès à l'information. As well, the question of the remuneration of the Members of the National Assembly was broached by the Premier and the Leader of the Official Opposition, and the President argued in favour of recognizing their full worth (JD, June 16, 2000, p. 7109).
16. JD, May 15, 1984, p. 6037 (Richard Guay)/*RDPP*, no. 2/5; Harris, *House of Representatives Practice*, p. 176; May, *Treatise*, 23rd ed., p. 360.
17. JD, June 15, 1982, pp. 4840–4842 (Claude Vaillancourt)/*RDPP*, no. 62/1.
18. According to custom, when there is no Member available to present a petition that meets the requirements, it is presented by one of the Vice-Presidents. See JD, August 30, 2001, CAN-3 p. 10; JD, October 24, 2001, CAN-5 pp. 20–21.
19. Since 1867, the Chair of the Assembly has exercised a casting vote 26 times, but only three times since 1900: in 1908, 1933 and 1976. Thirteen casting votes were exercised by the same Speaker between 1878 and 1882, a period during which the two parties in the House held practically the same number of seats. From June 10, 1985 to September 28, 1985, a similar situation prevailed, since the Government had a majority of only one, but the Chair was never called upon to cast a deciding vote. The last time the Chair exercised a casting vote was on May 2, 1976: the vote was on a motion by a Member of the Opposition to change the composition of a parliamentary committee; a Vice-President exercised the casting vote, in favour of the motion (Champagne, *Vote prépondérant*). In short, the Chair of the Assembly has never exercised a casting vote under the Standing Orders in force since 1984.

according to conscience, without any further explanation. For the sake of impartiality, however, usage dictates that the President 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. The President then gives the reasons for his or her vote, which are included in the *Votes and Proceedings* for that sitting day.[20]

More flexible rules of conduct apply to the Vice-Presidents, who are allowed to present motions,[21] take part in debates, and vote in the Assembly and in parliamentary committee, except in the Subcommittee on Parliamentary Reform (S.O. 117(2)).[22] Despite the more flexible rules, the Vice-Presidents must 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

20. Geoffrion 1941, S.O. 312; Beauchesne, p. 94; May, *Treatise*, 23rd ed., p. 413. In Québec, the requirement to enter the reasons in the *Votes and Proceedings of the Assembly* was not carried over into the Standing Orders in force from 1972 to 1984, or into the current Standing Orders. Moreover, when the 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 entered in the minutes.

21. As a matter of fact, Standing Order 129 explicitly provides for a Vice-President presenting a motion in order to fill a vacancy or make a permanent substitution on a committee. 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). Similarly, since the Jean-Charles-Bonenfant Foundation is a creation of the National Assembly, any bill amending its enacting statute is usually introduced by one of the Vice-Presidents. There have been other instances where a Vice-President has introduced a bill in the Assembly. 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 finally, on May 12, 2010, Jacques Chagnon, Vice-President and Member for Westmount–Saint-Louis, introduced a private bill, Bill 222, *An Act respecting Club Lac Brûlé Inc.* (JD, May 12, 2010, p. 6647).

22. Unlike the President, the Vice-Presidents have their own desks in the House from which they can participate in the proceedings when they are not chairing them. Thus, they are usually present at Question Period, although they rarely take the floor. However, on October 30, 2001, the third Vice-President, Michel Bissonnet, 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).

of two of their number was questioned, 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 on the political stage. Thus, 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.[23] A Vice-President who nevertheless takes a position on a question being debated in the National Assembly must not chair the debates on that issue, 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, the Vice-Presidents must demonstrate prudence and exercise reserve in their interventions.[24]

Prudence is also required during political activities outside the Assembly, although Vice-Presidents may participate in party activities and caucus meetings.[25] And parliamentary law does not preclude them from expressing their opinions. Since the 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 them 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.[26] The Vice-Presidents must, however, behave in such a way as to retain the confidence of the parliamentarians in the Assembly.[27]

23. During the 38th Legislature, in a minority government situation, the three Vice-Presidents voted on June 1, 2007 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.
24. 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.
25. JD, June 6, 2001, pp. 1969–1971 (Jean-Pierre Charbonneau)/*RDPP*, no. 3/1. In this respect, the practice has not been uniform. Some Vice-Presidents have been very careful, even refraining from attending caucus meetings. In 1977, at the request of President Clément Richard, 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, the two Vice-Presidents were apparently absent from caucus meetings for only a few months.
26. JD, June 12, 2001, pp. 2125–2128 (Jean-Pierre Charbonneau)/*RDPP*, no. 3/2.
27. JD, June 6, 2001, pp. 1969–1971 (Jean-Pierre Charbonneau)/*RDPP*, no. 3/1.

4.1.3 Questioning the Conduct of a Presiding Officer

Parliamentarians' belief in the impartiality of the President and Vice-Presidents is essential to the Assembly's smooth operation. Presiding officers must be above reproach in their conduct and their actions. Their work may not be criticized, even indirectly, in the course of the Assembly's sittings, except by means of a substantive motion, often called "motion of censure" by specialists.[28] A Member who questions the conduct of a presiding officer other than by a substantive motion, for example by raising a question of privilege and then moving a motion, may be sanctioned for breach of privilege.[29]

Under Standing Orders 35(5) and 315, a motion is required to call into question the conduct of any Member in the Assembly, which is why the Chair ruled in 2001 that no more points of order concerning the impartiality or neutrality of the presiding officer would be accepted.[30] A Member who wants to call into question the conduct of a presiding officer is required to make a substantive motion and, in doing so, runs the risk of being censured in turn if the accusations prove to be unfounded.[31] When the Assembly debates a motion calling the conduct of a presiding officer into question, the officer concerned may nevertheless take the chair.[32] It is up to the officer to evaluate whether, politically speaking, it is wise to do so.

Precedents have established that a motion against the conduct of the Chair is out of order, as the concept of Chair encompasses the President and the Vice-Presidents and, under S.O. 315, an accusation cannot be extended to include more than one Member.[33]

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28. JD, June 13, 2001, pp. 2216–2217 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/46. See also Chapter 3, "Parliamentary Privilege".
29. Beauchesne, p. 51; May, *Treatise*, 23rd ed., p. 220.
30. JD, March 14, 1995, pp. 1382–1383 (Roger Bertrand)/*RDPP*, no. 316(3)/5; JD, June 15, 2001, pp. 2381–2382 (Jean-Pierrre Charbonneau)/*RDPP*, no. 67/47. In the second case, a Member of the Official Opposition raised a question of privilege against the President of the National 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 Chair declared the question of privilege out of order, because the President's conduct cannot be called into question except upon a substantive motion provided for in Standing Orders 315, 316(3) and 323. The Chair did not rule on whether the President could be held personally responsible for an act committed by someone under his authority, but stated that, should a motion be made criticising 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.
31. JD, June 12, 2001, pp. 2125–2128 (Jean-Pierre Charbonneau)/*RDPP*, no. 3/2.
32. Geoffrion 1941, S.O. 17, note 2 (in French only).
33. JD, March 14, 1995, pp. 1382–1383 (Roger Bertrand)/*RDPP*, no. 316 (3)/5.

4.2 FUNCTIONS

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 (S.O. 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 procedure.[34] The President's functions are essentially those of a chairperson, although they do not include control over the agenda; with a few exceptions, it is the Government, acting through its House Leader, that determines the business to be debated in the Assembly (S.O. 96). The President does not participate in debates or vote, except to exercise a casting vote, thus maintaining the impartiality of the office.

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.[35] 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 government majority to conduct public affairs in an orderly manner and the need to protect the right of the minority to voice its opinion.

In order to make this role feasible, the Assembly has entrusted the President with various functions. In addition to the powers conferred on the Chair by statute, the President calls to order, suspends and adjourns the sittings of the Assembly, preserves order and decorum, exercising all the powers necessary to that end, enforces the Standing Orders and carries out the other parliamentary duties listed in Standing Order 2.

A general overview of the main powers given the Chair follows, although most of the President's duties are dealt with in detail in the various chapters of this book.

34. Bonenfant, "Le président de la Chambre basse", p. 9.
35. Philip Laundy, "Le rôle du Président", p. 17.

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 (S.O. 2(1)). The Assembly is called to order once quorum has been established (S.O. 30). This is the only instance where the President takes the initiative in determining quorum. From then on, quorum is presumed to exist until its absence is pointed out by a Member or becomes apparent on a vote.[36] Since the Assembly may not sit or validly exercise its powers without quorum, the President must establish quorum at the beginning of a sitting and may not call the sitting to order until quorum has been reached. If quorum is not established within a reasonable period of time, the President takes the chair to announce that quorum does not exist and immediately suspends or adjourns the sitting.[37] The same procedure applies if the absence of quorum is noted in the course of a sitting. The President is included in 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 (S.O. 103, 2nd par.). Similarly, the President may finish reading a ruling even if the time has come to suspend or adjourn the sitting.[38] 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.[39] 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.[40]

36. 1972–1984 Standing Orders, S.O. 28(2).
37. 1972–1984 Standing Orders, S.O. 28(3). The President has in the past called the Assembly to order, noted the lack of quorum and immediately adjourned the sitting (JD, March 16, 1999, p. 579).
38. 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 whether there are any other circumstances under which the President would have the power to delay the suspension or adjournment of a sitting.
39. JD, May 20, 1998, pp. 11230–11231 (Raymond Brouillet)/*RDPP*, no. 44/1.
40. 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 House (JD, November 14, 1972, pp. 2491–2492 (Jean-Noël Lavoie)/*RDPP*, no. 100/1). See Chapter 9, "Conduct of a Sitting", Section 9.4.1.

4.2.1.2 Preserving Order and Decorum

The Standing Orders clearly state that the President possesses all the powers required to preserve order and decorum in the Assembly (S.O. 2(2)), 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, as well as with the discretionary powers necessary to carry out that delicate task.[41] As mentioned in Section 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.[42]

Order and decorum, which will be dealt with at greater length in Chapter 11, are essential for the proper functioning of the Assembly and, therefore, for the exercise by parliamentarians of that major constitutional privilege, 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.[43] It comes as no surprise, then, that the Standing Orders contain specific rules dealing with the conduct of Members and the general public within the precincts of the Chamber and with the language used on the floor of the Assembly. If a Member is disorderly or breaches decorum, the President may wield discretionary powers ranging from taking away the Member's right to speak for the remainder of the sitting to ordering the Member to withdraw and even expelling the Member from the Assembly Chamber.

4.2.1.3 Enforcing the Standing Orders

As arbiter of proceedings, the President must settle any questions of procedure that arise. It is also up to the President to call attention immediately to any violation of the Standing Orders that comes to his or her notice (S.O. 38),[44] using his or her own judgment. A Member may rise at any time to point out a breach of order (S.O. 39) or to raise a point of order when another Member is speaking (S.O. 36) or during a vote (S.O. 227).

The President's jurisdiction does not extend to remarks made outside the Chamber, or generally to questions of law, except for legal provisions dealing

41. JD, May 20, 1998, pp. 11230–11231 (Raymond Brouillet)/*RDPP*, no. 44/1.
42. See Chapter 11, "Order and Decorum".
43. JD, May 20, 1998, pp. 11230–11231 (Raymond Brouillet)/*RDPP*, no. 44/1.
44. Offences under the *Act respecting the National Assembly*, on the other hand, are expressly dealt with in that Act (JD, March 28, 1984, pp. 5542–5543 (Richard Guay)/*RDPP*, no. 38/1).

with parliamentary procedure.[45] It is not the President's place, then, to determine whether a Member has broken the law outside the Assembly, since that decision falls within the jurisdiction of the courts.[46] 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 the matter in place of the courts. Nor does the President's role extend to other matters within the purview of the Assembly itself, like deciding whether there has actually been a breach of a privilege of a Member or the Assembly.

The President does not have jurisdiction over points of order raised in committee, since it has been clearly established that the committee Chair has full power to preside over committee proceedings.[47] Nor must the President of the Assembly interfere in any way in the work of a committee.[48] Again, the committee Chair has practically the same powers in running the committee as the President has in directing parliamentary debate.[49]

The President rules on points of order at a suitable moment, giving reasons for each decision.[50] The President may also decide to submit the matter to the Assembly, but only a matter that raises serious doubt in the President's mind should be dealt with in this way. Such a situation has not arisen since the Standing Orders were adopted in 1984.[51] A ruling by the President

45. 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, at first blush, there has been 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). The same is true for a committee Chair, who may not interpret any aspect of law that is not related to the rules of parliamentary procedure (JD, November 6, 2003, CI 18 pp. 15–17 (Sylvain Simard)/*RDPP* (Com. Vol.), no. 2/5).
46. JD, June 10, 1998, pp. 11815–11817 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/38.
47. JD, December 3, 1975, p. 2343 (Jean-Noël Lavoie)/*RDPP*, no. 2/4.
48. JD, November 12, 2003, pp. 1441–1443 (Christos Sirros)/*RDPP*, no. 2/10.
49. 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 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, 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.
50. 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.
51. The Assembly has been called upon to make such a decision in the past under rule 70 of the Standing Orders annotated by Geoffrion, from which the current Standing Order 41 is derived. The wording of that rule was as follows: "**70.** The Speaker shall decide questions

The President of the National Assembly making a ruling

or the Assembly may not be discussed (S.O. 41). Rulings may be made either in public or in private, although the latter is an exceptional procedure to which the Chair has resorted only seven times since 1984.[52]

Most rulings by the Chair are made publicly in the Assembly following points of order raised at the sitting during which the precipitating events take place.[53] A point of order cannot be raised in the Assembly on a hypothetical question of

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." 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 whether or not 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 blamed 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 Speaker 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 study 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 Speaker cause for concern since they seemed out of order under Standing Order 558. Although called upon to decide, the House did not, the mover choosing to rephrase the motion (JD, November 4, 1969, pp. 3551–3552 (Gérard Lebel)).

52. The Chair has made private rulings 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 presence of 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).

53. Blackmore, *Denison's and Brand's Decisions*, 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."

procedure[54] although the Chair 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 completed.[55] According to doctrine, a private ruling may also serve to rule in advance on a point of order[56] or to clarify points of parliamentary practice and procedure.[57] A private ruling that is of general interest or that could serve as a precedent may be made public by tabling it in the National Assembly. The decision is left to the President's discretion.[58]

Members may not rise to ask the President questions on the affairs or procedure of the National Assembly (S.O. 34): questions must concern the debates of the Assembly and not its administrative management.[59]

54. 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 7, 2002, p. 7575 (Raymond Brouillet).
55. 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.
56. May, *Treatise*, 23rd ed., p. 221: "The Speaker also rules on points of order submitted to him by Members on questions either as they arise or in anticipation, although he frequently refuses to rule on a hypothetical question . . . The Speaker will also advise Members of all parties who consult him 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." Harris, 5th ed., p. 187: "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."
57. 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.
58. JD, April 30, 1986, pp. 1035–1036 (Pierre Lorrain)/*RDPP*, no. 34/6. On this point, see May, *Treatise*, 20th 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."
59. 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 privileges of the Assembly and its Members. When a Member challenges the 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 privilege, which must be brought to the President's attention either immediately after the alleged breach or in writing one hour before Routine Proceedings, the Chair's role is to decide whether the question is in order or not. To this end, the Chair must determine whether the facts the Member raises constitute at first sight a breach of a privilege granted the Assembly or one of its Members. The Chair does not rule on the substance of the question. That is a matter for the Assembly itself.[60]

When the President takes under advisement a question of privilege relating to a bill, the legislative process continues to move forward. The President is not empowered to interrupt the legislative functions of the House since the Assembly is sovereign in that area.[61] Even if the President rules that the question of privilege is in order, the bill can still be introduced[62] and examined.[63]

4.2.1.5 Exercising Other Parliamentary Duties

When chairing 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 (S.O. 33). Parliamentary tradition has evolved rules that guide the President when more than one Member rises to speak to a motion.[64]

The President also rules on the admissibility of motions (S.O. 193), calls motions, puts them to a vote and announces the result of the votes (S.O. 2(4)). The President calls and chairs meetings of the House leaders of the

60. See Chapter 3, "Parliamentary Privilege"; see also Chapter 9, "Conduct of a Sitting".
61. JD, April 24, 1990, pp. 1789–1790 (Jean-Pierre Saintonge)/*RDPP*, no. 244/1.
62. JD, November 14, 2007, pp. 2008–2010 (Michel Bissonnet)/*RDPP*, no. 67/56. In the case at hand, 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 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 or not to allow the bills to be introduced.
63. JD, December 8, 1999, p. 4188 (Jean-Pierre Charbonneau)/*RDPP*, no. 147/1.
64. See Chapter 11, Section 11.2.2, "Addressing the Assembly"; see also Chapter 13, Section 13.1.1, "Right to Speak".

parliamentary groups and organizes limited debates (S.O. 98, 210, 253 and 285).[65] In addition, the President decides where the Assembly will meet when it is unable to sit in the Parliament Building (S.O. 2(7)). Generally speaking, the President exercises all other powers required to carry out the duties of office (S.O. 2(8)).

In practice, the President does not chair the Assembly throughout an entire sitting. In order to find the time for the other duties of office, such as administering and representing the Assembly, the President usually chairs only Routine Proceedings, which includes Oral Questions and Answers, without a doubt one of the most difficult periods to chair since it often gives rise to fast and furious debate on the burning political issues of the day. During Question Period, the President must pay particular attention to order and decorum and to the apportionment of speaking time.[66] The President is assisted by three Vice-Presidents, who usually chair Orders of the Day and proceedings in Committee of the Whole.[67]

The President is also ex officio Chair of the Committee on the National Assembly and of the Subcommittee on Parliamentary Reform (S.O. 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.[68] When chairing these bodies, the President plays the same role of presiding officer as in the Assembly[69] and has only a casting vote. However, since these bodies often deal with subjects that closely affect the operation of the National Assembly, including parliamentary reform, it is not unusual for the President to participate in the discussions.

As Chair of the Committee on the National Assembly, the President calls the meetings of that committee and of the Subcommittee on Parliamentary Reform, sets the agenda and tables the committee report in the National Assembly (S.O. 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 each legislature or during the course of a legislature if

65. See Chapter 13, "Rules of Parliamentary Debate and Distribution of Debating Time".
66. See Chapter 9, "Conduct of a Sitting"; see also Chapter 11, "Order and Decorum".
67. See Chapter 17, "Committees of the Whole".
68. See Chapter 18, "Parliamentary Committees".
69. JD, March 31, 1987, p. CAN-35.

necessary (S.O. 134 and 136), and calling committee meetings whenever the two-year mandate of the committee Chairs and Vice-Chairs ends, so that the committee members may elect their replacements.

The Vice-Presidents are ex officio members of the Committee on the National Assembly (S.O. 115(2)) and, as such, may participate in the discussions, make motions and vote. They are also members of the Subcommittee on Parliamentary Reform but do not have the right to vote (S.O. 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 of the 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).

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, the Secretary General or another officer. In the last case, the deed, document or writing is binding or may be attributed to the President only to the extent determined by regulation of the Office of the National Assembly (ANA, s. 123, 1st par.).

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 course of the year, the President expects to overrun the budget, 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. The Office is made up of Members of the Assembly appointed by their political party or, failing that, by the President of the Assembly (ANA, ss. 86–92).[70] The

70. In addition to the President, the Office of the National Assembly is made up of five Members from the government party, three from the Official Opposition and one from the party among the remaining opposition parties that 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 is raised to four (ANA, s. 88). Each party appoints the same number of substitute members, each of whom may act for a member who is absent or unable to act (ANA, s. 89). Within the first 15 days of a session, each party informs the President of the names of the Members and substitutes it has appointed (ANA, s. 90).

President submits the list of Members designated by the parties to the Assembly, which either adopts or rejects the entire list (ANA, s. 91). 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 exercises supervisory and regulatory functions and any other functions 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 approves 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). Moreover, the Office enjoys an exceptional power regarding the management of the National Assembly: although section 110 of the *Act respecting the National Assembly* stipulates that the Assembly is to be managed within the scope of the Acts, regulations and rules that apply to it, the same section states that the Office may depart from those provisions by regulation, identifying the provisions that will stand in their stead. In a sense, this power of the Office is the codification of the parameters for applying, with respect to administrative management, the Assembly's collective privilege of exclusive control over its affairs without outside interference.[71]

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 the 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). The Chair 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.

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). Under a memorandum of understanding reached with the Ministère de la Sécurité publique on July 6, 1994,[72] the provincial police force, known as the Sûreté du Québec, assists in ensuring the security of the Assembly. Moreover, the Sergeant-at-Arms is an officer of the Sûreté du Québec.

71. See Chapter 3, "Parliamentary Privilege".
72. Replaced on March 15, 2006 by Decision 1297 of the Office of the National Assembly.

The Secretary General

Formerly known as the Clerk, the Secretary General is both the principal and the most senior official of the Assembly.

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.[73] 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 created in 1775 had its own clerk, as did the Legislative Council and the Legislative Assembly created in 1792. Samuel Phillips, 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 section 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.

In 1969, the 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 par.). Orders issued by the Secretary General are to be carried out as if they had been issued by the President (ANA, s. 119, 2nd par.).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 par.).

In addition to these statutory duties, the Secretary General carries out duties conferred on him or her by the Assembly (ANA, s. 28). Thus, the Secretary General oversees 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

73. McKay, *Clerk of the House*, p. 4.

President and the Members in all procedural matters and must consequently remain strictly neutral at all times.

Under section 26 of the *Act respecting the National Assembly*, the Secretary General is appointed by the Assembly on a motion of the Premier. The Secretary General must enjoy 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 propose a candidate. As the Act does not limit the appointment to a set number of years, a Secretary General's term of office is indefinite.

The Clerks' 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 if the office of Secretary General is vacant, 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).

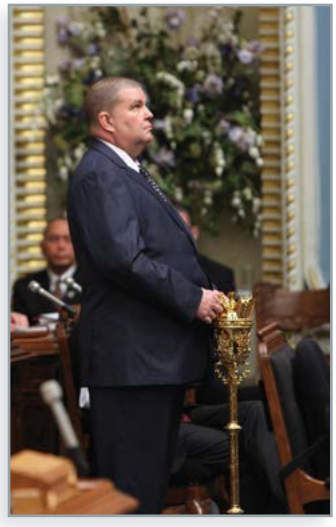
In the National Assembly Chamber, the Secretary General is seated at one end of the Table, in front of the President's chair and facing the Mace. The Secretary General is flanked by two assistant clerks who assist him or her in the duties of clerk and parliamentary procedure adviser.

The Sergeant-at-Arms

Long held by a military officer, the office of Sergeant-at-Arms is now filled by the Security Director at the National Assembly, who is also a member of the Sûreté du Québec. 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.

Hugh McKay was the first Sergeant-at-Arms in the House of Assembly of Lower Canada in 1792.

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:



S.O. 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 safe-keeping 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 functions are now obsolete, such as serving and executing arrest warrants issued by the President. However, a number of the functions described in Standing Order 38 continue to be practised. For example, the Sergeant-at-Arms accompanies the President, carrying the Mace, when the President enters the Assembly Chamber to open a sitting or leaves the chair after a sitting is adjourned; the Sergeant-at-Arms also keeps order in the galleries and lobbies of the Chamber, in addition to executing orders of the House and of the President. ■

4.2.3 Representing the Assembly

Yet another function of the President is to represent the Assembly, particularly in its relations with other parliaments (S.O. 1). This function of the President 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 spokesman 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 . . . and an advisory panel on allowances . . . In carrying out these duties, the Speaker is assisted by a small personal staff . . .[74]

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 Queen, with the House of Lords and with the outside world.

74. May, *Treatise*, 23rd ed., p. 218.

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 Queen 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 and on the prorogation of a session, and when bills are given royal assent.

As for persons outside Parliament, the President may be called on by the Assembly to send a message of thanks, censure or warning on its behalf, or be requested to deliver a message to the Assembly from another legislative assembly, a foreign country or an international organization. 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, the President is responsible for all the Assembly's official acts[75] and therefore has a free hand to represent the Assembly internationally. Moreover, the *Act respecting the Ministère des Relations internationales* fully upholds the independence of the National Assembly in international interparliamentary relations.[76]

There does not seem to be any reason to restrict the President's role to representing the Assembly in its relations with other parliaments. In fact, Standing Order 1 states that the President represents the Assembly "most particularly in its relations with other parliaments". The fact remains, however, that 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. All this appears to confirm that the President of the National Assembly, as spokesperson for the elected representatives of Québec, has the legal capacity to represent the Assembly in its relations with people and organizations outside the Assembly itself, both on the domestic and on the international stage.

75. Brun, Tremblay and Brouillet, *Droit constitutionnel*, 5th ed., p. 332.
76. L.Q., c. M-25.1.1, s. 26, 2nd par.

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 uninominal 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 35 percent of the votes in one electoral division is just as much a Member as one who obtains an absolute majority in another. This is why the percentage of votes a party obtains and the number of candidates who eventually 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 represented a political party. Although the concept of party is omnipresent in the electoral process, it is almost non-existent in the parliamentary process, where "parliamentary groups" replace political parties. However, only a party that qualifies under the rules of parliamentary procedure is considered a

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.

parliamentary group. Members who were not elected under the auspices of a party qualifying as a parliamentary group may either join such a group in the National Assembly or sit as independent Members.

Member's Oaths

I *A.B.* 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 (U.K.), 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
(L.Q., c. A-23.1, Schedule I)

Once elected and 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 various rules applicable to the parliamentary context.

The recognition of a party as a parliamentary group has significant implications within the context of parliamentary deliberations. While all Members have rights under the rules of procedure, parliamentary group status confers certain advantages. That being said, the President has a significant role to play in safeguarding the rights of independent Members. Specifically, in certain cases, the Standing Orders state that the President must take the presence of independent Members into account, for example, when conferring with parliamentary group House leaders to determine a time frame for limited debates.

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 current 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 percent of the popular vote in the last general election. With the exception of the President, Members who do not belong to a parliamentary group sit as independent Members (S.O. 13).

Since the makeup of parliamentary groups is based on the results of the last general election, the question arises as to whether a new parliamentary group could be officially recognized following changes in the composition of the National Assembly as the result of a death, a by-election, a resignation or a change of allegiance. At first glance, Standing Order 13 may give the impression that the criterion with respect to the last general election applies only to a political party that obtained 20 percent of the popular vote. However, the previous Standing Orders clearly specified that the criterion also applied in the case of a group composed of at least 11 Members from the same political party.[2] As mentioned in Chapter 1, previous Standing Orders may be referred to when those currently in force do not clearly address a particular point.[3] 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. 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 count of all the votes cast in that election, obtained 20 percent of the valid votes cast.[4]

2. 1972–1984 Standing Orders, S.O. 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.
3. JD, April 12, 1976, pp. 594–595 (Jean-Noël Lavoie)/*RDPP*, no. 180/1.
4. 1972–1984 Standing Orders, S.O. 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*, L.Q., c. C-52.1, which contains the same criteria for determining which leaders of other parties 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 had fewer than

Unless the President interprets Standing Order 13 otherwise, the last election is the determining criterion in recognizing a parliamentary group.[5] In any case, a group of at least 12 Members elected from the same political party or a group composed of Members from a party that obtained at least 20 percent of the popular vote in the last general election is without a doubt considered to be a parliamentary group.

Parliamentary group status is important when it comes time for the Chair to determine the rights of a group of Members within the context of parliamentary proceedings. In a decision rendered in 2003, the Chair specified that the role of the President 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. It is not up to the President to evaluate the place that must be given a political party based on the percentage of votes it obtained during an election.[6]

The 39th Legislature

At the beginning of the 39th Legislature, since the Action démocratique du Québec (ADQ) had elected seven Members and obtained 16.4 percent of the votes cast in the general election held on December 8, 2008, it did not meet the criteria set out in the Standing Orders for the constitution of a parliamentary group. In the following months, during discussions held in the context of a major parliamentary reform, it was agreed to grant the ADQ recognition as a parliamentary group for the duration of the Legislature in accordance

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12 Members elected but obtained 20 percent 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 percent of the annual indemnity.

5. The following excerpt from page 3 of the minutes of the December 1, 1983 sitting of the Standing Subcommittee on Parliamentary Reform, responsible for examining the proposals that led to the 1984 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*". Under subparagraph 6 of the first paragraph of section 7 of that Act—in force in 1982—"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 percent of the valid votes cast" is entitled to receive a party leader's indemnity.
6. JD, October 30, 2003, pp. 1216–1217 (Michel Bissonnet)/*RDPP*, no. 74/16. This ruling was handed down in response to a question posed by an independent Member who wished to know the number of questions that would be granted to the four independent Members during Question Period, given that their party had obtained over 18 percent of the popular vote in the last general election (JD, October 28, 2003, p. 1116).

with the conditions set out in a document tabled by the Government House Leader and adopted by the Assembly on April 21, 2009.[7]

According to the document (see Appendix III), a group of Members from a political party that returned at least five Members and obtained 11 percent of the votes cast in the last general election is a parliamentary group. Parliamentary group status is thus determined on the date of a general election. Becoming the Second Opposition Group thus guaranteed the ADQ parliamentary group status for the entire legislature, regardless of any changes in its elected membership. This was confirmed in a directive by the President on November 10, 2009, after two Members from the Second Opposition Group decided to sit as independent Members:

> Within the framework of the parliamentary reform of April 2009, the Assembly unanimously adopted new provisional rules regarding the recognition of a parliamentary group and the organization of parliamentary proceedings. These rules not only provided for the recognition of the Action démocratique du Québec as a parliamentary group, but also established the allocation of various measures among the Members sitting in opposition for the duration of the 39th Legislature.
>
> The Chair intends to observe the spirit of this document. Solely a new ruling of the Assembly regarding these matters would justify the application of new rules by the Chair. Thus, in pursuance of the rules adopted on last 21 April, the Action démocratique du Québec still constitutes a parliamentary group, that is, 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.[8] ■

7. On that day, the Assembly adopted the following motion without notice presented by the Government House Leader:
"THAT the Members affiliated with the Action démocratique du Québec constitute, immediately the present motion is carried, a parliamentary group according to the terms and conditions set out in the document entitled "Recognition of the Action démocratique du Québec as a Parliamentary Group and Distribution of Various Measures Among the Members Sitting in Opposition For the Duration of the 39th Legislature" tabled today;
THAT the terms and conditions contained in the said document have precedence over any incompatible provisions of the Standing Orders and the Rules for the Conduct of Proceedings of the Assembly;
THAT the present motion become an order of the Assembly for the duration of the 39th Legislature, and this, notwithstanding the prorogation of the session."
See VP, April 21, 2009, p. 214.

8. VP, November 10, 2009, p. 797.

5.1.2 Parliamentary Group Affiliation

The President does not belong to any parliamentary group since he or she must remain neutral in exercising the functions of office (S.O. 3). Other Members who do not belong to a parliamentary group sit as independent Members (S.O. 13, 2nd par.). Members elected to the National Assembly in a by-election must join a recognized parliamentary group or sit as independents (S.O. 14). Members who leave their parliamentary group may also join another parliamentary group or sit as independent Members (S.O. 15, 1st par.). Likewise, Members sitting as independents may join an existing parliamentary group (S.O. 15, 2nd par.).

5.1.3 Organization of a Parliamentary Group

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 the leader of the parliamentary group forming the Government, while the leader of the party that obtained 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 as the leader of the Second Opposition Group.

Each parliamentary group leader designates a House leader from among the Members belonging to the group. The House leader of the group forming the Government is known as the Government House Leader. Similarly, the House leader of the group forming the Official Opposition is known as the Official Opposition House Leader (S.O. 16). Each parliamentary House leader plays a multi-faceted role, mainly in connection with parliamentary procedure, the planning of parliamentary business and the development of debating strategies. In addition to the House leader, each parliamentary group leader also designates a whip from among the Members belonging to the group. The main role of the whip and any assistant whips is to maintain order, cohesion and solidarity within their parliamentary group. They also assume certain duties under the *Act respecting the National Assembly* and the Standing Orders.[9]

9. Standing Order 117.2, Rules 1.1, 1.2 and 2 of the *Rules for the Conduct of Proceedings in the National Assembly* and sections 108 and 124.1 of the *Act respecting the National Assembly*, L.Q., c. A-23.1, confer on the whips certain specific functions pertaining to the organization of committee work and the management of the research budgets granted to parliamentary groups.

Beyond these similarities, however, each parliamentary group has its own particularities, depending on whether it forms the Government or sits in opposition, and in the latter case, whether or not it forms the Official Opposition.

5.1.3.1 Parliamentary Group Forming the Government

The Government is said to be a majority government when the parliamentary group forming the Government holds the majority of the seats in the Assembly. Otherwise, it is a minority government.[10] According to the constitutional convention of ministerial responsibility, the Government must retain the confidence of the majority of the Members of the Assembly to continue governing. However, as will be further examined in Chapter 7, losing a vote in the Assembly does not automatically result in the defeat of the Government.[11]

As leader of the parliamentary group forming the Government, the Premier is the initiator of certain procedures set out in the Standing Orders,[12] in the *Act respecting the National Assembly*[13] and in other Acts.[14] The Premier sits in the first row to the right of the President in the Assembly, facing the

10. At the opening of the 38th Legislature, the group forming the Government had 47 Members, excluding the President, who may not belong to any parliamentary group, while the Official Opposition had 41 Members and the Second Opposition Group had 36 Members. This was Québec's first significant experience with minority government. See Chapter 1, "History of Québec's Political and Parliamentary Institutions".
11. See Chapter 7, "Ministerial Responsibility and the Assembly's Confidence in the Government". Between the opening of the first session of the 38th Legislature in May 2007 and the dissolution of the Assembly at the Premier's request in March of the following year, the Government was defeated on several matters without having its legitimacy called into question.
12. This is the case for the delivery of the opening speech (S.O. 45), a request for an extraordinary sitting (S.O. 23) and the motions to elect the first and second Vice-Presidents (S.O. 9.2). In the last case, although the Standing Orders provide that any Member may propose any other Member to serve as Vice-President, it is actually the Premier who proposes candidates for the offices of first and second Vice-President, since the Premier's motion is put to a vote before any other (S.O. 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. For more information, see Chapter 4, "The Office of President".
13. The procedures concerned are motions to appoint a Secretary General and one or more associate secretaries general of the Assembly (ANA, s. 26).
14. *Charter of Human Rights and Freedoms*, L.Q., c. C-12, s. 58; *Act respecting Access to documents held by public bodies and the Protection of personal information*, L.Q., c. A-2.1, s. 104; *Referendum Act*, L.Q., c. C-64.1, s. 8; *Election Act*, L.Q., c. E-3.3, ss. 478, 526 and 532; *Public Service Act*, L.Q., c. F-3.1.1, ss. 106 and 122; *Public Protector Act*, L.Q., c. P-32, s. 1; *Lobbying Transparency and Ethics Act*, L.Q., c. T-11.011, s. 33; *Auditor General Act*, L.Q., 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*, L.Q., c. C-23.1, s. 62).

Table. Occasionally, the party leader is not elected to the Assembly, or resigns. In such a case, the Deputy Premier would probably take on the parliamentary functions of the Premier until the party leader is elected as a Member or a Member of the National Assembly is designated as the new leader.[15] Moreover, the principle of ministerial responsibility set out in Standing Order 189 allows any minister to act on behalf of another.[16]

The Government House Leader, traditionally a minister,[17] sits beside the Premier in the Assembly. He or she determines 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,[18] although he or she may be replaced in the House by a deputy House leader or a minister (S.O. 17).[19]

15. Section 11 of the *Executive Power Act*, L.Q., c. E-18, provides that any member of the Conseil exécutif, or Cabinet, may, by order in council, be appointed Vice-President and, in that capacity, be charged with the duties and powers of the President of the Conseil when the latter is absent from the capital. In the general election of December 2, 1985, the Liberal Party came to power, but its leader, Robert Bourassa, failed to win a seat. Deputy Premier Lise Bacon replaced him in the National Assembly until he was elected in another electoral division. As Deputy Premier, she presented 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).
16. For example, on December 18, 1986, Justice Minister Herbert Marx presented a motion on behalf of the Premier to appoint members to the Commission des droits de la personne, in accordance with section 58 of the *Charter of human rights and freedoms* (VP, December 18, 1986, p. 630).
17. The office of Government House Leader was formerly assumed 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 House Leader of the Official Opposition (s. 7, 1st par., subpar. 5) as well as for a deputy Government House Leader who is not a member of the Conseil exécutif (s. 7, 1st par., subpar. 9).
18. These procedures include motions for the Assembly to meet on a Monday (S.O. 20 and 21), motions to adjourn proceedings (S.O. 105), motions to refer a matter to committee (S.O. 146), convening committees that have received an order of reference from the Assembly (S.O. 147), motions to introduce an exceptional procedure (S.O. 182) and motions to refer a bill to committee for consultation (S.O. 235).
19. In practice, the Government House Leader is assisted by two deputy House leaders, one of whom is chosen from among the Cabinet members.

The Premier designates the Government House Leader and a deputy House leader, a chief whip and one or more assistant whips from among the Members in his or her group.[20] Unlike the Government House Leader, the Chief Government Whip is not a minister but does attend Cabinet meetings. In addition to other responsibilities, the whip and assistant whips ensure quorum and the presence of Members in sufficient number during votes, which is particularly important in the case of recorded divisions, when a defeat on a major issue could have serious consequences for the Government.

Lastly, the Government may appoint one or more parliamentary assistants from among its Members to assist a minister in the performance of his or her duties; the number of parliamentary assistants is limited to 20. During Assembly proceedings, a minister's parliamentary assistant may answer or take notice of questions addressed to the minister (ANA, s. 25).

5.1.3.2 Official Opposition

Even though the opposition has long had a recognized role in our system of parliamentary government, the expression "Official Opposition" has no status in law.[21] While it is true that legislative texts and the Standing Orders legitimize the idea of the Official Opposition by using such expressions as "Leader of the Opposition", "Leader of the Official Opposition" and "Official Opposition House Leader", the recognition of Her Majesty's Opposition (the Official Opposition) does not derive from the Standing Orders[22] but is based, rather, on a constitutional convention:

20. 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.
21. The largest minority group prepared to assume office if the Government resigns has the right to be called the "Official Opposition" (Beauchesne, 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.
22. 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 deal with the Official Opposition House Leader; Standing Orders 49 and 50, which deal with the Official Opposition Leader's address during the debate on the opening speech of the session; Standing Order 56, which deals with the Official Opposition Leader's comments on a statement by a minister; Standing Orders 117.1, 117.4 and 117.5, which provide for the membership and chairship of the Committee on Public Administration and the participation of opposition Members other than those from the Official Opposition; Standing Orders 121 and 122, which state how many Members from the Official Opposition are to sit on each committee, Standing Order 128, which allocates committee chairships among the groups, including the Official Opposition; and Standing

> 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.
>
> 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.[23]

In the Assembly, the Leader of the Official Opposition sits in the front row to the left of the President, facing the Premier, and traditionally is entitled, in principle, to the first question during Question Period. His or her speech in response to the Premier's opening speech at the beginning of a session takes priority over committee proceedings (S.O. 87(1)). As leader of a parliamentary group, the Leader of the Official Opposition is also granted extra speaking time during debates (S.O. 209).

For reasons such as resignation, death or electoral defeat, the Official Opposition may temporarily find itself without a leader in the National Assembly. In such cases, the House leader or the Whip usually informs the President in writing as to which Member will assume the role of leader in the House until the leader of the party is elected to the National Assembly or a new leader is designated among the Members already sitting.[24]

Orders 273 and 276, which deal with the address by the representative of the Official Opposition during the debate on the budget speech.

23. Harris, *House of Representatives Practice*, pp. 76–77.

24. This procedure has been used several times. For example, in 1973, following the defeat of the president of the Parti québécois, René Lévesque, in his electoral division, Jacques-Yvan Morin was designated Leader of the Official Opposition by the parliamentary wing of the party (VP, November 27, 1973, p. 53). In 1976, following the defeat of Liberal Party leader Robert Bourassa in his electoral division, the parliamentary wing of the party designated Gérard D. Levesque as Leader of the Official Opposition (VP, December 15, 1976, p. 57). In 1982, following the resignation of Claude Ryan as leader of the Liberal Party, the caucus again designated Gérard D. Levesque as Leader of the Official Opposition (VP, November 5, 1982, p. 650). In 1987, following the resignation of Pierre-Marc Johnson as leader of the Parti québécois, Guy Chevrette stepped in as Leader of the Official Opposition since the new party leader, Jacques Parizeau, was not a Member of the National Assembly (VP, November 12, 1987, p. 1082). In 1998, following the resignation of Daniel Johnson as leader of the Liberal Party, Monique Gagnon-Tremblay was appointed Leader of the Official Opposition since the new party leader, Jean Charest, was not a Member of the National Assembly (VP, May 13, 1998, p. 2008). In 2005, following Bernard Landry's resignation as Member and Leader of the Official Opposition, Louise Harel was designated to serve in the latter capacity until the new leader of the Parti québécois, André Boisclair,

Like the Premier, the Leader of the Official Opposition designates a House leader from among the Members belonging to the parliamentary group. (S.O. 16). The House Leader of the Official Opposition sits beside the parliamentary group leader in the Assembly, across from the Government House Leader, and acts as the group's principal parliamentary procedure strategist and adviser. As is the case for the Government House Leader, the House Leader of the Official Opposition may be replaced in the House by a deputy House leader (S.O. 17). In addition to the House leader and the deputy House leader, the Leader of the Official Opposition must also designate a whip and, if the group has 40 or more Members, an assistant whip from among the Members in the parliamentary group.[25] The Whip's responsibilities include ensuring that Members in the group are present in sufficient number during debates on motions presented by a Member of the Official Opposition and during votes.

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.[26] As the leader's representative, the Official Opposition critic for the sector under discussion generally enjoys extra speaking time in the Assembly during debates (S.O. 209).

5.1.3.3 Other Opposition Groups

In the Assembly, the leader of an opposition group other than the Official Opposition is allocated the same speaking times as the Premier and the Leader of the Official Opposition. An exception is made, however, for the

was elected to the National Assembly in a by-election in the electoral division of Pointe-aux-Trembles (VP, June 7, 2005, p. 1627). Lastly, following the resignation of André Boisclair as leader of the Parti Québécois on May 7, 2007, François Gendron was designated Leader of the Second Opposition Group until the new leader of the party, Pauline Marois, was elected to the National Assembly in a by-election in Charlevoix (VP, May 17, 2007, p. 50).

25. Beauchesne, pp. 55–56. In 2009, the group forming the Official Opposition was no longer eligible for the indemnity provided for an assistant whip following the decision of two of the 41 Members belonging to it to join the parliamentary group forming the Government.

26. 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), whose responsibility was to focus specifically on the activities of a particular department, question the minister and examine departmental estimates and expenses—in other words, to stay on the minister's heels, like a shadow, hence the term "shadow Cabinet". In the British Parliament, the shadow Cabinet is composed of former ministers and a few other influential Members. See Punnett, *Front-Bench Opposition*. Québec takes inspiration from the British tradition, but today's shadow Cabinet is no longer a select group of former ministers that could form a future Cabinet, since the objective is mainly to assign responsibilities to Official Opposition caucus members.

debate on the opening speech, when he or she is granted one hour rather than two (S.O. 50). His or her speaking time takes priority over committee proceedings (S.O. 87(1)).

The leader of such a group may appoint a House leader from among the Members belonging to the group (S.O. 16) but the Standing Orders do not make provision for the replacement of the House leader by a deputy House leader. The leader may also appoint a Member from the group to occupy the position of whip,[27] as well as critics to represent the group in their respective sectors during debates.

5.1.4 Rights of Parliamentary Groups

5.1.4.1 Speaking Time

Time is a Member's main resource 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, provides that the Premier and the other parliamentary group leaders or their representatives[28] may each speak for up to one hour to a substantive motion and 30 minutes to a formal motion.[29] Parliamentary group leaders or

27. Under the *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly*, the Whip receives the same indemnity as that paid to an assistant Government whip or assistant Official Opposition whip (s. 7, 1st par., subpar. 11), although no indemnity is provided for the House leader. However, a temporary amendment adopted when the ADQ was recognized as a parliamentary group for the duration of the 39th Legislature provides for an indemnity for the House leader but not the whip of such a group (L.Q. 2009, c. 3, s. 1).
28. Although parliamentary custom dictates that it is usually the critic who speaks as the representative 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 to speak as the representative of the party leader, using the latter's speaking time (JD, October 27, 2004, pp. 5371 and 5374 (François Gendron)/*RDPP*, no. 209/3).
29. See Chapter 13, "Rules of Parliamentary Debate and Distribution of Debating Time".

their representatives are thus granted more speaking time during debates in the House than the leader of a party that does not form a parliamentary group.[30]

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 the other parliamentary group leaders or their representatives are granted one hour. During the debate on the budget speech, the Official Opposition representative is granted up to two hours in addition to the 10 minutes allowed for comments immediately after the speech,[31] but the Standing Orders do not set aside any speaking time for the representative of another opposition group even though that representative's address has precedence in the same way as that of the Minister of Finance or the Official Opposition representative (S.O. 87(4)). The representative of that other opposition group, however, is granted 10 minutes for comments immediately after the budget speech (S.O. 271).

Following a statement by a minister, the Leader of the Official Opposition and the other parliamentary group leaders or their representatives may speak for up to five minutes (S.O. 56). Moreover, the representative of each parliamentary group is granted 10 minutes' speaking time during short debates provided for in the Standing Orders on any of the following motions: a motion to adjourn debate (S.O. 101); a motion to adjourn proceedings in committee (S.O. 165); a motion to withdraw (S.O. 195); or a motion for a division (S.O. 204). Ten minutes' speaking time is also granted to the representative of each opposition group during a debate on either of the following motions presented by the Government House Leader: a motion to adjourn proceedings (S.O. 106) or a motion to refer a bill to committee when the bill falls within the terms of reference of more than one committee (S.O. 261). Likewise, at the beginning of the examination of supplemental estimates in Committee of the Whole, each parliamentary group representative may take up to 20 minutes to make preliminary remarks (S.O. 290).

Lastly, when there are limited debates, the President confers with the House leaders and allocates speaking time to the groups, taking into account the presence of independent Members (S.O. 210). If there are only

30. However, according to the general rule set out in S.O. 209, the leader of a party that does not form a parliamentary group, like any other Member, may speak for 10 minutes to a formal motion and 20 minutes to any other matter.

31. The third paragraph of Standing Order 127 of the 1972–1984 Standing Orders provided that the first speaker of a recognized party other than the Official Opposition had one hour of speaking time during the debate on the budget speech, the same time now granted to the leader of another opposition group during the debate on the opening speech.

two parliamentary groups, the time that remains after allocating time to the independent Members is generally equally divided 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. During the 38th Legislature, when the Assembly was composed of three parliamentary groups, the time envelope during limited debates was allocated proportionally, with the total time granted each group being based on the number of seats it held in the Assembly. During the 39th Legislature, following recognition of the ADQ as a parliamentary group, speaking times during limited debates[32] were set out in a document adopted at the time of the parliamentary reform. As a new parliamentary group, the Second Opposition Group was granted 10 percent of the total speaking time.[33]

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 during limited debates (S.O. 98 and 210). The President also confers with the House leaders to determine how to proceed with the consideration of the estimates (S.O. 285) or to organize a vote on amendments at the committee report stage of a bill (S.O. 253). At the request of the Government House Leader, the President must also convene the House leaders to determine when a committee should table its report on a bill in the Assembly (S.O. 249).

Given that only parliamentary groups have House leaders, independent Members are not represented at the above meetings. However, under Standing Order 210, which sets out the general rule governing the distribution of speaking time for limited debates, the President must take into account the presence of independent Members, who can thus count on being granted speaking time, either as individuals or collectively, during such debates.

32. The document allocates speaking times during a limited debate on a matter raised by a Member of the Official Opposition (Wednesday motion, want of confidence motion, emergency debate). However, the document does not set out speaking times for limited debates initiated by a Member of the Second Opposition Group or an independent Member. Consequently, such debates are allocated by the President after conferring with the House leaders in accordance with Standing Order 210.

33. When the ADQ was recognized as a parliamentary group, it had six Members in the House, representing 4.8 percent of the total 125 and 10.3 percent 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 percent of the total time envelope.

5.1.4.3 Sharing Parliamentary Oversight

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 various instruments of parliamentary oversight available to opposition Members. This is true when the President determines

- the sequence of business standing in the name of Members in opposition, called "Wednesday motions". Under Standing Order 97.2, the President may decide 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 the parliamentary groups, and the presence of independent Members;[34]
- the subject of an interpellation. Under Standing Order 295, any Member may interpellate a minister. 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 the presence of independent Members (S.O. 297);[35]
- 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. The President allocates this right among the parliamentary groups in opposition, taking into account the presence of independent Members (S.O. 305);
- the sequence of debates upon adjournment. At the adjournment of any Tuesday or Thursday sitting, a Member may request a debate on a subject previously raised by that Member during Question Period (S.O. 308). The number of debates that may be held upon adjournment is limited to three per sitting day (S.O. 312). When more than one Member has requested a debate, the President decides the order in which the 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 the presence of independent Members (S.O. 311).[36]

34. See Chapter 9, "Conduct of a Sitting".
35. See Chapter 19, "Committee Mandates".
36. See Chapter 9, "Conduct of a Sitting".

Although the section of the Standing Orders concerning Question Period does not address the concept of parliamentary group, it is still a criterion the President must take into account when allocating questions.

Allocation of Measures During the 38th Legislature

At the opening of the 38th Legislature, the makeup of the National Assembly was as follows: 48 Members from the group forming the Government, 41 from the Official Opposition and 36 from the Second Opposition Group. The allocation of interpellations and of business standing in the name of Members in opposition was established in a ruling made on October 18, 2007, on the basis of three criteria: the makeup of the Assembly, the recognition of a party as a parliamentary group and the preponderant role of the Official Opposition. On the basis of the third criterion, the Official Opposition was automatically granted the first Wednesday motion per sessional period. Taking into consideration the above-mentioned factors as well as the rotation among the parties provided for in the Standing Orders and the relative weight of each opposition group, Wednesday motions were allocated in cycles of 10 with six motions going to the Official Opposition and four to the Second Opposition Group. The same distribution procedure was used for interpellations since there are approximately the same number of each type of measure during the parliamentary year.[37]

Only one want of confidence motion, presented by the Leader of the Official Opposition,[38] was debated, and no distribution of measures was carried out. Debates upon adjournment were distributed in keeping with a ruling made by the Chair at the beginning of the first session, following an agreement between the House leaders.[39] In a three-sitting cycle, five debates were allocated to the Official Opposition and the remaining four to the Second Opposition Group. ■

Allocation of Measures During the 39th Legislature

During the 39th Legislature, the distribution of parliamentary oversight 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. The same criteria were used as during the previous legislature: the composition of the Assembly, the recognition of a party as a parliamentary group and the preponderant role of the Official Opposition. With six Members, the Second Opposition Group was entitled to one Wednesday motion and one interpellation per cycle of 10. As for debates upon adjournment, the Second Opposition Group was granted one out of six debates every two sittings at which such debates were allowed,

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37. JD, October 18, 2007, pp. 1549–1550 (Michel Bissonnet)/*RDPP*, no. 97.2/2.
38. VP, November 13, 2007, p. 373.
39. JD, May 10, 2007, pp. 68–69 (Michel Bissonnet)/*RDPP*, no. 311/1.

while government Members were granted one debate every seven sittings and independent Members, one debate per sessional period.[40] All other such debates were allocated to the Official Opposition.

The Standing Orders provide for a maximum of seven want of confidence motions per session (S.O. 304). According to the distribution set out for the 39th Legislature, the Second Opposition Group was entitled to move two such motions every two sessions, and independent Members were entitled to move one, with the other eleven in the two-session cycle being reserved for the Official Opposition.

Under a new measure introduced in the 2009 Standing Orders, Members may take the floor for up to one minute to make a statement. Statements by Members are limited to 10 per sitting. For the 39th Legislature, five such statements were allocated to the group forming the Government, four to the Official Opposition and one to the Second Opposition Group. The single independent Member was granted the right to make a statement once every six sittings in place of a government Member or an Official Opposition Member, in alternating fashion.

After two Members from the Second Opposition Group decided in November 2009 to sit as independent Members, the Chair ruled that, in order to respect the choice of the Members who had unanimously adopted new rules, it 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 speaking times and oversight measures allocated to the two new independent Members were taken from those granted to the Second Opposition Group.[41] Later, the allocation was adjusted again when certain Members from the Official Opposition decided to sit as independents. While the President altered the allocation of those measures 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 that group.[42] ■

40. See Chapter 6, "Legislatures, Sessions and Sittings".
41. JD, November 10, 2009, pp. 3845–3847 (Yvon Vallières)/*RDPP*, no. 13/2. Consequently, the number of debates upon adjournment to which the Second Opposition Group was entitled was reduced to one every three sittings instead of every two sittings, which left one per sessional period for the two new independent Members. The number of statements by Members allocated to the Second Opposition Group was reduced from one per sitting to four per six sittings, allowing the two new independent Members one per six sittings, as was the case for the other independent Member (JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/*RDPP*, no. 74/22). Later, in March 2010, the President ruled on the question of Wednesday motions and interpellations, reducing the number of each granted to the Second Opposition Group from one per cycle of 10 to one per cycle of 15, and granting one of each per two cycles of 30 to the two new independent Members, with the number allocated to the Official Opposition and the other independent Member remaining unchanged (JD, March 9, 2010, pp. 4592–4593 (Yvon Vallières)/*RDPP*, no. 97.2/3).
42. JD, September 20, pp. 2440–2442 (Jacques Chagnon)/*RDPP*, no. 74/24.

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 opposition Members, 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 governing Question Period, it is nonetheless an important criterion that the President must consider when allocating questions.[43] 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.[44] The President must also take into account the presence of independent Members, but does not necessarily grant them a question at every sitting.

5.1.4.5 Parliamentary Committees

Parliamentary groups also enjoy certain advantages within parliamentary committees. For instance, the House leader and the whip of each parliamentary group are members of both the Committee on the National Assembly and the Subcommittee on Parliamentary Reform.[45] Not later than the third sitting of the Assembly after the election of the President at the opening of a legislature or whenever necessary during the remainder of that legislature, the Committee on the National Assembly decides the composition of the other 10 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 in opposition (S.O. 127). In doing so, it must respect the criteria established by the Standing Orders for the representation of each parliamentary group within each committee.

The Committee on Public Administration is made up of 10 permanent members, six of whom are Members from the group forming the Government and four of whom are from the opposition, with at least three from the Official Opposition. It also includes eight temporary members, that is, five Members from the group forming the Government and three from the Official Opposition, appointed by their respective whips for the duration of a sitting or an

43. See Chapter 10, "Question Period".
44. JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/*RDPP*, no. 74/19.
45. 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, independent Member for Chutes-de-la-Chaudière, 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).

item of business. Under Standing Order 117.5, the committee Chair is chosen from among the Members of the Official Opposition.

Generally, the other nine committees are made up of 10 Members, six from the parliamentary group forming the Government and four from the Official Opposition (S.O. 121). When a committee includes a Member from an opposition group other than the Official Opposition or an independent Member, the committee has a total membership of 12, including seven Members from the group forming the Government (S.O. 122).

In addition to the Committee on Public Administration, three other committees are chaired by a Member in opposition—normally the Official Opposition—while the other six committees are chaired by a Member from the group forming the Government (S.O. 126). If there is no agreement on the allocation of chairships, 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 (S.O. 128).[46]

Committee Makeup During the 38th Legislature

During the 38th Legislature, the Assembly adopted[47] temporary amendments to the standing orders governing committee membership in order to give fairer representation to the three parliamentary groups making up the Assembly at the time. 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. Certain changes were also made to the allocation of committee chairships, with five committees being chaired by a Member from the group forming the Government, three, including the Committee on Public Administration, by a Member from the Official Opposition and two, by a Member from the Second Opposition Group. ■

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 or not 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 elects its Chair or Vice-Chair (S.O. 135), takes on a self-initiated mandate (S.O. 149), strikes a subcommittee (S.O. 150), decides to meet in camera (S.O. 160) or

46. See Chapter 18, "Parliamentary Committees".

47. VP, May 24, 2007, pp. 73–78.

selects which body it wishes to hear for the purposes of an accountability or oversight mandate (S.O. 293.1 and 294), and when the Committee on Public Administration decides when and how it intends to proceed when examining financial commitments (R.C.P. 21).

5.1.5 Rights Conferred on Parliamentary Groups 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 section 88 of the *Act respecting the National Assembly*, which deals with the composition of the Office of the National Assembly, and section 108, which concerns 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 party appears in the context of the daily business of the Assembly.[48]

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, the party that obtained the next highest number of valid votes. Consequently, the third-ranked party in terms of the number of elected Members or valid votes is entitled to designate one member of the Office, even though the party is not a parliamentary group under Standing Order 13.

Section 108 of the Act authorizes the Office 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 of the Act allows certain parliamentary office-holders to staff their office. Aside from the President and the three Vice-Presidents, the following persons are granted a budget to establish and operate an office: the Leader of the Official Opposition, the leader of a party represented in the Assembly that meets the same conditions as

48. For more information, see Section 5.2.2, "Rights Conferred on Independent Members by Certain Legislative Provisions".

those set out for the constitution of a parliamentary group,[49] the Government House Leader, the Official Opposition House Leader, the House leader of a party that forms a parliamentary group, the Chief Government Whip and the Chief Official Opposition Whip.

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. Thus, a Member recognized as the Leader of the Official Opposition in the Assembly receives, on an annual basis, 75 percent of the annual indemnity granted to Members. An additional indemnity of 35 percent 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.[50] Government Members who assume the following functions are entitled to an additional indemnity: Chief Government Whip (35%), assistant Government Whip (30%), caucus chair (25%), and deputy Government House Leader (25%) if he or she is not a Cabinet member. Official Opposition Members who assume the following functions are also granted an additional indemnity: House leader (35%), deputy House leader (20%), caucus chair (22.5%) if the caucus is composed of at least 20 Members, chief whip (30%) and assistant whip (20%).[51] Lastly, the whip of any other opposition party that forms a parliamentary group also receives an additional indemnity (20%).[52]

5.2 INDEPENDENT MEMBERS

All Members who do not belong to a parliamentary group sit as independent Members, with the exception of the President (S.O. 13). As the Chair pointed out in a 2003 ruling, the Standing Orders make no distinction between independent Members who represent a political party and Members who do

49. Under section 124.1 of the Act, "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" and the House leader of such a party are entitled to a budget to operate an office.
50. Under subparagraph 6(*c*) of the first paragraph of section 7, the leader of a political party that met the criteria for forming a parliamentary group during the previous legislature is entitled to the same indemnity.
51. See footnote 20.
52. The indemnity granted to the whip of an opposition party other than the Official Opposition was withdrawn during the 39th Legislature following the adoption 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* (L.Q., 2009, c. 3, s. 1), and replaced by an indemnity of 25 percent for the House leader of such a party.

not belong to a political party: all are considered independent. The definition of independent Member in the Standing Orders is not the same as that provided in the *Election Act*.[53] Moreover, the concept of political party found in sections 88 and 108 of the *Act respecting the National Assembly* for administrative purposes has no impact on parliamentary proceedings, during which only the concepts of parliamentary group and independent Member are accepted.[54] Although political party affiliation does not confer any particular rights, the Chair has recognized that the Assembly cannot deny any Member's political affiliation.[55]

5.2.1 Rights Conferred on Independent Members 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, par. 1), request leave to debate an urgent matter (S.O. 88) and present motions (S.O. 185). Under the Standing Orders, during most debates, they enjoy the same speaking times granted to all Members (S.O. 209), but obviously may not use the extra time granted to the leader of a parliamentary group or the leader's representative.[56]

Standing Order 84.1, adopted under the 2009 parliamentary reform, confers certain advantages on independent Members, entitling one independent Member to move one motion per sitting day, at the stage of Routine Proceedings reserved for motions without notice, as may one Member per parliamentary group. However, the same independent Member may not make more than one motion per three sittings. Furthermore, since such motions may only be debated by leave of the entire Assembly, the independent Members may make their consent subject to their being granted a certain

53. L.Q., c. E-3.3, s. 41.
54. JD, December 10, 2003, pp. 2415–2417 (Michel Bissonnet)/*RDPP*, no. 13/1.
55. Ibid. Thus, when a Member belonging to a political party takes the floor in the House, the letters identifying that political affiliation appear beside the Member's name on television, whether or not the Member belongs to a parliamentary group. Moreover, on the Assembly's website, and in the schedule to the *Journal des débats*, all the Members are identified with their political affiliation. See also JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/*RDPP*, no. 74/21.
56. On certain occasions, however, the Chair traditionally gives the floor to each party leader in turn, regardless of whether or not the party constitutes a parliamentary group. This is done, for instance, when new Members are welcomed to the Assembly and when the Members convey their best wishes for the holiday season and the new year to the public at the end of the fall sessional period.

amount of speaking time on a motion moved by a Member affiliated with a parliamentary group.[57]

Nevertheless, the Chair has a primary 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.[58] The Chair must take the presence of independent Members into account in the general application of the Standing Orders, for instance, when required to rule on questions related to the rights granted to all Members, regardless of their status. Consequently, the Chair has 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.[59] Moreover, certain Standing Orders specifically protect the rights of independent Members, in particular with respect to the distribution of parliamentary oversight measures granted mainly to Members in opposition, speaking times during limited debates, and the makeup of parliamentary committees.

5.2.1.1 Distribution of Parliamentary Oversight Measures

Several Standing Orders expressly provide that the President must consider the presence of independent Members before making certain decisions. For instance, the President must protect their rights during meetings held with the House leaders to set out the rules for limited debates.[60] This is particularly important since independent Members are not entitled to attend those meetings, even when the purpose of the meeting is to distribute speaking time during the debate on a motion presented by an independent Member.

The President must also consider the presence of independent Members when determining the order in which business standing in the name of Members in opposition is to be debated (S.O. 97.2), the subject of an interpellation (S.O. 297), the allocation of want of confidence motions (S.O. 305) or the allocation and sequence of statements by Members (S.O. 54.4) and debates upon adjournment (S.O. 311). Thus, in 1990, the Chair informed the Assembly

57. See Chapter 9, Section 9.2.9, "Motions Without Notice".
58. See Chapter 2, "The Foundations of Parliamentary Procedure".
59. 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 demand a recorded division on behalf of other independent Members. Standing Order 220 provides that voting is to be conducted by a show of hands unless five Members request a recorded division. The Chair based the ruling on the practice according to which a recorded division is presumed to have been requested by all the Members belonging to a parliamentary group when the House leader of the group requests it and at least four other Members from the group are present.
60. See Chapter 13, "Rules of Parliamentary Debate and Distribution of Debating Time".

that independent Members were entitled to only one want of confidence motion during the session.[61] In 2002, it was ruled that a motion by an independent Member could be debated during the stage of Routine Proceedings reserved for business standing in the name of Members in opposition (Wednesday motions).[62] However, during the 37th Legislature, the Chair opted instead to grant the independent Members collectively one Wednesday motion or interpellation per sessional period, alternating between the two measures.[63]

During Question Period, the Chair may set out certain rules pertaining to the rank and frequency of main questions accorded to independent Members. 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.[64] This guideline was also followed during the first session of the 36th Legislature,[65] 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,[66] and then to two questions every four sittings when a sixth independent Member arrived.[67] During the 37th Legislature, when there were four independent Members, the Chair set the number of questions at two every five sittings.[68] When the number of independents again rose to five because one Member left the ranks of his parliamentary group, the number of questions remained the same.[69] With the arrival of a sixth independent Member and given the precedents already set, the ratio was once more raised to two questions every four sittings,[70] and the Chair specified that those

61. JD, June 18, 1990, p. 3533 (Jean-Pierre Saintonge)/*RDPP*, no. 305/2.
62. JD, October 15, 2002, pp. 7077–7078 (Louise Harel)/*RDPP*, no. 97.2/1. This ruling was handed down toward the end of the 2nd Session of the 36th Legislature 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 Chair established that business standing in the name of an independent Member could be debated during a session.
63. VP, April 20, 2004, p. 637; VP, November 11, 2004, p. 994; VP, April 19, 2005, p. 1426; VP, November 3, 2005, p. 1848; VP, May 16, 2006, p. 256; VP, November 9, 2006, p. 610. See also Chapter 9, Section 9.2.5, "Oral Answers to Petitions".
64. JD, September 20, 1995, p. 5159 (Roger Bertrand)/*RDPP*, no. 74/12.
65. JD, November 21, 2000, pp. 7998–8000 (Jean-Pierre Charbonneau)/*RDPP*, no. 74/13.
66. JD, October 15, 2002, pp. 7077–7078 (Louise Harel)/*RDPP*, no. 74/14.
67. JD, December 3, 2002, pp. 7966–7967 (Louise Harel)/*RDPP*, no. 74/15.
68. JD, October 30, 2003, pp. 1216–1217 (Michel Bissonnet)/*RDPP*, no. 74/16.
69. JD, March 23, 2004, p. 3186 (Michel Bissonnet)/*RDPP*, no. 74/17.
70. JD, October 20, 2004, p. 5190 (Michel Bissonnet)/*RDPP*, no. 74/18.

questions were granted to the independent Members collectively, regardless of their political affiliation.[71]

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 Chair did not grant them the same rights as the parliamentary groups, it decided to consider the proportional representation of independent Members in the allocation of questions. Since the eight independent Members represented 13.6 percent of the Members in opposition at the beginning of the Legislature, the Chair granted them one question per sitting day, representing about 10 percent 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 the Official Opposition.[72] Second, although the Chair had always been of the opinion that the rights granted to independent Members were given them collectively regardless of their political affiliation,[73] 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 Action démocratique du Québec and one with Québec solidaire. During Question Period, each of them was allowed to ask one question on a rotating basis, and a Member could ask a question on behalf of a colleague affiliated with the same political party.[74] The Member affiliated with Québec solidaire was thus ensured 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.[75]

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 times for limited debates were set out in the document adopted by the Assembly at that time. Since there remained only one independent Member, the document granted that Member one

71. Ibid.
72. JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/*RDPP*, no. 74/21.
73. 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.
74. JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/*RDPP*, no. 74/21.
75. The same logic was applied to the distribution of speaking time during limited debates, the Members affiliated with the ADQ being granted a total amount of time to share, and a separate amount of time being granted to the independent Member affiliated with Québec solidaire.

question every seven sittings, the same number as before that date. He was granted one debate upon adjournment per sessional period, and one Wednesday motion and one interpellation per parliamentary year, which could not be used in the same sessional period.

Later, when two Members from the Second Opposition Group decided to sit as independents, the Chair announced its intention to respect the spirit of the document and protect the rights of the original independent Member and the Official Opposition. Consequently, the speaking times and oversight measures granted to the two newly independent Members were determined based on those enjoyed by the Second Opposition Group.[76]

After several Members of the Official Opposition decided to sit as independent Members, the total number of independents rose to 10. At that point, the Chair 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 times.[77] The Chair then ruled that the independent Members would collectively be entitled to a maximum of nine questions—by nine different Members—per eight sittings, and that those questions would be distributed by drawing names,[78] as is done in several parliaments throughout the world. The same procedure was adopted for Wednesday motions, interpellations and statements by Members.[79] The Member affiliated with Québec solidaire no longer had all the rights he had obtained under the reform of 2009 but he

76. JD, March 9, 2010, pp. 4592–4593 (Yvon Vallières)/*RDPP*, no. 97.2/3. The Member affiliated with Québec solidaire thus retained one question every seven sittings as well as the parliamentary oversight measures and speaking time during limited debates granted him in the document adopted on April 21, 2009. The two new independent Members were also granted one question per seven sittings and one debate upon adjournment per sessional period. However, they were not granted the same speaking time during limited debates or the same 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 was granted one of each per parliamentary year.
77. JD, September 20, 2011, pp. 2440–2442 (Jacques Chagnon)/*RDPP*, no. 74/24.
78. This procedure, established on September 20, 2011, was modified on November 1, 2011 after a test period (VP, November 1, 2011, p. 680). See Appendix IV, "Random Draw Procedure for the Allocation of Measures Among Independent Members".
79. The independent Members collectively were allocated two Wednesday motions and two interpellations—ranked eighth and twelfth—per cycle of 15. They were also granted 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. The group was granted an envelope of time for limited debates, and had to notify the Chair within the first 10 minutes of a debate as to whether or not they wished to speak, to enable the Chair to divide the total time allocated among those wishing to take the floor. For example, during a two-hour

did retain greater latitude as to when he could exercise his rights, given that he was not included in the draw.

5.2.1.2 Independent Members in Committee

Independent Members may sit on parliamentary committees. Although they are not entitled to appointment to a specific committee, they may nevertheless indicate their personal preference to the Committee on the National Assembly, which is responsible for committee membership under Standing Order 127.[80] If an independent Member joins a sectorial committee, the total number of committee members increases from 10 to 12 (S.O. 122). Moreover, independent Members enjoy a special privilege in that they are entitled to take part in the proceedings of a committee examining a bill even if they are already members of another committee (S.O. 133). There they may present motions if they choose, but may not vote.[81] They may also take part in the proceedings of the Committee on Public Administration, but are not entitled to vote or present motions (S.O. 117.4). In contrast, Members from a parliamentary group who already sit on a committee may not participate in the work of another committee without the permission of that committee (S.O. 132), unless it is examining the estimates. Even with such permission, they are not entitled to vote or present a motion (S.O. 132).[82]

5.2.2 Rights Conferred on Independent Members 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 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 appoint a Member to the Office of the National Assembly even if it 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 provided he or she represents a party.[83] Furthermore, since the last session of the 34th Legislature, all

limited debate, the total time envelope allocated to them was 10 minutes, with each individual independent Member being limited to a maximum of five minutes.

80. See Chapter 18, "Parliamentary Committees".
81. JD, March 2, 1993, p. CBA-1871 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 133/1.
82. See Chapter 18, "Parliamentary Committees".
83. For instance, during the 35th, 36th and 37th Legislatures, Mario Dumont, Member for Rivière-du-Loup and leader of the Action démocratique du Québec, was a member of the

independent Members, whether or not they represent a party, may receive a research and support budget.[84] In the past, only political parties represented in the National Assembly and their Members were entitled to such a budget.[85]

An independent Member who is the leader of a political party is not entitled to the additional indemnity granted to a party leader unless the party met the criteria for parliamentary group status during the previous legislature.[86] Such an independent Member, in contrast to the other political party leaders, may not staff an office but is authorized to appoint the personnel required to assist him or her in the duties of office, as may any other Member (S.O. 124.1).

Office of the National Assembly even though he was considered an independent Member within the meaning of the Standing Orders.

84. Section 108 of the *Act respecting the National Assembly* provides that the Office 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.

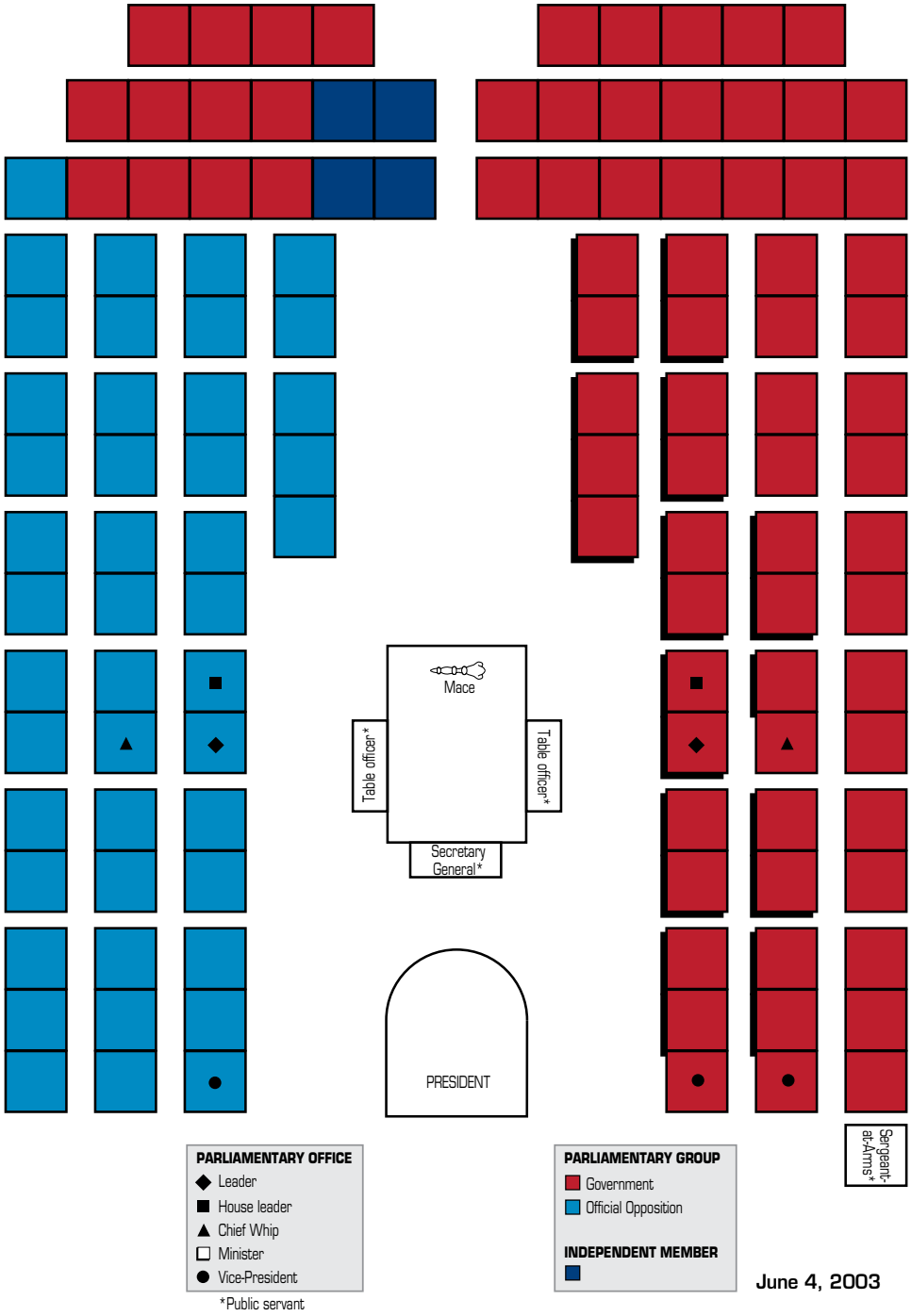
85. However, independent Members affiliated with a political party represented in the Assembly following a general election enjoy a certain advantage over other independent Members. Since 1999, the leader of a party that does not constitute a parliamentary group, or an authorized Member of that party, may transfer the amounts required to remunerate the party's regular research and support personnel to the budget granted the Member for the remuneration of his or her personnel and the payment of professional services (ANA, s. 108). Formerly, a political party could only transfer those amounts 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 that provision.

86. *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly*, s. 7, 1st par., subpar. 6(*c*). This provision ceased to apply on April 21, 2009, for the duration of the 39th Legislature (L.Q., 2009, c. 3, s. 1).

Seating Plan for the Assembly

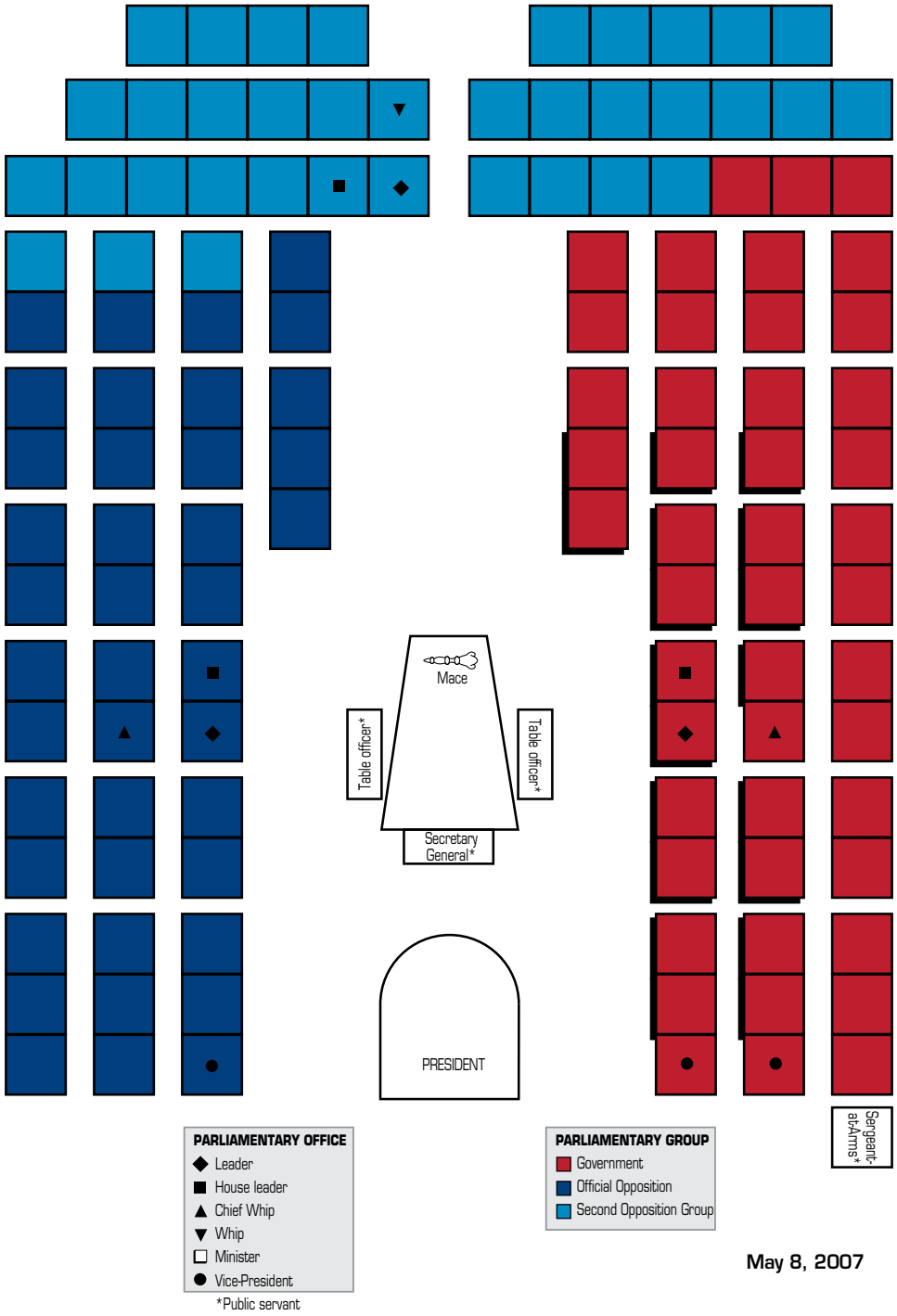
37TH LEGISLATURE

Opening of the 1st Session



38TH LEGISLATURE

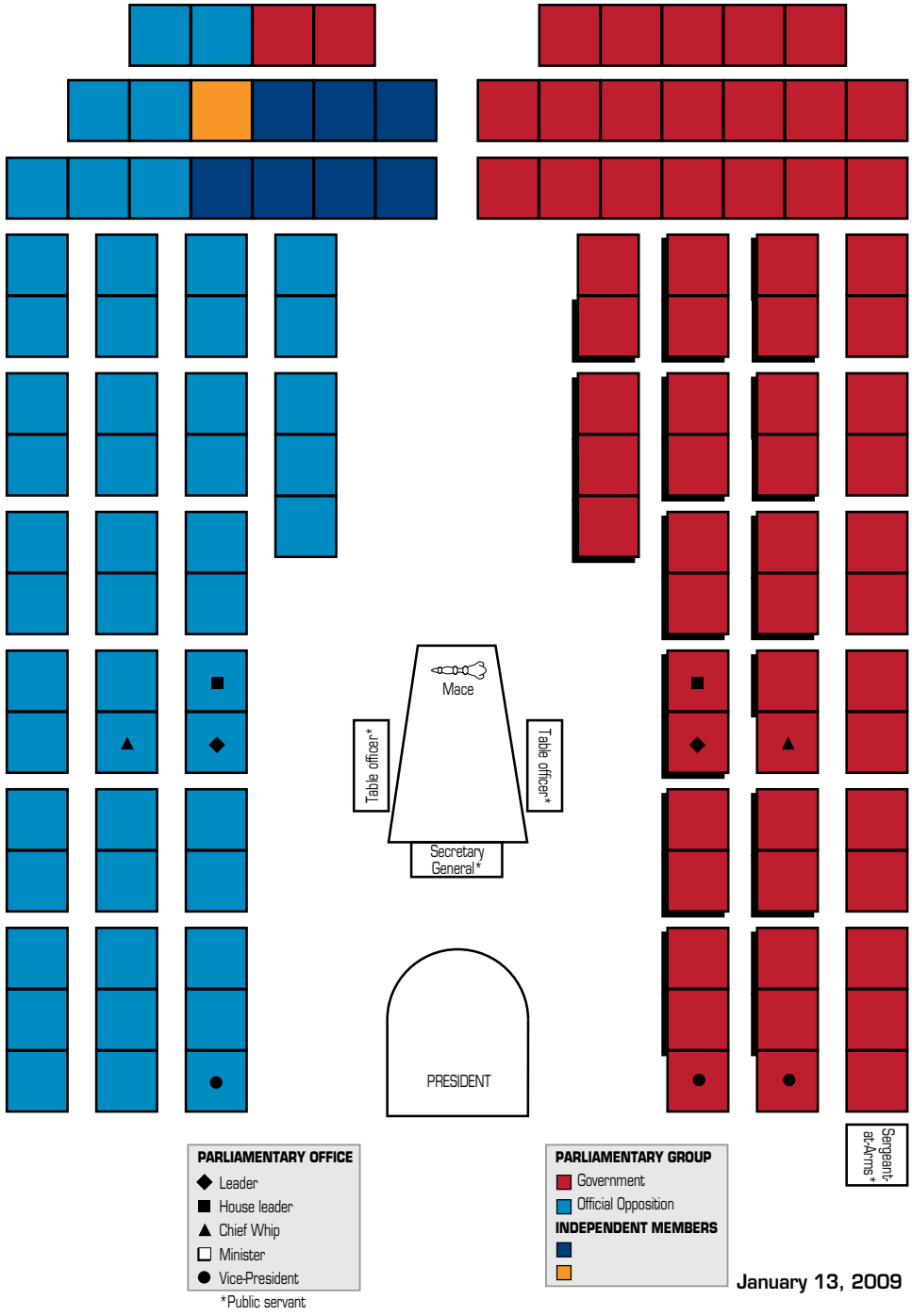
Opening of the 1st Session



May 8, 2007

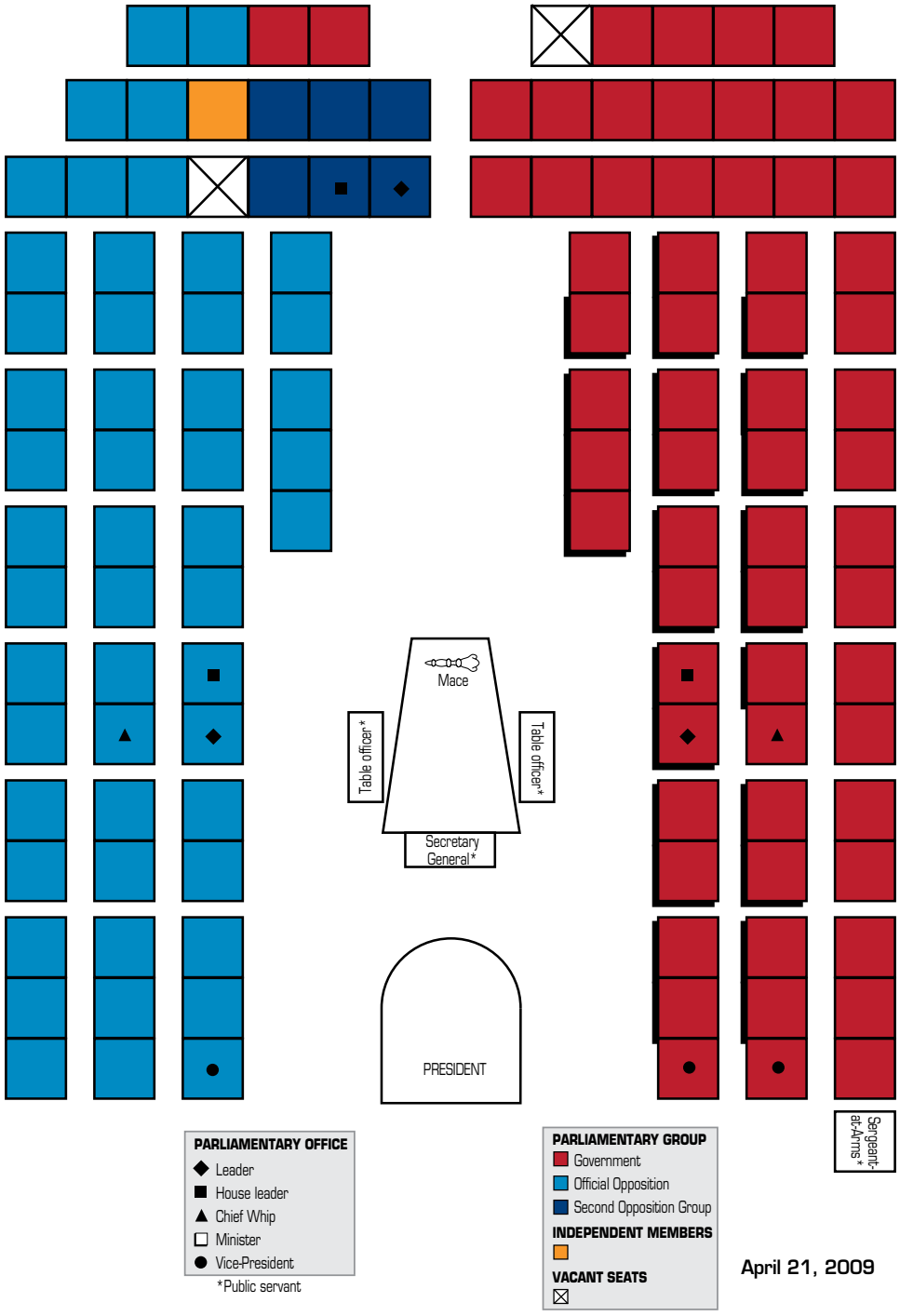
39TH LEGISLATURE

Opening of the 1st Session



39TH LEGISLATURE

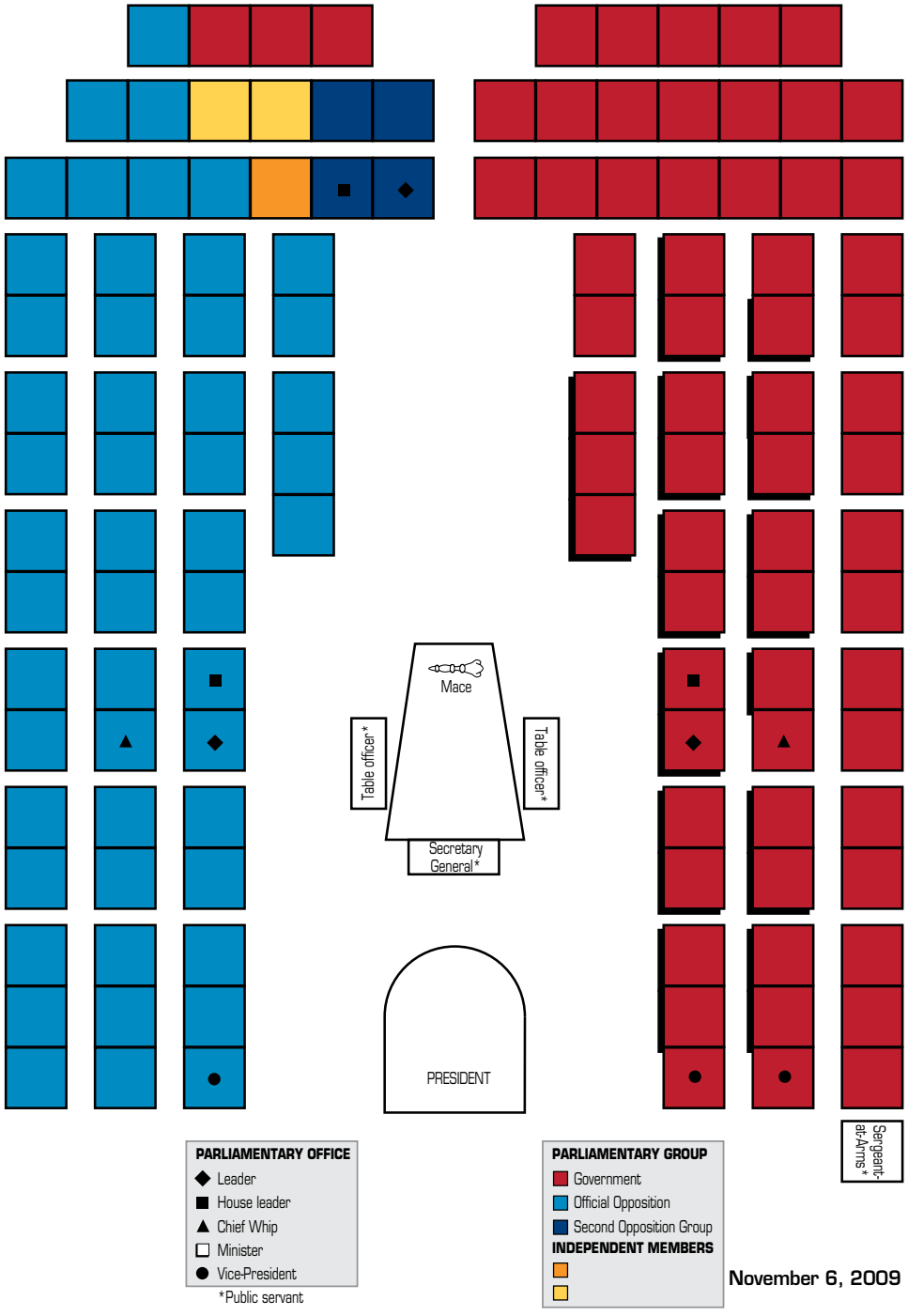
Recognition of the ADQ as a parliamentary group



April 21, 2009

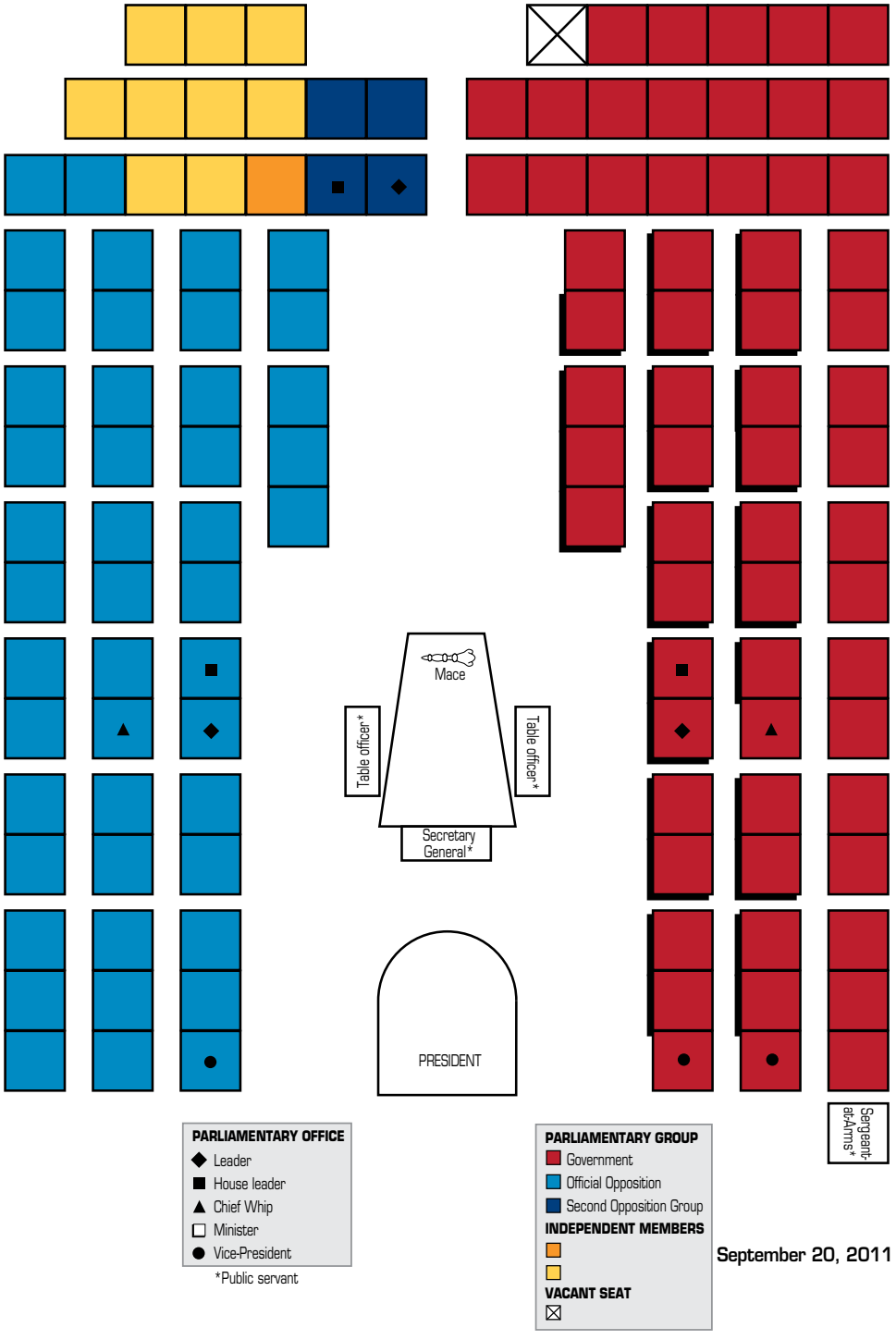
39TH LEGISLATURE

Second Opposition Group Members decide to sit as independent Members



39TH LEGISLATURE

President's directive following arrival of several independent Members



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.

In Québec, as in any democratic society, parliamentary proceedings are conducted within a set time frame. Elected representatives may not collectively serve in the National Assembly for more than the maximum duration, or term, of a legislature, expressly set out in the Canadian Constitution. A legislature is made up of periods of undetermined length called sessions. A session runs from the time the Assembly is summoned by the Lieutenant-Governor until it is prorogued. In other words, it is the period during which

the Assembly is empowered to sit. Sessions are made up of sittings, which correspond to 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, which are spelled out in the rules of parliamentary procedure.[2]

6.1 LEGISLATURES

The term legislature generally refers, in Québec, to the life of a Parliament, that is, the period of time following a general election, between the beginning of the term of a legislative assembly and its dissolution.[3]

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*,[4] the beginning of a legislature is the day on which the Secretary General of the National Assembly receives a complete list of all elected candidates from the Chief Electoral Officer, acting under section 380 of the *Election Act* (ANA, s. 6).[5] Several weeks may elapse between the general election and the receipt of this list.[6]

1. See Chapter 9, "Conduct of a Sitting".
2. See Chapter 13, "Rules of Parliamentary Debate and Distribution of Debating Time".
3. It is important to specify which of the two meanings of "legislature" is intended here. The term is sometimes used to designate Québec's legislative body, or Parliament. In this regard, section 71 of the *Constitution Act, 1867* 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 abolished by the *Act respecting the Legislative Council*, L.Q., 1968, c. 9. "Legislature" may also be employed to designate the term of the body of Members of the National Assembly between two general elections (ANA, s. 6). In strict legal terms, "legislature" should no longer be used in Québec to designate the Parliament, as section 2 of the *Act respecting the National Assembly*, L.Q., c. A-23.1, states: "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." On this subject, see page 27 of *Lexique des termes parlementaires en usage en Belgique, en France et au Québec*, by Jean-Pierre Bloch, Claude Remy and Gaston Deschênes, and section 61(8) of the *Interpretation Act*, L.Q., c. I-16. The *Constitution Act, 1867* contains several provisions, for example, sections 71, 80, 83, 84 and 92, that refer to the legislature of a province as a legislative body. The *Constitution Act, 1982* also contains provisions, for example, sections 4, 5, 32 and 45, including similar references.
4. L.Q., c. E-3.3.
5. *Act respecting the National Assembly*, s. 1.
6. A general election was held on September 12, 1994. Owing to a tie vote, a new election was held in the electoral division 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

Under section 6 of the *Act respecting the National Assembly*, the maximum term of a legislature is five years.[7] 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 by proclamation (ANA, s. 5, and s. 6, 2nd par.).[8] A legislature may also simply expire after five years. In time of real or apprehended war, invasion or insurrection, a legislature may be continued beyond five years if the continuation is not opposed by more than one third of the Members of the Assembly (*Constitution Act, 1982*, s. 4(2)).

Concretely, to end a legislature, the Executive Council, on the recommendation of the Premier,[9] 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*.[10] In most cases, the proclamation to dissolve the Assembly is made after it is prorogued to a specific date.[11] In the other cases, the

situation occurred in the general election of April 14, 2003 in the electoral division of Champlain, when the complete list was received on May 27. In the general election held on November 30, 1998, a candidate in the electoral division of Masson died a few days before the poll, which was postponed until December 14 in that riding. As a result, the list of elected candidates was not complete until December 21.

7. This section must be read in conjunction with section 4 of the *Constitution Act, 1982*, which stipulates that
"(1) No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs of a general election of its members.
(2) In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly, as the case may be."

8. [TRANSLATION] "The sovereign retained exceptional powers and some privileges as regards the application of law from the time he or she governed as absolute monarch. These were called royal prerogatives . . . By constitutional convention, the exceptional powers of the sovereign (dissolution of legislative assemblies . . .) were all transferred to the governments." (Brun, Tremblay and Brouillet, *Droit constitutionnel*, 5th ed., p. 362).

9. "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 . . . " (Dussault and Borgeat, p. 60).

10. Orders are published in the *Gazette officielle du Québec* under section 11.1 of the *Executive Power Act*, L.Q., 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 the *Gazette officielle du Québec*, Part I, November 14, 1998, pp. 1281–1282 (in French only).

11. There have been 27 such cases to date. In the most recent one, the Assembly was prorogued by proclamation on October 21, 1998, to reassemble on December 15, 1998. It was subsequently dissolved by proclamation on October 28, 1998.

Assembly is dissolved without first being prorogued,[12] prorogation not technically being necessary, since dissolution automatically closes the session.[13] 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.[14]

6.1.2 Effects of Dissolution of a Legislature

Dissolution is rightly defined as the civil death of a Parliament.[15] 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,[16] although Members continue to receive certain indemnities and allowances by law until the next general election.[17] Normally, ministers remain in office until their successors are designated, even if the House has been dissolved and they have been defeated in their own ridings.[18] The President and Vice-Presidents remain in office until they are replaced or reappointed by the new Assembly (ANA, s. 24) and carry out the duties of the Office of the National Assembly (ANA, s. 94).[19]

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 passed (S.O. 47 and 48). According to Standing Order 47, orders for the production or printing of papers survive the prorogation of a session, but the Chair of the Assembly has not so far 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.

12. The last such instance was on November 5, 2008. Prior to that, the Assembly had been dissolved without first being prorogued 10 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 and February 21, 2007.
13. Geoffrion 1941, S.O. 9.
14. May, *Treatise*, 22nd ed., p. 232.
15. Lauvaux, *La dissolution des assemblées parlementaires*, p. 306.
16. Brun and Tremblay, *Droit constitutionnel*, 4th ed., p. 321.
17. *Act respecting the conditions of employment and the pension plan of the Members of the National Assembly*, L.Q., c. C-52.1, ss. 6 and 20; *Act respecting the National Assembly*, s. 104.
18. Brun, Tremblay and Brouillet, *Droit constitutionnel*, 5th ed., p. 375.
19. The Office of the National Assembly manages and regulates the administration of the Assembly. See Chapter 4, "The Office of President".

Proclamation 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.**

A Nos très aimés et fidèles Membres de l'Assemblée nationale, ainsi qu'à tous ceux que les présentes peuvent concerner, **SALUT :**

PROCLAMATION

ATTENDU que sur l'avis du Conseil exécutif de la Province de Québec, Nous avons jugé à propos de dissoudre la présente Assemblée;

A CES CAUSES, Nous dissolvons par les présentes ladite Assemblée.

EN FOI DE QUOI, Nous avons fait rendre Nos présentes Lettres patentes et à icelles fait apposer le Grand Sceau de la Province de Québec.

Témoin : Notre très fidèle et bien-aimé l'honorable Lizette Jacques

Lieutenant-Gouverneur de ladite Province.

Donné en Notre Ville de Québec, le cinquième jour de novembre, l'an de grâce deux mille huit et de Notre Règne le soixante-septième.

Par ordre,

Le Secrétaire général de l'Assemblée nationale,

Pierre Ouellet

The Standing Orders and the Rules for the Conduct of Proceedings in the Assembly remain in force even if a legislature is dissolved.[20] 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, they cease to exist in practice.

6.2 SESSIONS

A session corresponds to the period in a given legislature between the summoning of the Assembly and its prorogation or dissolution.[21] 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.[22]

20. See Chapter 2, "The Foundations of Parliamentary Procedure". Whether or not temporary amendments to the Standing Orders and the Rules for the Conduct of Proceedings remain in force depends on the wording of the motion adopted by the Assembly, that is, on whether the motion states that the amendments are to be in force for the duration of the legislature or for a specific period, "notwithstanding the closing of the Session". Since a session may be terminated either by the prorogation or the dissolution of the Assembly (Geoffrion 1941, S.O. 9), it is not clear whether such Rules or Standing Orders survive in the case of dissolution. As yet the Chair of the Assembly has not officially ruled on the question, which has come up 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 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 the Rules for the Conduct of Proceedings concerning petitions, 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.
21. Geoffrion 1941, S.O. 9.
22. See Section 6.3.1, "Regular Sittings".

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 portion 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 37th Legislature, which lasted close to three years, from June 4, 2003 to March 10, 2006. Three other sessions lasted barely one day.[23]

6.2.1 Summoning the Assembly

The Assembly is convened 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.[24] However, the opening of a session may be deferred or further deferred to a later date by proclamation.[25] Although it has been said that the opening of a session may never be accelerated, in practice, this is not true.[26] 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 (S.O. 45). If the Assembly must elect a President and Vice-Presidents, this is done before the Lieutenant-Governor's address. Such an election is generally held at the beginning of a legislature, since the President is usually already in office for the opening of any other session. According to custom, the Assembly may not elect the President and Vice-Presidents at the beginning of a session unless authorized to do so by the Lieutenant-Governor. This was actually spelled out in former

23. 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).
24. May, *Treatise*, 22nd ed., p. 56.
25. Beauchesne, 6th ed., pp. 67 and 72. 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 meeting 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).
26. Geoffrion 1941, S.O. 7, note 2 (in French only); Beauchesne, p. 72. The National Assembly was summoned to meet at an earlier date on two occasions: the meeting of March 11, 1986 was moved up to December 16, 1985; and the meeting of March 9, 1999 was moved up to March 2, 1999.

Proclamation Summoning a New 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.**

A tous ceux qui les présentes verront ou qu'icelles pourront concerner, **SALUT :**

PROCLAMATION

ATTENDU que c'est Notre désir et Notre bon plaisir de rencontrer aussitôt que possible le peuple de la Province de Québec et d'obtenir son avis exprimé en Parlement;

A CES CAUSES, sur l'avis du Conseil exécutif de la Province de Québec, Nous convoquons par les présentes une nouvelle Assemblée pour le ..... prochain et mandons et ordonnons à ses Membres de s'assembler à cette date, à l'Hôtel du Parlement, en la Ville de Québec.

EN FOI DE QUOI, Nous avons fait rendre Nos présentes Lettres patentes et à icelles fait apposer le Grand Sceau de la Province de Québec.

Témoin : Notre très fidèle et bien-aimé l'honorable .....

.....

Lieutenant-Gouverneur de ladite Province.

Donné en Notre Ville de Québec, le ..... et de Notre Règne le ..... l'an de grâce deux mille .....

Par ordre,

Le Secrétaire général de l'Assemblée nationale,

.....

Standing Orders of the Assembly,[27] but is no longer mentioned in the current Standing Orders. The Assembly nevertheless continues to observe this custom: to date, before the Assembly has elected a President, the Premier has always announced that the Lieutenant-Governor authorizes it to do so.

A session is officially open only after the Lieutenant-Governor's address. Thus, the Assembly may not begin to deliberate until the Lieutenant-Governor has stated the reasons for summoning the legislature.[28] 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.[29] The Standing Orders do not set a time limit on the address.

The Lieutenant-Governor's address is followed by the Premier's opening speech (S.O. 45).[30] The main points of the inaugural message are included in the Premier's speech, not in the Lieutenant-Governor's address. 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" is no longer used in Québec.[31] The Premier's speech is, in a manner of speaking, a general policy statement on the matters that will be at the heart of the Government's concerns during the session.

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 (S.O. 87(1)). Until that business has been dealt with, the Assembly may not examine any other matter. Committee proceedings are also suspended during those speeches (S.O. 87, 2nd par.).

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27. Geoffrion 1941, S.O. 8, S.O. 6, note (in French only), and S.O. 11, Note 1. 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.
28. JD, March 8, 1977, p. 1 (Clément Richard)/*RDPP*, no. 45/1; Geoffrion 1941, S.O. 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 read the next day, March 3, 1999.
29. In one instance, a Member interrupted the Lieutenant-Governor to have the Government's legislative program read in French (JD, March 15, 1973, pp. 1–4).
30. If the Premier is absent, it is generally the duty of the Deputy Premier to deliver the opening speech. On December 16, 1985, for instance, at the opening of the session following a general election, the deputy Premier delivered the opening speech instead of the Premier, who had been defeated in his electoral division (JD, December 16, 1985, p. 5).
31. The Lieutenant-Governor's address was designated as the Speech from the Throne for the last time in Québec in 1968. In December 1976, the Standing Orders then in force were amended to include the notions of the Lieutenant-Governor's opening address and the inaugural message by the Premier. See Chapter 1, Section 1.6.1, "Abolition of the Legislative Council (1968) and the "Lavoie" Edition of the Standing Orders (1973)".

The opening speech by the Premier or the Premier's representative may run up to two hours (S.O. 50), during which time the Premier outlines the general legislative intentions of the Government and the program that will be submitted to the Assembly during the session. 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 (S.O. 45). After the Premier's speech, the President adjourns the sitting (S.O. 46). The debate on the opening speech begins on the following sitting day with an address by the Leader of the Official Opposition (S.O. 49).

6.2.2.1 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 run up to 25 hours (S.O. 50). However, Standing Order 50 specifies 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 in Standing Order 211, whereby speeches are to be directed only to the matter under discussion, is set aside. In practice, the 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 Leader of the Official Opposition or his or her 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 (S.O. 49 and 50), who may speak for up to one hour each. These speeches have precedence over any other matter (S.O. 49 and 87(1)) except a motion to introduce an exceptional procedure (S.O. 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, but unlike the Premier's and the leaders' speeches, which are the first order of business having precedence listed in the Standing Orders, resumption of the debate on the opening speech is the next to last, 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 main estimates.[32] Moreover, although the debate on the opening speech has precedence, it is interrupted to allow committee consideration of the main estimates, during which time the Assembly conducts only Routine Proceedings.[33]

In practice, the time remaining out of the 25 hours allotted for the debate on the opening speech is apportioned on resumption of the debate. The debate is limited, since the Standing Orders provide a collective envelope of 25 hours for all the Members, which includes the time allotted to the Premier and the leaders of parliamentary groups, rather than a specified limit on a Member's speaking time.

As is the case for all limited debates, the time envelope must be divided up among the Members. The general rule in Standing Order 210 applies: after conferring with the House leaders, the President apportions the time for debate among the parliamentary groups, taking into account any independent Members, who are given either a collective time envelope or a specific period for each Member. A one-hour period is reserved under the Standing Orders for the reply by the Government's representative (S.O. 50).[34]

Time allocation is simple if there are only two parliamentary groups, the group forming the Government and the Official Opposition: after deducting the time reserved for the reply and that allotted to independent Members, the remaining time is divided equally between the two groups. However, if there are more than two groups, the President apportions the time taking into account the status of each group and the number of seats it holds. During the 38th Legislature, the Government had 48 Members, while the Official Opposition had 41 Members and the Second Opposition Group, 36; there were no independent Members. Once the time provided for the reply and the time reserved under the Standing Orders for the leaders or their representatives was deducted, the remaining time was shared among the groups in proportion to the number of seats each held in the Assembly.[35]

32. Thus, the 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 conduct of Members of Parliament, the budget speech and the debate on it, the consideration of interim supply or the limited debate on the reports from the committees that examined the main estimates. For instance, there have been three occasions since 1984 when the opening speech was interrupted because of 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).
33. JD, April 24, 2001, pp. 1038–1043 (Jean-Pierre Charbonneau)/*RDPP*, no. 282/2.
34. See Chapter 5, "Parliamentary Groups and Independent Members", and Chapter 13, "Rules of Parliamentary Debate and Distribution of Debating Time".
35. After deducting the time reserved for the reply and the time provided for the leaders, a 19-hour envelope was divided between the three groups as follows: 7 hours and 18 minutes

The situation was different during the 39th Legislature, when the Action démocratique du Québec was recognized as a parliamentary group a few months after the opening of Parliament.[36] According to the document adopted on that occasion,[37] during the debate on the opening speech, as for any other limited debate, the Second Opposition Group was entitled to 10% of the total debate time remaining after deduction of the time provided for the reply. An envelope of 20 minutes was reserved for independent Members, and the remaining time was divided up equally between the group forming the Government and the Official Opposition.

The debate on the opening speech ends with a reply, which may last up to one hour (S.O. 50). The right of reply must be exercised by a Member of the Government. In some cases, it is the Premier[38] who speaks in reply, but most often it is a minister.[39] There have also been cases in which the right of reply has not been exercised at all.[40]

6.2.2.2 Motion Stating a Grievance or Want of Confidence Motion

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

(38.4%) for the group forming the Government; 6 hours and 14 minutes (32.8%) for the Official Opposition; and 5 hours and 28 minutes (28.8%) for the Second Opposition Group. The time provided for the leaders was then added to these speaking times for a total of 9 hours and 18 minutes for the group forming the Government, 8 hours and 14 minutes for the Official Opposition and 6 hours and 28 minutes for the Second Opposition Group (JD, May 10, 2007, p. 69 (Michel Bissonnet)/*RDPP*, no. 50/3).

36. During the debate on the opening speech of the 1st Session of the 39th Legislature, the six Members affiliated with the Action démocratique du Québec (ADQ) did not yet form a parliamentary group. Following a meeting with the House leaders, the President allotted those Members 1 hour and 33 minutes; 20 minutes were set aside for the other independent Member, the Member for Mercier, while any time not used by the Member for Mercier was to be added to that of the independent Members affiliated with the ADQ, and vice versa. Any time remaining was to be shared equally between the two other parliamentary groups (VP, March 11, 2009, p. 36).
37. *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*, April 2009 (VP, April 21, 2009, p. 214); see Appendix III. At the time of the recognition, the Second Opposition Group was made up of six Members. It should be noted, however, that the time apportioned to the Second Opposition Group was reduced from 10% to 7% after two of its Members decided to sit as independent Members.
38. JD, November 19, 1981, p. 316; JD, December 7, 1994, p. 311; JD, April 4, 1996, p. 391.
39. 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.
40. JD, April 14, 1983, p. 415; JD, April 19, 1983, p. 427; JD, April 1, 1999, p. 1049.

ensuing debate, a Member who takes the floor may move a motion stating a grievance or a want of confidence motion (S.O. 50).

The motion stating a grievance is a new feature of the Standing Orders. 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 to seven 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 (S.O. 304). In addition, any want of confidence motion must now state that the Assembly withdraws its confidence in the Government (S.O. 304.1).

The new motion stating a grievance allows Members to express their dissatisfaction with the Government without endangering the Government's existence. However, as previously, Members may also move a want of confidence motion to withdraw the Assembly's confidence in the Government. If they do so, however, they must keep in mind that this reduces the possibility of debating other want of confidence motions during the session.

A motion moved during the debate on the opening speech must be in writing (S.O. 190), but no notice is required (S.O. 50, 2nd par.). This is an exception to the general rule requiring Members to give prior notice of motions on the Order Paper (S.O. 188). A motion stating a grievance or a want of confidence motion is usually moved at the end of a speech, although there is no obligation in this respect. It may not be amended (S.O. 50, 2nd par.).

The Chair must refuse a motion that is contrary to the Standing Orders (S.O. 193). Furthermore, a Member may challenge the admissibility of any motion that has not been put to a vote.[41] Thus, the admissibility of a motion stating a grievance or a want of confidence motion may be raised at any time during the debate on the opening speech, since neither motion is put to a vote until the end of the allotted 25 hours. That is why the Chair rarely rules on the admissibility of such a motion immediately on its being moved; the Assembly is seized of the motion, but always subject to its admissibility, which is decided before the vote.[42]

41. JD, April 23, 1991, p. 7547 (Jean-Pierre Saintonge)/*RDPP*, no. 193/4.
42. To learn about 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".

After the reply by the Government, motions stating a grievance and then want of confidence motions are put to the vote in the order in which they were moved. Lastly, the motion by the Premier to adopt the Government's general policy is put to the vote (S.O. 50.1).

6.2.3 Closing a Session by Prorogation

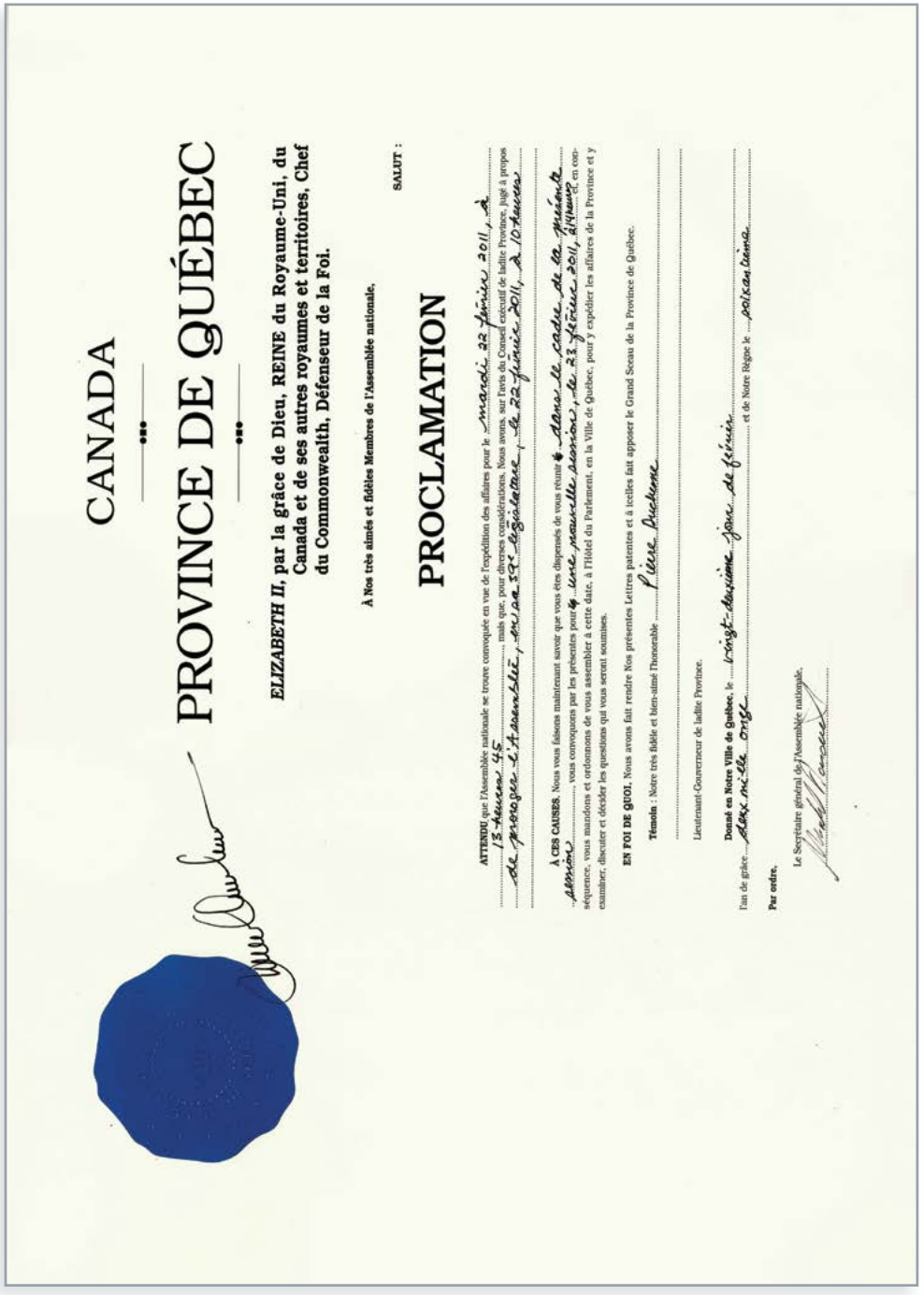
A session is closed when the Assembly is prorogued by proclamation of the Lieutenant-Governor (ANA, s. 5), on the advice of the Government. In parliamentary language, prorogation means the termination of a session by the Government. In practice, prorogation suspends the sittings of the Assembly, deferring them to a later time. This being the case, the Assembly clearly may not continue its deliberations beyond the time specified in the proclamation.[43] The Assembly may be prorogued while sitting in the presence of the Lieutenant-Governor,[44] or by proclamation if it is not sitting.[45]

Although both prorogation and adjournment defer Assembly sittings to a later date, there are differences between these two acts that must be understood, given their importance in parliamentary life. Prorogation is an act of the executive power that defers the activities of the Assembly until it is again summoned to meet on a date set by the Government. Following a prorogation and throughout the recess, the Assembly may not meet in any way, even if the rules of procedure provide that it should. Adjournment is an act whereby the Assembly ends a sitting and schedules its next meeting 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, it is the Government, under a constitutional convention, that decides to prorogue the Assembly. Similarly, although the Assembly adjourns itself, only the Government may make a motion proposing the adjournment, which the Assembly then votes on. Thus, Assembly proceedings could be suspended for a longer period by an adjournment than by a prorogation.

43. Beauchesne, pp. 66 and 72; May, *Treatise*, p. 232.
44. JD, June 17, 1994, pp. 2090–2091.
45. Concretely, prorogation consists first in the Executive Council adopting an order terminating the session on the recommendation of the Premier. A proclamation of the Lieutenant-Governor then gives effect to the order and prorogues the Assembly.

Proclamation Proroguing the Assembly and Summoning It to Meet at a Later Date



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 Nos très aimés et fidèles Membres de l'Assemblée nationale,

SALUT :

PROCLAMATION

ATTENDU que l'Assemblée nationale se trouve convoquée en vue de l'expédition des affaires pour le mardi 22 février 2011, à 15 heures 45 ..... mais que, pour diverses considérations, Nous avons, sur l'avis du Conseil exécutif de ladite Province, jugé à propos de proroger l'Assemblée, en la 39e législature, le 22 février 2011, à 10 heures .....

À CES CAUSES, Nous vous faisons maintenant savoir que vous êtes dispensés de vous réunir à dans le cadre de la présente session ..... vous convoquons par les présentes pour une nouvelle session, le 23 février 2011, à 14 heures ..... en conséquence, vous mandons et ordonnons de vous assembler à cette date, à l'Hôtel du Parlement, en la Ville de Québec, pour y expédier les affaires de la Province et y examiner, discuter et décider les questions qui vous seront soumises.

EN FOI DE QUOI, Nous avons fait rendre Nos présentes Lettres patentes et à icelles fait apposer le Grand Sceau de la Province de Québec.

Témoin : Notre très fidèle et bien-aimé l'honorable Pierre Duchesne

.....

Lieutenant-Gouverneur de ladite Province.

Donné en Notre Ville de Québec, le vingt-deuxième jour de février

l'an de grâce Mille onze et de Notre Règne le onzième

Par ordre,

Le Secrétaire général de l'Assemblée nationale,

The similarities between these two acts end there, as prorogation has other very specific major effects: unless the Assembly decides otherwise, all select committees appointed by the Assembly cease to exist, 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 (S.O. 47).[46]

The effects of prorogation are not irreversible, however. Under Standing Order 47, the Assembly may adopt a motion to counter the effects mentioned above. It may decide, for instance, to pursue the examination of one or more matters in the following session.[47] Such a motion must necessarily be moved before the session is closed.[48] Another, less restrictive measure is set out in the Standing Orders to prevent bills introduced before prorogation from lapsing: 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 proceed with bills introduced in the previous session at the stage reached when the Assembly was

46. A former Standing Order of the Assembly provided that the closing of a session terminated any bill the Lieutenant-Governor had not assented to, even if it had been passed (Geoffrion 1941, S.O. 9 and 10).

47. On March 10, 1994, the Assembly adopted 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 adopted 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. 943–944).

48. In the event that such a motion should not be adopted 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. Thus, 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 in pursuance of a motion carried on June 15, 2005 during the 1st Session, continue its proceedings and table its report in the course of the 2nd Session (VP, March 15, 2006, p. 19). The same day, a similar procedure was followed in order to adopt 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 to be retroactive to February 21, 2006, notwithstanding the prorogation of the 1st Session of the 37th Legislature (VP, March 15, 2006, pp. 15–16). The second, to ratify the mandate given 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 to be retroactive, to March 7, 2006, notwithstanding the prorogation of the session (VP, March 15, 2006, pp. 16–18).

prorogued (S.O. 48).[49] Provided that it observes the deadline, there is no limit to the number of motions the Government may move in order to proceed with the examination of bills. It may choose to make a single motion covering several bills or a separate motion for each bill concerned.[50] Motions made by the Government House Leader are decided without debate (S.O. 48).

Prorogation has no effect on the composition of standing parliamentary committees. There is actually a mechanism set out in the Standing Orders to fill vacancies that occur on committees while the Assembly is prorogued.[51] 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.[52]

49. Once the motion has passed, the bills are again placed on the Order Paper at the stage they had reached when the session was closed. According to a ruling by a committee Chair, if a session is closed while a bill is undergoing clause-by-clause consideration, the committee must resume its proceedings after the recess at exactly the same place it had reached before the prorogation (JD, April 12, 2001, CTE-2 p. 4 (Claude Lachance)/*RDPP* (Com. Vol.), no. 48/1).

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

51. Standing Order 129 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.

52. As parliamentary committees are offshoots of the Assembly, they may not be given a power under section 13 of the *Act respecting the National Assembly* that the Assembly itself does not have. That is why they are not authorized to meet after a prorogation unless the Assembly has adopted an order to the contrary under Standing Order 47. On March 18, 1992, the Assembly adopted 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 p.m. the next day. The deliberative meeting was 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. The Committee on Planning and Infrastructures also continued its general consultations and public hearings on the draft bill respecting semi-public companies in the municipal sector, thus concluding the mandate it was ordered by the Assembly to undertake 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.

6.3 SITTINGS

The Assembly may meet to deliberate when in session. In parliamentary language, each day of deliberation is 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,[53] while the two longest sessions comprised 200 sittings each.[54]

Sittings held during sessional periods, in the months, on the days and at the times set out in the Standing Orders, are known as regular sittings. For various reasons, the Assembly may occasionally be required to hold a sitting outside those periods. In such cases, the Assembly is said to be meeting for extraordinary sittings.[55]

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, in accordance with the parliamentary calendar. There are two different schedules for each of these sessional periods depending on whether the Assembly is holding ordinary or extended hours of meeting.

> **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, that is, 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 schedule 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

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53. See note 23.
54. The 2nd Session of the 35th Legislature, which ran from March 25, 1996 to October 21, 1998, and the 1st Session of the 37th Legislature, which ran from June 4, 2003 to March 10, 2006.
55. The President has ruled that an extraordinary sitting counts in the calculation of certain time limits prescribed in the Standing Orders, in the same way as a regular sitting. Thus, 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 (JD, March 30, 2001, p. 513 (Jean-Pierre Charbonneau)).

> last 24 hours, until the time set for the next sitting to begin, at 10 a.m. the following day. In 1997, the schedule was once again amended so that each sitting would end at midnight at the latest. In addition, the Assembly would no longer meet on Monday unless it decided to do so on a motion by the Government House Leader moved without notice. ■

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 now holds two sessional periods each year, one from the second Tuesday in February, for 16 weeks during ordinary hours of meeting followed by two weeks during extended hours of meeting; and another from the third Tuesday in September, for 10 weeks during ordinary hours of meeting followed by two weeks during extended hours of meeting.

During those periods, the Assembly interrupts its sittings for a few weeks to allow Members to concentrate on work in their ridings. The weeks allotted for work in the electoral districts are determined by the President at the beginning of each sessional period, after a meeting with the House leaders, and comprise three weeks during the sessional period beginning in February,[56] one week during the sessional period beginning in September[57] and one week following the second week of extended hours provided for during that period (S.O. 19.1). Even though the Assembly cannot meet in regular sittings[58] during those weeks, it is considered to be meeting for the purposes of Standing Order 19 (S.O. 19.1, 2nd par.).

In addition to a new calendar, the Assembly has adopted new hours of meeting.[59] During ordinary hours of meeting, it meets on Tuesdays from 1:30 p.m. to 9:30 p.m., with a recess between 6 p.m. and 7:30 p.m., and Wednesdays and Thursdays from 9:30 a.m. to 6 p.m., with a recess between 1 p.m. and 3 p.m. It may also decide, on a motion by the Government House Leader moved without notice, to meet on a Monday, respecting the same schedule as on Tuesdays (S.O. 20). In addition, during extended hours of meeting, the Assembly meets on Thursdays until 10:30 p.m., after a recess from 6 p.m. to 7:30 p.m., and on Fridays from 9:30 a.m. to 1 p.m. It may also decide to meet on a Monday, respecting the same schedule as on Tuesdays (S.O. 21). A decision to meet on a Monday during extended hours of meeting

56. In general, the two weeks of spring break (the last week of February and the first of March) and the week immediately following the Easter holiday.
57. In general, the week beginning on the second Monday of October, which is considered a holiday (*Interpretation Act*, L.Q., c. I-16, s. 61(23)(*g*.1)).
58. While Standing Order 19.1 states that the Assembly may not hold ordinary hours of meeting, there is nothing to prevent it from holding extraordinary sittings.
59. See the illustration of the schedule of the Assembly's ordinary hours of meeting and extended hours of meeting on page 217.

is also made by the Assembly on a motion by the Government House Leader. The motion must be moved at the time set aside during Routine Proceedings for motions without notice. A short debate ensues.[60] The mover of the motion and the representatives of the parliamentary opposition groups have five minutes each to speak to the question. The mover then has up to two minutes to reply (S.O. 21, 3rd par.).

A Wednesday or Thursday sitting during ordinary hours of meeting may also be extended on a request by the Government House Leader to the President, 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 adopted 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 Chair is sufficient. The President informs the Assembly of the request at the earliest opportunity. The sitting is then suspended at 6 p.m. to resume at 7:30 p.m. (S.O. 20, 3rd par., 271 and 278). During extended hours of meeting, the sitting may also be extended on a Wednesday under the same conditions (S.O. 21, 4th par.).

The Assembly calendar does not affect committees, which may meet throughout the year except during the five weeks set aside for riding work (S.O. 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 (S.O. 143) and extended hours of meeting (S.O. 143.1), as well as outside the sessional periods defined in Standing Order 19 (S.O. 143.2).

The sessional periods making up the parliamentary calendar are specific periods during which the Assembly is authorized to hold regular sittings. While the Assembly is under no legal obligation to meet during those periods,[61] it is certainly expected to do so unless a decision is made to the contrary. However, the Assembly may always adjourn its proceedings for a certain period of time by adopting a motion to that effect moved by the

60. Unlike Standing Order 21, Standing Order 20 regarding the schedule for ordinary hours of meeting does not require that a motion to meet on a Monday be moved at the time set aside during Routine Proceedings for motions without notice. In addition, such a motion, when moved during ordinary hours of meeting, is not debated.

61. JD, December 15, 2005, p. 11054 (Michel Bissonnet)/*RDPP*, no. 23/2. According to Standing Order 19 then in force (1985 S.O.), the sessional periods ended on June 23 or December 21 at the latest. The Chair interpreted that provision as meaning that the Assembly could decide to adjourn its proceedings sooner. In the opinion of the Chair, despite the parliamentary calendar, the Assembly was not required to meet, its only obligation being that set out in section 5 of the *Constitutional 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 adopt a motion adjourning its proceedings to a later date within a sessional period.

Government House Leader. Such a motion defers Assembly proceedings to a specific date, which must fall within a sessional period. Outside such a period, the Assembly may only hold extraordinary sittings, which must respect very strict rules, as set out below.

Assembly Schedule

ORDINARY HOURS OF MEETING

TUESDAY	WEDNESDAY	THURSDAY
	9:30 a.m. to 11 a.m.	9:30 a.m. to 11 a.m.
	11 a.m. to 1 p.m.	11 a.m. to 1 p.m.
1:30 p.m. to 3 p.m.	Recess	Recess
3 p.m. to 6 p.m.	3 p.m. to 6 p.m.	3 p.m. to 6 p.m.
Debates upon adjournment		Debates upon adjournment
Recess		
7:30 p.m. to 9:30 p.m.		

EXTENDED HOURS OF MEETING

TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
	9:30 a.m. to 11 a.m.	9:30 a.m. to 11 a.m.	9:30 a.m. to 11 a.m.
	11 a.m. to 1 p.m.	11 a.m. to 1 p.m.	11 a.m. to 1 p.m.
1:30 p.m. to 3 p.m.	Recess	Recess	
3 p.m. to 6 p.m.	3 p.m. to 6 p.m.	3 p.m. to 6 p.m.	
Recess		Recess	
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

6.3.2 Extraordinary Sittings

While the Standing Orders determine the periods, days and times when the Assembly meets, the Assembly may need to sit outside the predetermined framework to deal with a particular situation. In such circumstances, the Standing Orders allow it to hold extraordinary sittings (S.O. 23).

6.3.2.1 Summoning the Assembly for Extraordinary Sittings

As their name indicates, these are not regular sittings.[62] The Government alone takes the initiative, for they are held at the Premier's request (S.O. 23). The request is addressed to the President of the Assembly or, in the President's absence, to the Secretary General (S.O. 24) and must set out the reason or reasons for summoning the Assembly, which only the Premier may decide[63] and over which the Chair has no say.[64] These are the sole formalities in the Standing Orders regarding the summoning of the Assembly for extraordinary sittings. The Premier's, and thus the Government's, initiative is exclusive and absolute. This power of initiative has even allowed the Premier to cancel an extraordinary sitting.[65]

62. The Assembly was summoned for an extraordinary sitting on only one occasion during the 33rd Legislature, on March 27, 1986, and on four occasions during the 34th Legislature, on August 30, 1990, August 27, 1991, September 3, 1992 and September 9, 1992. During the 35th Legislature, the Assembly was also summoned four times for extraordinary sittings, on January 26, 1995, September 7, 1995, March 21, 1997 and February 18, 1998; this last sitting, however, was cancelled one hour before it was to be held. During the 36th Legislature, the Assembly met five times for extraordinary sittings, on July 2, 1999, March 21, 2000, February 22, 2001, March 30, 2001 and July 25, 2002. During the 37th Legislature, the Assembly was summoned four times for extraordinary sittings, on July 16, 2003, March 21, 2005, December 15, 2005 and February 20, 2007. No extraordinary sittings were held during the 38th Legislature. During the first session of the 39th Legislature, the Assembly was summoned on five occasions for extraordinary sittings, on January 13, 2009, September 18, 2009, June 11, 2010, October 18, 2010 and February 21, 2011.
63. JD, February 21, 2011, pp. 9158–9159 (Yvon Vallières)/*RDPP*, no. 26.1/3. See the table entitled "Extraordinary Sittings as of the 33rd Legislature" at the end of this chapter.
64. JD, December 15, 2005, p. 11056 (Michel Bissonnet)/*RDPP*, no. 23/3.
65. The extraordinary sitting was to be held on February 18, 1998.

Summoning the Assembly for Extraordinary Sittings

Monsieur le Président,

Conformément au Règlement de l'Assemblée nationale, je vous prie de prendre les dispositions pour que l'Assemblée se réunisse en séances extraordinaires à compter de 15 heures, ce vendredi 11 juin 2010, selon le calendrier et l'horaire qui seront déterminés par l'Assemblée afin de terminer le processus d'étude du projet de loi no 100, Loi mettant en œuvre certaines dispositions du discours sur le budget du 30 mars 2010 et visant le retour à l'équilibre budgétaire en 2013-2014 et la réduction de la dette.

Je vous prie d'agréer, Monsieur le Président, l'expression de mes sentiments les meilleurs.

Jean Charest

Example of a letter requesting that the Assembly be summoned for an extraordinary sitting

In addition to the reasons for summoning the Assembly for an extraordinary sitting, the Premier must state in his or her request the day and time at which the Assembly is to meet, which may be at any moment outside the periods, days and times specified in Standing Orders 19 to 21. For example, Standing Order 20 determines the schedule to be followed by the Assembly during ordinary hours of meeting. Outside those hours, there is nothing to stop 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 may meet for such sittings at any time at which it cannot otherwise meet. Thus, if the Assembly adjourns its proceedings before the deadline specified in the calendar, there is nothing to prevent it from meeting for extraordinary sittings between the adoption of the adjournment motion and that deadline. In the Chair'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.[66] In the

66. JD, December 15, 2005, p. 11054 (Michel Bissonnet)/*RDPP*, no. 23/2. On December 14, 2005, the Assembly adopted a motion adjourning its proceedings to 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 Opposition House Leader claimed that the sitting was irregular since, according to the parliamentary calendar then in force, the Assembly met 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 Chair rejected this argument on the grounds that the adjournment of the House until the

same vein, the fact that the Assembly may 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.[67] And although the Standing Orders do not specify the length of time between the calling and the beginning of an extraordinary sitting, the Chair has ruled that the Members are to be given a reasonable time to enable them to attend such a sitting.[68]

6.3.2.2 Conduct of Extraordinary Sittings

In theory, Standing Orders 20 and 21 on the calendar for proceedings and the hours of meeting do not apply to extraordinary sittings, which take place outside the periods, days and times specified. Before the 2009 reform, the Standing Orders were not very explicit as to the conduct of extraordinary sittings.[69] They simply stated that if the Assembly was summoned to deal with an urgent matter, the Government House Leader could move to suspend the rules of procedure at the time set aside during Routine Proceedings for motions without notice, in order to establish a special procedure for that sitting and specify which, if any, Standing Orders were to be suspended (1985 S.O. 28). A motion to suspend the rules of procedure was therefore required to set the time frame of the sitting.

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 Chair could not interpret the Standing Orders in such a way as to prevent the Assembly from meeting, nor was it up to the Chair to evaluate the reasons that had led the Government House Leader to propose the adjournment of proceedings or the Premier to convene the Assembly for an extraordinary sitting.

67. JD, February 21, 2011, pp. 9158–9159 (Yvon Vallières)/*RDPP*, no. 26.1/3.

68. 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. On considering this fact, the Chair judged that since the Members were still at or near the National Assembly, the reasonable time to be granted for them to travel in from their ridings was not necessary. In addition to this case, the Assembly has held an extraordinary sitting on two occasions since 1984 after meeting for regular sittings the same day: it was summoned for an extraordinary sitting on March 26, 1986 to pass Bill 34, *An Act respecting the resumption of transportation service in the territory of certain school boards*, and on March 21, 2000 to approve and amend, under section 246.44 of the *Courts of Justice Act*, L.Q., c. T-16, the 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.

69. 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 during the following legislature.

Given the gaps in the Standing Orders, the Chair clarified the conduct of an extraordinary sitting in 1992: when the Assembly is summoned for an extraordinary sitting at the request of the Premier, the sitting begins with Routine Proceedings. At the time set aside for motions without notice, the Government House Leader explains, in a limited debate, the reasons for summoning the House. In the same motion, the Government House Leader may propose that certain rules of procedure be suspended. Although, in accordance with Assembly custom, the new rules may have been determined by prior agreement between the House leaders, they must still be adopted by the Assembly.[70]

As part of the 2009 reform, the Assembly replaced the motion to suspend the rules of procedure with a new procedure, which is dealt with in Chapter 16, known as the motion to introduce an exceptional procedure. 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 the new rules, at the time set aside during Routine Proceedings for motions without notice, the Government House Leader must make a motion to set the time frame for extraordinary sittings. The motion must also state the matters for which the Assembly has been summoned (S.O. 26.1).[71]

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70. JD, September 3, 1992, pp. 3059–3064.
71. The motion to set the time frame for an extraordinary sitting was used four times between the adoption of the 2009 reform and the end of the 1st Session of the 39th Legislature. It was first used on September 18, 2009, after new permanent rules had come into force. The motion read as follows: "THAT, in order to complete the consideration of Bill 40, *An Act to amend the Balanced Budget Act and various legislative provisions concerning the implementation of the accounting reform*, the Assembly appoint the hours of meeting as follows: The Assembly shall be permitted to sit every day, beginning at 10.00 o'clock a.m., until it has completed the examination of the matter for which it was summoned or until it decides to adjourn its proceedings." (VP, September 18, 2009, p. 584). The Official Opposition House Leader argued that, since it was later than 10 a.m., given the wording of the motion, if it was carried, the sitting should be adjourned and the proceedings of the Assembly should resume the next day at 10 a.m. The Chair dismissed this argument, ruling that the Assembly had been validly summoned at 10 a.m. on September 18, 2009 to hold an extraordinary sitting. This sitting was to be held and adjourned in compliance with the provisions of the motions moved by the Government House Leader, if they were carried. Should further sittings be required to dispose of the matter for which the Assembly had been summoned, they would begin at 10 a.m. The adoption of the motion establishing the hours of meeting was not deemed to conclude the sitting and the sitting could continue (JD, September 28, 2009, p. 3025 (Yvon Vallières)/*RDPP*, no. 26.1/1).
The motion to set the time frame for an extraordinary sitting was used a second time on June 11, 2010, when the Assembly met to consider 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*. The second paragraph of the motion read as follows: "The Assembly shall be permitted to sit every day, beginning at 10.00 o'clock a.m., until it has completed the examination of the matter for which it was summoned or until it decides to adjourn its

Immediately after this first motion, the Government House Leader may move a motion to introduce an exceptional procedure (S.O. 26.1, 2nd par.). 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. This debate is held regardless of the time specified for suspension or adjournment in Standing Orders 20 and 21 (S.O. 27).[72] Once the limited debate is over, the President puts to a vote first the motion to establish the schedule for extraordinary sittings and then any motion to introduce an exceptional procedure. If the latter motion is carried, the Assembly concludes Routine Proceedings (S.O. 27).

Since a motion may only introduce an exceptional procedure to deal with a single matter (S.O. 182, 1st par.), each such motion is normally the subject of a limited two-hour debate (S.O. 182, 2nd par., and S.O. 210). The Standing Orders make an exception for the consideration of 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 (S.O. 27.1).

6.3.2.3 Extraordinary Sittings at the Beginning of a Session

As previously discussed, extraordinary sittings begin with Routine Proceedings. However, 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 made a motion to suspend the rules of procedure governing the opening of the session (1985 S.O. 25). The procedure has been simplified in that the rules for the opening of the session, except those pertaining to the Lieutenant-Governor's address, are automatically suspended (S.O. 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 convened to decide. The opening speech is delivered at the next regular sitting.

proceedings." On that occasion, the President, basing himself on the decision handed down on September 18, 2009, dismissed the argument of the House Leader of the Second Opposition Group that since the Assembly had been convened for 3 p.m., it should, if the motion were carried, immediately adjourn its proceedings to 10 a.m. the next day (JD, June 11, 2010, p. 7254 (Yvon Vallières)/*RDPP*, no. 24/1).

72. This detail may appear superfluous since, as has already been pointed out, in principle, Standing Orders 20 and 21 do not apply during extraordinary sittings. The merit of the new provision is that it dispels any doubt on the subject.

6.3.2.4 End of Extraordinary Sittings

Extraordinary sittings conclude when the Assembly has dealt with the matters for which it was summoned (S.O. 27.2). Thus, when the Assembly holds an extraordinary sitting to examine a bill, the sitting ends immediately after the Assembly has disposed of the legislation. No other debate is possible, not even a debate on adjournment.[73]

It may happen that, at the time set for the beginning of a regular sitting under the calendar and schedule specified in Standing Orders 19 to 21, the Assembly has not completed its consideration of one or more matters it was convened to decide. In that regard, the Chair has determined that as soon as a motion to introduce an exceptional procedure is carried, any Standing Orders incompatible with that procedure, including those relating to the calendar and schedule, are implicitly suspended for the purposes of considering the matter concerned.[74]

As has been seen, the Standing Orders relating to the hours of meeting of the Assembly do not apply during extraordinary sittings. Therefore, when the Assembly is convened 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 made to set the time frame for the extraordinary sittings. Once the motion carries, the hours of meeting specified in the motion apply. If more than one sitting is required to examine the matter for which the Assembly has been convened, 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 matter[75] or until it decides to adjourn its proceedings.

73. JD, July 2, 1999, pp. 2956–2957 (Jean-Pierre Charbonneau)/*RDPP*, no. 308/9; JD, March 21, 2000, pp. 5063–5064 (Jean-Pierre Charbonneau).
74. 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.
75. JD, February 21, 2011, pp. 9158–9159 (Yvon Vallières)/*RDPP*, no. 26.1/3.

Extraordinary Sittings as of the 33rd Legislature

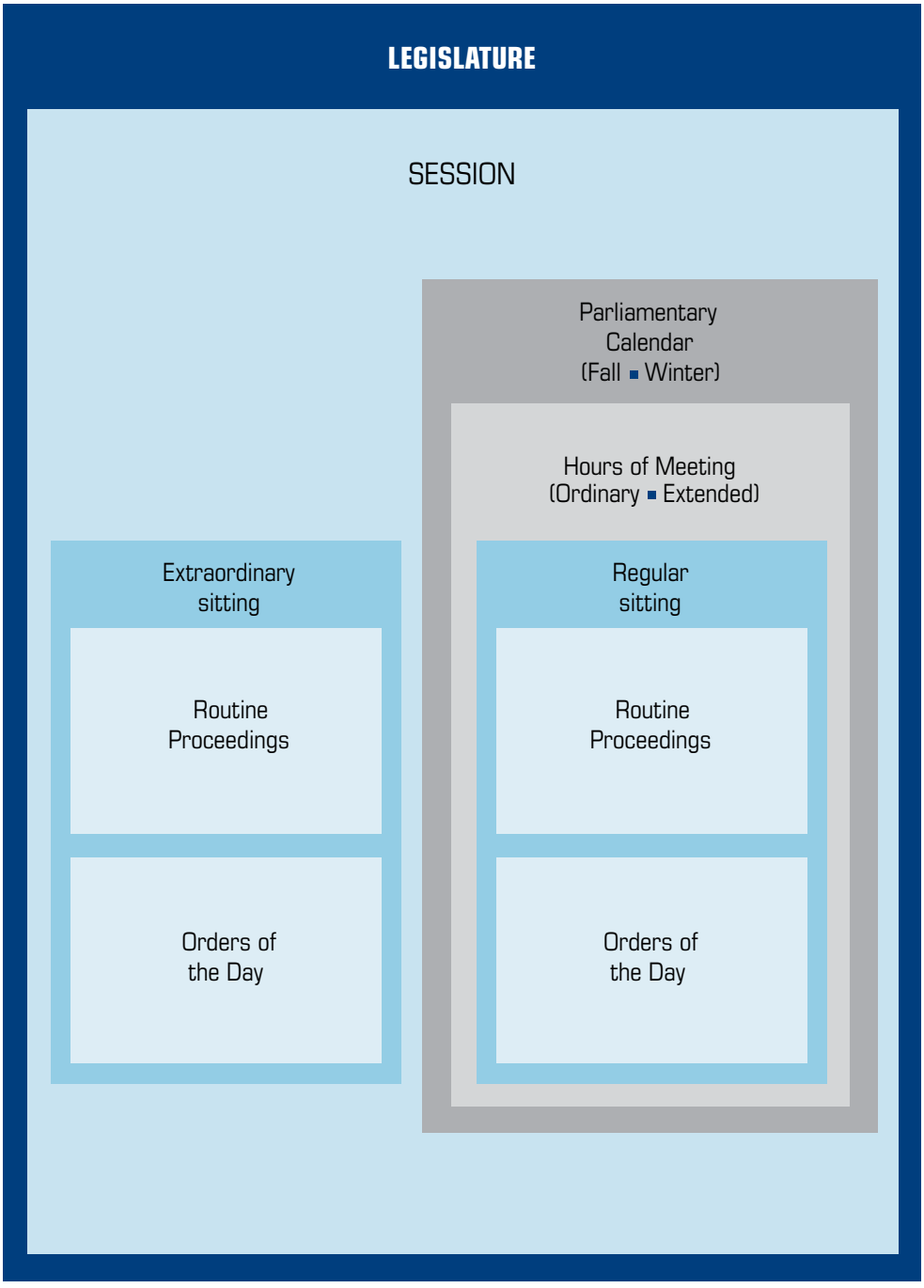
Legislature Session	Date	Subject of Debate
33rd Legislature		
1st Session	March 26, 1986	• Passage of the *Act respecting the resumption of transportation service in the territory of certain school boards.*
34th Legislature		
1st Session	Aug. 30, 1990 and Sept. 4, 1990	• Ministerial statement on consumption taxes; • Assignment of a mandate to the Committee on the Budget and Administration to have it study the schedule to the ministerial statement; • Passage of the *Act respecting the building of a section of Highway 30 between Châteauguay and Sainte-Catherine*; • Passage of the *Act to establish the Commission on the Political and Constitutional Future of Québec*; • Appointment of the Chairs and members of the Commission.
	Aug. 27 and 28, 1991	• Passage of the *Act respecting health services and social services.*
2nd Session	Sept. 3, 4 and 8, 1992	• Passage of the *Act to amend the Act respecting the process for determining the political and constitutional future of Québec.*
	Sept. 9–11, 15 and 16, 1992	• Adoption of a referendum question on a new constitutional partnership; • Adoption of a motion setting the amount of the subsidy to be paid to each national committee.
35th Legislature		
1st Session	Jan. 26 and 27, 1995, Feb. 2 and 3, 1995	• Consideration of various bills on the Order Paper.
	Sept. 7 and 11–14, 1995, Sept. 18–20, 1995	• Introduction of the *Act respecting the future of Québec*; • Adoption of a referendum question; • Adoption of a motion setting the amount of the subsidy to be paid to each national committee.
2nd Session	March 21, 1997	• Passage of the *Act respecting the reduction of labour costs in the public sector and implementing the agreements reached for that purpose.*

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.

Legislature Session	Date	Subject of Debate
36th Legislature		
1st Session	July 2, 1999	• Passage of the *Act respecting the provision of nursing services and pharmaceutical services.*
	March 21, 2000	• Adoption 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 *Act to provide for the maintenance of pharmaceutical services in Québec.*
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 *Act to ensure the continued provision of emergency medical services.*
37th Legislature		
1st Session	July 16, 2003	• Adoption of the estimates of expenditure for the 2003–2004 fiscal year; • Passage of the *Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities.*
	March 21, 2005	• Consideration and adoption of certain appropriations necessary for the administration of the Government from 1 April to 30 June 2005; • Passage of the *Act to amend the Forest Act.*
	December 15, 2005	• Passage of the *Act respecting conditions of employment in the public sector*; • Passage of the *Educational Childcare Act.*
2nd Session	February 20, 2007	• Allowing the Minister of Finance to deliver the budget speech and the Official Opposition critic for finance and an independent Member to comment on it.

Legislature Session	Date	Subject of Debate
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; • 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*; • Formation of the Office of the National Assembly and the parliamentary committees.
	September 18, 2009	• Passage of the *Act to amend the Balanced Budget Act 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*.

Illustration of Concept of Time



7

Ministerial Responsibility and the Assembly's Confidence in the Government

In Québec's British-style parliamentary system, constitutional convention[1] dictates that ministers must also be or become Members of Parliament,[2] and must enjoy the confidence of the majority of the elected Members.[3]

7.1 MINISTERIAL RESPONSIBILITY

The principle of ministerial responsibility[4] manifests itself in two ways: individually and collectively.

1. 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 sense of political necessity". Henri Brun, Guy Tremblay and Eugénie Brouillet, *Droit constitutionnel*, 5th ed., p. 43.
2. In Québec, as elsewhere in Canada, ministers are sometimes appointed without first becoming Members of the National Assembly, but they must be elected to the Assembly at the earliest possible time, either in a by-election or a general election. If defeated, they must resign immediately. See Brun, Tremblay and Brouillet, *Droit constitutionnel*, 5th ed., and the *Executive Power Act*, L.Q., c. E-8, s. 11.
3. *Québec (Attorney General) v. Blaikie*, [1981] 1 S.C.R. 312 at 320.
4. The terms "responsible government", "ministerial responsibility/accountability", "government responsibility/accountability" and "constitutional responsibility/accountability" all describe the same reality.

7.1.1 Individual Ministerial Responsibility

Ministers are individually responsible for managing their departments, presenting policies and defending the actions of their departments. According to the principle of ministerial responsibility, ministers are not only accountable to the Assembly for their own actions, but also for the actions of the public servants in their department. Consequently, a minister could be forced to resign as a result of poor management within his or her department.

In the National Assembly, ministers introduce and defend bills under their department's jurisdiction and justify the appropriations they are granted.

7.1.2 Collective Ministerial Responsibility

The Executive Council Room in the Honoré-Mercier Building

The constitutional convention of ministerial responsibility comprises collective responsibility or Cabinet solidarity. Under this principle, the Premier and the ministers are collectively accountable to the Assembly for the actions of their Government. In other words, the Cabinet speaks with a single voice, and every minister is wholly and irrevocably responsible for the decisions the Cabinet makes, whether or not the minister personally agrees.

> [TRANSLATION] Cabinet solidarity is the main political outcome of ministerial responsibility. If a 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; conversely, the fate of a government or premier can rest on the decisions made by a single minister.[5]

At the National Assembly, ministerial responsibility, that is, Cabinet solidarity, is codified in Standing Order 189, which stipulates that any minister may act on behalf of another at any time. Thus, during Question Period, even if a question is aimed at a specific minister, it may be fielded by another

5. Brun, Tremblay and Brouillet, *Droit constitutionnel*, 5th ed., p. 377.

minister designated by the Government.[6] By the same token, a minister may be replaced at any time during the consideration of a bill that he or she introduced or during any other debate, including debates upon adjournment[7] or in committee.[8] As a result, a minister answering on behalf of another during a debate does not constitute a contempt of Parliament.[9]

7.2 THE ASSEMBLY'S CONFIDENCE IN THE GOVERNMENT

A number of authorities agree that determining what constitutes a question of confidence is not a matter of parliamentary procedure.[10] Such questions cannot therefore be settled by the Chair of the Assembly, 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 result of a vote.[11]

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 or not 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,

6. JD, June 6, 1984, p. 6712 (Richard Guay)/*RDPP*, no. 79/2.
7. See Chapter 9, Section 9.3.6.4, "Replacement of a Minister".
8. JD, May 31, 1996, CAS-21 p. 10 (Claude Lachance)/*RDPP* (Com. Vol.), no. 295/1.
9. JD, March 23, 1999, pp. 723–725 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/39.
10. "The confidence of a House in a Government is a matter of political judgment. It is not a matter of parliamentary procedure on which the Speaker can rule." (David G. McGee, *Parliamentary Practice in New Zealand*, p. 96).
11. [TRANSLATION] "British parliamentary history shows just how wide a margin 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, Tremblay and Brouillet, *Droit constitutionnel*, 5th ed., p. 610).

> 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 suggest 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, the results of a vote could no longer be interpreted after the fact.[12]

In his proposed parliamentary reform tabled in 1998, President Jean-Pierre Charbonneau suggested amending the Standing Orders to provide for 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 overseers with more freedom, without their 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, without challenging the Government's prerogative to determine whether or not defeat on one of these issues calls into question its existence.[13]

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 proposal as part of the parliamentary reform passed on April 21, 2009, and Standing Order 303.1 took effect later that year on September 14. Under the new provision, the confidence of the Assembly in the Government could be called into question only by means of a vote on a want of confidence motion, a motion by the Premier that the Assembly approve the general policy of the Government, a motion by the Minister of Finance that the Assembly approve the budgetary policy of the Government, a motion for the passage of an appropriation bill introduced under Standing Order 288, or any other motion that the Premier or the Premier's representative expressly declares a question of confidence in the Government.

12. Richard Guay, *Réforme parlementaire*, pp. 13–14.
13. Jean-Pierre Charbonneau, *Réforme parlementaire présentée par le Président de l'Assemblée nationale*, Theme 9, p. 3.

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 Members.

> [TRANSLATION] In Canadian constitutional law, the Government must enjoy the constant support of the elected House . . . This support may be lost, either explicitly or implicitly.
>
> Explicitly, Government has lost the support of Parliament once a want of confidence motion is adopted by the elected Assembly.[14]

7.2.1.1 Purpose

Want of confidence motions were originally intended to censure the Government and ultimately withdraw the confidence of the Assembly.[15] However, for a long time, most if not all such motions put before the Assembly simply censured the Government, without really raising the question of confidence. This led to some confusion among Members regarding the implications of passing such motions, as opposed to other motions aimed at censuring the Government. This was especially true during the 38th Legislature, when Members felt limited in their right to disagree with the minority 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. In order to clarify the possible repercussions of a vote, the Standing Orders now specify that a want of confidence motion must clearly state that the Assembly withdraws its confidence in the Government (S.O. 304.1).

7.2.1.2 Number

Under the Standing Orders, during the opening speech and budget speech debates, any Member may move a motion stating a grievance or a want of confidence motion to be voted at the end of the debate (S.O. 50 and 274). Prior to the 2009 reform, each Member could move a want of confidence motion during his or her speech. Theoretically, there could be as many motions moved as there were 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.

14. Brun, Tremblay and Brouillet, *Droit constitutionnel*, 5th ed., p. 609.
15. JD, May 22, 1997, pp. 6887–6888 (Claude Pinard)/*RDPP*, no. 304/2.

In order to underscore the importance of such motions, the reform amended Standing Order 304 to limit the Opposition to seven want of confidence motions over the course of a session. This included not only motions moved during the opening speech and budget speech debates, but also those want of confidence motions giving rise to debates that have precedence under Standing Orders 87(8) and 306.

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 any Member may move a want of confidence motion during the opening speech and budget speech debates, these provisions must be read in correlation with Standing Order 304. Opposition Members must keep in mind that moving a want of confidence motion during the opening speech and budget speech debates reduces the number of opportunities to move other want of confidence motions under Standing Order 306.[16]

7.2.1.3 Allocation

The President allocates want of confidence motions among the parliamentary groups in opposition, taking into account the presence of independent Members (S.O. 305). To avoid randomly assigning want of confidence motions, the President must take past practice into consideration and fairly assess the number of such motions that may rightfully be claimed by the Official Opposition, by any other opposition groups or by any independent Members. A balance must be struck in the allocation of motions. In addition, the placing of a want of confidence motion on the Order Paper does not automatically mean that the motion will be debated.[17] Fair allocation is a principle that must be applied on an ongoing basis and not only when two motions are entered on the Order Paper at the same time.[18]

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 Chair ruled that the aggregate of

16. On the other hand, any Member may move a motion stating a grievance against the Government instead of a want of confidence motion during the opening speech and budget speech debates. See Chapter 6, "Legislatures, Sessions and Sittings" and Chapter 15, "The Budget Process".
17. JD, June 18, 1990, p. 3533 (Jean-Pierre Saintonge)/*RDPP*, no. 305/2. In its decision to allow the motion in this case, the Chair 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, the Chair specified that independent Members would not be allowed any more such motions for the duration of the session.
18. JD, March 26, 1985, pp. 2666–2667 (Richard Guay)/*RDPP*, no. 305/1.

independent Members could only move 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 such motion could have led to the defeat of the minority Government, only one want of confidence motion, moved by the Official Opposition, was debated,[19] not counting those moved during the opening speech[20] and budget speech[21] debates. No other motions were allocated.

During the 39th Legislature, want of confidence motions were formally allocated in a document that was tabled and adopted on April 21, 2009, with the recognition of the Action démocratique du Québec as a parliamentary group. Of the 14 motions allowed over the course of two sessions, two were awarded to the Second Opposition Group and one to independent Members, the eleven remaining motions being allocated to the Official Opposition.[22]

7.2.1.4 Content

Like other motions, a want of confidence motion must be deemed admissible by the Chair before it can be moved. In particular, it must conform to certain rules of parliamentary procedure provided in the Standing Orders and developed through precedents at the Assembly. In addition to the admissibility criteria that apply to all motions,[23] certain rules apply specifically to want of confidence motions.

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19. The want of confidence motion moved by the Leader of the Official Opposition read as follows: "THAT the National Assembly severely blame the Government and withdraw its confidence therein for its defence of school boards, its bureaucratic approach and its inability to ensure that the schools and children of Québec receive the services to which they are entitled." It was defeated by a vote of 72 to 39, the Second Opposition Group having voted against it (VP, November 13, 2007, p. 373).
20. During the debate on the opening speech, a single want of confidence motion was moved, by the House Leader of the Second Opposition Group. It read as follows: "THAT the National Assembly of Québec deplore that the opening speech delivered by the Premier favours income tax reductions to the detriment of the required and unavoidable investments, particularly in the health, education and regional economic development sectors." It was rejected by a vote of 42 to 29, no Members of the Official Opposition having taken part in the vote (VP, May 23, 2007, p. 63).
21. 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).
22. *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*, April 2009 (see Appendix III, p. 604).
23. 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.[24] Furthermore, such a motion must clearly state that the Assembly withdraws its confidence in the Government (S.O. 304.1). Consequently, a motion that merely censures the Government is inadmissible. In addition, a want of confidence motion may not be used to condemn the behaviour of one or more Members of the National Assembly in the performance of their parliamentary duties, since such a motion may only be used to censure the actions of the Government.[25] The motion may however censure one or more members of the Executive Council in the performance of their administrative duties,[26] provided that, in addition to the censure, the motion is clearly intended to withdraw the confidence of the Assembly in the Government.

Want of Confidence Motion

> THAT the National Assembly withdraw its confidence in the Government for (*reasons*) . . .

As recognized through precedents, want of confidence motions must have substantive content and contain the reason or reasons for which the Government is being censured. A motion may deal with more than one subject,[27] but the subjects must not be confused with the principle of the motion, which is to censure the Government's action[28] and ultimately withdraw the confidence of the Assembly. Thus, according to the terms of a ruling by the Chair in 1997, 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.[29] This explains why grounds are permitted in want of confidence motions[30] 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. However, want of confidence motions must not contain arguments.[31]

24. JD, December 3, 1980, pp. 576–577 (Louise Cuerrier)/*RDPP*, no. 50/1.
25. JD, July 19, 1977, pp. 2180–2183 (Clément Richard)/*RDPP*, no. 316(3)/4.
26. Ibid.
27. JD, May 6, 1986, pp. 1270, 1271 and 1283 (Jean-Pierre Saintonge)/*RDPP*, no. 274/1.
28. JD, May 22, 1997, pp. 6887–6888 (Claude Pinard)/*RDPP*, no. 304/2.
29. Ibid.
30. This right was expressly recognized in the 2009 parliamentary reform. The second paragraph of Standing Order 191 states that motions discussed in Standing Orders 50 and 274 may set forth briefly the grounds on which they are based.
31. 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).

Unparliamentary words, such as "manipulated" and "favouritism", which suggest illegality, are prohibited in want of confidence motions, as in any other type of motion. It matters little that the party being addressed is a group of persons—in this case the Government.[32]

7.2.1.5 Debate on a Want of Confidence Motion

A clear day's notice must be given (S.O. 306) for a want of confidence motion to be debated. 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 Chair has never had occasion 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.[33]

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 into consideration the presence of independent Members (S.O. 210).

During ordinary hours of meeting, the debate on such a 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 (S.O. 306). The motion is then put to a vote, even if the time allocated to each parliamentary group has not been used.[34] The vote on a want of confidence motion may be deferred,[35] but the English and French versions of the motion may not be considered separately, as they are one and the same document.[36]

7.2.2 Motion by the Premier for the Adoption of the Government's General Policy

As seen in Chapter 6, upon completing the opening speech, the Premier must move that the Assembly approve the Government's general policy (S.O. 45). The motion is put to a vote at the end of the debate on the opening speech,

32. JD, April 3, 1996, pp. 294–295 (Raymond Brouillet)/*RDPP*, no. 50/2.
33. 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, the second sitting following the start of the new session (JD, October 20, 1999, pp. 3009–3024).
34. JD, October 10, 1978, pp. 2909–2911 (Clément Richard)/*RDPP*, no. 306/1.
35. 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).
36. JD, October 23, 1990, pp. 4563–4565 (Jean-Pierre Saintonge)/*RDPP*, no. 226/1.

after any motions stating a grievance and any want of confidence motions Members may have moved during the debate (S.O. 50.1). Prior to 2009, at the end of the opening speech, Members would vote on want of confidence motions moved by Members of the Opposition, but not on the Government's general policy for the new session. Although this new motion only appeared in the Standing Orders in 2009, it is very important because the Assembly's rejection of the Government's general policy could threaten the Government's capacity to act, and thus its very existence (S.O. 303.1(2)).

7.2.3 Motion by the Minister of Finance for the Adoption of the Government's Budget Policy

The Minister of Finance ends the budget speech by moving that the Assembly approve the Government's budget policy (S.O. 271). He or she has no latitude in drafting the motion; its terms do not vary. As a result, the motion cannot be amended, since a Member does not have any more latitude than the author of the motion.[37] Were it possible to amend the motion put forth by the Minister of Finance, the Standing Orders would not allow other types of motions to be moved concurrently, namely want of confidence motions[38] and, as of recently, motions stating a grievance (S.O. 274). Upon termination of the budget speech debate, the Minister's motion is put to a vote, after any motions stating a grievance and any want of confidence motions (S.O. 277).

Aside from the budget speech, the Minister of Finance may also make a supplementary statement on the budget (S.O. 278). As its name suggests, a supplementary statement is appended to the budget speech for the same fiscal year.[39] 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 budget policy. The question of the Assembly's confidence in the Government is therefore raised by a vote on this motion in the same manner as it is by a vote on the budget speech (S.O. 303.1(3)).

7.2.4 Motion for the Passage of an Appropriations Bill

The question of the confidence of the Assembly in the Government may be raised by means of a vote on a motion for the passage of an appropriations bill introduced under Standing Order 288 (S.O. 303.1(4)). The appropriations

37. JD, June 3, 1993, pp. 7059–7064 (Jean-Pierre Saintonge)/*RDPP*, no. 271/2.
38. Ibid.; JD, May 25, 2007, pp. 845–847 (Michel Bissonnet)/*RDPP*, no. 271/5.
39. JD, November 7, 2001, pp. 3494–3495 (Jean-Pierre Charbonneau)/*RDPP*, no. 278/1.

bill follows the Assembly's adoption of all the committee reports on annual appropriations. The Assembly must first have disposed of the motions considered in Standing Order 277 (S.O. 288), namely any motions stating a grievance and any want of confidence motions moved following the debate on the budget speech, as well as the motion by the Minister of Finance that the Assembly approve the Government's budget policy. While the Assembly's confidence in the Government is called into question at the time of a vote on an appropriations bill following the consideration of annual appropriations, it is not called into question during a vote on the passage of a bill on interim estimates (S.O. 281) or on supplementary estimates (S.O. 289 and 291).

7.2.5 Other Motions Considered Questions of Confidence

Finally, the Government can decide that a question is of such importance that defeat in a vote on it would represent a loss of confidence by the Assembly. In such cases, the Premier or the Premier's representative must expressly declare that the motion concerned constitutes a question of confidence in the Government (S.O. 303.1(5)).

8

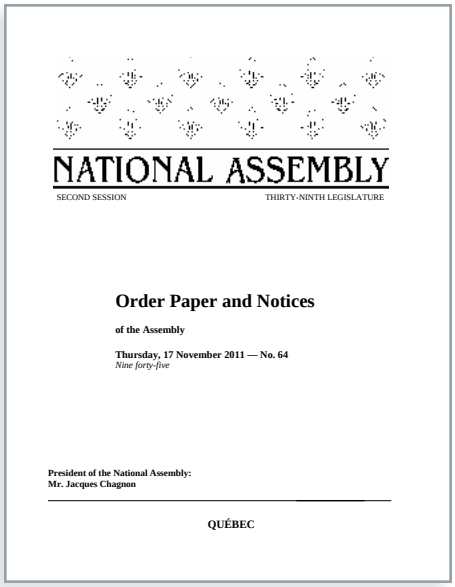
Parliamentary Publications

The National Assembly produces three official publications to provide a record of proceedings in the House every sitting day: the *Order Paper and Notices*, the *Votes and Proceedings* and *the Journal des débats* or Hansard. All three are available in print form and in electronic form on the Assembly website, as are bills, which the National Assembly is required to produce in both French and English. Internet users also have access to other documents such as the list of documents tabled, the list of papers that by law must be tabled and the status of bills.

8.1 PUBLICATIONS RELEVANT TO SITTINGS

8.1.1 *Order Paper and Notices*

The *Order Paper and Notices* for a sitting sets out the business that may be considered by the Assembly at that sitting and various other items of information. Although it has a short lifespan, it is a key document—a sort of "menu" designed to let Members know what matters may be taken up. 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.



NATIONAL ASSEMBLY

SECOND SESSION THIRTY-NINTH LEGISLATURE

Order Paper and Notices

of the Assembly

Thursday, 17 November 2011 — No. 64
Nine forty-five

President of the National Assembly:
Mr. Jacques Chagnon

QUÉBEC

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*.[1] It is available electronically and in print, but only as of 8 a.m. on the day of the sitting. Its content is strictly confidential until that time.

Under the Standing Orders of the National Assembly, bills and, barring exceptions, motions must be entered on the Order Paper, as must statements by Members, interpellations and written questions. The Government House Leader uses the Order Paper to put together the agenda for the sitting day. Some items of business have precedence, while others can stay on the Order Paper indefinitely until the Government, via the Government House Leader, decides to bring them up for consideration. This is the case for bills, for example. Some are never called and so are said to "die on the Order Paper" at the close of the session.

Part 1 of the Order Paper, under the heading Routine Proceedings, simply lists the items of business that may be taken up without providing specific details, as these will come to light only at the sitting itself. The exceptions to this rule are statements by Members and deferred divisions.

Part 2, the Orders of the Day, is divided into five sections:

- Business Having Precedence (S.O. 87);
- Urgent Debates (S.O. 88 to 93);[2]
- Debates on Reports from Committees (S.O. 94 and 95), which are limited to committee reports that contain recommendations and do not pertain to bills or financial commitments or stem from deliberative meetings;

1. *Constitution Act, 1867* (UK), 30 & 31 Vict., c. 3 (reprinted in R.S.C. 1985, app. II, no. 5).
2. Unlike motions, urgent debates need not be announced in the Order Paper by means of a notice. A written request for leave to hold an urgent debate must be sent to the President at least one hour before Routine Proceedings (S.O. 89). If leave is granted, a two-hour limited debate is held at the very beginning of the Orders of the Day (S.O. 91). Internet users may subscribe to a news feed (RSS) to automatically receive a notice every time new information is posted in the "Bills" section of the Assembly website.

- Other Business (S.O. 96), which comprises Government Bills, Private Members' Public Bills, Private Bills, Government Motions, Estimates of Expenditure and Statutory Debates; and
- Business Standing in the Name of Members in Opposition (S.O. 97 to 99), that is, motions moved by opposition Members and debated on Wednesdays from 3 p.m. to 5 p.m.

Part 3 of the Order Paper lists the bills passed by the Assembly but not yet assented to by the Lieutenant-Governor.

Part 4, Proceedings in Committee, shows the business taken up by the different parliamentary committees.

Part 5 contains 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 (S.O. 313). Any new question is published on the day it is entered. The full list of written questions awaiting a response is published on Wednesdays only.

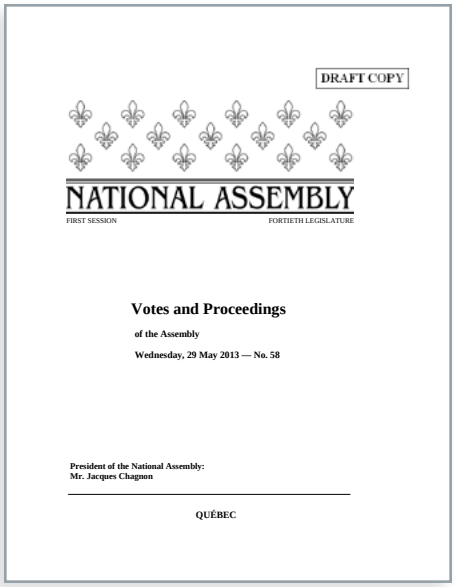
Part 6, Notices, is divided into two sections: Notices previously given and Notices appearing for the first time. Any new business for which notice must be given, such as bills, motions (except Business Standing in the Name of Members in Opposition) and interpellations, is first listed in the Order Paper as "appearing for the first time" before moving on to the "previously given" section, where it remains until called by a House Leader or an independent Member for consideration by the Assembly. Notices for want of confidence motions and interpellations take a slightly different route, however, as they respectively move on to the Business Having Precedence and Proceedings in Committee sections as soon as the prescribed notice period has expired.

8.1.2 *Votes and Proceedings*

Prepared and distributed by the House Secretariat under the authority of the Secretary General and in the name of the President of the Assembly, the *Votes and Proceedings* is published in French and English as required by section 133 of the *Constitution Act, 1867*. In the past, the French and English were printed side by side in a single bilingual format but they are now presented as two separate documents.[3]

An electronic draft is posted on the Assembly website about one hour after the end of a sitting and a paper draft is available the next day. The final version is available in both formats a few days later.

3. *Procès-verbal de l'Assemblée* and *Votes and Proceedings of the Assembly*.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NATIONAL ASSEMBLY

FIRST SESSION FORTIETH LEGISLATURE

Votes and Proceedings

of the Assembly

Wednesday, 29 May 2013 — No. 58

President of the National Assembly:
Mr. Jacques Chagnon

QUÉBEC

The *Votes and Proceedings* and the Hansard serve distinct purposes. The Hansard is a word-for-word record of the debates in the House while the *Votes and Proceedings* is a record of all that is officially decided or done during a sitting and all the procedures begun or completed, such as the stages in the consideration of bills. The *Votes and Proceedings* also reports the rulings issued by the President.

The *Votes and Proceedings* for a sitting must include the full text of motions moved; the results of divisions (votes) and, in the case of recorded divisions, the name of every Member present and how he or she voted;[4] 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); the time at which the Assembly was called to order and the time at which the proceedings were suspended, resumed and adjourned; and notices of committee proceedings. As well, any bills assented to on the day of the sitting or since the last sitting are listed at the end of the *Votes and Proceedings*.

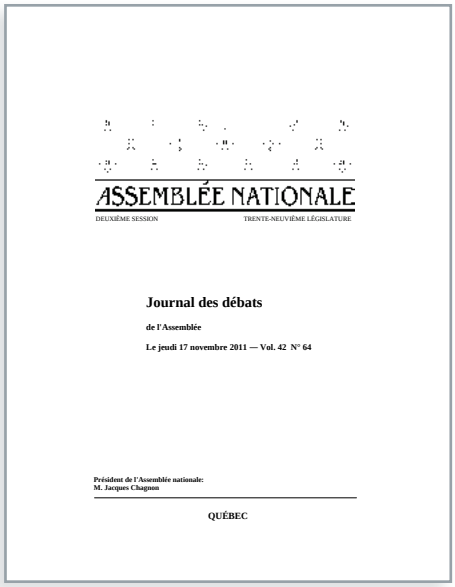
After every session, a bound limited edition of the *Votes and Proceedings* is released.

8.1.3 *Journal des débats*

Since 1964, the *Journal des débats* or Hansard provides a faithful record of all that is said by Members and anyone else who takes the floor, whether in the House or in committee. Statements made in French or English are transcribed in full in the original language and not translated. When another easily identifiable language is used, that fact is noted but the words are not transcribed.

As dictated by the rules of parliamentary debate, Members may take the floor to speak only if the presiding officer has recognized them. Also, when the presiding officer is standing, no one but he or she may speak. Remarks

4. When a vote is taken by a show of hands, a Member may require that his or her dissent or abstention be recorded in the *Votes and Proceedings* or that it be noted that the "yeas" were not unanimous (S.O. 228).


ASSEMBLÉE NATIONALE

DEUXIÈME SESSION TRENTE-NEUVIÈME LÉGISLATURE

Journal des débats

de l'Assemblée

Le jeudi 17 novembre 2011 — Vol. 42 N° 64

Président de l'Assemblée nationale:
M. Jacques Chagnon

QUÉBEC

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".

The Hansard contains no commentary. Minor changes may be made to improve readability, but no stylistic alterations, vocabulary substitutions or other material changes can be made.

As soon as the revised version of the Hansard 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 that the Hansard must provide a full, accurate reflection of what was said.

The Hansard is published in print and electronic format.

In addition, since 1964, the National Assembly has published an index of the Hansard at the close of every parliamentary session to make the content of Assembly and committee deliberations more readily accessible. Prepared by the Indexing and Reconstituted Debates Division of the National Assembly Library, 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 legislative bill (deliberations relating to every bill and draft bill introduced during the 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.

8.2 BILLS AND STATUTES

Québec's constitutional obligation to legislate in French and English derives from section 133 of the *Constitution Act*, *1867*, which requires that the Acts of the Parliament of Canada and of the Legislature of Québec be printed and published in both languages. In 1979, in *Blaikie*,[5] the Supreme Court of Canada found that the requirement to print and publish in both languages implies a requirement to enact in both languages. Moreover, section 21 of the *Constitution Act, 1982*[6] maintains the legislative and judicial bilingualism requirement for Québec and Manitoba. Moreover, section 7 of the *Charter of the French language*[7] as enacted in 1993 prescribes 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". It also states that the French and English versions are equally authoritative.

All bills to be introduced before the National Assembly are therefore translated into English and printed in French and English. This also applies to all bills to be enacted and assented to. Amendments proposed at any stage in the legislative process may, however, be presented in French or English. As soon as they are adopted in committee or in the House, they are translated into the other language and incorporated into the bill before the final assent stage.[8]

There are three types of legislative bills: government bills, private Members' bills and private bills. Government bills come to the Assembly's Legislative Translation and Publishing Directorate through the Legislation Secretariat of the Executive Council, while private Members' bills and private bills are sent to it by the Assembly's General Directorate for Legal and Parliamentary Affairs. In all three cases, bill numbers are assigned according to the order in which the bills are sent to photocomposition. In any given session, numbers 1 to 189 are reserved for government bills; 190 to 199, for private Members' bills; and 200 to 389 for private bills. Once these numbers are exhausted, new government bills are numbered from 400 to 489 then 500 to 589, and new private Members' bills, from 390 to 399 then 490 to 499 and so on.

As bills are strictly confidential until they are introduced in the National Assembly and copies are distributed to the Members, every precaution must be taken to keep them under embargo right up to the last minute. Once a bill has been introduced in the Assembly, the Secretary General lifts the embargo.

5. *Québec (Attorney General) v. Blaikie*, [1979] 2 SCR 1016.
6. *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11, reprinted in R.S.C. (1985), app. II, no. 44.
7. L.Q., c. C-11.
8. JD, December 11, 1996, pp. 4208–4209 (Raymond Brouillet)/*RDPP*, no. 252/1.

Once assented to, bills are assigned a chapter number for publication in the annual volume of the Statutes of Québec according to the order in which they received assent.

8.3 OTHER PUBLICATIONS

In addition to the official publications described earlier, the National Assembly makes a number of documents that are directly relevant to its proceedings available online to Members and the public. These include the list of documents tabled, the list of papers required by law to be tabled and the status of bills.

8.3.1 List of Documents Tabled

The documents laid before the National Assembly by Members become public as soon as they are tabled. All such documents are entered on a list that is posted on the Assembly website and anyone wishing to examine them may do so at the offices of the House Secretariat.

Of the documents on this list, only parliamentary committee reports and the annual reports and strategic plans of government departments and bodies and Officers of the National Assembly are posted online. The posting takes place 48 hours, at the latest, after their tabling in the Assembly.

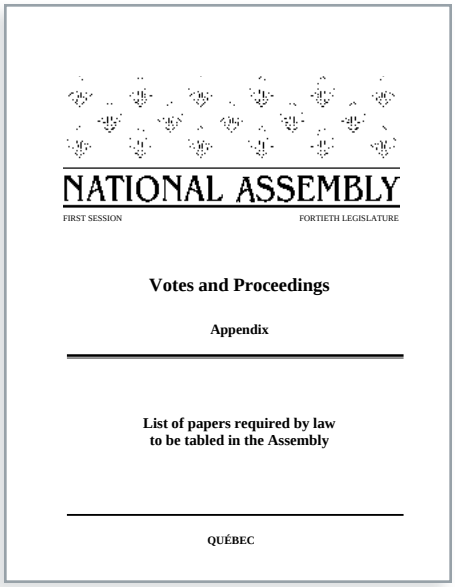
Documents tabled are listed under four headings:

- Assembly documents;
- Government documents;
- Documents tabled by Officers of the National Assembly; and
- Other documents.

8.3.2 List of Papers Required by Law to Be Tabled

Certain documents or "papers" are required by law to be tabled in the National Assembly in order to allow better parliamentary oversight of government activities. Ministers must table the annual activity and management reports of government departments and bodies as well as their strategic plans and financial statements, but may also be required to table certain directives, advisory opinions, notices, agreements and orders in council.

At the beginning of a new session, the President lays before the National Assembly the *List of papers required by law to be tabled*. Under Standing Order 58, the list must be reproduced in full in the *Votes and Proceedings* but it no longer has been, in actual fact, since the opening of the 36th Legislature on


NATIONAL ASSEMBLY

FIRST SESSION FORTIETH LEGISLATURE

Votes and Proceedings

Appendix

List of papers required by law to be tabled in the Assembly

QUÉBEC

March 2, 1999, because it is quite lengthy and regularly subject to change. It is now instead posted on the Assembly website in French and English and updated at least twice yearly—before the Assembly resumes in September and in February—in light of new legislation and any changes to the Ministers' responsibilities.

8.3.3 Status of Bills

Full details on the status of the bills that are before the House are posted on the Assembly website and updated on an ongoing basis[9] for the benefit of Internet users. The information provided on the website includes

- the title of the bill (with a link to the text as introduced in the Assembly);
- the name and title of the bill sponsor;
- the type of bill;
- the stages the bill has gone through and the associated dates (depending on the stage, there may also be links to relevant documents such as the Hansard, amendments or the committee report); and
- assent to the bill (the date of coming into force; a link to the official version, as assented to).

9. Subscribers to an RSS feed automatically receive a notice every time a new post is made in the "Bills" section of the Assembly website.

9

Conduct of a Sitting

Each day the Assembly meets during a session is called a sitting. As seen in Chapter 6, the Assembly holds regular sittings in keeping with the calendar and timetable set out in the Standing Orders; it may also meet at other times at the Premier's request for extraordinary sittings.

Each sitting of the Assembly is divided into two parts: Routine Proceedings and Orders of the Day (S.O. 51). Routine Proceedings are generally devoted to information conveyed to the Assembly by the Government, and consist of 11 items of business considered one after another. Although the President normally calls every item of business, there may be no business under certain headings. If, for example, the President calls "Introduction of Bills" and no bills are to be introduced that particular day, the Assembly simply moves on to the next item. One of the main features of Routine Proceedings is the period reserved for oral questions and answers, or Question Period, which is held on every sitting day without exception.

Orders of the Day are essentially devoted to the debates of the Assembly, which most often concern one of the stages in the consideration of a bill. 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 take place.

Like Routine Proceedings, Orders of the Day are conducted within a set framework. They comprise five items of business that must be dealt with in a predetermined sequence, but, unlike the items under Routine Proceedings, only those under which there are matters to be debated are taken up at each sitting.

Orders of the Day may vary considerably from one sitting to the next. Sometimes the Assembly is obliged to consider business that has precedence under the Standing Orders, but otherwise, except for business standing in the name of Members in opposition, which is taken up on Wednesdays, the Government is free to bring before the Assembly whatever business it chooses. 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.[1]

President's Papers

The preparation of a sitting of the National Assembly revolves around the President, who is master of the proceedings. The master of the order of business, however, is generally the Government House Leader, since, with a few exceptions, he or she decides which business on the Order Paper will be taken up at a sitting (S.O. 96).

Before each sitting, the Government House Leader's office draws up the order of business listing the different items that may be dealt with during Routine Proceedings and Orders of the Day. This confidential document is sent to the House Secretariat at least one hour before the sitting is slated to begin. The House Secretariat then uses the order of business and the information provided by the office of the House leader of each opposition group and by the independent Members to prepare the President's Papers for the sitting.

Typical President's Papers feature the same items as the *Order Paper and Notices*, but arranged in the order in which they are to be called during the sitting. They give a point-by-point breakdown of all of the business planned for Routine Proceedings and Orders of the Day. They also explain the parliamentary procedure to be followed, especially when less familiar or particularly complex aspects are involved, and contain cues to signal when consent must be sought to depart from the Standing Orders. In the section relating to

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1. JD, May 9, 1990, p. 2474 (Jean-Pierre Saintonge)/*RDPP*, no. 194/1. See Chapter 8, Section 8.1.1, "*Order Paper and Notices*".

Orders of the Day, the status of each of the bills before the House is specified as are the name of the mover of the motion being debated, the speaking time remaining for each parliamentary group in a limited debate, and so on.

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 Assembly*[2] or the Standing Orders to prepare President's Papers. They are distributed only to the President's office, the Secretary General (under whose authority they are prepared) and the Table Officers. A co-operative project put together by the President's office, the offices of the House leaders and independent Members, and several directorates of the National Assembly, the President's Papers are continually updated to keep the Chair informed of any changes as the sitting progresses. ■

9.1 BEGINNING OF A SITTING

When a sitting is about to begin, the bells ring to call the Members to the Chamber. The President then enters at the prescribed time and all Members and visitors rise. At the President's invitation, they observe a moment of reflection (S.O. 31).

Before the 2009 parliamentary reform, sittings began at 10 a.m. with Orders of the Day, during ordinary hours of meeting, while Routine Proceedings were taken up at 2 p.m. In other words, Orders of the Day were conducted twice a day, once at the opening of the morning sitting, and again in the afternoon immediately after Routine Proceedings. During extended hours of meeting, Routine Proceedings were taken up at 10 a.m., at the opening of the sitting.

Since the new calendar took effect, in September 2009, each sitting of the Assembly has begun with Routine Proceedings.[3]

2. L.Q., c. A-23.1.
3. According to the schedule set out in the Standing Orders, sittings begin at 1:30 p.m. on Tuesday and 9:30 a.m. on other days (S.O. 20 and 21). In fact, in accordance with a practice that developed during the 39th Legislature, each sitting begins 15 minutes later with statements by Members, and is chaired by a Vice-President. Once these are completed, the sitting is suspended until the President enters the Chamber.

The President, accompanied by his chief of staff, meets with the Secretary General and his main advisers in the Flag Room to prepare the upcoming sitting.

9.2 ROUTINE PROCEEDINGS

Once the President has drawn attention to the presence in the gallery of any dignitaries, former Members or other distinguished guests, the items of business that constitute Routine Proceedings are called one by one, in the following order: Statements by Members; Statements by Ministers; Introduction of Bills; Presentation of 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; Notice of Proceedings in Committees; and Information on the Proceedings of the Assembly.

9.2.1 Statements by Members

Since the new calendar came into force, in September 2009, the period devoted to statements by Members has allowed Members, whether or not they are ministers, to make a statement on a specific subject of particular interest to them at the beginning of each sitting.[4] As specified in a directive from the Chair,[5] statements by Members replace motions without notice moved with a view to marking special events or raising topics of local, regional, national or international importance. Although the number of motions without notice

4. However, the Standing Orders that concern statements by Members took effect on May 11, 2009.
5. JD, May 12, 2009, p. 1853 (Yvon Vallières)/*RDPP*, no. 54.1/1.

is now limited,[6] Members may continue to make their voices heard on such events during this period.

A Member who wishes to make a statement must hand in a notice by 5 p.m. on the day before it is to appear on the *Order Paper and Notices*, presenting the subject of the statement. The Secretary General forwards a copy of any notices received to the House leaders and independent Members (S.O. 54.1).[7] The statement is made on the day on which it appears on the Order Paper, by the Member who gave notice of it.[8]

Not more than 10 statements may be made at any one sitting, each one lasting no more than one minute (S.O. 54.3). Statements not made during a sitting may not be moved forward to a future sitting day or replaced by a statement from another parliamentary group or an independent Member, although there is nothing to prevent one Member from replacing another, with the latter's permission, in order to make a statement on the subject for which a notice appears on the Order Paper (S.O. 54.2).[9]

At the beginning of each legislature and, if necessary, during a legislature, the President, after conferring with the House leaders, allocates statements among the parliamentary groups, taking into account the presence of any independent Members. The President also determines the order in which statements are to be made (S.O. 54.4).[10]

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6. See Section 9.2.9, "Motions Without Notice".
7. 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 (JD, May 14, 2009, p. 1963 (François Gendron)/*RDPP*, no. 54.1/2).
8. 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 for all Members, including ministers, since ministers too may make a statement under this heading in their capacity as Members.
9. JD, May 12, 2009, p. 1853 (Yvon Vallières)/*RDPP*, no. 54.1/1.
10. For the 39th Legislature, this allocation was set out in a 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*, adopted on April 21, 2009 (see Appendix III). According to this paper, the parliamentary group forming the Government is entitled to the first, third, sixth, eighth and tenth statements at every sitting; the Official Opposition is entitled to the second, fourth, seventh and ninth statements. The Second Opposition Group is entitled to the fifth statement at every sitting. However, after two of its Members decided to sit as independent Members, it was given only four statements every six sittings so as to allow the two new independent Members to make one statement every six sittings like the other independent Member (JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/*RDPP*, no. 74/22). On September 20, 2011, following a decision by certain Members of the Official Opposition to sit as independent Members, the Chair again reallocated the statements by Members so that the Government and the Official Opposition were entitled to five and four statements per sitting respectively, subject to the rules concerning independent Members. The Second Opposition Group was

9.2.2 Statements by Ministers

A minister may make a statement to the Assembly on any topic he or she considers pertinent. The Standing Orders are silent as to the precise nature or content of ministerial statements, but such statements must relate to matters of public interest or government policy.[11] In practice, most focus on matters the Government considers important, such as policy announcements or the Government's reaction to a given event.

A statement may not exceed five minutes (S.O. 55). After each statement, the Leader of the Official Opposition and the leaders of the other parliamentary groups, or their representatives, may comment on the matter for up to five minutes each. Generally, a group's critic for the portfolio that relates to the subject matter of the statement speaks on behalf of the leader. Subsequently, the minister may speak for up to five minutes in reply (S.O. 56). The right to speak during a debate on ministerial statements does not extend to independent Members.[12]

A minister who wishes to make a statement in the Assembly need not obtain the permission or authorization of the President to do so.[13] 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. This being done, the minister still has complete latitude to decide whether or not to actually make the statement.[14]

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 or legality, 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

entitled to the fifth statement at the first, third, fourth and sixth sittings. The independent Members as a group were entitled to a maximum of five statements every six sittings, with no Member making more than one statement per two cycles. They were entitled to the fifth statement at the second and fifth sitting of a cycle, the sixth or seventh statement at the first sitting of the cycle, replacing a government statement and a statement of the Official Opposition in turn, and the ninth statement, in place of a statement by the Official Opposition, at the third and fourth sittings of the cycle.

11. JD, June 16, 1994, pp. 1973–1974 (Jean-Pierre Saintonge)/*RDPP*, no. 55/2.
12. JD, October 18, 1983, p. 3004 (Richard Guay).
13. JD, June 16, 1994, pp. 1973–1974 (Jean-Pierre Saintonge)/*RDPP*, no. 55/2.
14. JD, April 28, 1998, pp. 10900–10901 (Jean-Pierre Charbonneau)/*RDPP*, no. 55/3.

to make a statement during Routine Proceedings.[15] Ministerial statements remain subject to the rules of parliamentary debate and therefore may not contain prohibited words or unparliamentary language.

In making statements, ministers must keep to 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.[16]

9.2.3 Introduction of Bills

The introduction of a bill is the first of the five stages in its consideration (S.O. 229). There is no debate at this stage (S.O. 234) and the Members do not vote on the bill's content; the text is simply accepted for consideration during the subsequent stages of the legislative process.[17]

Any Member may introduce a bill, but only a minister may introduce a bill involving the commitment of public funds (ANA, s. 30)[18] or a bill, known as an "omnibus" bill, whose sole purpose is to make minor, technical, corrective or consequential amendments to various Acts (S.O. 258 and 259).[19] A Member who wishes to introduce a bill must give notice to that effect on the Order Paper at least one sitting day in advance (S.O. 232). In keeping with usage and the general scheme of the Standing Orders, a bill may not be introduced by more than one Member.[20]

In the case of a government bill or a bill introduced by a government Member, the Government House Leader, having first obtained the right to speak, informs the President of the item on the Order Paper corresponding to the title of the bill (S.O. 232). The President announces the title of the minister or Member sponsoring the bill, as well as the number and title of the bill, and grants the sponsor leave to read the explanatory notes or a summary of them. The President then puts the motion to introduce the bill to the vote, without debate (S.O. 234). Although the number of the bill never appears on the Order Paper, the President can announce it since he or she

15. JD, June 16, 1994, pp. 1973–1974 (Jean-Pierre Saintonge)/*RDPP*, no. 55/2.
16. JD, October 30, 2003, p. 1213 (Michel Bissonnet)/*RDPP*, no. 55/4.
17. JD, December 16, 1993, pp. 9837–9838 (Jean-Pierre Saintonge)/*RDPP*, no. 233/3.
18. See Chapter 14, "The Legislative Process".
19. The Standing Orders provide that only the Government may introduce an omnibus bill that falls within the area of competence of two or more committees (S.O. 258), and only a minister may introduce an omnibus bill that falls within the area of competence of a single committee (S.O. 259). However, it is difficult to determine to what extent these provisions are actually applied, since the Chair has not yet had occasion to rule on them.
20. JD, December 19, 1980, p. 1204 (Claude Vaillancourt)/*RDPP*, no. 232/1.

receives a copy of the bill prior to Routine Proceedings on the day the bill is introduced (S.O. 232).

The procedure is virtually the same for bills introduced by opposition Members. In that case, the House leader of the parliamentary group concerned requests leave to speak and informs the President of the item to be called on the Order Paper, while if the bill is introduced by an independent Member, that Member informs the President of the item to be called.

A Member who has given notice of intent to introduce a bill may ask another Member to introduce it on his or her behalf (S.O. 189). However, if the sponsor of a bill is a minister, he or she can be represented only by another minister.

After the introduction of a public bill, the Government House Leader may make a motion without notice to refer the bill to a parliamentary committee for a general consultation or special consultations. The motion is decided without debate unless it proposes to set aside the rules relating to special consultations, in which case the Standing Orders provide that it be discussed in a one-hour debate (S.O. 235)[21] that must take place immediately.[22] However, in actual fact, the motion is usually adopted without debate.

The procedure for introducing a private bill differs from that for a public bill. While the sponsor of a public bill stands to read the explanatory notes, this is not the case for a Member introducing a private bill at the request of an interested person, as private bills do not contain explanatory notes (S.O. 266). The Government House Leader simply informs the President of the pertinent item on the Order Paper. The President then communicates to the Assembly the content of the Law Clerk's report (S.O. 265) and tables the report.[23] After announcing the title of the Member introducing the bill, as well as the number and title of the bill, the President puts the question of the introduction of the bill to the House. On a motion without notice moved by the Government House Leader and decided without debate, the bill is then referred to a committee (S.O. 267).

21. The Chair has ruled that a motion to determine the persons and organizations to be convened or the time to be allocated to preliminary remarks, hearings, presentations or discussion in committee is contrary to the rules on special consultations set out in Standing Orders 170 and following (JD, May 6, 1993, pp. 6220–6222).
22. JD, November 15, 2000, pp. 7898–7899 (Jean-Pierre Charbonneau)/*RDPP*, no. 235/1.
23. This report states whether a notice of the introduction of the private bill has been published in the *Gazette officielle du Québec* and in a newspaper in accordance with Rule 38 for the conduct of proceedings. See Chapter 14, Section 14.2.2, "Private Bills".

9.2.4 Presentation of Papers, Reports From Committees and Petitions

The documents that may be presented under this item of business are papers of public interest tabled by ministers, parliamentary committee reports and petitions. Although not expressly provided for in the Standing Orders, it has become the practice to also table the reports on missions carried out by Members. The Assembly's consent is presumed in such cases. A record of every document tabled is entered in *Votes and Proceedings* (S.O. 65). Once tabled, a document is public.

9.2.4.1 Papers

The Standing Orders provide that a minister may table any paper he or she deems to be of public interest (S.O. 59). It is not up to the Chair to rule on whether or not a paper is of public interest,[24] or to require that a minister table a paper; in fact, the Chair has no means of compelling the Government to table papers.[25] In many cases, a minister's obligation to table a paper originates in law. For the Members' information, at the beginning of each session, the President submits to the Assembly a list of the papers that by law must be tabled in the House. The list must be reproduced in *Votes and Proceedings* (S.O. 58).[26]

Papers that are to be tabled by law, which include the annual activity reports of departments and public bodies, are of fundamental importance. Their primary objective is to ensure efficient parliamentary oversight of government activities. For this objective to be achieved, the Assembly needs to be informed of everything that goes on in the state apparatus. The Chair recognized this when it ruled 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 a contempt of Parliament. According to the Chair, such an omission impedes the Members in the performance of their duties.[27]

24. JD, May 5, 1987, pp. 7049–7051 (Pierre Lorrain).
25. JD, September 3, 1992, pp. 3031–3033 (Jean-Pierre Saintonge)/*RDPP*, no. 59/2.
26. In fact, the list is too long to be included in *Votes and Proceedings*. However, it is published on the Assembly's website and updated at the beginning of each session.
27. JD, March 11, 1993, pp. 5292–5294 (Jean-Pierre Saintonge)/*RDPP*, no. 67/28. Subsequently, the Assembly unanimously adopted 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).

It is only during the presentation of papers, reports from committees and petitions that ministers may table the papers of their choice. A minister who wishes to table a paper at any other time during a sitting must first obtain the consent of the Assembly. Private Members, however, must always obtain the consent of the Assembly to table a paper.

The President also has occasion to table papers in the Assembly, either because required to do so by law or the Standing Orders or because he or she considers it appropriate in the circumstances. The Chair has emphasized that documents received for information purposes need not be tabled.[28] Nor do all the letters and other messages the Chair receives have to be read out: the Chair need only give the gist of such documents.[29] It should also be noted that the rule on tabling papers only during the presentation of papers, reports from committees and petitions does not apply to the Chair, who may table documents at any time during the sitting, just as the Chair may speak at any time.

A Member who tables a paper must simply state its title without further comment. There may be no discussion.[30] Members may not, at this stage of Routine Proceedings, question the Government to ascertain the nature of the paper being tabled or to know whether a specific document is to be tabled. The time for such questions is during Question Period.

It is standard practice to present papers in printed format. In 1996, the Chair ruled that so long as questions 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 (S.O. 35(6)). However, since 2007, the annual reports and strategic plans of departments and public bodies, and documents emanating from persons designated by the Assembly are tabled in the House in digital form as well as on paper. Many of these documents may be consulted directly on the National Assembly website. However, the paper version remains the only official version of any document tabled in the Assembly.[31]

28. JD, June 7, 1979, p. 1799 (Clément Richard)/*RDPP*, no. 59/1.
29. Geoffrion 1941, S.O. 17, note 4 (in French only).
30. JD, September 3, 1992, pp. 3031–3033 (Jean-Pierre Saintonge)/*RDPP*, no. 59/2.
31. JD, October 23, 2007, p. 1577 (Michel Bissonnet)/*RDPP*, no. 59/6.

9.2.4.2 Reports From Committees

When a parliamentary committee has concluded its proceedings on a given matter, the Chair or a member designated by the Chair must table the committee's report in the Assembly (S.O. 61, 174 and 178). 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 examined the estimates (S.O. 288).

Generally speaking, at this stage, committee reports are tabled but not voted on. In the case of a report by a committee that has heard interested parties and carried out a clause-by-clause consideration of a private bill, however, the question is put immediately, since, unlike the case for a public bill, no time is set aside for consideration of a committee report on a private bill (S.O. 267).

9.2.4.3 Petitions

The right to present a petition to the Crown or to Parliament for the redress of grievances is a fundamental constitutional principle that has been applied without interruption since 1867. The right to present a petition to the Assembly is codified in section 21 of the *Charter of human rights and freedoms*,[32] which states that "every person has a right of petition to the National Assembly for the redress of grievances".

While this right is provided for in the Charter, there is no express provision for the manner in which it is to be exercised. However, since the Assembly is the body being petitioned, and since by virtue of its parliamentary privileges the Assembly is entitled to manage its internal affairs free from outside interference, the procedural framework for exercising the right to petition must be the one set out in the Standing Orders; the Charter cannot deprive the Assembly of its constitutional right to regulate its internal affairs. In fact, given the constitutional status of parliamentary privileges, these take precedence over any Act adopted by Parliament.[33] Petitions must therefore be presented in accordance with the Standing Orders.[34]

32. *Charter of human rights and freedoms*, L.Q., c. C-12.
33. See Chapter 3, "Parliamentary Privilege".
34. JD, October 24, 2000, pp. 7300–7304 (Jean-Pierre Charbonneau)/*RDPP*, no. 62/8. In this ruling, the President answered questions on the right to petition that had been referred to him in the previous months. Thus, on May 26, 2000, a government Member questioned the President's refusal, made in a private ruling on May 23, 2000, to authorize the tabling by a government Member of a petition that impugned the legitimacy of another Member's mandate. Basing his decision on Title VI of the Standing Orders, under which a Member may impugn another Member's conduct only by a special motion, the President stated that

Abstract of a petition

ASSEMBLÉE NATIONALE
Nº 026-200910030

ASSEMBLÉE NATIONALE
QUÉBEC

EXTRAIT DE PÉTITION
(Article 64 du Règlement)

Je dépose l'extrait d'une pétition adressée à l'Assemblée nationale, signée par vingt-cinq pétitionnaires.

Désignation : Citoyens et citoyennes du Québec.

Les faits invoqués sont les suivants :

CONSIDERING THAT, in Quebec, the situation concerning pets is truly unacceptable and that the Animal Health Protection Act (P-42) is not properly applied;

CONSIDERING THAT the Quebec government has the responsibility and the moral duty to ensure the protection of consumers and animals;

CONSIDERING THAT the Quebec was the last province to enact its law to protect animals and that this law to this day contains no acceptable standards that protect animals;

CONSIDERING THAT the SPCA, with 137 years of experience, has managed to gain the confidence of more than 83% of the population (Léger Marketing January 2005);

CONSIDERING THAT the SPCA is willing to put at the disposal of the Quebec government its infrastructure, its expertise, as well as its qualified inspectors;

CONSIDERING THAT the SPCA offers a training and awareness program that would allow the expansion of these services throughout the province at no cost to the taxpayers;

Et l'intervention réclamée se résume ainsi;

This is why we, the undersigned, are asking the Quebec National Assembly to adopt a resolution mandating the SPCA and its affiliates with full power to apply the law concerning the well-being and the safety of animals Animal Health Protection Act (P-42), and to obtain from the government its firm commitment that it will create standards designed to protect the public and the animals.

Je certifie que cet extrait est conforme au Règlement et à l'original de la pétition.

Pierre Marsan

Pierre Marsan, Robert-Baldwin

8 octobre 2009

Date

ASSEMBLÉE NATIONALE QUÉBEC

Abstract of a petition tabled in the Assembly

The Standing Orders state that any person or association of persons may petition the Assembly through one of its Members for the redress of a grievance that lies within the competence of the State (S.O. 62). A petition may be submitted on paper or in electronic form. A petition submitted in electronic form must be initiated and signed on the Assembly's website. A petition submitted on paper must contain the original signatures of all the petitioners (S.O. 63). The Member presenting the petition must file it at the office of the Secretary General not later than one hour before Routine Proceedings. If a petition is to be presented in electronic form, handing in notice of the petition is sufficient (S.O. 64, 1st par.).

A petition must meet a number of criteria as to form and content. It must state the facts on which it is based as well as the intervention sought, and contain a clear, concise and accurate description of the situation in which the intervention of the Assembly is requested. It may also identify the group to which the petitioners belong (S.O. 63.1). If a petition exceeds 250 words, the President will automatically refuse it (S.O. 63.1; R.C.P. 42(1)). Petitions considered non-conforming in other ways may, however, be tabled with the unanimous consent of the Assembly. The criteria as to form and content are examined in greater detail in Chapter 20, which deals with citizen relations.

A Member acting on behalf of petitioners tables an abstract that the Member certifies to be true to the original and in which he or she specifies the number of signatures contained in the petition, the groups, if any, to which the petitioners belong, the material allegations and the redress sought (S.O. 64, 3rd par.). Petitions are presented at the time set aside for this purpose during Routine Proceedings, immediately after the presentation of papers and reports from committees. A maximum of 15 minutes is allotted for presenting petitions (S.O. 64, 2nd par.).

9.2.5 Oral Answers to Petitions

Under the new rules that took effect on September 14, 2009, the Government is required to answer every petition in writing, failing which an oral answer

to authorize the tabling of such a petition would run counter to his fundamental duty of protecting the rights of the Assembly and its Members. In the second case, on June 2, 2000, a citizen acting through his attorneys requested that the President place a petition on the Order Paper for subsequent debate and decision by the Assembly. In his ruling, the President explained that to grant such a request would contravene the rules of procedure, which clearly state that only a Member may submit a petition to the Assembly. In addition, neither the rules of procedure nor section 21 of the *Charter of human rights and freedoms* requires the Assembly to act as a court of arbitration of disputes or grievances by debating and ruling on petitions.

is to be given at the time set aside during Routine Proceedings for that purpose.[35]

Prorogation of the Assembly does not release the Government from its obligation to answer a petition tabled during the preceding session. Unless the Assembly has been dissolved, the Standing Orders that relate to petitions continue to apply despite the closing of a session (S.O. 64.12).

9.2.6 Complaints of Breach of Privilege or Contempt and Personal Explanations

9.2.6.1 Breach of Privilege or Contempt

Breaches of privilege or contempt of the Assembly or one of its Members may be raised in the Assembly by a procedure known as a "point of privilege" (S.O. 66). The breach may have been committed by a Member or by another person. There are two ways of raising a question of privilege (S.O. 69). First, at any time in the course of a sitting, a Member may rise on a question of privilege immediately after a perceived breach has occurred.[36] In that case, the Member is limited to a brief explanation of the matter, which may not be debated (S.O. 68). A Member may also notify the Chair in writing of his or her intention at least one hour prior to Routine Proceedings, stating the privilege that is alleged to have been breached as well as the facts in support of his or her contention. Given the restrictive nature of the first method, the Chair is most often informed of a Member's intent in writing.

At the appropriate moment during Routine Proceedings, the President notifies the Assembly that a complaint of breach of privilege has been received, within the prescribed time, from a given Member. The President then informs the House of the facts set forth in the notice. 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. Since the arguments contained in a notice are primarily intended to assist the President in making a ruling, they are not ordinarily read in the Assembly; nor is it customary to distribute copies of the notice or other documents submitted to the President.[37] If the Chair judges that a notice of intent to raise a point of privilege given under the second paragraph of Standing Order 69 is sufficiently clear, it need not hear

35. See Chapter 20, Section 20.1.5, "The Government's Answer to a Petition".
36. JD, June 10, 2003, p. 162 (Michel Bissonnet)/*RDPP*, no. 69/4.
37. JD, October 27, 2009, pp. 3616–3620 (Yvon Vallières)/*RDPP*, no. 69/5. In the case in point, the Chair did not challenge this custom but, given the special circumstances, agreed to provide a copy of the documents to the House leaders, while giving them a time limit for presenting their arguments.

any arguments on the matter, although it is free to do so if it judges that the information in the notice is not sufficiently detailed.[38]

The President may rule on the matter immediately or take it under advisement.[39] In the latter 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 time allotted for questions of privilege or contempt. The Chair's role is to decide whether the facts constitute at first sight a breach of privilege of the Assembly or one of its Members.

If the complaint is judged admissible, and the complainant, when raising the point of privilege, stated his or her intent to move a motion calling on the Assembly to act on the matter, both the complainant and the person impleaded—that is, the person alleged to have committed the breach if that person is a Member—may speak for up to 20 minutes. The Committee on the National Assembly is then convened by the President to conduct an inquiry into the matter.[40] Following the inquiry, the Assembly considers the committee's recommendations and decides whether there has been a breach of privilege, and, if so, what disciplinary action to take.

A Member in respect of whom the Ethics Commissioner has filed a report and who is still a Member of the Assembly has the right to reply to the report by making a statement not exceeding 20 minutes at the time set aside for complaints of breach of privilege or contempt and personal explanations. The statement must be made within five sitting days after the report is tabled.[41]

9.2.6.2 Personal Explanations

With the President's leave, a Member may also explain a matter that, while not constituting a breach of privilege or contempt, concerns him or her as a Member of the Assembly. For instance, a Member may wish to call attention to inaccuracies contained in the written record of one of his or her speeches, 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 Member's explanation, not less than one hour before Routine Proceedings (S.O. 71).

38. JD, June 11, 1990, pp. 3018–3022 (Jean-Piere Saintonge)/*RDPP*, no. 41/2; JD, June 11, 1990, pp. 3018–3022 (Jean-Piere Saintonge)/*RDPP*, no. 69/1.
39. JD, May 30, 1990, pp. 2719–2725 (Jean-Pierre Saintonge)/*RDPP*, no. 41/1.
40. See Chapter 3, Section 3.3.4, "Conduct of a Person Other than a Member".
41. *Code of ethics and conduct of the Members of the National Assembly*, L.Q., c. C-23.1, s. 102.

At the appropriate time during Routine Proceedings, the President informs the Assembly that a notice has been received from a Member who wishes to make a personal explanation and immediately rules on the admissibility of the request.[42] 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 (S.O. 71, 2nd par.). The same procedure applies in the case of a Member who gives an explanation on behalf of a Member who is absent (S.O. 73).

9.2.7 Oral Questions and Answers

A period for oral questions and answers is held each sitting day. Despite the lively give-and-take that characterizes it, 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 Assembly takes up the substantive matters submitted for its consideration.[43]

In principle, Question Period is limited to 45 minutes (S.O. 74), but in practice it is the President alone who determines when to end the period. Rigid time-clocking is impractical here,[44] and the President does not cut off a question or answer simply because the prescribed 45 minutes have elapsed.[45] In fact, even if there are only a few seconds remaining in Question Period after a minister has given an answer, the President will usually allow another question to be asked and answered. If the President sees that there are no more questions to be asked of the Government, he or she may put an end to Question Period before the 45-minute time limit has expired. In fact, this hardly ever occurs, and then only in exceptional circumstances.

The President may decide to interrupt Question Period and suspend a sitting because of points of order or misconduct. The Standing Orders now provide that if Question Period has not been concluded at the time proceedings are to be suspended, proceedings shall continue until it has (S.O. 74).

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42. For the admissibility criteria, see Chapter 3, Section 3.2.5, "The Right to Regulate Internal Affairs Free from External Interference".
43. That is why Standing Order 212 on a Member explaining something he or she has said in a speech and Standing Order 213 on questions that may be asked that Member immediately after he or she has finished speaking do not apply during Question Period. The Chair has decided that those Standing Orders apply only during debates (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".
44. JD, May 16, 1990, p. 2616 (Jean-Pierre Saintonge)/*RDPP*, no. 74/9.
45. JD, June 12, 1986, p. 2677 (Pierre Lorrain)/*RDPP*, no. 74/7.

9.2.8 Deferred Divisions

Voting in the Assembly is carried out in one of two ways: by a show of hands or by division (S.O. 220).[46] At the request of the Government House Leader, the President may defer a division to a later time on the same sitting day or to Routine Proceedings of the next sitting day (S.O. 83 and 223). Deferred divisions are generally held immediately following Question Period or, if there are questions taken as notice to be answered, immediately after those answers have been given. Since most Members are present for Question Period, which takes place at a time when no committee meetings are held, holding deferred divisions immediately afterwards ensures that the greatest possible number of Members will be on hand for a vote.

9.2.9 Motions Without Notice

Members who wish to make a motion requesting the Assembly to decide some matter must generally give prior notice of it on the Order Paper (S.O. 188).[47] However, there is a time expressly set aside during Routine Proceedings for motions without notice in case that requirement has not been fulfilled.

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. Substantive motions are usually debated during Orders of the Day. Among the motions debated during Routine Proceedings, some may be debated only with the consent of the Assembly while others do not require such consent.

9.2.9.1 Motions Requiring Consent

Despite Standing Order 188, any Member may move a motion without notice, but such a motion may be debated only with the unanimous consent of the Assembly and no Member may move more than one on any given sitting day (S.O. 84.1). A motion that has been read by a Member is considered to have been moved, and leave of the Assembly is then required to debate it. Even if the Assembly does not give leave, the Member may not move another motion, having already used the right to do so.[48]

46. See Chapter 12, "The Decision-Making Process".
47. See Chapter 12, "The Decision-Making Process". See also Chapter 16, "Unanimous Consent and the Motion to Introduce an Exceptional Procedure".
48. JD, June 4, 1999, pp. 2213–2214 (Jean-Pierre Charbonneau)/*RDPP*, no. 84.1/2.

Since May 11, 2009,[49] only one Member from each parliamentary group and one independent Member may make a motion during a given sitting day (S.O. 84.1, 2nd par.). In other words, once a Member has moved a motion, no other Member from the same parliamentary group may do so.[50] The same applies for an independent Member if another such Member has moved a motion. Moreover, the same independent Member may not make more than one motion every three sittings (S.O. 84.1, 3rd par.).

Motions without notice often provide an opportunity for the Assembly to speak with one voice. That is why many of the motions moved at the stage reserved for motions without notice are moved jointly by several Members with leave of the Assembly to set aside Standing Order 185, under which a motion is to be made by a single Member. The Chair has ruled that in such a case, even if a Member has not personally read the motion, the Member is presumed to have moved it along with the Member who read it.[51] Current practice, however, is that joint motions are not attributed for the purposes of applying Standing Order 84.1 to any Member other than the one who actually read the motion.

RESOLUTION OF THE NATIONAL ASSEMBLY OF QUÉBEC

THAT the National Assembly of Québec recall that, 30 years ago this year, the Constitution Act, 1982, was enacted without Québec's approval;

THAT it formally reaffirm that it never acceded to this Act, whose effect was to diminish the powers and rights of Québec without its consent and that the Constitution Act, 1982, still remains unacceptable for Québec.

CERTIFIED TRUE COPY OF THE MOTION CARRIED UNANIMOUSLY BY THE NATIONAL ASSEMBLY ON 16 NOVEMBER 2011.

Québec City, this sixteenth day of November 2011

MICHEL BONSAINT
Secretary General of the National Assembly

True copy of a motion unanimously adopted by the Assembly

49. Adopted on April 21, 2009, in conjunction with the parliamentary reform, the new rules concerning motions without notice took effect on May 11, 2009.
50. A Member from the same parliamentary group may not read the motion he or she desires to debate until leave of the Assembly has been given to set aside the second paragraph of Standing Order 84.1, under which each parliamentary group is limited to one motion per Member. Such leave must be distinguished from that required under the first paragraph to debate a motion that has just been read by a Member.
51. JD, December 13, 2004, p. 6698 (François Gendron)/*RDPP*, no. 84.1/3.

When a motion is moved, the Chair must inquire whether all the Members present in the Assembly consent to its being debated. If even a single Member indicates that he or she does not consent, no debate may be held[52] and the motion may not be voted on. If leave is given to debate a motion, the debate is normally subject to the general rule set out in Standing Order 209 regarding speaking time. The debates conducted at this stage of Routine Proceedings, however, are not generally very long. Usually, when leave is given to debate a motion, the subject of the motion and the number and duration of speeches have 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 Chair in a decision rendered in 2006,[53] 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 the Standing Orders. Second, Members may give their consent under certain conditions. The Chair 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 so informing the Assembly. In such a context, the Chair cannot impose the conditions on the other Members, each of whom must be aware of them and have consented to them, in order for the Assembly to be bound.[54] As the Chair has pointed out, it is the Members, not the parliamentary groups, who give their consent. A Member belonging to the same parliamentary group as the mover of a motion may consent or not to a debate on that motion and, if the Member so wishes, attach conditions to his or her consent.[55] If consent is refused, the Chair's role is simply to note that fact. The Member or Members having refused their consent need not be identified[56] and no explanation is necessary.[57]

Like a Wednesday motion, a motion without notice may not be divided. Nor may it be amended, except with leave of the mover. If leave is given, the

52. JD, November 1, 2006, p. 3028 (Michel Bissonnet)/*RDPP*, no. 84.1/4.
53. Ibid.
54. Ibid.
55. Ibid.
56. JD, April 1, 2010, p. 6146 (Jacques Chagnon).
57. JD, May 6, 2010, pp. 6573–6574 (Fatima Houda-Pepin).

debate must concern both the amendment and the main motion, and no subamendment may be moved (S.O. 84.2).[58]

9.2.9.2 Motions Not Requiring Consent

Certain motions respecting Assembly proceedings do not require notice. They are provided for in legislation or in the Standing Orders and are not subject to Standing Orders 84.1 to 84.3. They may therefore be debated without leave of the Assembly during Motions Without Notice.[59] Similarly, they are not counted for the purposes of the second paragraph of Standing Order 84.1, which prohibits a Member from a given 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 conditions of remuneration of persons designated to or holding certain offices. In accordance with long-standing tradition, these motions are also debated without leave of the Assembly.[60]

9.2.9.3 Adjournment of Debate on a Motion Without Notice

The debate on a motion without notice may not have concluded on the adjournment of a sitting, in which case it too is adjourned, automatically. The Assembly may also adopt a motion to adjourn the debate. In a decision rendered in 1995, the Chair ruled that when the debate 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.[61]

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58. This new provision took effect on May 11, 2009. Before that date, while it was possible to move an amendment to a motion made at this stage, such amendments were quite rare. This may be explained by the fact that, since unanimous leave of the Assembly is necessary to debate a motion, the text of most motions is the subject of intense negotiations beforehand between the political parties present.
59. JD, May 4, 1994, pp. 703–704 (Jean-Pierre Saintonge)/*RDPP*, no. 84/2. For example, a motion to fill a vacancy or make a permanent substitution in the membership of a committee may be moved without notice (S.O. 129). As a result, it is not subject to Standing Orders 84.1 to 84.3 and consent is not required to debate the motion.
60. JD, December 20, 1989, pp. 928–932 (Jean-Pierre Saintonge)/*RDPP*, no. 84.1/1.
61. JD, June 1, 1995, pp. 3206 and 3213 (Raymond Brouillet)/*RDPP*, no. 100/4. This decision was based on a 1994 precedent in which, during the debate on a motion without notice moved by a minister, by leave of the Assembly to set aside Standing Order 188, an order that "the debate on this motion be adjourned and continue at the beginning of the Orders of the Day of the next sitting" was adopted (VP, March 8, 1994, p. 1464). According to this decision, when debate on a motion without notice is adjourned, the motion is placed on the Order Paper under Government Motions, and the Government House Leader decides when the debate is to continue. This is what happened on December 15, 2003, when

9.2.9.4 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 the previous question. This includes a vote on a motion without notice. If the vote is deferred, it may only be deferred once.[62]

9.2.10 Notices of Proceedings in Committees

Under Standing Order 147, the method used to convene a committee that has received an order of reference from the Assembly depends on whether or not the Assembly is sitting. When it is sitting, the Government House Leader convenes the committee during Notices of Proceedings in Committees (S.O. 85 and 147). The notice is given orally. When the Assembly is not sitting, the committee is convened by its Chair upon receiving written notice from the Government House Leader.[63] The notice states the date, time, place and purpose of the meeting, and a copy is sent to the President.

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proceedings were adjourned at midnight even though the debate on a motion to suspend the rules of procedure presented during Routine Proceedings at the time set aside for motions without notice had not yet concluded. The Official Opposition House Leader objected to the motion's being placed on the Order Paper under "Government Motions", but the Chair declared the procedure in compliance with the Standing Orders (JD, December 16, 2003, pp. 2698–2699 (Michel Bissonnet)/*RDPP*, no. 51/1). No firm decision appears to have been made, however, regarding the procedure to follow when a motion is presented by a Member or jointly by two or more Members, and may only be debated with the consent of the Assembly. On December 13, 2004, the debate on a motion presented jointly by two opposition Members and a minister was adjourned on a motion by the minister. The motion was placed on the Order Paper under a new heading of Orders of the Day called "Joint Motions"; it died on the Order Paper following the prorogation of the Assembly on March 10, 2006, before the debate was taken up again. On the other hand, on April 29, 2004, the debate on a motion by the Minister of Labour to mark International Labour Day was deferred, with the consent of the Assembly, until the next sitting at the time set aside during Routine Proceedings for motions without notice (VP, April 29, 2004, p. 669).

62. JD, May 13, 2010, p. 6717 (Fatima Houda-Pepin)/*RDPP*, no. 223/6.

63. The Standing Orders do not specify when this written notice may be sent, which 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 wording of Standing Order 147 makes the method of convening committees more restrictive when the Assembly is sitting. When it is not, the Government House Leader may convene a committee at any time. In other words, once a sitting day 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 leave of the Assembly to communicate notices of committee proceedings during Orders of the Day or at another stage of Routine Proceedings (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.[64] However, he or she may not convene a committee before an order of reference has been given.[65] 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.[66]

To convene a committee that is to consider a matter on its own initiative, the committee clerk, at the request of the Chair, sends a notice to the committee members, stating the date, time, place and purpose of the meeting. Copies are sent to the President of the Assembly, the House leaders and the party whips (S.O. 148). If the Assembly is sitting, the President must read these notices out (S.O. 85, 2nd par.). This is done solely for information purposes and, unlike the case when notice is given by the Government House Leader, does not serve to convene the committee. For this reason, only the committee Chair may authorize the President of the Assembly to withdraw such a notice.[67]

When the Assembly is sitting, committees that meet in the Parliament Building may not convene during Routine Proceedings (S.O. 145), which includes the time set aside for motions without notice. However, since the debate on a motion without notice can be quite lengthy, and since several such motions may be debated in the course of a sitting, the Assembly sometimes gives leave to have notices of proceedings in committees 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 impose an overly long wait on the persons or groups who are to make presentations.

During Orders of the Day, up to four committees may meet concurrently in the Parliament Building. This number increases to five when the Assembly is not sitting (S.O. 145).[68]

64. JD, December 8, 1999, p. 4188 (Jean-Pierre Charbonneau)/*RDPP*, no. 147/1. Even if the Chair has taken under advisement a question of privilege concerning a bill, the Government House Leader may convene a committee to undertake clause-by-clause consideration of the bill.
65. JD, April 26, 1990, pp. 1889–1897 (Jean-Pierre Saintonge)/*RDPP*, no. 85/2.
66. JD, May 18, 1993, pp. 6436–6439 (Jean-Pierre Saintonge)/*RDPP*, no. 85/4.
67. JD, March 18, 1993, pp. 5475–5476 (Jean-Pierre Saintonge)/*RDPP*, no. 85/3.
68. Before April 21, 2009, only three committees could meet concurrently while the Assembly was sitting, and leave was required to increase this number to four even if one was holding a deliberative meeting (JD, June 18, 1985, p. 4765 (Richard Guay)/*RDPP*, no. 145/1). The Government House Leader would often move to adjourn the Assembly, especially during extended hours of meeting, in order to allow four committees to meet concurrently. To

9.2.11 Information on the Proceedings of the Assembly

Under this final heading of Routine Proceedings, the Government House Leader may, on his or her own initiative or at the request of another Member, give the Assembly information on parliamentary proceedings. Requests for information must relate exclusively to business standing on the Order Paper (S.O. 86, 2nd par.).[69] The Chair may also be required to provide information at this stage. In fact, the Standing Orders provide that, on Tuesdays, the Chair must state the opposition business to be debated the next day (Wednesdays being reserved for the Opposition under Standing Order 97.2), and that, on Thursdays, it 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 (S.O. 297). The Chair may also give other notices, such as notice of when bills will receive royal assent in the Lieutenant-Governor's office.

9.3 ORDERS OF THE DAY

Whereas Routine Proceedings is mainly an information period, Orders of the Day is essentially a period of debate. Any item placed on the Order Paper under Orders of the Day may be taken into consideration by the Assembly during this period, though not at any time or in any manner. Like Routine Proceedings, the period set aside for Orders of the Day is conducted within a predetermined framework set out in the Standing Orders.

The Government's quasi-total control over Assembly business extends as well to Orders of the Day, since the Government House Leader determines the items on the Order Paper that will be debated. 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

ensure that Members could be informed as early as possible that their committees had been convened, the Chair recognized the Government House Leader's right to convene the four committees during Notices of Proceedings in Committees without seeking leave of the Assembly. The convening of the four committees was deemed to comply with the Standing Orders if the Assembly proceedings had been adjourned at the time the committees met. If that was not the case, the Government House Leader had to inform the Assembly which of the four committees would not be meeting (JD, December 4, 2002, p. 8041 (François Beaulne)/*RDPP*, no. 145/2).

69. 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).

to the control of the Government House Leader; however, it is precisely that category that accounts for the bulk of the Assembly's business during Orders of the Day.

There are no Orders of the Day during the annual consideration of the budget estimates by the committees, since the Assembly takes only Routine Proceedings during that period (S.O. 282). The consideration of any other business is pre-empted,[70] even business having precedence.[71]

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.

9.3.1 Business Having Precedence

As its name indicates, business having precedence takes precedence over any other matter on account of its importance or urgency (1972–1984 Standing Orders, S.O. 56(4)). Since the parliamentary reform of 2009, however, there is one exception, namely, the introduction of an exceptional procedure by the Government House Leader for the consideration of some particular matter (S.O. 182). In such a case, the limited debate on the motion to introduce an exceptional procedure and any debate relating to the matter to which the motion applies have priority over the items of business having precedence listed in the first paragraph of Standing Order 87. No other business before the Assembly may be taken up until the exceptional procedure has been concluded (S.O. 184.2, 3rd par.).

The items under Business Having Precedence are taken up in the following order: the opening speech of the session and, during the ensuing debate, the addresses by the parliamentary group leaders or their representatives; motions relating to breaches of privilege or contempt; motions relating to the conduct of Members of Parliament; the budget speech and, during the ensuing debate, the addresses by the parliamentary group leaders or their representatives; the consideration of interim supply; the resumption of the debate on the budget speech; the limited debate on committee reports concerning the main estimates; the resumption of the debate on the opening speech; and want of confidence motions (S.O. 87).

70. JD, April 30, 1986, pp. 1035–1036 (Pierre Lorrain)/*RDPP*, no. 282/1.

71. The absence of a period for Orders of the Day prevents any debate from being held, including a debate on business having precedence. The beginning of the period for consideration of the budget estimates thus suspends any debate on business having precedence, such as the debate on the opening speech (JD, April 24, 2001, pp. 1038–1043 (Jean-Pierre Charbonneau)/*RDPP*, no. 282/2). On this subject, see Chapter 15, Section 15.1.2.2, "Consideration of Annual Estimates in Committee".

Each new session opens with the Lieutenant-Governor's address to the Assembly. This is followed by the opening speech, in which the Premier unveils the Government's legislative intentions and the program it intends to submit to the Assembly during the session. This speech and the ensuing debate last a maximum of 25 hours (S.O. 50). The Premier's speech and the addresses by the Leader of the Official Opposition and the other parliamentary group leaders, or their representatives, are the first item to be taken up under Business Having Precedence (S.O. 87(1)).[72]

Motions relating to breaches of privilege or contempt constitute the second such item. By such a motion, a Member may complain to the Assembly that another Member has breached the privileges of the Assembly or one of its Members (S.O. 316(2)).[73] The motion may also be used to impugn the conduct of a non-Member who has breached the privileges of the Assembly or one of its Members (S.O. 324). In this case, however, the Member must first raise a breach of privilege under Standing Orders 66 and following, and announce his or her intention to move such a motion (S.O. 317 and 324); in addition, the Chair must declare that there is prima facie evidence that a breach has been committed.

The purpose of the next item of business, motions relating to the conduct of Members of Parliament, is to call into question an act performed by a Member in the course of his or her 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* (S.O. 316(3)).[74] 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 (S.O. 188). The motion then has precedence.[75]

The budget speech and the addresses by the parliamentary group leaders or their representatives during the ensuing debate are the fourth item to be taken up under Business Having Precedence. Under Standing Order 278, this is also the time slot for any supplementary statement by the Minister of Finance and the ensuing debate.[76]

The next two items are the consideration of interim supply (S.O. 87(4.1)) and the resumption of the debate on the budget speech (S.O. 87(5)). Interim

72. See Chapter 6, "Legislatures, Sessions and Sittings".
73. See Chapter 3, Section 3.3.3, "Conduct of Members".
74. Paragraph 1 of Standing Order 316 regarding complaints about incompatible offices or a conflict of interest was repealed 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.
75. See Chapter 3, "Parliamentary Privilege".
76. See Chapter 15, "The Budget Process".

supply represents, for a fiscal year, one quarter of the appropriations necessary for the State to operate while awaiting the end of the examination of the budget estimates requested by the Government. It is considered for five hours in a committee of the whole, taking precedence over other matters (S.O. 280), such as the resumption of the debate on the budget speech.[77] The Standing Orders provide that interim supply must be considered before April 1, that is, before the beginning of the next fiscal year.

The resumption of the debate on the budget speech is followed by the limited debate on the committee reports respecting the main estimates (S.O. 87(5) and (6)). These items are taken up in this order because the Assembly must vote on the motion by the Minister of Finance to adopt the Government's budgetary policy before voting on the committee reports respecting the main estimates, which are all tabled together (S.O. 288).

Want of confidence motions are the ninth item under Business Having Precedence, after the resumption of the debate on the opening speech (S.O. 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 (S.O. 304). The debate on a want of confidence motion has precedence and must be held during a single sitting (S.O. 306). The motion may not be amended (S.O. 306.1).[78] 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 (S.O. 306).

9.3.2 Urgent Debates

Any Member may request that an urgent debate be held (S.O. 88), so long as he or she delivers a written notice to that effect to the Chair not later than one hour before Routine Proceedings (S.O. 89). The request may contain only brief arguments in favour of the debate (S.O. 88).

Requests for urgent debates are limited to two per sitting, and only one debate may be held (S.O. 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 order[79] or during an extraordinary sitting, which ends, under Standing Order 27.2, once

77. See Chapter 15, Section 15.1.2.1, "Consideration of Interim Supply".
78. See Chapter 7, Section 7.2.1, "Want of Confidence Motions".
79. JD, February 20, 1979, pp. 5747–5749 (Clément Richard)/*RDPP*, no. 179 (3)/2.

the Assembly has disposed of the matter for which it was summoned.[80] Finally, being confined to Orders of the Day, urgent debates cannot take place during committee consideration of main estimates, when only Routine Proceedings are held.[81]

As specified in Standing Order 90, the Chair decides without debate whether a request for an urgent debate may be granted. There is no custom compelling the Chair to hear the House leaders before rendering a decision.[82] If the request is granted, the matter is discussed in a limited debate.[83] There is no right of reply and the debate concludes without question put (S.O. 91).

Before authorizing an urgent debate, the Chair 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 (S.O. 88). Before making this determination, the Chair 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.[84]

Unlike past practice where a motion to suspend a rule of procedure could be moved without notice if urgency was cited as its justification (1985 Standing Orders, S.O. 183), a request for an urgent debate now requires the Chair to decide whether the matter proposed for debate in fact demands urgent consideration. This, indeed, is the main criterion in determining whether the request is in order.[85] According to the jurisprudence, the first question the Chair must ask is not whether there is a serious problem, but whether the

80. JD, July 2, 1999, pp. 2956–2957 (Jean-Pierre Charbonneau)/*RDPP*, no. 308/9.
81. JD, May 27, 1987, pp. 7832–7836 (Pierre Lorrain)/*RDPP*, no. 88/39.
82. JD, December 16, 1988, pp. 4253–4256 (Pierre Lorrain)/*RDPP*, no. 90/1.
83. Since urgent debates are limited debates, they are subject to Standing Order 210, which states that the Chair apportions speaking time for a limited debate after conferring with the House leaders and taking into account the presence of independent Members. Barring any contrary provision, an urgent debate lasts no more than two hours. Before the 2009 reform, such a debate ended at 6 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, S.O. 92). Even though an urgent debate was a limited debate, Standing Order 91 stated that the Member who made the request and a government representative 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, for most debates, time apportionment was established by the Chair following a meeting with the House leaders in accordance with Standing Order 29. The 2009 amendment reintroduced a rule in force from October 25, 1990 to May 14, 1992.
84. JD, June 11, 1999, pp. 2540–2541 (Claude Pinard)/*RDPP*, no. 88/49.
85. Ibid.; JD, February 16, 2010, p. 4480 (Yvon Vallières)/*RDPP*, no. 88/56.

matter requires urgent consideration.[86] Thus, the Chair may grant leave to hold a debate in response to a sudden[87] or acute[88] crisis or a suddenly aggravated situation.[89] A request to hold an urgent debate on a labour dispute might be refused, however, if negotiations are in progress[90] or are scheduled to begin shortly,[91] in order to allow the normal dispute resolution process to take its course.

In addition to urgency, jurisprudence has identified the impossibility of discussing the matter in some other context as an important factor for the Chair to consider in deciding whether to authorize an urgent debate.[92] Thus, requests for urgent debates on well-defined, important matters have been rejected by the Chair because the matters could have been, or could be,

86. JD, June 7, 1979, pp. 1796–1797 (Clément Richard)/*RDPP*, no. 88/25.
87. Ibid.; 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, 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 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.
88. 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.
89. JD, August 11, 1977, pp. 2887–2890 (Clément Richard)/*RDPP*, no. 88/15. In this case, the President considered that a sudden rise in unemployment in Québec, at a time when there did not appear to be any opportunities in the near future to discuss the situation, was an important factor to consider in granting leave to hold a debate. See also 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.
90. 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.
91. 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.
92. JD, April 1, 1999, pp. 1066–1067 (Jean-Pierre Charbonneau)/*RDPP*, no. 88/48.

discussed during the debate on the opening speech[93] or the budget speech,[94] when any subject may be taken up. Other opportunities for debate, such as interpellations,[95] business standing in the name of Members in opposition[96] and want of confidence motions[97] have also emerged through jurisprudence. As well, requests for an urgent debate have been rejected by the Chair because the topic had been of current interest for some time and could have been discussed on other occasions such as during an interpellation, a Wednesday motion or a debate upon adjournment.[98] As Question Period cannot give rise to a debate, it ought not to be considered by the Chair as an opportunity for discussion.[99] However, the Chair has considered, among other criteria, the fact that a particular subject was previously discussed during Question Period or during debates upon adjournment.[100] Moreover, that a subject has been previously discussed does not preclude its becoming a matter of urgency as the situation develops.[101] In determining whether future opportunities for discussion are likely to arise, the Chair must disregard hypothetical possibilities such as the likelihood of the Assembly's being dissolved.[102]

93. Ibid. In this case, debate on the opening speech was concluded on the very morning of the request for an urgent debate, with almost four hours still remaining in the allotted time, yet the subject of the request had not been raised. See also JD, February 20, 1973, pp. 3709–3710 (Jean-Noël Lavoie)/*RDPP*, no. 88/4; 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.
94. 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.
95. JD, November 1, 1984, pp. 435–437 (Richard Guay)/*RDPP*, no. 88/36; JD, March 10, 1987, pp. 5917–5919 (Pierre Lorrain)/*RDPP*, no. 88/38.
96. JD, March 10, 1987, pp. 5917–5919 (Pierre Lorrain)/*RDPP*, no. 88/38; JD, November 25, 1997, p. 8653 (Jean-Pierre Charbonneau)/*RDPP*, no. 88/47.
97. Ibid. According to another ruling, a want of confidence motion has precedence over an urgent debate on the same subject (JD, October 29, 1974, pp. 2414–2416 (Jean-Noël Lavoie)/*RDPP*, no. 304/1).
98. JD, December 2, 2005, p. 10663 (Michel Bissonnet)/*RDPP*, no. 88/53; JD, May 30, 2008, p. 4485 (Michel Bissonnet)/*RDPP*, no. 88/54.
99. 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.
100. 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.
101. 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.
102. JD, March 11, 2003, p. 8606 (Louise Harel)/*RDPP*, no. 88/50.

A request to debate an urgent matter is out of order if the issue concerned does not fall under the Government's administrative responsibility.[103] The same applies when the province's jurisdiction has not been clearly established[104] or when the matter is not under the authority of the National Assembly.[105] On the other hand, the Chair 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.[106]

Jurisprudence states that the Government's legislative agenda must be given priority during extended hours of meeting.[107] Nevertheless, the Chair has occasionally granted a request for an urgent debate during this period. Examples of urgent debates that were authorized during extended hours of meeting include the 1990 debate with regard to the Meech Lake constitutional negotiations, a subject the Chair deemed sufficiently important to justify the interruption of normal Assembly proceedings,[108] and the 1992 debate with regard to the sale of a large grocery chain to foreign interests, after the Chair had evaluated the impact of the sale.[109] On a number of other occasions the Chair has 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.[110]

In any case, the Standing Orders in no way prohibit urgent debates during extended hours of meeting. The Chair 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

103. 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.

104. 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.

105. JD, February 13, 1979, pp. 5612–5615 (Clément Richard)/*RDPP*, no. 88/24.

106. JD, October 20, 1987, pp. 9116–9119 (Pierre Lorrain)/*RDPP*, no. 88/41.

107. 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, May 30, 2008, p. 4485 (Michel Bissonnet)/*RDPP*, no. 88/54.

108. JD, June 8, 1990, pp. 2972–2973 (Jean-Pierre Saintonge)/*RDPP*, no. 88/45.

109. JD, December 18, 1992, pp. 4980–4981 (Jean-Pierre Saintonge)/*RDPP*, no. 88/46.

110. 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. It should be noted that these decisions were rendered before a new parliamentary 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 per sessional period. Moreover, the new calendar provides for only five additional sitting hours during extended hours of meeting, while formerly the Assembly could sit five days a week from 10 a.m. to midnight during that time.

to take place and that there will therefore be no other opportunity to discuss the matter.[111]

9.3.3 Debates on Reports From Committees

Unless they relate to bills or financial commitments or arise from a deliberative meeting, committee reports that contain recommendations must be taken up within 15 days of being tabled in the Assembly (S.O. 94), subject to Standing Order 97 on opposition business. Such reports are entered on the Order Paper immediately after they are tabled. The Government House Leader indicates which report will be the subject of a limited two-hour debate. After conferring with the House leaders, the President apportions this time among the parliamentary groups, taking into account the presence of any independent Members (S.O. 210). The report is not amendable and is not put to the Assembly for decision (S.O. 95).

Only reports from parliamentary committees may be debated. 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.[112]

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 the estimates, or when business having precedence is before the Assembly (S.O. 94). According to Assembly practice, the 15 days are calendar days, not sitting days.

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 in order to be properly understood. Subject to any other interpretation by the Chair, it would appear that paragraph 3 of Standing Order 54, which states that debates on reports from committees must come before other business, only makes sense if the 15-day period is presumed to have elapsed. During that period, a debate on a committee report

111. 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.

112. JD, March 28, 1984, pp. 5543–5544 (Richard Guay)/*RDPP*, no. 94/1.

may be called any time after business having precedence, unless it is 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.

9.3.4 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. With the exception of business having precedence, which must be taken up before any other matter, and Wednesday afternoon opposition business (S.O. 97), the Government House Leader determines the sequence in which the matters placed on the Order Paper are raised (S.O. 96).

The following items may be taken into consideration under Other Business at the request of the Government House Leader: 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 adoption 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. Thus, 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.

However, the Government House Leader's control over Orders of the Day is 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 can proceed with other business. In addition, despite the sequence set forth 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, or "Wednesday motions".

9.3.5 Business Standing in the Name of Members in Opposition

Debates under this heading are held every Wednesday afternoon except during extended hours of meeting (S.O. 97).

9.3.5.1 Publication of a Notice in the Order Paper

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 previous day.[113] The President tables a copy of the notice on Tuesday during Routine Proceedings at the time set aside for presenting papers. 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, the motion may be debated on the day it first appears on the Order Paper (S.O. 97.1).

9.3.5.2 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 the presence of independent Members. On Tuesday, under the final heading of Routine Proceedings, Information on the Proceedings of the Assembly, the President informs the Assembly of the matter to be debated the next day (S.O. 97.2).

When there is only one opposition group, that group simply informs the President of the matter it wishes to raise. The situation is more complex if there are independent Members or more than one group in opposition. At the end of the 36th Legislature, when there were five independent Members in the Assembly, the President referred to statistics from recent legislatures to determine that those Members were entitled to one motion per session, but that the first motion after resumption of Parliament in October and March was to be granted to the Official Opposition, given that group's dominant role in scrutinizing government actions.[114] During the 37th Legislature, no decision was rendered on this subject, but of the 30 motions presented during the first session, the six independent Members were granted two, namely, the tenth and the twenty-second, while during the second session they were granted the third of the nine motions debated.

113. On September 15, 2009, the Assembly adopted a temporary amendment to Standing Order 97.1 under which the notice had to be handed in not later than noon on the sitting day prior to that on which business standing in the name of Members in opposition was to be taken up (VP, September 15, 2009, p. 560). The amendment became permanent on October 4, 2011 (VP, October 4, 2011, pp. 554–558).

114. JD, October 15, 2002, pp. 7077–7078 (Louise Harel)/*RDPP*, no. 97.2/1.

During the 38th Legislature, there were two opposition groups in the Assembly. In October 2007, the President allocated Wednesday motions on the basis of the same criteria as used to determine the conduct of Question Period, namely, the composition of the Assembly, a party's recognition as a parliamentary group, and the leading role of the Official Opposition, jurisprudence having already recognized that the first motion of a sitting period was to be granted to the Official Opposition. Having considered these factors, the criterion of rotation set out in the Standing Orders, and the relative importance of each opposition group,[115] the Chair allocated the motions in cycles of 10, six motions of each cycle being granted to the Official Opposition and four to the Second Opposition Group. The first motion of each cycle was assigned to the Official Opposition, after which the motions alternated between the two opposition groups, except the fifth and sixth motions, which were assigned to the Official Opposition. However, if a motion could not be debated, due to business having precedence, for example, the group that would have moved it could do so at the next opportunity, unless this happened to be the beginning of a sessional period, in which case the motion was assigned to the Official Opposition.[116]

During the 39th Legislature, the allocation of Wednesday motions was established in a document adopted by the Assembly at the time of the recognition of the Action démocratique du Québec as a parliamentary group, on April 21, 2009.[117] The Second Opposition Group was entitled to move the fourth Wednesday motion in every cycle of 10 such motions, unless that motion happened to be the first such motion of a sessional period, in which case the fifth motion was allotted to the Second Opposition Group. Independent Members were entitled to move one motion every parliamentary year, but never during the same sessional period as an interpellation. This motion, which was not included in the cycle of 10, could not be preceded or followed by a motion moved by a Member from the Second Opposition Group.[118] The

115. At the time of the allocation, the Official Opposition was made up of 41 Members, while there were 34 Members in the Second Opposition Group following the resignation of two of their number.

116. JD, October 18, 2007, pp. 1549–1550 (Michel Bissonnet)/*RDPP*, no. 97.2/2. This allocation was based on the finding that the number of opportunities to debate business placed on the Order Paper by opposition Members could vary significantly during a sessional period. According to the Chair, the order in which Wednesday motions would be debated could be determined in advance, objectively and without reference to the political issues of the day, through the use of cycles.

117. *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*, April 2009 (see Appendix III, p. 603).

118. JD, March 9, 2010, pp. 4592-4593 (Yvon Vallières).

Official Opposition was entitled to all other Wednesday motions, including the first in every sessional period.[119]

9.3.5.3 Debate on Motions

The debate on a motion takes place on Wednesday afternoon from 3 p.m. to 5 p.m. at the latest (S.O. 97), on resumption of proceedings after the 1 p.m. recess. Any debate in progress at the time set for the recess is automatically adjourned.[120] The debate may not run for more than two consecutive Wednesday sittings (S.O. 98) unless the motion concerns one of the stages of a bill (S.O. 99).[121] 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.[122] As this is a limited debate, the Chair allocates speaking time to the various parliamentary groups after conferring with the House leaders and taking any independent Members into account (S.O. 98).[123]

119. After two of the six Members of the Second Opposition Group decided to sit as independent Members, the number of motions allocated to that group was reduced to one per cycle of 15 motions, alternating between the sixth and the fourth. The two new independent Members were entitled to the eighth motion in one of every two cycles of 15. The Member already sitting as an independent Member retained the right to move one Wednesday motion under Business Standing in the Name of Members in Opposition and to request one interpellation per parliamentary year, with the proviso that the Member could not do both during the same sessional period. See Chapter 5, "Parliamentary Groups and Independent Members".

120. JD, October 21, 2009, p. 3561 (François Gendron).

121. Only four bills have been debated under Wednesday motions since the current Standing Orders came into force in 1984. These debates were all 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 on November 7 until November 19; and the fourth concerned Bill 390, *An Act to prohibit the distribution of non-biodegradable plastic bags*, and was held on May 11, 2005. None of these bills got past the passage in principle stage.

122. JD, March 27, 1991, pp. 7236 and 7240–7241 (Jean-Pierre Saintonge)/*RDPP*, no. 97/5.

123. During the 38th Legislature, except for the 10-minute reply allotted the mover of the motion, the time was allocated among the three parliamentary groups so that each group had a time envelope corresponding to the number of seats it held in the Assembly.

9.3.5.4 Admissibility Criteria for Wednesday Motions

Normally, Wednesday motions must meet the same admissibility criteria as other motions,[124] and are subject to the prohibition set out in Standing Order 191 against reciting either the grounds on which they are based or arguments.[125]

It is not the Chair's role to judge the accuracy of the facts described or set out in a motion—this judgment is made by the Members when they vote on it.[126] Since the Chair may not interpret the law, it may not rule on whether a motion complies with existing laws.[127] 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. As a rule, however, the admissibility of a motion may be raised at any time before the motion is put to a vote.[128]

9.3.5.5 Amendment to a Wednesday Motion

For a long time, the fact that a Wednesday motion could be amended did not sit well with opposition Members, who viewed such amendments as a tactic that forced them to vote against their own motions as amended—and altered. However, according to a 1990 ruling, since the Standing Orders in force treated Wednesday motions like any other substantive motion, they were also subject to amendment, under the same conditions for admissibility. In the Chair's opinion, the only way to change this situation was to amend the Standing Orders themselves.[129] This is what happened in April 2009. Since then it has not been possible to amend a Wednesday motion, except with leave of the mover.[130] If leave is given, the debate must concern both the amendment and the main motion, and no subamendment may be moved (S.O. 98.1).

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124. These criteria are listed in Chapter 12, "The Decision-Making Process".
125. JD, May 22, 1997, pp. 6887–6888 (Claude Pinard)/*RDPP*, no. 304/2. A motion that the National Assembly require the Government to "put an end to the wasting of taxpayers' money" was ruled in order, the Chair judging that the motion did not contain recitals (VP, November 10, 1999, p. 595 (Jean-Pierre Charbonneau)/*RDPP*, no. 97/7).
126. 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.
127. JD, April 26, 1990, pp. 1898–1906 (Jean-Pierre Saintonge)/*RDPP*, no. 193/3.
128. 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.
129. JD, November 28, 1990, pp. 5411–5414, 5427 and 5429 (Jean-Pierre Saintonge).
130. The House leader of a parliamentary group may grant or refuse leave on behalf of the Member of his or her group who moved the motion (JD, May 13, 2009, p. 1899 (Fatima Houda-Pepin)/*RDPP*, no. 98.1/1).

The years preceding 2009 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 Chair had 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.[131] In a decision rendered in 2007, the Chair ruled that, when in doubt, it must declare an amendment to a Wednesday motion out of order.[132]

The fact that, since the reform, the mover of a motion must consent to its being amended does not mean the Chair may no longer rule a motion out of order. Even if the mover of the motion or the House leader of the group concerned allows an amendment, the Chair may intervene if a Member from another parliamentary group or an independent Member raises doubts as to the admissibility of the amending motion. For instance, the Chair may rule out of order an amendment containing recitals (S.O. 191) or unparliamentary language (S.O. 35). On the other hand, even if in principle 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, it is unlikely that the Chair would rule out of order an amending motion that has been accepted by its mover, on the grounds that it would alter,[133] repudiate,[134] contradict,[135] or set aside[136] the main motion, or introduce

131. JD, November 24, 2004, p. 5819 (Diane Leblanc)/*RDPP*, no. 197/35.

132. JD, November 7, 2007, p. 1874 (Marc Picard)/*RDPP*, no. 197/50.

133. Ibid.; 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. 97/31; 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.

134. JD, March 18, 1992, pp. 12033–12044 and 12050 (Roger Lefebvre)/*RDPP*, no. 197/18; JD, May 4, 1994, p. 715 (Michel Tremblay)/*RDPP*, no. 197/20; 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; JD, November 24, 2004, p. 5819 (Diane Leblanc)/*RDPP*, no. 197/35.

135. 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.

136. 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,

a new principle. Finally, while a Wednesday motion may be amended with leave of its mover, it may not be divided (S.O. 98.1).

9.3.5.6 Putting the Question

Debate on a Wednesday motion concludes at 5 p.m. at the latest with the reply by the mover of the motion. The Chair then puts any amendments to the vote, as well as the motion, as amended if applicable. The vote on a Wednesday motion may always be deferred, regardless of its content.[137] If carried, the motion becomes either an order or a resolution.[138]

9.3.6 Debates Upon Adjournment

As noted earlier, Question Period is not a forum for Members to debate subjects in great detail, but rather an opportunity for them to seek information from government ministers. A Member who judges that a matter he or she brought up during Question Period was not sufficiently discussed may request a debate upon adjournment,[139] for which the Member must give notice to the President not later than 30 minutes after the end of Question Period (S.O. 308). At the earliest opportunity, the President announces the matter to be debated to the Assembly (S.O. 309).

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.

137. VP, October 7, 2009, pp. 687–688 (Fatima Houda-Pepin)/*RDPP*, no. 223/5.

138. During the 1st session of the 38th Legislature, 12 out of 14 motions were carried, including 3 mandates given to the committees. Under the first such mandate, adopted October 17, 2007, the Committee on Public Administration was to clarify how the *Balanced Budget Act* was applied and, if appropriate, propose recommendations on or before December 20, 2007 to correct an artificial fiscal balance (VP, October 17, 2007, p. 240); under a second mandate, adopted April 9, 2008, the Committee on Public Administration was to determine the real reasons for the dismissal of Québec's former Delegate General in New York and hear him and others not later than April 29, 2008 (VP, April 9, 2008, pp. 685–686); and under a third mandate, adopted May 14, 2008, the Committee on Institutions was ordered to study the nature and circumstances of the signing of the contract granted to Attractions Hippiques by the Québec government (VP, May 14, 2008, p. 800). For the distinction between an order and a resolution, see Chapter 12, Section 12.1, "Motions".

139. Standing Order 308 allows any Member to request a debate upon adjournment. As these debates are, in a manner of speaking, an extension of Question Period, government Members may also take part in them (JD, May 10, 2007, pp. 68–69 (Michel Bissonnet)/*RDPP*, no. 311/1). However, government Members rarely, if ever, avail themselves of this right.

9.3.6.1 Days and Time for Debates Upon Adjournment

Debates upon adjournment are held on the adjournment of a Tuesday or Thursday sitting (S.O. 309). No more than three such debates may be held at any sitting (S.O. 312). However, debates upon adjournment may not be held during extended hours of meeting (S.O. 312, 2nd par.) or during extraordinary sittings, which end, under Standing Order 27.2, as soon as the Assembly disposes of the matters for which it was summoned.[140] 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.[141]

Although the Standing Orders make no provision for debates upon adjournment to be held on a Wednesday, the Chair has ruled that a Member who considers that a matter was insufficiently discussed during a Wednesday Question Period may give notice, the same day, of his or her intention to raise the matter on the following sitting day. This ruling was justified on the grounds that one of the Chair's mandates is to foster debate in the Assembly, not limit it.[142] However, the ruling also stipulates that such a debate must be counted as one of the three debates permitted under Standing Order 312.

Barring this Wednesday exception, debates upon adjournment must be requested for the same day the matter in question is raised. Thus, the Chair has 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.[143] However, a Tuesday or Thursday debate upon adjournment may be deferred to a subsequent sitting day with the unanimous consent of the Assembly.

Under Standing Order 80, a minister may take note of a question asked during Question Period and defer his or her response to the end of the period or to a subsequent sitting.[144] This is known as taking a question "as notice". The Chair has ruled that a Member who is not satisfied with a deferred answer may request that the matter be debated upon adjournment. Here too, in the absence of guidance from the Standing Orders—Standing Order 308 makes no mention of questions taken as notice—the Chair opted in favour of fostering

140. JD, July 2, 1999, pp. 2956–2957 (Jean-Pierre Charbonneau)/*RDPP*, no. 308/9; JD, March 21, 2000, pp. 5063–5064 (Jean-Pierre Charbonneau).
141. JD, May 24, 1990, p. 2693 (Jean-Pierre Saintonge)/*RDPP*, no. 308/2; JD, April 24, 2001, pp. 1038–1039 (Jean-Pierre Charbonneau).
142. JD, October 31, 1991, p. 10295 (Jean-Pierre Saintonge)/*RDPP*, no. 309/2.
143. JD, May 15, 1996, pp. 1104–1105 (Jean-Pierre Saintonge)/*RDPP*, no. 308/6.
144. See Chapter 10, Section 10.3.3, "Questions Taken as Notice".

rather than limiting debate.[145] Such a debate may also be held during the sitting at which the question is asked.[146]

Debates upon adjournment take place at 6 p.m., the time appointed for the Assembly to suspend[147] or adjourn proceedings. Suspension or adjournment is delayed accordingly (S.O. 309). If the Assembly completes its business before 6 p.m., its unanimous consent is required in order to begin debates on adjournment immediately.[148] A motion to adjourn the Assembly may not be moved before the deadline for presenting notices of debate upon adjournment has expired, unless the Chair has made certain that no such notices are pending.[149] If a notice is presented within the prescribed time, the Government House Leader may not move to adjourn proceedings until the debate is held.

9.3.6.2 Order and Allocation of Debates Upon Adjournment

If two or more debates upon adjournment have been requested, the Chair 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 the presence of independent Members (S.O. 311). Usually, the debates are held in the order in which the notices were received.

As mentioned earlier, no more than three debates may be held upon adjournment at any sitting (S.O. 312). If more than three are requested, the Chair must avail itself of Standing Order 311 and decide which matters are to be debated.[150] However, if all the requests are made by the same opposition group, the Chair may allow that group to choose the subjects it wishes to debate.

Allocation of Debates Upon Adjournment During the 38th and 39th Legislatures

If the Assembly comprises more than one opposition group, the criteria in Standing Order 311 are difficult to apply. This is why, at the beginning of the First Session of the 38th Legislature, the President issued a directive[151] on

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145. JD, May 7, 1991, pp. 7998–7999 (Jean-Pierre Saintonge)/*RDPP*, no. 308/4.
146. JD, July 2, 1999, pp. 2956–2957 (Jean-Pierre Charbonneau)/*RDPP*, no. 308/9.
147. Until 2009, debates upon adjournment took place at the time set for the sitting to be adjourned, hence their name. According to the new timetable that took effect September 14, 2009, sittings now end at 9:30 p.m. on Tuesday, with a recess from 6 p.m. to 7:30 p.m. That is why the Standing Orders now provide that debates upon adjournment must take place at 6 p.m.
148. JD, March 14, 1991, pp. 7024–7026 (Jean-Pierre Saintonge)/*RDPP*, no. 309/1.
149. Ibid.
150. JD, October 31, 1991, p. 10295 (Jean-Pierre Saintonge)/*RDPP*, no. 309/2.
151. JD, May 10, 2007, pp. 68–69 (Michel Bissonnet)/*RDPP*, no. 311/1.

the allocation of debates upon adjournment for the duration of that legislature. According to the directive, in two sittings out of three, the Official Opposition was entitled to two debates per sitting while the Second Opposition Group was entitled to one. During the third sitting, the reverse was true, with the Second Opposition Group being entitled to two debates and the Official Opposition, to one. Out of nine debates, therefore, five were granted to the Official Opposition and four to the Second Opposition Group. Government Members were allowed to raise a matter for debate once every nine sittings. To avoid penalizing one parliamentary group in particular, this debate would replace one debate raised by the Official Opposition and one raised by the Second Opposition Group in an alternating fashion. The debates took place in the following order: subject to a debate being granted to a government Member, the Official Opposition was entitled to the first debate and the Second Opposition Group, to the second, the third debate being assigned to the opposition group that would normally be entitled to two debates during that sitting.[152]

During the 39th Legislature, like the other parliamentary oversight measures, debates upon adjournment were allocated in a paper ratified by the Assembly when the Action démocratique du Québec was recognized as a parliamentary group. The Second Opposition Group was entitled to raise one such debate per two sittings at which such debates could be held. Government Members were entitled to raise one debate per seven sittings at which such debates could be held. Independent Members were entitled to raise one such debate per sessional period, and the Official Opposition was entitled to all other such debates. Of course, this allocation only applied insofar as the Chair received more than three requests for such debates per sitting.[153]

After two Members of the Second Opposition Group decided to sit as independent Members, the Chair issued a directive reallocating debates upon adjournment and questions during Question Period.[154] The number of debates granted to the Second Opposition Group was reduced to one per three sittings rather than one per two sittings during which a debate could be raised so as to allow each of the two new independent Members to raise one debate upon adjournment per sessional period like the other independent Member. Government Members were still entitled to raise one debate upon adjournment per seven sittings at which such debates could be held. All other debates were granted to the Official Opposition. ■

152. Ibid. This allocation, which arose out of an agreement between the House leaders, only applied when there were more than three requests for a debate. If there were three or fewer requests, the debates were granted to the Members making the request, without regard to their parliamentary group, in the order determined by the Chair.

153. *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*, April 2009 (see Appendix III, p. 604).

154. JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/*RDPP*, no. 74/22.

9.3.6.3 Conduct of a Debate Upon Adjournment

Under Standing Order 312, absence of quorum may not be raised when a debate upon adjournment is held. However, a 1999 ruling allows Members to raise a point of order.[155] The Member who called for the debate and the minister responding may each speak for up to five minutes. The Member may then speak for up to two more minutes in reply (S.O. 310).

The Chair has ruled 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.[156] This is why, while Standing Order 212 does not apply to Question Period, it does apply to debates upon adjournment. Hence, a Member who believes himself or herself to have been misunderstood may provide a brief explanation to clarify the matter.[157]

9.3.6.4 Replacement of a Minister

Under section 25 of the *Act respecting the National Assembly*, a minister may be replaced by his or her parliamentary assistant during Question Period. This is not possible during a debate upon adjournment, which does not form part of Question Period.[158] On the other hand, in keeping with the principle of ministerial responsibility, one minister may act on behalf of another at any time.[159] Consequently, whether during a debate upon adjournment or during Question Period,[160] the Government is always free to answer through

155. The current Standing Orders do not include the provision from the former Standing Orders stipulating that the Chair was to decide all questions pertaining to privilege or order raised during a debate upon adjournment (1972–1984 Standing Orders, S.O. 174(7)). However, under current Standing Order 39, a Member may raise a point of order at any time. While occasionally justified, recourse to the former Standing Orders should be limited to instances when the current Standing Orders do not address the question under consideration (JD, March 23, 1999, pp. 723–725 (Jean-Pierre Charbonneau)/*RDPP*, no. 308/7).
156. JD, May 16, 1995, pp. 2757–2758 (Raymond Brouillet)/*RDPP*, no. 212/5.
157. Ibid.
158. JD, March 29, 2001, pp. 158–159 (Michel Bissonnet)/*RDPP*, no. 308/11.
159. 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. The principle of ministerial responsibility is codified in Standing Order 189, which expressly states that one minister may act on behalf of another.
160. JD, March 25, 1986, pp. 672–674 and 695–696 (Pierre Lorrain)/*RDPP*, no. 308/1.

the minister it designates, and the Chair has no say as to which minister this will be.[161]

Although the Chair may well consider it desirable that the minister addressed be present for the debate, it 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.[162] Therefore, the fact that one minister is replaced by another during a debate upon adjournment is not a contempt of Parliament.[163] Jurisprudence is consistent on this point. Thus, the Premier may be replaced by another minister during parliamentary deliberations,[164] as may the Attorney General,[165] regarding whom the Chair has no reason to make special rules.[166]

9.4 SUSPENSION AND ADJOURNMENT OF A SITTING

The Chair is responsible for opening, suspending and adjourning the sittings of the Assembly and normally does so in accordance with the timetable set

161. JD, November 29, 1990, pp. 5518–5521 (Michel Bissonnet)/*RDPP*, no. 308/3.
162. JD, March 23, 1999, pp. 723–725 (Jean-Pierre Charbonneau)/*RDPP*, no. 308/7.
163. JD, March 23, 1999, pp. 723–725 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/39.
164. JD, March 25, 1986, pp. 672–674 and 695–696 (Pierre Lorrain)/*RDPP*, no. 308/1.
165. *Act respecting the Ministère de la Justice*, L.Q., c. M-19, s. 2: "The Minister of Justice is ex officio the Attorney General of Québec."
166. JD, May 25, 1999, pp. 1720–1721 (Jean-Pierre Charbonneau)/*RDPP*, no. 308/8. In the case in point, the Official Opposition House Leader objected to the Minister of Justice and Attorney General being replaced, claiming that the matter that had given rise to the request for a debate upon adjournment, namely, the withdrawal of a proceeding before the Court of Appeal, was under the exclusive jurisdiction of the Attorney General. In the opinion of the Official Opposition House Leader, the Attorney General could only be replaced by another minister in the framework of parliamentary deliberations if the Chair determined that, under Québec law, the Attorney General could be replaced by another minister in the exercise of the functions of office. In his decision, the President drew a distinction between the functions of the Attorney General under the laws of Québec and the Attorney General's participation in parliamentary deliberations under the Assembly's rules of procedure. Citing his limited power to interpret legislation, the President first established that he did not have the authority to rule on whether the Attorney General could be replaced in the exercise of the functions of office under Québec law. After mentioning that jurisprudence consistently confirmed the possibility for one minister to be replaced by another at a debate upon adjournment, the President also said that he saw no need to create special rules for questions addressed to the Attorney General. In short, he concluded, the Chair did not have to rule on the advisability of another minister replacing the Minister of Justice and Attorney General in the framework of parliamentary deliberation, much less determine whether the Attorney General was bound by the answers of the minister replacing her for the purpose of those deliberations.

out in Standing Order 20 or 21, depending on whether the Assembly is holding ordinary or extended hours of meeting.

9.4.1 Suspension of a Sitting

The Chair suspends a sitting at the appointed time,[167] even when a debate is in progress. The debate continues on resumption of proceedings, except on Wednesday afternoon, when business standing in the name of Members in opposition is taken up. In that case, the debate in progress is automatically adjourned.[168] However, if a vote is being held, the sitting is suspended only after the Chair has declared the outcome (S.O. 103).

Outside of these set times, the Government House Leader may wish to suspend a sitting once the Assembly has completed its business. Since the Standing Orders make no provision for moving a motion to suspend proceedings,[169] the Government House Leader has no choice but to request the Chair to suspend the sitting. In such a case, current practice is for the Chair to do so without leave of the Assembly, unless the Government House Leader can move a motion for adjournment. For example, on Tuesday and Thursday during ordinary hours of meeting, a motion to adjourn the Assembly may be moved only after the deadline for presenting notices of debate upon adjournment has expired, unless the Chair is certain that no such notice will be presented.[170]

If one or more debates upon adjournment are requested, the Government House Leader may move to adjourn proceedings only after the debates are held. In such a case, if there is then no business before the Assembly, the Chair may, at the request of the Government House Leader, suspend the sitting without leave of the Assembly. During extended hours of meeting, nothing prevents the Government House Leader from presenting a motion to adjourn proceedings at the beginning of Orders of the Day, once Routine Proceedings are completed, but the Chair must obtain leave of the Assembly to suspend a sitting before the time set in the Standing Orders.

167. During ordinary hours of meeting, proceedings are to be suspended from 6 p.m. to 7:30 p.m. on Tuesday and from 1 p.m. to 3 p.m. on Wednesday and Thursday (S.O. 20). During extended hours of meeting, the Assembly must suspend its proceedings from 6 p.m. to 7:30 p.m. on Tuesday, from 1 p.m. to 3 p.m. on Wednesday and Thursday, and from 6 p.m. to 7:30 p.m. on Thursday (S.O. 21).

168. JD, October 21, 2009, p. 3561 (François Gendron).

169. JD, November 14, 1972, pp. 2491–2492 (Jean-Noël Lavoie)/*RDPP*, no. 100/1.

170. JD, March 14, 1991, pp. 7024–7026 (Jean-Pierre Saintonge)/*RDPP*, no. 309/1.

9.4.2 Adjournment of a Sitting

Standing Order 44 provides that the Chair may, at any time, adjourn or suspend a sitting. However, this is a disciplinary power[171] to be used only in exceptional circumstances. Outside such circumstances, there are two situations in which the Chair 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.

9.4.2.1 Adjournment of a Sitting at the Scheduled Time

The Chair adjourns the sitting at the time appointed in the Standing Orders. If a debate is in progress, it is automatically adjourned. Any dilatory or superseding motion that is not a hoist motion or a motion to divide a complicated question, lapses. However, if a vote is being held, the sitting may be adjourned only once the Chair has declared the results of the vote (S.O. 103). During ordinary hours of meeting, when debates upon adjournment are to be held on Thursday as of 6 p.m., adjournment is delayed until the debates have concluded (S.O. 309). However, under certain circumstances, the Assembly may not have completed Routine Proceedings at the time set for adjournment. In that case, the Chair 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.[172]

Extraordinary sittings are concluded once the Assembly has disposed of the matters for which it was summoned (S.O. 27.2). Therefore, if the Assembly has been summoned for the examination of a single matter, the Chair, on its own initiative, may adjourn the sitting once the examination of the matter has been concluded. No motion to adjourn the proceedings is required.

9.4.2.2 Motion to Adjourn the Proceedings

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. Similarly, such a motion is required to adjourn the proceedings before the time set in the Standing Orders for adjournment.[173]

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171. See Chapter 4, Section 4.2.1.1, "Calling to Order, Suspending and Adjourning Sittings of the Assembly".
172. JD, December 16, 2003, pp. 2698–2699 (Michel Bissonnet)/*RDPP*, no. 51/1.
173. For example, on Tuesday during ordinary hours of meeting, the Assembly sits from 1:30 p.m. to 9:30 p.m., with a recess from 6 p.m. to 7:30 p.m. (S.O. 20(1)). Debates upon adjournment may also be held at 6 p.m., the recess then being delayed accordingly (S.O. 308 and 309). Since the Government House Leader controls which matters are considered during Orders of the Day, he or she may, after debates upon adjournment,

A motion to adjourn the proceedings may be moved by the Government House Leader at any time during Orders of the Day if there is no business before the Assembly. The motion requires no notice and may not be amended (S.O. 105).

Such a motion, which may also be moved by another minister or by a deputy Government House leader (S.O. 17), may only be presented during Orders of the Day. If, at the end of Routine Proceedings, the Government House Leader wishes to move such a motion, he or she must wait to do so until Orders of the Day are called, after making certain there will be no debate upon adjournment. Similarly, there must not be any business before the Assembly when the motion to adjourn is moved. If a debate is in progress at the time the Government House Leader wishes to adjourn proceedings, he or she must first move a motion to adjourn the debate (S.O. 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 (S.O. 106). However, whenever a motion is made to adjourn proceedings for more than 15 days, the motion may be discussed in a limited debate (S.O. 107) lasting not more than two hours, the time being apportioned by the Chair in accordance with Standing Order 210. Once the debate has concluded, the motion is put to a vote. The vote on a motion to adjourn the proceedings may not be deferred (S.O. 223, 2nd par.). If the motion is carried, the sitting is adjourned until the date and time specified in the motion.

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.

move a motion to adjourn the proceedings if no business has been envisaged for the evening. The Chair may not adjourn the sitting on its own initiative.

10

Question Period

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. The President must be especially vigilant in maintaining order and decorum as he or she directs and manages the often heated exchanges that take place during this action-packed period. 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 bring up issues of current interest. Formal parliamentary debate takes place primarily during Orders of the Day, when the Assembly takes up the substantive matters submitted for its consideration.[1]

In addition to maintaining order and decorum, the President grants the right to speak, authorizing Members to ask questions, both main and supplementary, and ministers to answer them. The President has considerable latitude

1. The Chair has therefore ruled that Standing Orders 212 and 213 concerning explanations and questions regarding a speech do not apply during Question Period, but only during a debate (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".

in directing Question Period; however, in exercising this responsibility, he or she must take into account the Standing Orders, principles and criteria developed over the years on the basis of the Chair's rulings, and must also consider established practice and any agreements and arrangements made with the Assembly's unanimous consent.[2]

The questions and answers that make up Question Period must meet the procedural requirements set out in the Standing Orders and established by precedent and custom. However, these standards must not be applied too strictly, since some were formulated in response to particular circumstances. The approach taken depends on the dynamics of each Question Period.

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, but addresses to the Governor had already taken an interrogatory form during the Lower Canada period. These addresses formed the basis, in a manner of speaking, for 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 ministers generally took the opportunity to explain the government position.

The Standing Orders did not refer to Question Period per se. On February 19, 1963, inspired by English and Canadian parliamentary practices, Speaker John Richard Hyde issued new directives concerning the oral questions that were arising at the beginning of the session. 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.[3]

Before rules governing Question Period were included in the Standing Orders, the period for oral questions and answers 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 character of urgency and public interest in the questions", in accordance with the recommendations of the Standing Orders review committee.[4] The 30-minute time limit was renewed by the Assembly on February 24, 1970.

2. JD, December 12, 1989, pp. 518–521 (Jean-Pierre Saintonge)/*RDPP*, no. 74/8.
3. JD, February 19, 1963, p. 263 (Richard Hyde).
4. JD, February 26, 1969, p. 8 (Gérard Lebel).

> While the provisional Standing Orders of 1972 are silent on the duration of Question Period, Standing Order 172 of the 1973 Standing Orders specifies that the "time allotted to such questions shall not 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. ■

10.1 QUESTIONS

The questions Members direct to ministers during Question Period fall into two categories: main questions and supplementary questions.

10.1.1 Main 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 for the question (S.O. 76).[5] 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 (S.O. 78).[6]

The number of supplementary questions allowed is at the discretion of the President (S.O. 78). While the President used to exercise this discretionary power, taking into account the importance of the subject, the facts, and the question under discussion,[7] during the 38th Legislature the presence of two opposition groups led the Chair to determine the number of supplementary questions in advance so that each group would be treated fairly. Furthermore, in contrast to what had become usual practice, a supplementary question could no longer be converted into a main question. Moreover, only Members belonging to the same parliamentary group as the Member who asked the main question could ask a supplementary question.[8] Although

5. 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 (JD, May 15, 1986, p. 1541 (Pierre Lorrain)).
6. Unlike main questions, supplementary questions could not contain a preamble. The 2009 parliamentary reform did away with this prohibition, which was difficult to enforce. By its very nature, a supplementary question is shorter than the main question to which it relates since it cannot exceed 30 seconds, while a main question usually lasts a maximum of one minute. On this subject, see Section 10.2, "Time Allotted to Questions and Answers".
7. JD, June 4, 1986, p. 2158 (Pierre Lorrain)/*RDPP*, no. 78/2.
8. JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/*RDPP*, no. 74/19. On this subject, see Section 10.1.3, "Allocation of Questions".

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 create any real 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, as was the case in the 38th Legislature. This is why the Chair 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.[9]

The Chair continued in the same way at the beginning of the 39th Legislature, despite the fact that by then there was only one opposition group and a few independent Members. Thus, rather than exercising a discretionary power each time there was a question, the Chair chose to set the number of supplementary questions in advance. Moreover, a supplementary question could be asked only by a Member with the same political affiliation as the one who asked the main question. Lastly, a Member could not change a supplementary question into a main question.[10] These principles continued to apply after the Members of the Action démocratique du Québec (ADQ) were recognized as a parliamentary group.

All questions, whether main or supplementary, must comply with a number of requirements as to form and substance, as well as certain restrictions regarding subject matter and content, and it is up to the President to see that these rules are respected without losing sight of the fact that Question Period belongs primarily to the Members. The President generally gives Members as free a rein as possible in determining the subject matter and content of their questions. After all, who better than the Members themselves to decide on the nature of the questions to be raised during Question Period, a highly politicized exercise in accountability meticulously prepared for in caucus, where priorities are determined?

The President also plays a leading role in allocating questions. Since Members receive more media coverage during Question Period than on any other occasion they have to hold the Government accountable for its actions, their visibility at that time is critical. A number of guidelines have been formulated in this area.

9. Ibid.
10. JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/*RDPP*, no. 74/21.

10.1.2 Subject Matter and Content of Questions

The subject matter and content of questions asked during Question Period must respect certain principles contained in the Standing Orders and developed through jurisprudence. For example, 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 (S.O. 75).[11]

The Chair has ruled that, in order to meet the criteria of urgent or topical public importance, 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.[12] On the other hand, a very broad question on new technologies could hardly qualify as urgent or of topical public importance.[13] The Chair has also noted 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.[14] However, practices in this regard have become considerably more flexible in the last few years and the Chair avoids interfering in the content of questions unless they contain unparliamentary language.

According to doctrine, the questions asked of a minister must relate to the minister's current portfolio and not to a previous one.[15] However, as the Government may answer through the minister of its choice, nothing prevents a minister from answering a question addressed to the Government on an issue that concerned the minister in one of his or her former portfolios. In addition, no question may be asked of a minister on a subject that concerned the minister before he or she became a Cabinet minister.[16]

In addition to establishing the above criterion of concision, distinguishing between main and supplementary questions, and requiring that questions relate to matters of public importance, the Standing Orders specifically prohibit certain types of questions (S.O. 77). Questions must not present an

11. See Section 10.4, "Written Questions".
12. JD, December 20, 1984, p. 2178 (Richard Guay)/*RDPP*, no. 75/4.
13. JD, April 11, 1984, p. 5752 (Richard Guay)/*RDPP*, no. 75/1.
14. JD, April 11, 1984, pp. 5755–5757 (Richard Guay)/*RDPP*, no. 75/2.
15. Beauchesne, p. 122.
16. JD, June 6, 1990, pp. 2798–2800 (Jean-Pierre Saintonge)/*RDPP*, no. 75/6.

argument, express an opinion,[17] be founded on a supposition, seek a personal or professional opinion,[18] suggest their own answers or be framed in such a way as to provoke debate.[19]

Whenever a Member rises to speak in the Assembly, he or she is generally subject to the rules that apply to debate. This is also true when a Member rises during Question Period, and he or she must therefore respect Standing Order 35 on words that are inadmissible in debate. The Chair regularly cautions Members against imputing improper motives to another Member, refusing to take a Member at his or her word (S.O. 35(6)) and using language that is violent, abusive or insulting (S.O. 35(7)).[20] On the other hand, the Chair has 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.[21]

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 Chair generally considers this to be the equivalent of a question, and therefore gives the floor to a minister to answer.[22] However, the Chair has reminded Members that Question Period must not be seen as an opportunity to table documents or as an information session for the Opposition.[23]

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17. The Chair has noted that the purpose of an oral question is to obtain, not give, information. The privilege of freedom of speech gives considerable leeway as to 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).
18. A question asked of a minister as to whether he shared the opinion of his federal counterpart regarding the establishment of a second private French-language television channel was judged out of order, the Chair ruling that 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 asked of the Minister of Justice as to whether the funds used 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).
19. For example, the Chair has ruled that it is out of order to claim that a minister has engaged in harassment (JD, April 30, 1987, pp. 6969–6970 (Pierre Lorrain)/*RDPP*, no. 77(5)/2). The Chair has also ruled that no objects may be exhibited during Question Period to illustrate a point of view, since that would lead to debate (JD, May 2, 1985, pp. 3369–3371 (Richard Guay)/*RDPP*, no. 77(5)/1). Visual aids, however, are allowed (JD, November 14, 2007, p. 2020 (Michel Bissonnet)/*RDPP*, no. 74/20).
20. See Chapter 11, "Order and Decorum".
21. JD, June 9, 1998, pp. 11752–11753 (Jean-Pierre Charbonneau)/*RDPP*, no. 75/7.
22. JD, March 30, 1995, p. 1859 (Roger Bertrand).
23. 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, December 4, 1996, p. 3744 (Jean-Pierre Charbonneau); JD, November 23, 1999, pp. 3705–3706 (Jean-Pierre Charbonneau).

10.1.3 Allocation of Questions

As previously mentioned, Question Period is limited to 45 minutes. This time frame makes it necessary to exercise strict control over both the number and the length of questions and answers. The Chair is responsible for allocating questions among the various parties and independent Members. For a long time, it refrained from laying down strict rules,[24] to avoid creating an unduly confining procedural framework inconsistent with the nature of Question Period.[25] The particular context of the most recent legislatures has led it to alter this approach somewhat. Although there are no strict rules, the Chair is nonetheless guided in exercising its discretionary power in this area by the principles drawn up by past Presidents over the years.

10.1.3.1 Principles Established by the Chair

In a directive handed down at the beginning of the 38th Legislature, the Chair summarized the main principles established by jurisprudence for the allocation of questions: all Members may ask questions of the Government; most questions are assigned to opposition Members; the notion of parliamentary group must be considered together with the first two principles; the Official Opposition must be given a preponderant role; and the Chair must take into account the presence of any independent Members.[26]

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. 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,[27] not only the Official Opposition, are the main participants in this daily give and take. Government Members may also question ministers, but to a lesser extent. The third principle holds that, in allocating questions, the Chair must recognize all the parliamentary groups. However, this principle does not constitute a guarantee that a group will be granted main questions.[28] Until the 37th Legislature, the allocation of main questions among the parliamentary groups varied depending on the sitting day, the number of main questions

24. JD, May 15, 1986, pp. 1539–1542 (Pierre Lorrain)/*RDPP*, no. 74/5.
25. JD, November 21, 2000, pp. 7998–8000 (Jean-Pierre Charbonneau)/*RDPP*, no. 74/13.
26. JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/*RDPP*, no. 74/19.
27. JD, December 12, 1989, pp. 518–521 (Jean-Pierre Saintonge)/*RDPP*, no. 74/8.
28. Ibid.

and the number of supplementary questions.[29] Since the 38th Legislature, questions have been allocated on the basis of the proportional representation of each group. Under the fourth principle, when allocating questions, the Chair must ensure that the Official Opposition is given a preponderant role in holding the Government accountable for its actions, especially when there is more than one opposition group. Lastly, although independent Members do not constitute a parliamentary group within the meaning of the Standing Orders, the Chair must take account of their presence in allocating questions, even though it cannot guarantee that independent Members will have an opportunity to ask a main question during each and every Question Period.[30]

Before the 39th Legislature, questions were assigned to the independent Members as a group in accordance with the existing jurisprudence, regardless of individual political affiliations,[31] and it was up to them to decide who would be given an opportunity to ask a main question on any given occasion. For the 39th Legislature, however, the presence of a number of independent Members from different political parties has led the Chair to alter this approach somewhat. To ensure that all independent Members are treated fairly, each one, in turn, is allowed to ask a question. However, they have to decide among themselves who will ask a question during a given sitting. The Chair considered that it could not establish an order between them without automatically creating a hierarchy, which it did not wish to do. Nevertheless, it could not deny the independent Members' political affiliations, which is

29. JD, March 25, 1986, p. 665 (Pierre Lorrain)/*RDPP*, no. 74/4; JD, June 12, 1986, p. 2676 (Pierre Lorrain)/*RDPP*, no. 74/6.

30. JD, March 13, 1985, pp. 2386–2387 (Richard Guay)/*RDPP*, no. 74/2. During the 35th Legislature, it was the practice to grant independent Members one main question per three sittings (JD, September 20, 1995, p. 5159 (Roger Bertrand)/*RDPP*, no. 74/12). This practice continued when the number of independent Members increased from one to three, the Chair judging it inappropriate to amend the question-allocation rules enacted at the beginning of the legislature. The practice was also maintained during the 1st Session of the 36th Legislature, when there was only one independent Member (JD, November 21, 2000, pp. 7998–8000 (Jean-Pierre Charbonneau)/*RDPP*, no. 74/13). During the 2nd Session, by-elections increased the representation of independent Members to five. Basing its decision on statistics for the 34th Legislature, the Chair granted these Members two questions per five sittings (JD, October 15, 2002, pp. 7077–7078 (Louise Harel)/*RDPP*, no. 74/14). Later, with the arrival of a sixth independent Member, this was increased to two questions per four sittings (JD, December 3, 2002, pp. 7966–7967 (Louise Harel)/*RDPP*, no. 74/15). At the beginning of the 37th Legislature, there were four independent Members. The Chair granted them two questions per five sittings (JD, October 30, 2003, pp. 1216–1217 (Michel Bissonnet)/*RDPP*, no. 74/16). This number stayed the same following another Member's decision to sit as an independent (JD, March 23, 2004, p. 3186 (Michel Bissonnet)/*RDPP*, no. 74/17). However, following the arrival of a sixth independent Member, the ratio was changed back to two questions per four sittings (JD, October 20, 2004, p. 5190 (Michel Bissonnet)/*RDPP*, no. 74/18).

31. JD, December 3, 2002, pp. 7966–7967 (Louise Harel)/*RDPP*, no. 74/15.

why a Member affiliated with a political party is allowed to ask a question in the place of another Member from the same party.[32]

In addition to the principles mentioned above, a number of other factors left to the discretion of the Chair, for instance the importance, current interest and urgency of the main questions, contribute to the flexibility of the framework within which Question Period is held.[33] Another very important factor is the composition of the Assembly, which the Chair must take into account both in allocating questions and in determining the order of the main questions. The practice in this respect varied with the legislatures but was nevertheless consistent for a number of years. The Official Opposition was normally given the first two main questions, as well as the third main question if there was no other opposition group.[34] An independent Member entitled to a main question was assigned the fourth one.[35] The government party was entitled to two questions every three sittings.[36] On the rare occasions when it took advantage of this right, it was assigned the fifth question, unless the fourth question had been allocated to an independent Member, in which case,

32. JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/*RDPP*, no. 74/21. When this ruling was made, at the beginning of the 1st Session of the 39th Legislature, there were eight independent Members, seven of whom were affiliated with the Action démocratique du Québec (ADQ). The independent Members were entitled to one question per sitting, each asking one question per eight sittings. This proportion changed to one question per seven sittings following the resignation of the leader of the ADQ. Later, the ADQ, made up of six Members, was recognized as a parliamentary group entitled to one question per sitting, while the independent Member was still entitled to one question per seven sittings. After two ADQ Members decided to sit as independent Members, the number of questions granted to the Second Opposition Group was reduced to five per seven sittings, in order to allow the two new independent Members to ask one question per seven sittings, like the other independent Member from Québec solidaire (JD, November 11, 1009, pp. 3887–3888 (Yvon Vallières)/*RDPP*, no. 74/22). Later, at the request of one of those two Members, the Chair issued a directive on the logistics of this allocation. To ensure that every independent Member could exercise his or her right, the Second Opposition Group was to notify the Chair 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 independent Member from Québec solidaire was to inform the Chair and the other independent Members of his intention to ask a question the day before the sitting concerned, which would preclude the other two independent Members from asking a question. However, either one of those two independent Members could ask a question at any later date during a seven-sitting cycle, even if the Second Opposition Group asked one as well (JD, April 20, 2010, pp. 6349–6350 (Yvon Vallières)/*RDPP*, no. 74/23).
33. JD, December 12, 1989, pp. 518–521 (Jean-Pierre Saintonge)/*RDPP*, no. 74/8.
34. JD, March 14, 1985, p. 2415 (Richard Guay)/*RDPP*, no. 74/3.
35. 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.
36. JD, November 21, 2000, pp. 7998–8000 (Jean-Pierre Charbonneau)/*RDPP*, no. 74/13.

a government member could ask the sixth one.[37] All other questions went to the Official Opposition.[38]

10.1.3.2 Allocation of Questions During the 38th Legislature

The election of a minority government and the presence of two opposition groups led to important changes in the allocation of questions at the beginning of the 38th Legislature. The Chair looked at the experience of other Canadian parliaments in which there was more than one opposition party and selected the criterion of proportionality as an objective basis on which to allocate questions between the two opposition groups, while ensuring that the Official Opposition continued to play a preponderant role.[39] As in previous legislatures, the Official Opposition, composed of 41 Members, was given the first two questions, the Second Opposition Group, with 36 Members, was assigned the third and fourth questions, and the Official Opposition was granted the next two. After that, each opposition group, in turn, could ask a question. The Chair assigned the 48 government Members one question every three sittings: either the seventh question in the place of the Second Opposition Group or the eighth question in the place of the Official Opposition, on an alternating basis.[40]

Moreover, while previously the number of supplementary questions could vary from day to day depending on the importance of the subject

37. Ibid.
38. Ibid.
39. JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/*RDPP*, no. 74/19.
40. Ibid. In its directive, the Chair described its objective as follows: [TRANSLATION] "This framework for Question Period will allow each opposition group to play a significant part consistent with both the group's relative importance within the opposition and the preponderant role of the Official Opposition. The Official Opposition represents a little more than 53% of opposition Members, while the Second Opposition Group represents a little less than 47%. Based on the time set aside for questions and answers during the last legislature, 10 main questions could be asked, six by the Official Opposition and four by the Second Opposition Group—which approximately mirrors the relative proportion of each group.
This framework also protects the preponderant role of the Official Opposition. First, the Official Opposition will be the one to ask four of the first six main questions, including the first two. Secondly, it will be given an additional supplementary question for its first main question. Thus, for its six main questions, the Official Opposition will be given seven supplementary questions, in comparison with a total of four for the Second Opposition Group. This means that for the first 10 main questions, the Official Opposition will use 60% of the time assigned for opposition questions as opposed to 39.4% for the Second Opposition Group—which clearly reflects the preponderant role traditionally played by the Official Opposition."

addressed in the main question and the time available, the new balance in the allocation of questions in the 38th Legislature also led the Chair to exercise stricter control in this sphere: each main question could be followed by only one supplementary question, except the first main question of the Official Opposition, for which two supplementary questions could be asked. However, to ensure a more rapid alternation between the two opposition groups and allow more subjects to be covered, no supplementary questions were allowed as of the eleventh main question. In addition, unlike the previous practice, only a Member belonging to the same parliamentary group as the Member who asked the main question could ask the supplementary question, which could not be converted into a main question. Lastly, in order to limit points of order and interventions by the Chair, no distinction was made between the form of supplementary questions and main questions.[41]

10.1.3.3 Allocation of Questions During the 39th Legislature

At the beginning of the 39th Legislature, the group forming the Government had elected 66 Members to the Assembly and the Official Opposition had elected 51. There were also seven independent Members affiliated with the Action démocratique du Québec (ADQ) and one with Québec solidaire. In determining how questions were to be allocated, the Chair took into consideration the fact that although, at first glance, the composition of the Assembly appeared to resemble that of the 37th Legislature, the precedents established during the previous legislature had to be taken into account. Thus, according to the criterion of proportionality worked out during the 38th Legislature, granting one question per sitting to independent Members seemed to the Chair to be justified, since they represented 13.6% of opposition Members. However, when the criterion of proportionality and that of Official Opposition status were considered together, the eight independent Members obtained a percentage of questions slightly below that proportion, namely, 10% of questions.[42] That being said, one question per sitting was more than the number of questions granted to independent Members during the 37th Legislature, when six Members were assigned two questions over four sittings. An independent Member was therefore assigned the fourth question, government Members were given the sixth question in two of every four sittings and all other questions were given to the Official Opposition. A maximum

41. Ibid. The President pointed out that Standing Order 78, which states that supplementary questions may not contain a preamble, had given rise to a number of points of order.
42. JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/*RDPP*, no. 74/21. To arrive at this proportion, the Chair used the statistics from the last two legislatures to predict that there would be approximately 10 questions every sitting.

of two supplementary questions could be asked for each main question, except for the first question by the Leader of the Official Opposition, which could give rise to three supplementary questions.

When the ADQ was recognized as a parliamentary group in the parliamentary reform of April 21, 2009, the distribution of oversight measures was the subject of an agreement between the parliamentary groups and the independent Members that was recorded in a document tabled in the Assembly and adopted by its Members. The six Members from the Second Opposition Group were entitled to one question per sitting, the fourth, compared to six questions over seven sittings when they were independent Members. Government Members could ask the sixth question in one out of three sittings. The sole remaining independent Member retained the right to ask one question per seven sittings, the sixth, but never during the same sitting as a government Member. The guidelines for the number of supplementary questions did not change: two were allowed for each main question and three for the first question of the Leader of the Official Opposition.[43]

Later on, after two Members of the Second Opposition Group decided to sit as independent Members, the Chair issued a directive stating its intention to respect the spirit of the document referred to in the previous paragraph, since only another decision of the Assembly would allow it to apply different rules. In allocating measures among opposition Members, it 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, the speaking times and oversight measures allotted to the two new independent Members would be based on those originally assigned to the Second Opposition Group.[44] The next day, the Chair issued a new directive clarifying its intentions, particularly concerning the allocation of questions. Instead of one question per sitting, the Second Opposition Group would be assigned the fourth question in five out of seven sittings. This would allow the two new independent Members to ask one question, the sixth, per seven sittings, while the other independent Member would be entitled to ask the sixth question once in seven sittings. Government Members would retain the right to the sixth question once in three sittings. All other questions would be given to the Official Opposition. Members from the Second Opposition Group and independent Members would only be able to ask a question during the same

43. *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*, April 2009 (see Appendix III, pp. 604–605).

44. JD, November 10, 2009, pp. 3845–3847 (Yvon Vallières)/*RDPP*, no. 13/2.

sitting once every seven sittings. Independent Members and government Members would not be able to ask a question during the same sitting.[45]

When several Members of the Official Opposition decided to sit as independent Members, a new way to allocate questions had to be found. The 10 independent Members as a group would be entitled to a total of nine questions every eight sittings, with no single Member being allowed to ask more than one.[46] A random draw procedure was instituted to allocate the questions, which would always be the seventh question, except the question allocated to the Member already sitting as an independent Member at the time of the reform, who would continue to ask the sixth question.[47] That Member would not take part in the random draw and could ask his question at any sitting in an eight-sitting cycle. Members of the Second Opposition Group would be able to ask the fourth question in six sittings out of eight, which was proportionally identical to the number they had been entitled to previously. All other questions, as well as any questions not used by the independent Members, would be assigned to the Official Opposition, subject to the possibility for government Members to ask the sixth question once in three sittings.

10.2 TIME ALLOTTED TO QUESTIONS AND ANSWERS

When managing Question Period, the Chair 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. Until the 37th Legislature, the Chair 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.[48] However, during the

45. JD, November 11, 2009, pp. 3887–3888 (Yvon Vallières)/*RDPP*, no. 74/22.
46. JD, September 20, 2011, pp. 2440–2442 (Jacques Chagnon). According to the Chair, increasing the number of sittings in a cycle from seven to eight preserved the right of the independent Members to ask the Government a question while complying with the other criteria for allocating questions, including the impact of recognition as a parliamentary group and the preponderant role of the Official Opposition. The Chair considered that using eight-sitting cycles reduced the number of questions for the independent Members by only one per year per Member.
47. Ibid. In its decision, the Chair explained that it had based its decision on the allocation used during the 38th Legislature to ensure that the Official Opposition would have two consecutive blocks of questions. This is why the fifth and sixth questions are reserved for the Official Opposition. Independent Members therefore have the seventh question, subject to a question reserved for the Member already sitting as an independent.
48. JD, November 21, 2000, pp. 7998–8000 (Jean-Pierre Charbonneau)/*RDPP*, no. 74/13.

38th Legislature, the Chair became more rigorous in enforcing time limits so that one parliamentary group could not use more time at the expense of another.[49] It has continued along the same line during the 39th Legislature, regardless of the number of opposition groups: as soon as the time allotted for a question or answer has elapsed, the President rises and gives the floor to another Member.

Length of Questions and Answers

Question	Main (Leader of a parliamentary group in opposition)	1 min 30 s
	Main (other Member)	1 min
	Supplementary	30 s
Answer	Main (Premier)	1 min 45 s
	Main (other minister)	1 min 15 s
	Supplementary	45 s

The time granted for questions and answers generally remains the same from one legislature to the next. For years, main questions have been limited to one minute, except those of the Leader of the Official Opposition, which can last up to a minute and a half. The same applies to the questions of the Leader of the Second Opposition Group, if any. All supplementary questions may take up to 30 seconds. The Premier has one minute and 45 seconds to answer main questions, while other ministers have only one minute and 15 seconds. Forty-five seconds is allotted for answers to supplementary questions.[50]

49. JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/*RDPP*, no. 74/19.
50. Until the 38th Legislature, the Chair was generally more lenient during exchanges between the Premier and the Leader of the Official Opposition (JD, October 30, 2003, pp. 1216–1217 (Michel Bissonnet)/*RDPP*, no. 74/16). During the 38th Legislature, the presence of two opposition groups led the Chair to exercise strict control over questions and answers. However, while during the preceding legislature only the Leader of the Official Opposition had been granted more time, one minute and 30 seconds was also allotted during the 38th Legislature for the first main question of an opposition group, whether asked by its leader or another Member, while one minute and 45 seconds was allotted for the answer to that question, whether given by the Premier or another minister (JD, May 10, 2007, pp. 50–53 (Michel Bissonnet)/*RDPP*, no. 74/19). During the 39th Legislature, any main question asked by the leader of an opposition group may last up to 1 minute 30 seconds, while the Premier's answers to main questions may last up to one minute and 45 seconds (JD, January 14, 2009, pp. 17–19 (Yvon Vallières)/*RDPP*, no. 74/21).

10.3 ANSWERS

Although a question is usually addressed to a particular minister, there is no guarantee that that 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.[51] The Government may therefore answer through the Premier or any other Cabinet member.[52] A parliamentary assistant to a minister, even if not a Cabinet member, may also answer on behalf of that minister during Question Period (ANA, s. 25). However, this is very rare.

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. If the minister to whom the question is addressed uses up all the allotted time, the Chair does not ordinarily grant time for a second minister to complete the answer.[53]

10.3.1 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 (S.O. 79); and 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.[54]

No Member may raise a point of order merely because he or she considers that a minister's answer to a question is unsatisfactory (S.O. 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

51. JD, December 9, 1999, p. 4201 (Jean-Pierre Charbonneau); JD, May 25, 1999, pp. 1720–1721 (Jean-Pierre Charbonneau)/*RDPP*, no. 308/8; JD, May 3, 1988, pp. 724–726 (Pierre Lorrain); JD, March 29, 1990, pp. 1453–1454 (Jean-Pierre Saintonge).
52. JD, June 6, 1984, p. 6712 (Richard Guay)/*RDPP*, no. 79/2.
53. JD, April 19, 1988, pp. 635–636 (Pierre Lorrain)/*RDPP*, no. 79/4. In a decision rendered in 1984, the Chair ruled that if the first minister can be considered to have given a complete answer to the question, the Chair will not normally authorize a second minister 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).
54. JD, May 29, 1985, pp. 3914–3916 (Richard Guay)/*RDPP*, no. 79/3.

answer must be confined to the subject of the question.[55] The Government House Leader has generally replied by citing Standing Order 81. For its part, the Chair maintains that the two Standing Orders are perfectly compatible but enforcing them depends largely on the will of parliamentarians to comply. Although the Chair agrees it has a role to play in this respect, it does not believe it should be constantly intervening to ensure compliance with Standing Order 79.[56] It is not up to the Chair to determine the degree of precision required in an answer.[57]

10.3.2 Refusal to Answer

A minister may decline to answer a question, in particular if he or she judges 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 (S.O. 82).[58] A minister must not answer questions that would have him or her refer to the in camera proceedings of a committee whose report has not yet been tabled in the Assembly (S.O. 82 and 35(2)) or to a matter under inquiry or 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 (S.O. 82 and 35(3)). The other provisions of Standing Order 35 regarding inadmissible words must likewise be respected.

A minister's refusal to answer a question may be implicit or explicit, substantiated or unsubstantiated. However, the Chair has recommended that refusals be explicitly stated in order to facilitate the conduct of proceedings.[59] Explicit or implicit, a refusal cannot be challenged (S.O. 82). Consequently, no Member may insist on receiving an answer, nor may the Chair require that one be given.[60]

A refusal does not prevent Members from asking supplementary questions on the same subject.[61] However, once a minister has refused to answer a question, he or she cannot take the question as notice and answer it at a later time.[62]

55. Ibid.; JD, May 27, 2008, pp. 4308–4309 (Michel Bissonnet)/*RDPP*, no. 79/5.
56. JD, May 27, 2008, pp. 4308–4309 (Michel Bissonnet)/*RDPP*, no. 79/5.
57. JD, March 22, 2011, p. 1003 (Yvon Vallières)/*RDPP*, no. 79/6.
58. A minister may legitimately decline to answer a question for other reasons, as confirmed by the words "in particular" used in Standing Order 82 (JD, April 16, 2002, pp. 5577–5578 and 5582 (Louise Harel)/*RDPP*, no. 82/3).
59. JD, March 18, 1992, pp. 12097–12098 (Jean-Pierre Saintonge)/*RDPP*, no. 82/2.
60. Ibid.; JD, April 16, 2002, pp. 5577–5578 and 5582 (Louise Harel)/*RDPP*, no. 82/3.
61. JD, October 18, 1988, pp. 2535–2537 (Pierre Lorrain)/*RDPP*, no. 82/1.
62. JD, March 18, 1992, pp. 12097–12098 (Jean-Pierre Saintonge)/*RDPP*, no. 82/2.

10.3.3 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 (S.O. 80). Ministers sometimes use this procedure when they do not have on hand the information required to answer or fully answer a question. As a rule, the minister will mention in the Assembly that he or she has taken note of the question. Both main and supplementary questions can be taken as notice.[63] If a question is addressed to a minister who is absent, that minister may also answer the question at a later sitting provided another minister has taken note of the question on his or her behalf.[64]

If a minister who has taken note of a question decides to answer it at the end of Question Period at the same sitting, he or she simply mentions this to the President and is given the floor without further formality, once the full 45 minutes of Question Period have elapsed. If a minister decides to answer a question taken as notice during a subsequent sitting, he or she 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 needed for the minister's answer after that period (S.O. 80, 2nd par.).

The Standing Orders provide that, following a question taken as notice, the President may allow one supplementary question. In practice, the President always authorizes such a question. 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.[65] 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.[66] Once a supplementary question has been asked, the President gives the floor to the minister to answer it.

63. JD, May 4, 1999, pp. 1255–1256 (Jean-Pierre Charbonneau)/*RDPP*, no. 80/5.
64. JD, October 25, 1988, pp. 2660–2663 (Pierre Lorrain)/*RDPP*, no. 80/2.
65. JD, June 14, 1984, p. 7063 (Richard Guay)/*RDPP*, no. 78/1. A Member is entitled to a supplementary question even if the answer to the question taken as notice is given at the end of the same Question Period (JD, June 4, 1990, pp. 2770–2771 (Jean-Pierre Saintonge)/*RDPP*, no. 80/3).
66. JD, May 4, 1999, pp. 1255–1256 (Jean-Pierre Charbonneau)/*RDPP*, no. 80/5.

Questions taken as notice are subject to the same rules as questions dealt with during Question Period proper. 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.[67] 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.[68]

As mentioned earlier, a minister cannot be compelled to answer a question, although in taking note of a question, he or she perhaps creates a moral obligation to reply. There has been no official ruling on this point, however, and the fact remains that a reply cannot be required. In addition, the Chair has ruled that no time limit may be imposed on a minister to answer a question of which he or she has taken note.[69]

10.4 WRITTEN QUESTIONS

The questions asked during Question Period must relate to matters of urgent or topical public importance for which a minister or the Government is responsible. All other questions must be submitted in writing (S.O. 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 (S.O. 313, 1st par.). The answers to written questions are tabled by the Government House Leader at the time set aside for that purpose during Routine Proceedings (S.O. 313, 2nd par., and S.O. 60).

Unless otherwise provided, the rules governing oral questions also apply to written questions (S.O. 314). Consequently, the Chair has reminded the House that the rules relating to inadmissible words set out in Standing Order 35 apply to both written and oral questions.[70] Similarly, under a ruling by the Chair in 2002, a Member may not raise a point of order merely because he or she is of the opinion that a minister's answer to a written question is unsatisfactory. A minister may always decline to answer a question, and no Member may insist on receiving an answer. In addition, the Government may answer a question through any minister it delegates for that purpose. It is not

67. Ibid.; JD, June 5, 1984, p. 6642 (Richard Guay)/*RDPP*, no. 80/1.
68. JD, May 26, 1998, p. 11313 (Jean-Pierre Charbonneau)/*RDPP*, no. 80/4.
69. JD, November 25, 1986, p. 4231 (Pierre Lorrain).
70. JD, April 23, 1991, pp. 7527–7532 (Jean-Pierre Saintonge)/*RDPP*, no. 313/1.

the President's role to judge the content of answers to written questions; in addition, the President may not require a minister to reply to a question, or determine which minister is to reply. For this reason, under the ruling mentioned above, 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.[71]

71. JD, May 7, 2002, pp. 5845–5846 (Michel Bissonnet)/*RDPP*, no. 313/2. In the case in point, the Chair nonetheless considered the situation to be a special one in that a question was addressed to two ministers, whereas separate questions should have been addressed to each minister. For this reason the question was placed on the Order Paper a second time, minus the elements that concerned the Minister of Education.

11

Order and Decorum

The main responsibility of the Chair 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 clearly state that the Chair has all the power necessary to maintain order (S.O. 2(2)). In actual fact, the Standing Orders merely codify a fundamental principle of parliamentary law under which the House itself entrusts the Chair with the delicate task of preserving order and decorum and gives it the discretionary powers to do so. Order and decorum are necessary for the Assembly to proceed efficiently and hence for its Members to exercise that most important constitutional privilege, freedom of speech. Thus, a primary function of the Chair is to see that conditions conducive to the proper operation of the Assembly are maintained at all times.[1]

Enforcing order and decorum is one of the most complex aspects of the Chair's task. Despite the existence of rules, customs and traditions to guide the Chair, the fact remains that each situation must be analyzed in context. The Chair must often consider elements that are external to parliamentary

1. JD, May 20, 1998, pp. 11230–11231 (Raymond Brouillet)/*RDPP*, no. 44/1.

procedure, such as the political context surrounding a debate, a Member's personality, the stage of the sitting and the atmosphere on the Assembly floor. Obviously, these are very subjective criteria, and different presiding officers will assess any given situation differently. There are, however, a number of rules that determine the actions available to the presiding officer in wielding the disciplinary powers of the Chair.

The Chair uses disciplinary measures only in exceptional circumstances. The rules governing order and decorum in the House apply generally to the conduct both of Members and the public and in most cases the 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. A moment of reflection is then observed at the President's request. Likewise, at the end of a sitting, all present must stand and remain at their places until the presiding officer has left the Chamber (S.O. 31).

Under the Standing Orders, the President cannot open a sitting before verifying quorum (S.O. 30). Section 8 of the *Act respecting the National Assembly*[2] specifies that the quorum of the Assembly or a committee of the whole is one sixth of the Members, that is, 21 Members out of 125, including the presiding officer. When a committee of the Assembly is sitting, however, the quorum is reduced to one tenth of the Members, or 13, including the presiding officer. Since quorum in the House is set by the *Act respecting the National Assembly*, the Members present may not derogate from it even by unanimous consent.[3] Once the sitting is under way, quorum is assumed unless its absence is reported by a Member or shown by the results of a vote,[4] which is why the presiding officer does not verify quorum upon resumption of work after a suspension.[5]

2. L.Q., c. A-23.1. Originally, rules on quorum in the Assembly were found in sections 48 and 87 of the *Constitution Act, 1867*. 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 with the *Act respecting the National Assembly*. See Chapter 2, "The Foundations of Parliamentary Procedure".
3. See Chapter 16, "Unanimous Consent and the Motion to Introduce an Exceptional Procedure". See also Chapter 2, "The Foundations of Parliamentary Procedure".
4. S.O. 36; 1972–1984 Standing Orders, S.O. 28(2).
5. JD, December 1, 1994, p. 104 (Raymond Brouillet)/*RDPP*, no. 36/2.

President's Parade

The President's Parade at the opening of a sitting

If a quorum is not present for a sitting, the President must delay the opening until quorum is reached. Usually the bells are rung until the required number of Members arrive. If quorum is not established after a lapse of time that is left to the President's discretion, the President may take the chair, announce the failure of quorum, and suspend the opening of the sitting until a later time, or simply adjourn the proceedings until the next sitting.[6]

The procedure is the same when a lack of quorum is noted during a sitting.[7] A Member may point out the want of quorum at any time[8] except during a debate upon adjournment (S.O. 312) or a vote (S.O. 227).[9] Once a Member has pointed out the absence of quorum, the Chair begins counting

6. 1972–1984 Standing Orders, S.O. 28(2); S.O. 44; JD, March 16, 1999, p. 579 (Raymond Brouillet).
7. The Standing Orders do not set out the procedure to be followed when a Member raises want of quorum. Regarding how long the Members should be called, however, Standing Order 156, which deals with parliamentary committees, refers to a reasonable time. Former Standing Orders dealt with the length of time in different ways. The Standing Orders in force from 1972 to 1984 referred to a reasonable time (S.O. 28(3)), while the Standing Orders of 1941 referred to a wait of no longer than two minutes (Geoffrion 1941, S.O. 96). The Chair has ruled that when a Member calls attention to a want of quorum, proceedings are suspended for a few moments (JD, December 17, 1987, p. 10969 (Jean-Pierre Saintonge)/ *RDPP*, no. 36/1).
8. 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 could not ensure quorum. Under the rule, a Member could call attention to a want of quorum only if no fewer than six Members belonging to his or her parliamentary group were present. The minimum was lower, at three, if a committee was sitting (T.S.O., 38th Leg., S.O. 36.1).
9. Under S.O. 303, want of quorum may not be raised during an interpellation. However, although interpellations are usually held in the Chamber, they are held in the context of a committee meeting, not a sitting of the Assembly.

the Members present, including those who enter during the count. If the count shows that a quorum is present, the proceedings can continue. If the count shows that there is no quorum, the Chair asks that the Members be called and suspends the proceedings. Once quorum is re-established, the Chair gives the floor to the Member who was interrupted because of the absence 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 the proceedings were suspended.[10]

Moment of Reflection

Members pause for a moment of reflection at the opening of a sitting.

While quorum is necessary for a motion to be validly adopted (S.O. 219), it would appear that the validity of the motions adopted and the proceedings taken before the lack of quorum was reported cannot be called into question.[11] However, when lack 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.[12]

11.2 CONDUCT OF MEMBERS DURING A SITTING

During a sitting of the Assembly, the Standing Orders must be observed at all times and decorum maintained (S.O. 32).

10. JD, December 17, 1987, p. 10969 (Jean-Pierre Saintonge)/*RDPP*, no. 36/1.
11. 1972–1984 Standing Orders, S.O. 28(5); Geoffrion 1941, S.O. 87(4).
12. 1972–1984 Standing Orders, S.O. 28(4); Geoffrion 1941, S.O. 97, note 2 (in French only).

11.2.1 General Rules of Conduct

Standing Order 32 specifically states that Members must keep the seats assigned to them by the President. Although the Chair may do so, it will not generally intervene to ask Members who do not have the floor to go back to their assigned seats. If, however, a Member requests it and the Chair believes the atmosphere of the House requires it, the Members will be asked to return to their seats.[13] It goes without saying that when intervening in the course of House proceedings, Members must be in their assigned places. This is not the case when the Assembly meets as a committee of the whole (S.O. 109.1), as political attachés and public servants may also be present in the Chamber.[14] Except in 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.[15]

When the Assembly is sitting, Members must stay seated and keep silent unless called on to speak (S.O. 32, 2nd par.). The Chair is flexible in applying this rule, and private conversations in undertones are usually tolerated as long as they do not disturb the proceedings or the Member who has the floor.[16] The use of cellphones in the House, however, is considered to contravene the rule that Members must remain silent unless granted the right to speak.[17] On the other hand, Members may use laptops or tablets while in the Chamber provided that they do not impinge on another Member's freedom of speech or on the smooth operation of the Assembly.

Every time the presiding officer rises, all Members must sit down and remain seated as long as the presiding officer is standing. This rule of conduct also applies to any Member who was speaking at the time (S.O. 37). There is also a parliamentary custom according to which no one may pass between a Member who is speaking and the throne or between the Mace on the Table and the throne. These rules exist to maintain respect for the institution. The Mace is the symbol of the Assembly's authority: to pass between it and the

13. JD, December 11, 1986, pp. 5266–5268 (Jean-Pierre Saintonge)/*RDPP*, no. 32/1.
14. See Chapter 17, "Committees of the Whole".
15. JD, June 17, 2008, p. 4950 (Fatima Houda-Pepin)/*RDPP*, no. 32/8.
16. JD, June 17, 1987, p. 8540 (Jean-Pierre Saintonge); JD, December 18, 1987, pp. 10971–10972 (Jean-Pierre Saintonge).
17. JD, November 14, 1990, pp. 5079–5080 (Roger Lefebvre)/*RDPP*, no. 32/3. On April 6, 2008, the President of the Assembly, Michel Bissonnet, sent a letter to the chief whips of all the parliamentary groups in which he asked them to remind the Members that cellphones were still prohibited in the Chamber, even when used with a wireless headset. In a letter sent to all Members on September 23, 2009, President Yvon Vallières specified that the prohibition applied to all types of headsets used with an electronic device.

throne would be to flout decorum.[18] Parliamentary custom also dictates that Members acknowledge the presiding officer with a slight bow every time they use the centre aisle.[19]

The Mace

The National Assembly Mace lies on the Table while the Assembly is sitting.

The Chair can advise a Member who makes a vulgar gesture to a colleague to respect the rules of decorum.[20] A Member who has the floor and who proceeds to tear up a bill is also demonstrating a lack of decorum. In such a case, the Member is invited to either leave the Chamber or apologize to the House.[21] In short, the Chair 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 one of its Members, it will not generally be considered by the Chair to be a breach of decorum. The wearing of pins or badges is thus permitted as long as the message conveyed meets these criteria. The Chair has stated that the wearing of a badge or a 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.[22]

18. JD, December 17, 1992, p. 4880 (Jean-Pierre Saintonge)/*RDPP*, no. 32/6.
19. Geoffrion 1941, S.O. 62.
20. JD, November 6, 1991, pp. 10394–10396 (Jean-Pierre Saintonge)/*RDPP*, no. 32/4.
21. JD, December 11, 1991, pp. 11464–11466 (Jean-Pierre Saintonge)/*RDPP*, no. 32/5.
22. JD, April 3, 1990, p. 1513 (Jean-Pierre Saintonge)/*RDPP*, no. 32/2.

While the Standing Orders do not impose a dress code on Members, they do provide that Members must contribute to the maintenance of decorum (S.O. 32). It is customary for Members to dress in neat, appropriate clothing such as business attire and avoid wearing clothes or accessories that could undermine decorum in the Assembly or infringe on another Member's freedom of expression.[23]

Food and drink are strictly forbidden in the Chamber[24] and the ancient custom of banging on the desks is no longer allowed in the House and has not been for a very long time.[25]

11.2.2 Addressing the Assembly

Members wishing to take the floor must rise and ask leave of the Chair (S.O. 33), and may only speak to a question that is open to debate by the Assembly, or for one of the following reasons: to raise a question of privilege or point of order, to call attention to a want of quorum, to intervene in Routine Proceedings, under the appropriate heading, or to invoke Standing Order 212, 213 or 214. Otherwise, Members do not have the right to speak.

During a debate, the Chair alone decides the order of the speakers,[26] beginning, of course, with the Member who moved the motion.[27] The tradition, when more than one Member rises, is for the Chair first to give the floor to the Members in rotation, one political party after the other, and then to alternate: one speaker for, one against.[28] During the 38th Legislature, when there were three parliamentary groups in the House, each with a large contingent, the principle of alternation became unwieldy. Consequently, the Chair chose to favour the system of rotation. In any case, neither practice is absolute or binding on the Chair,[29] which still reserves the right to give the floor to the first Member to rise and address it.[30]

23. JD, May 19, 2010, p. 6767 (Yvon Vallières)/*RDPP*, no. 32/9.
24. On December 1, 2006 and May 29, 2008, the President of the Assembly sent all the Members a letter reminding them that water provided by the pages is the only beverage allowed in the Chamber. The same reminder was sent in a letter dated September 23, 2009 regarding order and decorum in the Assembly.
25. JD, May 14, 1997, pp. 6551–6552 (Jean-Pierre Charbonneau).
26. JD, June 7, 1979, p. 1809 (Louise Cuerrier)/*RDPP*, no. 33/2.
27. JD, November 26, 1974, pp. 2954–2955 (Jean-Noël Lavoie)/*RDPP*, no. 33/1.
28. 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.
29. JD, October 24, 1979, pp. 3121–3122 (Clément Richard)/*RDPP*, no. 33/3.
30. 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.

When the Chair 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 which are acceptable in the parliamentary context.

11.2.2.1 Words Inadmissible in Debate

Generally speaking, Members addressing the House must follow the basic rules of respect and courtesy and use language befitting the National Assembly.[31] The Standing Orders lay out certain restrictions on language considered to be offensive or unparliamentary. Moreover, a Member who has the floor may refer to other Members or to the Chair only by their title. In addition, the Member may not refer to the proceedings of a committee that is meeting in camera before that committee has reported to the Assembly, or 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 may be prejudicial to the interests of another person or party; the 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 his or her word. Lastly, the Member may not use violent, abusive or insulting language, or language that is unbecoming or disrespectful of the Assembly, or threaten another Member or utter seditious words (S.O. 35).

While these rules apply only to a Member who has the floor, a Member who uses unparliamentary language but does not have the floor may still be called to order under the general power of the Chair to maintain order and decorum in the Assembly. Standing Order 35 does not, however, give the Chair authority to call to order Members engaged in a private conversation in the House or elsewhere.[32] Even so, if private conversations on the floor are undermining the decorum of the House, the Chair can apply the rule whereby Members must keep silent unless called upon to speak (S.O. 32).

31. JD, September 3, 1992, pp. 3050–3052 (Jean-Pierre Saintonge)/*RDPP*, no. 35(7)/5.
32. 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.

Designating Members Only by Their Titles (S.O. 35(1))

A Member who has been given the floor may not refer to other Members by their names, even in reference to the past.[33] Members must speak of their colleagues in the third person, identifying them either by their electoral division or by their title in the case of the presiding officer, a minister or a House officer.

Referring to In Camera Committee Proceedings (S.O. 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 the authorities in parliamentary law, divulging information on in camera committee proceedings may constitute contempt of Parliament.[34]

Referring to a Matter That Is Before the Courts (S.O. 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 is the subject of an investigation, if doing so might be prejudicial to someone. This is called the *sub judice* convention, and it applies to any matter that may come before the Assembly[35] for as long as the investigation or judicial or quasi-judicial proceeding is underway or the time for appeal is still running.[36] The legislative assemblies of Canada voluntarily abide by this convention out of respect for the bench and in the name of fairness, but also in deference to the separation of the powers of State.[37] The Chair must apply it with caution, however, since it acts, in a manner of speaking, to restrict the Members' constitutional right of freedom of speech.[38]

The application of the convention is left to the discretion of the Chair.[39] However, the Chair 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 convention is

33. JD, December 5, 1989, pp. 298–299 (Lawrence Cannon)/*RDPP*, no. 35(1)/1. "But it is not irregular to refer to members of a previous Parliament by name." (Bourinot, *Parliamentary Procedure and Practice in the Dominion of Canada* [1971], p. 361).
34. May, *Treatise*, 23rd ed., p. 142; Harris, *House of Representatives Practice*, pp. 735–736. See Chapter 18, "Parliamentary Committees".
35. The *sub judice* convention also applies to the text of motions and to oral and written questions (JD, April 16, 1996, p. 418 (Jean-Pierre Charbonneau)/*RDPP*, no. 35(3)/14).
36. 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.
37. Ibid. See Donahoe; *Canada (Auditor General) v. Canada (Minister of Energy, Mines and Resources)*, [1989] 2 S.C.R. 49, 88.
38. JD, April 16, 1996, p. 418 (Jean-Pierre Charbonneau)/*RDPP*, no. 35(3)/14.
39. JD, May 14, 1996, p. 1046 (Jean-Pierre Charbonneau)/*RDPP*, no. 35(3)/18.

applied differently to criminal, civil and quasi-judicial cases, as well as to investigations. In any case, the Chair 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 House may be prejudicial to someone, and the Chair is rarely sufficiently aware of the facts to make a fully informed decision on the matter.[40]

The current practice in the National Assembly and other British-style parliaments is to apply the *sub judice* convention absolutely where criminal proceedings are concerned because prejudice is assumed.[41] This means Members should avoid any references—direct or indirect—to such proceedings in the course of debate.[42] The Chair has refused to allow a motion to be debated in follow-up to a Member's question of privilege because the motion dealt with a matter that was pending before a criminal court.[43] However, on another occasion, while cautioning the Members to exercise prudence, the Chair allowed oral questions that referred to a criminal proceeding to be addressed to a minister since the questions dealt with the Government's actions and not the trial per se.[44] This clearly shows that the Chair still has discretionary power in the application of the *sub judice* convention.

40. First Report of the Special Committee on the Rights and Immunities of Members of the House of Commons, pp. 720–729.
41. JD, April 16, 1996, p. 418 (Jean-Pierre Charbonneau)/*RDPP*, no. 35(3)/14. Since *R. v. Vermette*, [1982] C.S. 1006, the Chair of the Assembly has been increasingly vigilant in the application of the *sub judice* convention to criminal proceedings. In that particular case, a vehement speech in the Assembly by the Premier led to a stay of proceedings by the Superior Court. Nevertheless, after being upheld in the Court of Appeal, [1984] C.A. 466, the judgment was struck down by the Supreme Court, [1988] 1 S.C.R. 985. While ultimately, the Premier's remarks did not affect the outcome of the case, they did spark a long judicial process that went all the way to the Supreme Court.
42. JD, March 13, 1984, pp. 5103–5104 (Richard Guay)/*RDPP*, no. 35(3)/4.
43. JD, December 7, 1993, pp. 9250–9251 (Jean-Pierre Saintonge)/*RDPP*, no. 324/3. Prior to that, however, the President had ruled that the *sub judice* convention did not preclude the motion's being placed on the Order Paper or its standing there (JD, December 7, 1993, pp. 9243–9244 (Jean-Pierre Saintonge)/*RDPP*, no. 324/2). Nevertheless, the motion itself could not be debated before a final judgment had been rendered.
44. JD, June 7, 1996, p. 1880 (Jean-Pierre Charbonneau)/*RDPP*, no. 35(3)/15. A committee Chair used the same reasoning when, during the consideration of the annual estimates of the Ministère de la Justice, 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 an affair in which a man was appealing his conviction on murder charges. According to the Chair's ruling, referring to the preliminary inquiry was a breach of the *sub judice* convention, since it dealt directly with matters that could be brought up in the appeal. However, questions on the actions and decisions taken by the Ministère de la Justice following the report by the commission of inquiry were allowed as long as they were not directly related to matters that could be brought up in appeal (JD, May 2, 2000, CI-68, p. 13 (Roger Bertrand)/*RDPP* (Com. Vol.), no. 35(3)/5). In another

The convention is not applied as rigidly when it comes to civil matters and quasi-judicial cases, since the possible impact of comments made in the National Assembly is not as great. The Chair of the National Assembly has 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 in any way cause prejudice to someone.[45] In one case, the Chair refused to accept a petition because it made reference to a class action suit that was before a civil court.[46] In another, a petition was refused because it referred to information in contracts that were the subject of a claim before an administrative tribunal.[47] The Chair also refused to allow written questions pertaining to those contracts to be placed on the Order Paper.[48]

Parliamentary jurisprudence equates a coroner's inquest with quasi-judicial cases,[49] which is why the *sub judice* convention is applied less rigidly there too. The Chair has allowed a question during Question Period related to an ongoing coroner's inquest, while cautioning the Members to be prudent so that their words would be prejudicial to no one.[50] The same warning was also given before an interpellation on a topic linked to another ongoing coroner's inquest.[51]

Standing Order 35(3) also forbids Members 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.[52] As in civil matters and quasi-judicial cases, the application of the convention is less strict in inquiries than in criminal cases. 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 anyone. In the opinion of the Chair, it is the Members' individual responsibility

case, a committee Chair ruled that a link between a criminal proceeding and a committee-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 (Committee minutes, December 16, 1999, CI, pp. 5–6 (Roger Bertrand)/*RDPP* (Com. Vol.), no. 35(3)/4).

45. 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.
46. JD, March 18, 1993, pp. 5456–5457 (Jean-Pierre Saintonge)/*RDPP*, no. 62/6.
47. JD, April 18, 1991, pp. 7403–7407 (Jean-Pierre Saintonge)/*RDPP*, no. 62/5.
48. JD, April 23, 1991, pp. 7527–7532 (Jean-Pierre Saintonge)/*RDPP*, no. 313/1.
49. The Chair has ruled that since Attorneys General have the same powers as commissioners of inquiry, Standing Order 35(3) also applies to their investigations (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.
50. JD, November 5, 1986, p. 3749 (Pierre Lorrain)/*RDPP*, no. 35(3)/8.
51. JD, November 22, 2000, pp. 8076–8077 (Claude Pinard)/*RDPP*, no. 295/2.
52. JD, December 17, 1975, pp. 2771–2773 (Jean-Noël Lavoie)/*RDPP*, no. 35(3)/3.

to measure the extent of their freedom of speech in the National Assembly.[53] However, the Chair has refused a question during Question Period that referred to testimony given before a commission of inquiry established by Order in Council,[54] and has ruled out of order a motion on testimony given in similar circumstances.[55] Both the motion and the question referred directly to testimony given at an ongoing commission of inquiry. Even if the Chair 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, by answering, he or she would contravene the *sub judice* convention. It is not up to the Chair to judge the minister's refusal to answer: the decision is entirely up to the minister.[56]

While the *sub judice* convention applies to parliamentary proceedings, the Chair can use its discretionary power to modulate its application. Moreover, the convention cannot keep the National Assembly from legislating. It must, of course, be respected 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 grounds on which the courts will render a decision.[57] Lastly, the convention may not be used to prevent the Assembly from considering a matter vital to the public interest or to the effective operation of Parliament.[58]

53. JD, September 23, 2010, p. 7424 (Yvon Vallières)/*RDPP*, no. 35(3)/19.
54. JD, October 31, 1974, pp. 2479–2481 (Jean-Noël Lavoie)/*RDPP*, no. 35(3)/1.
55. JD, April 23, 1975, pp. 486–489 (Harry Blank)/*RDPP*, no. 35(3)/2.
56. JD, September 23, 2010, p. 7424 (Yvon Vallières)/*RDPP*, no. 35(3)/19.
57. 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. In the third decision cited, while stressing the fact that the *sub judice* convention did not seem to prevent an assembly from legislating on any matter it wished, the committee Chair added that the untimeliness or pointlessness of a legislative intervention, the risk of interference in a pending case, and the infringement of certain existing rights are all reasons for a committee to present an unfavourable report on a private bill. 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 examination of the bill. Nor could the fact that legal proceedings were under way prevent an interested party from answering the questions asked by the Members. In the circumstances, the Chair sought to ensure that the Members were sufficiently well informed to make an enlightened decision as lawmakers (JD, June 2, 2011, CAT-9 pp. 1–2 (Marie Malavoy)/*RDPP* (Com. Vol.), no. 35(3)/7).
58. JD, May 14, 1996, p. 1046 (Jean-Pierre Charbonneau)/*RDPP*, no. 35(3)/18; Canada, *House of Commons Debates*, March 22, 1983, pp. 24027–24028.

As a general rule, the *sub judice* convention applies absolutely as regards criminal matters but, in other cases, the Chair tends to apply it flexibly and to favour freedom of speech, provided no prejudice is caused.

Directly Addressing Another Member (S.O. 35(4))

At no time may a Member address another Member directly. Members therefore address the Chair during debates, which makes it more difficult for them to engage in impassioned exchanges or make personal attacks on one another.

Impugning a Member's Conduct (S.O. 35(5))

A Member who has the floor may not censure the actions of another Member except by a motion impugning his or her conduct as a Member of the National Assembly (S.O. 315). Therefore, the 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, even a Member serving as a presiding officer or a committee member. Resorting to any other manner of impugning a Member's conduct could, under parliamentary law, constitute contempt of Parliament.[59] 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 that he or she intends to move a motion impugning that colleague's conduct (S.O. 317).[60] Any indictment of a presiding officer's conduct must be made through a motion of censure rather than a question of privilege followed by a motion.[61]

The Chair has ruled that motions to impugn a Member's conduct may not deal with 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, as an intermediary between the electorate and the public administration.[62] Furthermore, it has been ruled that, to be impugned, reprehensible conduct must be both serious and significant.[63]

59. JD, October 29, 2009, pp. 3696–3697 (Yvon Vallières)/*RDPP*, no. 67/57.
60. See Chapter 3, "Parliamentary Privilege".
61. 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".
62. JD, April 25, 1975, pp. 540–541 (Jean-Noël Lavoie)/*RDPP*, no. 316(3)/2.
63. JD, December 15, 1975, pp. 2694–2698 (Jean-Noël Lavoie)/*RDPP*, no. 316(3)/3.

Imputing Improper Motives to Members or Refusing to Take Them at Their Word (S.O. 35(6))

The Standing Order against imputing unworthy motives to Members or refusing to take them at their word is invoked time and time again by the Chair 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.[64] It would not, however, apply to the assertion that a Member may perhaps have provided incomplete information.[65] 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 criticising 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.[66] In short, a Member who would impute a motive to another Member must tread carefully.[67]

The Chair has a wide margin of discretion in deciding what does or does not constitute unparliamentary language. The body of jurisprudence on this subject may seem cautious, 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. The Chair also invokes 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.[68]

Using Violent, Abusive or Insulting Language (S.O. 35(7))

Violent, abusive or insulting language is not allowed in the National Assembly, no matter who is being addressed. A distinction must be made, however, between violence and vigour in speech:

> [TRANSLATION]
>
> The Standing Orders prohibit violent language, but violence in speech must not be confused with forceful speaking. Violent speech

64. JD, April 11, 1990, pp. 1747–1748 (Jean-Pierre Saintonge)/*RDPP*, no. 35(6)/4.
65. Ibid.
66. To be ruled unparliamentary, words such as "untrue", "false" and "falsehood" must be used by one Member to charge another of deliberately saying untruths (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.
67. JD, June 6, 1989, pp. 6335–6339 (Pierre Lorrain)/*RDPP*, no. 35(6)/2.
68. JD, May 19, 1999, p. 1619 (Jean-Pierre Charbonneau)/*RDPP*, no. 35(6)/6.

> is unbridled; it goes too far, is out of control and incoherent, while forceful speech is controlled, tempered, calm and coherent. Speaking with force, with passion, with energy is allowed, as 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.[69]

The National Assembly has in fact recognized that Members may speak forcefully in the House.[70]

When one Member brings another's allegedly unparliamentary speech to the attention of the Chair, the Chair has complete discretion in interpreting and characterizing the remarks in question. There are no absolute criteria. The Chair's decision takes into account the nature of the remarks as well as the context in which they were made.[71] 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.[72] This makes it difficult to set out ahead of time what 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 Chair, it is used for reference purposes only.

Remarks do not have to be directed at a specific Member to be declared unparliamentary. The Chair has 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.[73] 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 Chair has discretionary power to define it as inappropriate and unparliamentary. Whenever a Member's remarks are deemed to be unparliamentary and therefore out of order, the Chair asks the Member to retract them.

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 it is forbidden to do directly.[74]

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69. Geoffrion 1941, S.O. 285(17), note (in French only).
70. JD, December 7, 1989, pp. 439–440 (Lawrence Cannon).
71. JD, May 30, 1991, pp. 8602–8603 (Roger Lefebvre)/*RDPP*, no. 35(7)/4.
72. JD, April 25, 1994, p. CAPA-51 (Paul-André Forget)/*RDPP* (Com. Vol.), no. 35(7)/2.
73. JD, May 30, 1991, pp. 8602–8603 (Roger Lefebvre)/*RDPP*, no. 35(7)/4.
74. JD, June 9, 1986, p. 2455 (Jean-Pierre Saintonge)/*RDPP*, no. 35(7)/3; JD, June 5, 2001, p. 1864 (Jean-Pierre Charbonneau).

Using Language That Is Unbecoming or Disrespectful of the Assembly (S.O. 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 against 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 it 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.[75]

Threatening Another Member (S.O. 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 constitute a breach of privilege or, in other words, contempt of Parliament.[76]

Uttering Seditious Words (S.O. 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.[77]

11.2.2.2 Exhibiting Objects

When addressing the Assembly, Members may use pictures, photos or other objects to illustrate their point, as long as certain rules are respected. Exhibiting objects of any kind used to be prohibited during Question Period, since the Chair felt doing so might provoke a debate, and debates are not permitted during that stage of the proceedings. Members were nevertheless allowed to use visual aids in certain instances, but the Chair emphasized this was not a right but a privilege granted on a case-by-case basis.[78] The situation has evolved and the Chair may now allow Members to use pictures to illustrate their comments even during Question Period, provided they do not do so

75. Geoffrion 1941, S.O. 285(20) and notes 1(a) and 1(b) (in French only).
76. See Chapter 3, "Parliamentary Privilege".
77. *Merriam-Webster's Collegiate Dictionary*, 11th ed., s.v. "sedition".
78. JD, December 9, 1987, p. 10461 (Louise Bégin)/*RDPP*, no. 239/8.

excessively.[79] Other types of objects may or may not be permitted, depending on the circumstances. The Chair has allowed a Member to show photos that were directly related to a bill being studied,[80] but denied permission to a Member who wished to display a photo of another Member.[81] The Chair generally seeks to avoid situations where the exhibition of objects may end up making a laughing stock of the Assembly or one of its Members.

In one case, the Chair was asked whether a Member speaking in the Assembly was allowed to exhibit a document containing personal data. The Chair 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 Chair 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.[82]

11.2.2.3 Questions to the Chair

Under Standing Order 34, Members may ask the Chair questions on the business or procedure of the Assembly that have to do with parliamentary proceedings. This rule does not allow for questions of an administrative nature, which are the responsibility of the President as head of the administration, or for questions on matters within the competence of the Office of the National Assembly.[83] Furthermore, tradition holds that during a sitting the Chair is not required to rule on hypothetical questions of procedure.[84]

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 a want of quorum or to raise a breach of privilege or contempt. It falls to the Chair to ensure that interruptions are not used as a stalling tactic, and that their sole purpose is not to impede the speaker.

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79. JD, November 18, 2004, p. 5723 (Michel Bissonnet); JD, March 24, 2005, p. 7427 (Michel Bissonnet)/*RDPP*, no. 32/7.
80. JD, December 9, 1987, p. 10461 (Louise Bégin)/*RDPP*, no. 239/8.
81. JD, November 14, 2007, p. 2020 (Michel Bissonnet)/*RDPP*, no. 74/20.
82. JD, November 13, 1997, pp. 8433–8435 (Jean-Pierre Charbonneau)/*RDPP*, no. 66/2. See Chapter 3, "Parliamentary Privilege".
83. JD, December 6, 1984, p. 1437 (Richard Guay)/*RDPP*, no. 34/2.
84. 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.

A Member may raise a point of order at any time (S.O. 39). 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.[85] 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.[86] 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 (S.O. 69).[87]

11.2.2.5 Points of Order

Although the Chair must immediately call attention to any breach of order that comes to its notice (S.O. 38), this rule is applied with a degree of flexibility. If that were not the case, the Chair 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 Chair usually keeps a low profile.

Any Member may call the Chair's attention to a breach of order but must do so as soon as the irregularity occurs. The Member must cite the Standing Order he or she believes has been violated and keep his or her comments strictly to the point (S.O. 39). In practice, Members do not cite the specific Standing Order, but simply describe the breach of procedure. The Chair 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 Chair will allow the Member to speak to the point in question and to make a few comments, which must be limited to the Standing Order cited and strictly relevant to the point raised (S.O. 39).[88] 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 under discussion when the irregularity occurred.

85. JD, June 5, 1995, p. 3445 (Raymond Brouillet)/*RDPP*, no. 39/1.
86. The ruling specifies that the point of privilege must be raised "immediately after the fact". (JD, June 10, 2003, p. 162 (Michel Bissonnet)/*RDPP*, no. 69/4).
87. See Chapter 3, "Parliamentary Privilege".
88. The Member raising the point of order may not table notes or documents setting out arguments. The Chair may accept such 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 opportunity to respond to the arguments and so is not allowed (JD, May 29, 1991, p. 8592 (Jean-Pierre Saintonge)/*RDPP*, no. 40/4).

The Chair is not required to let everyone who wishes to speak to a point of order do so, but may decide for itself when it has heard enough to allow for an informed ruling on the question (S.O. 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.[89]

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.[90] 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 had yet taken the floor.[91]

When to rule on a point of order is up to the Chair:[92] immediately after hearing Members speak to it, or after taking the question 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 Chair's decision.[93] Furthermore, when a point of order is raised and taken under advisement during a debate, it is for the Chair to rule on whether or not the debate may continue.[94]

When ruling on points of order, the Chair must state the reasons for the decision. It is well established that generally the Chair will not interpret the law, except in the case of legal provisions containing rules of procedure. Therefore, it is not the Chair's place to question the effect of a bill on the provisions

89. JD, April 26, 1990, pp. 1900–1903 (Jean-Pierre Saintonge)/*RDPP*, no. 40/2.
90. 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. 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).
91. JD, June 3, 1999, pp. 2187–2191 (Jean-Pierre Charbonneau)/*RDPP*, no. 36/3.
92. JD, May 30, 1990, pp. 2719–2725 (Jean-Pierre Saintonge)/*RDPP*, no. 41/1.
93. JD, May 28, 1986, pp. 1864–1867 (Pierre Lorrain)/*RDPP*, no. 40/1.
94. JD, November 29, 1990, pp. 5464–5465 (Roger Lefebvre)/*RDPP*, no. 40/3.

of another law[95] or to question a bill's constitutionality.[96] Nor does the Chair rule on hypothetical questions.[97] Moreover, the decisions of a committee or a committee Chair cannot be appealed to the President.[98] Nor may the President interfere in or oversee the organization of committee work, which is under the jurisdiction of the committee Chair.[99]

The Chair rules on points of order or refers them to the Assembly for its decision (S.O. 41, 1st par.). Although there is no precedent for the latter case under Standing Order 41, the Chair did turn to the Assembly for a decision under former Standing Orders.[100] Any ruling by the Chair or the Assembly is final and not open to discussion (S.O. 41, 2nd par.). The Chair may choose to rule in public or in private, but private rulings are unusual and decisions are normally delivered during a sitting of the Assembly.[101]

11.2.3 Disciplinary Powers of the Chair

When a Member's conduct is detrimental to order and decorum, the Chair can call that Member to order. If the Member fails to comply, the Chair 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 (S.O. 42). The Chair does not have exclusive power in disciplinary matters, however. In fact, since they have the right to govern their affairs free from outside interference, British-style legislative assemblies 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

95. JD, December 20, 1996, pp. 5056–5057 (Jean-Pierre Charbonneau); JD, June 2, 1998, p. 11564 (Jean-Pierre Charbonneau)/*RDPP*, no. 219/2.
96. JD, December 8, 1980, pp. 683–684 (Claude Vaillancourt)/*RDPP*, no. 193/1. The following decisions 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.
97. 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.
98. 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, December 6, 1995, pp. 5472–5473 (Roger Bertrand)/*RDPP*, no. 2/9.
99. JD, December 6, 1995, pp. 5472–5473 (Roger Bertrand)/*RDPP*, no. 2/9.
100. See Chapter 4, "The Office of President".
101. Ibid.

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 solely with the Chair's disciplinary powers.

11.2.3.1 Call to Order

Whenever necessary, the Chair 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 Chair 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.[102]

Members usually agree to comply with the Standing Orders when called to order, retracting any comments the Chair 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.

11.2.3.2 Withdrawal of the Right to Speak

The Chair can deny a Member who fails to respect two consecutive calls to order the right to speak for the remainder of the sitting (S.O. 42). The Member is not required to leave the House and may still exercise the right to vote. Furthermore, 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.[103]

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 Chair issues a final warning. If the warning is unheeded, the Chair may then order the Member to leave the House for the remainder of the sitting (S.O. 42). Such an order excludes the Member from all parliamentary proceedings, including committee sittings. Traditionally, when Members are asked to leave the Assembly, they do so voluntarily. If they do

102. See Chapter 13, "Rules of Parliamentary Debate and Distribution of Debating Time".
103. JD, May 5, 1993, pp. 6209–6210 (Jean-Pierre Saintonge)/*RDPP*, no. 42/1.

not, the Chair may have them expelled (S.O. 43). It is at this point that the Sergeant-at-Arms[104] intervenes.[105]

11.2.3.4 Suspension or Adjournment of a Sitting

The Chair may suspend or adjourn a sitting at any time (S.O. 44). While this is not a disciplinary power in itself, it is nonetheless one of the main means available to the Chair for enforcing order and decorum. Thus, should the Members systematically refuse to observe order or should there be disorder in the galleries, the Chair can always suspend the sitting for however long it takes for calm to be restored, even during a recorded division.[106]

11.3 CONDUCT OF THE PUBLIC

The Assembly may, if necessary, decide to meet in camera (S.O. 29).[107] Barring this, however, all sittings of the Assembly are open to the public. This said, the Supreme Court of Canada has ruled that due to their collective parliamentary privilege, legislative assemblies are not accessible of right, and strangers can be expelled from any area of the National Assembly.[108]

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104. See box entitled "The Sergeant-at-Arms" in Chapter 4, "The Office of President".
105. Geoffrion 1941, S.O. 76(4). On August 10, 1977, following disruptions on the floor, President Clément Richard ordered an Official Opposition Member to leave the House for defying the President, who had withdrawn the Member's right to speak. 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). Since the adoption of the current Standing Orders, the Chair has twice ordered a Member to leave the House. In 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 first having 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 decision rendered 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).
106. JD, May 20, 1998, pp. 11230–11231 (Raymond Brouillet)/*RDPP*, no. 44/1. See Chapter 4, "The Office of President", and Chapter 9, "Conduct of a Sitting".
107. Only very serious reasons such as a breach of state security or the need to protect potentially compromising personal information can be grounds for a motion to meet in camera. Otherwise, the Government could often make use of the provision to prevent the Opposition from benefiting from the media coverage available at the National Assembly (JD, December 15, 1983, pp. 4635, 4639–4640 (Richard Guay)/*RDPP*, no. 29/1).
108. See Chapter 3, "Parliamentary Privilege".

The public must rise when the President enters at the opening of a sitting and, at his or her signal, observe a moment of reflection along with the Members (S.O. 31, 1st par.). During the sitting, the audience in the galleries must remain seated and silent and may not show either its approval or its disapproval (S.O. 31, 2nd par.), which includes displaying signs or other objects.[109] To avoid hindering the Assembly's proceedings, anyone wearing a distinctive sign will be asked to set it aside.[110] At the end of the sitting, members of the public must rise and wait for the presiding officer to exit the House before they leave (S.O. 31, 3rd par.).

Public Galleries

If there is disorder in the galleries, the Chair may order the disruptive person to leave the House. Security guards ensure that the Chair's order is carried out. In practice, for most cases of disorder in the galleries, the Chair suspends the proceedings until calm is restored. The Chair may also suspend the proceedings until the galleries are evacuated.[111] Only the Chair has the power, when deemed necessary, to order the expulsion of strangers from any area of the Assembly.[112]

109. JD, November 11, 1986, p. 3836 (Pierre Lorrain).
110. JD, May 26, 2010, p. 6908 (François Gendron)/*RDPP*, no. 31/1. In this instance, there were people in the galleries wearing white scarves, as had opposition Members a week earlier when they were calling for a commission of inquiry. The Chair asked the visitors to remove their scarves.
111. JD, March 10, 1987, p. 5912 (Pierre Lorrain).
112. See Chapter 3, "Parliamentary Privilege".

12

The Decision-Making Process

The National Assembly makes a large 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. A Member who wishes to propose that the Assembly decide some matter must do so by means of a motion (S.O. 185). After being debated, the motion is voted on and the matter decided in the affirmative or negative.

12.1 MOTIONS

A motion is a procedure by which a Member proposes that the Assembly do something, order something to be done or express an opinion. As soon as a motion is proposed by the Chair, it becomes a matter to be decided. If the motion is carried, it becomes an order if it directs a committee, a Member or another person to do something, and a resolution if it expresses an opinion or intention or affirms some fact or principle (S.O. 186).[1] The distinction

1. A motion directing a committee to do something becomes an order (JD, March 23, 1995, pp. 1663–1664 (Roger Bertrand)/*RDPP*, no. 186/2). However, 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). These, then, become resolutions.

between an order and a resolution is important, since failure to comply with an order of the Assembly or of a committee is a breach of the Assembly's privileges (ANA, s. 55(1)).[2]

Only a minister may, on a motion without notice, propose to discharge an order or rescind a resolution (S.O. 186, 2nd par.). Such a motion is sometimes used by the Government when it wishes to return to a previous stage in the legislative process[3] or alter a committee's order of reference to hold special consultations on some subject. In the latter case, the new motion to refer a matter to the committee must be preceded by a motion to discharge the original order of reference.[4]

Motions are either substantive or formal (S.O. 187). A substantive motion places a matter before the Assembly; a formal motion relates to procedure or to the way in which a substantive motion is to be disposed of. The type of motion is important for reasons other than those relating to intrinsic differences, since Members are granted twice as much speaking time for substantive as for formal motions (S.O. 209).[5] In addition, certain procedures provided for in the Standing Orders apply only to debates on substantive motions.[6]

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2. JD, April 18, 1984, pp. 5793–5794 (Richard Guay)/*RDPP*, no. 186/1. See also Chapter 3, Section 3.3.2.6, "Refusing to Comply with an Order of the Assembly, a Committee or a Subcommittee".
3. The adoption of such a motion does not affect the previous stages of a bill. Consequently, despite a motion to discharge an order to pass a bill, the debate on the passage of the bill can later be resumed without the Assembly's having to revisit the previous stages of the legislative process (JD, November 2, 1999, pp. 3235–3236 (Raymond Brouillet)/*RDPP*, no. 186/3).
4. JD, December 3, 2002, p. 7976 (Raymond Brouillet)/*RDPP*, no. 186/4.
5. See Chapter 13, "Rules of Parliamentary Debate and Distribution of Debating Time".
6. For example, only the mover of a substantive motion has a right of reply (S.O. 215). 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 motion:

   "**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;

12.1.1 Notices

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 substantive motion, which brings a matter before the Assembly, must generally give notice in a document called the Order Paper (S.O. 188). The Order Paper lists the matters that may be debated by the Assembly during a sitting and gives notice of the matters to be considered at a subsequent sitting.[7] A notice is valid only if it appears on the Order Paper; oral announcements made in the Assembly, even if published in the *Journal des débats*, cannot be substituted for a notice on the Order Paper.[8]

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 (S.O. 100) or proceedings (S.O. 105), or concerning the way in which substantive motions already known to the Members are to be disposed of. In the latter case, the motion may be an amendment (S.O. 196), a hoist motion (S.O. 240) or a motion to divide a bill (S.O. 241). A motion by the

(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, 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 Chair 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 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 (S.O. 306.1), whereas opposition motions (S.O. 98.1) and motions introduced in the course of Routine Proceedings during the period for motions without notice (S.O. 84.2) cannot be amended without the consent of their mover.

7. JD, May 9, 1990, p. 2474 (Jean-Pierre Saintonge)/*RDPP*, no. 194/1.
8. 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).

Government House Leader to introduce an exceptional procedure for the examination of a matter does not require notice (S.O. 182).[9]

In 2000, the Chair 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; since the Order Paper is not published during those periods, notice cannot be given.[10]

In the absence of guidance from the Standing Orders, the Chair made a ruling confirming an established custom for sending notices to be placed on the Order Paper. To appear on the Order Paper, a notice must be sent to the Secretary General before 5:00 p.m. on the previous day,[11] if the Assembly is not sitting. If the Assembly is sitting, the time limit runs until it adjourns. These deadlines provide enough 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*.[12]

Despite Standing Order 188, each sitting of the Assembly includes a period during Routine Proceedings when motions may be made without notice (S.O. 84.1).[13] However, a motion made at this stage may be debated only with the unanimous consent of the Assembly.[14] In practice, 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.

12.1.2 Moving a Motion

A motion is usually moved by the Member who gave notice of it, although, with that Member's permission, another Member may move the motion on his or her behalf. A minister may act on behalf of another minister at any time (S.O. 189). This suggests that a motion proposed by one Member may

9. See Chapter 16, "Unanimous Consent and the Motion to Introduce an Exceptional Procedure".
10. JD, March 21, 2000, pp. 5068–5071 (Jean-Pierre Charbonneau).
11. By long-established custom, if the previous day is a statutory holiday, the notice must be received by the last business day preceding the publication of the Order Paper (JD, May 14, 2009, p. 1963 (François Gendron)/*RDPP*, no. 54.1/2).
12. (U.K.), 30 & 31 Vict., c. 3 (reprinted in R.S.C. 1985, app. II, no. 5). See also JD, December 22, 1988, p. 4619 (Pierre Lorrain)/*RDPP*, no. 188/1.
13. See Chapter 9, "Conduct of a Sitting".
14. The exception is motions having to do with Assembly business that do not require notice and are prescribed by statute or the Standing Orders (S.O. 84). See Chapter 9, Section 9.2.9.2, "Motions Not Requiring Consent".

be moved by any other, including a minister, but a motion sponsored by a minister, including the Premier, may be moved only by another minister.

Under the Standing Orders, certain motions may only be moved by the Government House Leader. These motions are most often procedural. Other motions must be moved by a minister. A case in point is a motion to discharge an order or rescind a resolution, which cannot be introduced by a deputy Government House Leader who is not also a minister (S.O. 186). For the most part, however, the motions that must be moved by a minister are those with financial repercussions. Hence, only a minister may introduce a motion to appropriate public funds, impose a charge on the people, remit a debt due to the province or alienate provincial property (S.O. 192), unless the motion expresses only a general idea or opinion concerning those matters. The Chair has established the following four criteria 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 is not considered to appropriate public funds unless it explicitly calls for budget expenditures, that is, unless it has a direct impact on the Consolidated Revenue Fund. A motion that necessitates the appropriation of public funds for its application but does not explicitly commit the funds is not considered to have a financial impact.[15]

12.1.3 Form and Content

Motions must be in writing unless their terms are invariable (S.O. 190). Invariable motions are motions provided for in the Standing Orders that are always introduced with exactly the same wording. For example, at the beginning of a session, the Premier must conclude his or her opening speech by calling on the Assembly to approve the general policy of the Government (S.O. 45). Similarly, at the conclusion of the budget speech, the Minister of Finance must move a motion requesting the Assembly to approve the Government's budgetary policy (S.O. 271). Invariable motions are often procedural, such as the motion to adjourn the proceedings (S.O. 105) or the debate (S.O. 100), or the motion that the Assembly resolve itself into a committee of the whole (S.O. 108). Motions that are not invariable must be in writing so that the Chair can determine whether or not they are in order and the Assembly can be sure it has all the details of the question it is debating.

By Assembly custom, motions may be moved in French or English, as desired by the mover. Once a motion has been agreed to, it is translated into

15. JD, October 17, 2001, p. 2752 (Claude Pinard)/*RDPP*, no. 192/3. See also Chapter 14, "The Legislative Process", and Chapter 15, "The Budget Process".

the other language and published in French and English in the *Votes and Proceedings*, in accordance with section 133 of the *Constitution Act, 1867*.[16] Motions for which notice is given are translated before appearing on the Order Paper.

Standing Order 191 stipulates that a motion must not recite the grounds on which it is based or arguments supporting it. There is now, however, an exception to this rule. Want of confidence motions and motions stating a grievance introduced during the debate on the opening speech (S.O. 50) or the budget speech (S.O. 274) may be accompanied by a brief recital of the grounds on which they are based (S.O. 191, 2nd par.). All other motions containing grounds or arguments are out of order.[17] No motion, including want of confidence motions[18] and grievance motions, may contain arguments (S.O. 191).

The distinction between grounds and arguments is not always easy to make. According to a 1999 ruling, both grounds and arguments imply the existence of two statements, one explaining or justifying the other.[19] However, this does not help distinguish between the two notions. In a 1997 ruling, the Chair described grounds as a psychological motive, a reason to act.[20] The Chair has also deemed that words such as "considering" and "whereas", when they appear in a motion, clearly indicate a recital of grounds.[21] However, "argument" is defined as "a reason given in proof or rebuttal" and a proof for or against a proposition.[22] This has led the Chair to define the term as being anything that tends to support the conclusion sought by a motion.[23]

16. JD, March 21, 2000, pp. 5073–5074 (Jean-Pierre Charbonneau)/*RDPP*, no. 185/1.
17. These provisions codify a 1997 ruling from the Chair to the effect that, despite Standing Order 191, want of confidence motions may contain a recital of grounds, since it is in the nature of such motions to contain not only the expression of censure itself, but also the reason or reasons for censuring the Government (JD, May 22, 1997, pp. 6887–6888 (Claude Pinard)/*RDPP*, no. 304/2).
18. Ibid. For examples of want of confidence motions containing arguments, see also: 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.
19. VP, November 10, 1999, no. 61, p. 591; 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 Chair ruled that the word "wasting" did not in itself constitute an argument or grounds supporting the statement.
20. JD, March 21, 1997, pp. 5448–5449 (Jean-Pierre Charbonneau)/*RDPP*, no. 233/5. In this instance, the Government House Leader had introduced a bill whose explanatory notes began as follows: "This bill is part of an effort asked of all Quebecers to help stabilize public finances." The Chair ruled this sentence a recital of grounds.
21. JD, November 10, 1999, p. 3428 (Jean-Pierre Charbonneau).
22. *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".
23. VP, June 6, 2003, no. 3, p. 26; JD, June 11, 2003, p. 291 (François Gendron)/*RDPP*, no. 191/3. The Chair ruled out of order a motion reproaching the Government for failing

Needless to say, a motion that brings a matter before the Assembly must not contain words or expressions that are prohibited in parliamentary debate (S.O. 35), that is, unparliamentary language.[24]

12.1.4 Admissibility

The President must reject notices and motions that contravene the Standing Orders,[25] but may correct their form in order to render them admissible (S.O. 193). The President may also note irregularities in a motion that, on the face of it, contains defects of form or content.[26] The fact that the President has agreed to have a motion entered on the Order Paper, however, does not preclude subsequent contestation of the motion as irregular.[27] Any Member may direct the President's attention to an irregular motion, provided this is done before the motion is put to a vote.[28] An irregularity in any part of a motion invalidates the motion in its entirety.[29]

When exercising the power to correct an irregular motion, the President must deal only with the form of a motion, such as obvious grammatical errors in the text to be entered on the Order Paper. The President may not change the text of a motion containing arguments in order to render the motion

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to appoint a Minister of the Status of Women, "thus imposing a thirty-year setback upon the women of Québec", a formulation which, in the Chair's view, constituted an argument. However, another motion was ruled in order that called upon the Government to set up a commission of public inquiry whose mandate would be to "break the law of silence prevailing in the network" of home care centres. The Chair ruled that the above-cited phrase could not be seen as tending to explain or justify the conclusion sought by the motion, since it was itself part and parcel of the conclusion (VP, April 24, 2004, no. 62, p. 634; JD, April 21, 2004, p. 4198 (Christos Sirros)/*RDPP*, no. 191/4).

24. Geoffrion 1941, S.O. 150. VP, March 29, 2006, no. 9, p. 106; JD, March 29, 2006, p. 972 (William Cusano)/*RDPP*, no. 193/8. In this instance, a want of confidence motion introduced during the debate on the budget speech censured the Government for "not having negotiated in good faith". The Chair ruled that the motion tended to impute improper motives to a Member, which is contrary to Standing Order 35(6).
25. JD, September 20, 1995, p. 5151 (Roger Bertrand)/*RDPP*, no. 193/6; JD, December 22, 1988, p. 4619 (Pierre Lorrain)/*RDPP*, no. 188/1; JD, June 29, 1973, pp. 1947–1948 (Jean-Noël Lavoie).
26. JD, March 14, 1990, p. 1087 (Jean-Pierre Saintonge).
27. JD, April 23, 1991, p. 7547 (Jean-Pierre Saintonge)/*RDPP*, no. 193/4.
28. Ibid. JD, December 17, 1997, pp. 9645–9646 (Claude Pinard)/*RDPP*, no. 100/6; 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. Note that the Chair once granted 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 (JD, November 10, 1999, pp. 3443–3444 (Jean-Pierre Charbonneau)/*RDPP*, no. 97/7).
29. Geoffrion 1941, S.O. 157.

admissible, since an argument cannot be considered a formal defect.[30] Similarly, in the case of a motion to divide a bill, the President may not alter the distribution of the sections among the new bills.[31] Moving a section from one proposed bill to another would change the content of the bills, and is therefore out of order.[32] It is not the President's role, when ruling on a motion's admissibility, to rule on the truth, accuracy or pertinence[33] of the facts alleged in the motion.[34]

If, as sometimes happens, part of a motion lapses in the course of proceedings, the motion is rendered irregular in its entirety (S.O. 194). A motion is said to have lapsed when it becomes clear that it has become inapplicable.[35] For instance, a motion to refer a matter to committee was ruled to have lapsed because, despite its being in the possession of the Assembly, the motion had not been passed by the date on which the order of reference it gave the committee was to have been carried out.[36] Upon ascertaining that a motion has lapsed, the President must strike it from the Order Paper even if the motion is in the possession of the Assembly.[37]

12.1.5 Withdrawal

Only the mover of a motion, or another Member with the mover's permission, may move the motion's withdrawal (S.O. 195). If the motion is not yet in possession of the Assembly, it may be withdrawn by a written request to the Secretary General or an oral request to the Chair (S.O. 195, 2nd par.).

30. JD, April 8, 1998, p. 10713 (Jean-Pierre Charbonneau)/*RDPP*, no. 274/2; JD, March 23, 1999, pp. 735–736 (Jean-Pierre Charbonneau); JD, June 11, 2003, p. 291 (François Gendron)/*RDPP*, no. 191/3.
31. See Chapter 14, "The Legislative Process".
32. JD, June 3, 1998, pp. 11650–11651 (Claude Pinard)/*RDPP*, no. 241/11.
33. JD, November 9, 2005, p. 10048 (François Gendron)/*RDPP*, no. 197/43.
34. 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.
35. JD, June 16, 1999, pp. 2675–2677 (Jean-Pierre Charbonneau)/*RDPP*, no. 182/15; JD, June 16, 1999, pp. 2698–2699 (Raymond Brouillet).
36. JD, May 9, 1990, p. 2474 (Jean-Pierre Saintonge)/*RDPP*, no. 194/1; JD, December 14, 1984, pp. 1829–1832 (Jean-Pierre Jolivet). Because of its wording, a motion to suspend rules of procedure was declared to have lapsed when it could not be adopted on the day it was moved (JD, June 11, 1996, p. 1999 (Jean-Pierre Charbonneau)). On the other hand, a motion is not judged to have lapsed simply because it deals with the same subject as a motion previously adopted by the Assembly (JD, May 22, 1997, pp. 6887–6888 (Claude Pinard)/*RDPP*, no. 304/2).
37. JD, May 9, 1990, p. 2474 (Jean-Pierre Saintonge)/*RDPP*, no. 194/1.

Once a motion is in the possession of the Assembly, its withdrawal is subject to debate. The mover of the motion has 10 minutes' 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 (S.O. 195, 3rd par.).[38]

A motion in the possession of the Assembly can be withdrawn only if notice to that effect is given on the Order Paper[39] (S.O. 188), unless the motion itself did not require notice. The Chair has thus ruled in order a motion without notice for the withdrawal of a motion to adjourn debate.[40] If notice were required in such a case, the right to withdraw the motion would be merely theoretical, since debate on the motion for adjournment would already be over by the time notice was entered on the Order Paper. This observation holds for all motions that do not require notice under the Standing Orders.

12.2 DEBATE

If a motion is in order, the Chair proposes the question to the Assembly in the very terms used in the motion. The Assembly is thus duly seized of the motion, which may then be debated. The debate stage of the decision-making process begins once the Chair has proposed the question and ends when a vote is called. Members taking part in the debate may decide to bring forward certain formal motions for disposing of the substantive motion under discussion. These formal motions arising out of the main motion are called incidental motions. Examples include amendments, subamendments, motions to divide a bill, motions for the previous question and motions to adjourn debate. Since these motions may be brought forth in the course of debate, they do not require notice.

12.2.1 Amendments

Except where otherwise provided, substantive motions may be amended (S.O. 196).[41] Consequently, any Member other than the mover of a motion

38. See Chapter 16, "Unanimous Consent and the Motion to Introduce an Exceptional Procedure".
39. JD, May 12, 1988, pp. 964 and 967–971 (Pierre Lorrain)/*RDPP*, no. 195/1.
40. JD, June 19, 1992, pp. 2817–2824 (Roger Lefebvre)/*RDPP*, no. 195/2. In this instance, however, a motion to withdraw the withdrawal motion was disallowed by the Chair, which considered that the repetitive nature of such an exercise would have covered the Assembly in ridicule and prevented the debate from taking place.
41. For more information on substantive motions, see Section 12.1, particularly note 6.

under consideration may move an amendment, if he or she is entitled to speak to the motion.[42] Amendments do not require notice but must be submitted to the Chair upon being moved (S.O. 198). If the amendment is judged in order, debate on the main motion is interrupted and the amendment is debated until it is disposed of.[43] Debate then resumes on the main motion, as amended or not, and a further amendment may be moved (S.O. 199).

To be ruled in order, an amendment must be relevant to the main motion and be consistent with its principle. It may only strike out, add or substitute words (S.O. 197). The Chair must also consider the various criteria arising from jurisprudence, for example, the fact that an amendment must not set aside,[44] repudiate,[45] alter[46] or contradict[47] the principle of the main motion. Nor may an amendment introduce a new principle, that is, a new subject that could, for that reason, be a separate motion in itself.[48] On the other

42. See Chapter 13, "Rules of Parliamentary Debate and Distribution of Debating Time".
43. The exceptions are amendments introduced during debates on motions without notice moved in accordance with Standing Order 84.1 and during debates on business standing in the name of Members in opposition. Such amendments may be debated only with the consent of the mover of the main motion. The ensuing debate is on both the amendment and the main motion (S.O. 84.2 and 98.1).
44. 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 18, 2006, p. 2773 (François Gendron)/*RDPP*, no. 197/44; JD, October 25, 2006, p. 2914 (William Cusano)/*RDPP*, no. 197/46. This last ruling constitutes a refinement of sorts in that the Chair identified a number of elements in the principle of the main motion and ruled the amendment out of order because it set aside one of those elements and replaced it with another. Similarly, the Chair ruled inadmissible a motion which it saw as completely setting aside a component of the main motion (JD, October 24, 2007, p. 1620 (Fatima Houda-Pepin)/*RDPP* no. 197/48).
45. 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.
46. 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.
47. 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.
48. JD, November 13, 1996, p. 3122 (Claude Pinard)/*RDPP*, no. 197/23.

hand, an amendment may soften[49] or clarify[50] the main motion; it may also enlarge the scope of the main motion[51] and broaden the debate,[52] so that changes, even major changes, are made to the main motion, enabling more Members to support it.[53]

To rule on whether a motion to amend is admissible, the Chair must first determine the principle of the main motion. It is important here not to confuse the principle of the motion with the aim sought.[54] Moreover, an amendment may change the terms of a motion without changing the motion's principle.[55] This distinction between the terms[56] of a main motion

49. 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, 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.
50. JD, October 27, 1993, p. 8280 (Michel Bissonnet)/*RDPP*, no. 197/19.
51. JD, March 24, 2004, p. 3209 (François Gendron)/*RDPP*, no. 197/32; JD, March 9, 2005, pp. 7001–7002 (François Gendron)/*RDPP*, no. 197/36; JD, April 20, 2005, p. 7749 (François Gendron)/*RDPP*, no. 197/38; JD, November 9, 2005, p. 10048 (François Gendron)/*RDPP*, no. 197/43; JD, October 25, 2006, p. 2914 (William Cusano)/*RDPP*, no. 197/45.
52. 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.
53. 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.
54. JD, November 5, 2003, p. 1295 (Christos Sirros)/*RDPP*, no. 197/30; VP, November 5, 2003, no. 21, pp. 213–214. In this instance, a Wednesday motion called for the setting up of "a special parliamentary committee for the purpose of examining the overall consequences of the demographic shock with which Québec is confronted", whereas the amendment recommended that the question be studied by an existing parliamentary committee. The Chair saw the principle of the motion as being the creation of a special committee to study the issue concerned, a principle which was repudiated by the amendment. Accordingly, the amendment was declared out of order.
55. JD, June 9, 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.
56. JD, October 17, 2001, pp. 2765 and 2780–2781 (Jean-Pierre Charbonneau)/*RDPP*, no. 197/28. In this instance, the Chair ruled in order an amendment to the following motion: "That the National Assembly demand that the 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

and its principle is an important one, since the principle is an essential element of a motion.[57]

An amendment may make major changes to a motion so long as it does not repudiate, alter or set aside the motion's principle.[58] It is not the business of the Chair to determine whether the amendment is so far-reaching in its implications that, once carried, it could lead the mover of the motion to vote against his or her own motion.[59] Nor does the Chair concern itself with the intentions of the mover of the amendment[60] or with the political significance that parliamentary groups may assign to the words of a motion.[61] The Chair must adhere strictly to the text of the motion and the admissibility criteria developed by jurisprudence.

To date, the vast majority of rulings on the admissibility of amendments have been made during 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 (S.O. 98.1). Even though the admissibility criteria for amendments to Wednesday motions were greatly tightened up in the years before the reform,[62] the jurisprudence is still relevant when the Chair must determine the admissibility of amendments to other types of motion. For instance, the Chair declared inadmissible an amendment to replace the word "withdraw" (with regard to a rate hike request) in a motion by the words "review the pertinence of".[63] In the Chair's view, adopting the amendment could have had the effect of maintaining the conclusion sought

amendment motion proposed that the words "by re-establishing no-cost" be replaced by the words "by progressively reducing the cost of". The Chair 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.

57. JD, September 19, 1995, pp. 5127–5128 (Raymond Brouillet)/*RDPP*, no. 197/22.
58. 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; JD, March 9, 2005, pp. 7001–7002 (François Gendron)/*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.
59. 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.
60. JD, November 7, 2007, p. 1874 (Marc Picard)/*RDPP*, no. 197/50.
61. JD, October 31, 2007, p. 1733 (Jacques Chagnon)/*RDPP*, no. 197/49.
62. JD, November 24, 2004, p. 5819 (Diane Leblanc)/*RDPP*, no. 197/35. In 2007 the Chair ruled that when in doubt about an amendment to a Wednesday motion it was obliged to declare the motion out of order (JD, November 7, 2007, p. 1874 (Marc Picard)/*RDPP*, no. 197/50).
63. JD, November 24, 2004, p. 5819 (Diane Leblanc)/*RDPP*, no. 197/35; VP, November 24, 2004, no. 107, p. 1073.

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 Chair 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 Chair 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.[64]

Similarly, the Chair ruled out of order an amendment to a motion calling upon the federal government to pay an amount determined by Québec's Finance Minister to correct the fiscal imbalance. The amendment would have replaced this amount by another amount, yet to be determined, which was contrary to the main motion.[65] 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 Chair ruled that the amendment altered the main motion, whose principle was to invest the amount over a single fiscal year.[66] However, an 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.[67]

Amendments proposing to replace the word "demand"[68] and "order"[69] by "request" and "ask" were in order, since they did not run counter to the principle of the motion. Similarly, an amendment that replaced a specific deadline by the words "as expeditiously as possible" was deemed in order because, though it toned down the main motion,[70] it did not change its

64. JD, November 1, 2006, p. 3014 (Diane Leblanc)/*RDPP*, no. 197/47.
65. JD, March 16, 2005, p. 7131 (François Gendron)/*RDPP*, no. 197/37.
66. JD, March 24, 2004, pp. 3201–3202 (François Gendron)/*RDPP*, no. 197/31.
67. JD, March 24, 2004, p. 3209 (François Gendron)/*RDPP*, no. 197/32; VP, March 24, 2004, no. 53, p. 548.
68. 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 and 2780–2781 (Jean-Pierre Charbonneau)/*RDPP*, no. 197/28; VP, May 24, 1995, no. 50, p. 472; VP, October 17, 2001, no. 44, p. 492.
69. JD, April 20, 2005, p. 7749 (François Gendron)/*RDPP*, no. 197/38; VP, April 20, 2005, no. 140, p. 1438.
70. Ibid.

principle. The same held true for amendments that replaced "urgently" by "expeditiously", and "immediately" by "as soon as possible".[71]

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.[72] On the other hand, the Chair judged out of order an amendment to 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." In the amendment, the words "Québec Government actually give" were replaced by "Government continue to grant", and the Chair ruled that this ran counter to the principle of the main motion. The words "actually give" implied an absence of independence, whereas the proposed amendment denied this affirmation by implying that such independence already existed. The Chair ruled that the amendment was to be distinguished from previous motions which had been declared in order and whose purpose had been to change an action to be taken into an action to be pursued: in the amendment under consideration, the main motion clearly implied a total absence of action.[73]

It goes without saying that only a minister may move an amendment with financial repercussions.

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 (S.O. 200). Thus a subamendment must not set aside, repudiate, alter or contradict the principle of the amendment.[74] A subamendment must relate exclusively to the amendment concerned and not to the main motion.[75] Since its purpose is to amend an amendment, a subamendment

71. JD, October 29, 2003, p. 1165 (François Gendron)/*RDPP*, no. 197/29; JD, October 25, 2006, p. 2914 (William Cusano)/*RDPP*, no. 197/46; VP, October 29, 2003, no. 18, p. 179; VP, October 25, 2006, no. 50, p. 538.
72. JD, November 9, 1977, pp. 4018–4020 (Louise Cuerrier)/*RDPP*, no. 197/4; VP, November 9, 1977, no. 115, p. 725. 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.
73. JD, May 19, 1999, p. 1615 (Raymond Brouillet)/*RDPP*, no. 197/26; VP, May 19, 1999, no. 32, p. 266.
74. JD, November 17, 2004, pp. 5665–5666 (William Cusano)/*RDPP*, no. 200/9.
75. JD, November 14, 1979, pp. 3636–3637 (Claude Vaillancourt)/*RDPP*, no. 200/5.

must not broaden the scope of the amendment[76] but must rather address matters not taken up in it.[77] A subamendment must not constitute a repetition of the main motion.[78] However, the Chair traditionally enjoys a degree of latitude[79] when ruling on the admissibility of subamendments.

A Member cannot move a subamendment to his or her own amendment. 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. On the other hand, there is nothing in the Standing Orders or doctrine to prevent the mover of the main motion from moving a subamendment. Moreover, the Standing Orders make no provision for amending a subamendment.[80] Subamendments are voted on before amendments, and amendments before the main motion (S.O. 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 (S.O. 98.1) or on a motion introduced in the course of Routine Proceedings during the time set aside for motions without notice (S.O. 84.2).

12.2.3 Motions to Divide a Complicated Question

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 (S.O. 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: the motion being divided must be a substantive motion; it must contain more than one principle; each principle must be capable of standing as a proposition on its own; and lastly, the motion to divide must indicate how the division is to be made (S.O. 205). If the motion is ruled in order by the Chair 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 Chair'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

76. 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.
77. JD, December 19, 1973, pp. 698–700 (Jean-Noël Lavoie)/*RDPP*, no. 200/2.
78. 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.
79. JD, December 19, 1973, pp. 704–708 (Jean-Noël Lavoie)/*RDPP*, no. 200/3.
80. JD, December 4, 1995, pp. 5364–5365 (Pierre Bélanger).

applied to a motion, be given a more restricted meaning than the words "subject", "purpose" or "object".[81] It is clear, in any case, that the principle is an essential element of a motion or bill, whereas the terms are ancillary elements.[82] On being ruled in order by the Chair, a motion to divide may be debated for two hours before being put to a vote (S.O. 206). This debate has precedence over the debate on the original motion (S.O. 208).

If the motion is negatived, debate on the original motion resumes at the stage it had reached before the motion to divide was introduced. 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 (S.O. 207). In practice, motions to divide a question are rarely introduced;[83] motions to divide a bill are more frequent (S.O. 241).[84]

12.2.4 The Previous Question

If no amendments to a motion are before the House, any Member who has the floor may move that the question on the main motion be put immediately (S.O. 202). The purpose of such a motion, known as the "previous question", is to cut off debate on the motion under consideration. As with all incidental motions introduced in the course of debate, 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. The Member may nonetheless speak to a motion for an immediate vote moved by another Member.

The Chair may reject the motion out of hand if it judges that the debate on the motion under consideration[85] has not been unduly long, or that cutting off debate would infringe Members' rights (S.O. 203). Since the motion effectively inhibits Members' freedom of expression, it must be used "sparingly

81. JD, March 21, 1990, pp. 1205–1215 (Jean-Pierre Saintonge)/*RDPP*, no. 205/1.
82. JD, June 3, 1998, pp. 11650–11651 (Claude Pinard)/*RDPP*, no. 241/11.
83. The last one was introduced in March 1990, under Standing Order 205.
84. See Chapter 14, "The Legislative Process".
85. Standing Order 203 in its French version 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 wrongly used to designate "motion principale" (main motion). For further information, see Section 12.1, "Motions", note 6.

and solely in extreme cases".[86] If the debate is pursuing its normal course, the Chair must reject the motion.

The mover of the previous question is granted 10 minutes' 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 (S.O. 202 and 204). If it is carried, the main motion is voted on immediately, without amendment or debate.

In practice, the previous question is rarely used. However, it has been introduced during a debate on business standing in the name of Members in opposition.[87] The ruling of the Chair in this 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 an opposition Member.[88] The Chair 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 Debate

A motion to adjourn debate, like a previous question, may 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 (S.O. 100). A Member who has spoken to the main motion and resumed his or her seat may not subsequently make a motion to adjourn debate,[89] since adjournment must be moved while the Member is speaking to the motion being debated. Even though ministers, including the Government House Leader or 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 under which no Member may move adjournment unless he or she is entitled to speak to the motion under consideration. Thus, a minister or deputy House Leader who has already spoken to the main motion

86. JD, November 30, 2001, p. 4139 (Claude Pinard)/*RDPP*, no. 202/2; VP, November 30, 2001, no. 64, p. 696.
87. See Chapter 9, "Conduct of a Sitting".
88. JD, May 22, 1991, pp. 8386–8390 (Roger Lefebvre)/*RDPP*, no. 202/1. In this instance, 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 Chair 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.
89. JD, December 17, 1987, p. 10985 (Jean-Pierre Saintonge)/*RDPP*, no. 100/3.

has no special privilege in this instance and may not subsequently rise to move an adjournment.[90]

Although a motion to adjourn may not be moved more than once in the course of the same debate except by a minister, it 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.[91] Debating time on a motion to adjourn is added to, and does not reduce, the time set aside for a limited debate.[92]

A Member who requests the floor for the sole purpose of moving to adjourn debate, without addressing the motion under consideration, is not considered to have spoken to that 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 debate is adjourned before the Member begins his or her address, the Member may defer the address to a later stage of the debate; if adjourned after, 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 his or her 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.[93]

A motion to adjourn can be debated briefly (S.O. 101) but not amended (S.O. 100). The mover of the motion has 10 minutes' speaking time, as does a representative of each parliamentary group.[94] A difficulty arises if the mover is also the representative of his or her parliamentary group, since the assumption of both roles by the same person means that no other Member from the same group may speak to the matter.[95] The mover may speak for five minutes

90. JD, December 17, 1997, pp. 9645–9646 (Claude Pinard)/*RDPP*, no. 100/6.
91. JD, December 1, 1986, p. 4503 (Jean-Pierre Saintonge)/*RDPP*, no. 100/2; JD, December 8, 2005, p. 10859 (William Cusano).
92. JD, December 15, 2003, p. 2676 (Michel Bissonnet)/*RDPP*, no. 210/5.
93. JD, June 7, 1995, pp. 3717–3722 (Raymond Brouillet)/*RDPP*, no. 100/5.
94. JD, December 1, 1986, pp. 4505–4506 (Jean-Pierre Saintonge)/*RDPP*, no. 101/2.
95. JD, December 7, 1978, pp. 4438–4443 (Clément Richard)/*RDPP*, no. 101/1.

in reply before the Chair 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.

A motion to adjourn debate can be moved with regard to any debate, without exception, on either government or opposition business.[96]

12.3 VOTING

Questions brought before the Assembly are decided by a vote for which a quorum is required (S.O. 219). Under Standing Order 220, voting is carried out either by a show of hands or by recorded division. When a motion is debated in the House, the Chair 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.[97] In the case of a limited debate, the Chair must ensure that the allotted time has expired.

Before a motion is put to a vote, it is read aloud by the Chair (S.O. 221).[98] If an amendment to a motion is to be voted on and the text has not been distributed to the Members beforehand, the Chair reads the original motion, followed by the amendment and the motion as it will read if amended (S.O. 222). The same procedure is followed for any subamendment.

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 Chair asks whether it is carried. In the absence of oral opposition, the Chair declares the motion carried. If opposition is expressed, the Chair decides whether the yeas or the nays are in the majority, and immediately declares the motion carried or negatived, as applicable. In practice, it is the House leaders or their deputies who inform the Chair whether or not the parliamentary groups they represent support the motion.

A vote by a show of hands can be considered an anonymous vote, since the names of Members for and against are not recorded in the *Votes and Proceedings*. A Member may nonetheless require that his or her abstention or

96. JD, March 27, 1991, pp. 7236 and 7240–7241 (Jean-Pierre Saintonge)/*RDPP*, no. 97/5.
97. JD, June 14, 1993, pp. 7630–7633 (Roger Lefebvre)/*RDPP*, no. 219/1.
98. Under Standing Order 190, a motion must be in writing unless its terms are invariable. If the motion read by the Chair 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)).

dissent, or the absence of unanimity, be recorded in the *Votes and Proceedings* (S.O. 228). Members who wish to do so must rise in turn and mention the fact without further comment.[99]

12.3.2 Recorded Divisions

For a recorded division to take place, five Members must request it (S.O. 220). If the request 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 it is made by an independent Member, the current practice is for the Chair to accept the request if there are five independent Members present who agree to it.[100]

The vote is announced by division bells sounded throughout the precinct of the Assembly,[101] at which point any committee proceedings in progress are suspended (S.O. 224). The Chair calls the vote when of the opinion that sufficient time has elapsed (S.O. 224, 2nd par.).[102] By parliamentary tradition, no vote is held as long as one of the whips remains standing—an indication that his or her group is not ready to vote. The Chair may nonetheless put a motion to a vote whenever he or she judges that sufficient time has elapsed.[103]

For a division to be taken, the Members must be in their seats. The Chair reads the motion aloud and has the yeas, then the nays and finally the abstentions rise in their places (S.O. 226), in the order illustrated on page 360.[104] A Table

99. JD, December 14, 2004, p. 6762 (François Gendron)/*RDPP*, no. 228/1.
100. JD, November 18, 2004, pp. 5732–5733 (William Cusano)/*RDPP*, no. 220/5.
101. This must be done for each recorded division, even when a number of divisions are called consecutively, the Chair 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).
102. JD, May 10, 1990, p. 2505 (Jean-Pierre Saintonge)/*RDPP*, no. 83/1. The time allowed by the Chair may vary depending on the circumstances.
103. JD, March 21, 1985, pp. 2608–2611 (Richard Guay)/*RDPP*, no. 224/1.
104. 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 sponsored the motion is the first to rise, followed immediately by the House leader; each Member from the group who is in favour of the motion rises individually, proceeding row by row; the other parliamentary groups 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. Thus, once the groups in favour of the motion have pronounced themselves, the independent Members may rise in their turn. The same holds for votes against and abstentions. This procedure is followed both in matters proposed by the Government and in those proposed by the Official Opposition.

A recorded division in progress

officer calls out the Member's last name and the name of his or her riding as each one rises. 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.[105]

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 (S.O. 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 Chair invites the Members concerned to take their places, then proceeds as above, asking yeas, nays and abstentions to rise in their places. 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.[106]

Members may not speak during a division except to raise a point of order or privilege (S.O. 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 Chair, who proclaims it to the House (S.O. 226, 2nd par.). Once the result is announced, the Chair may not change it without the unanimous

The Secretary General communicating the results of the vote to the Chair

In the case of a motion for a division introduced by an independent Member, though the Chair has never ruled on the matter, 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 vote as a bloc.

105. JD, November 20, 1990, pp. 5172–5176 (Jean-Pierre Saintonge)/*RDPP*, no. 226/2.
106. JD, April 22, 1998, p. 10858 (Jean-Pierre Charbonneau)/*RDPP*, no. 225/1.

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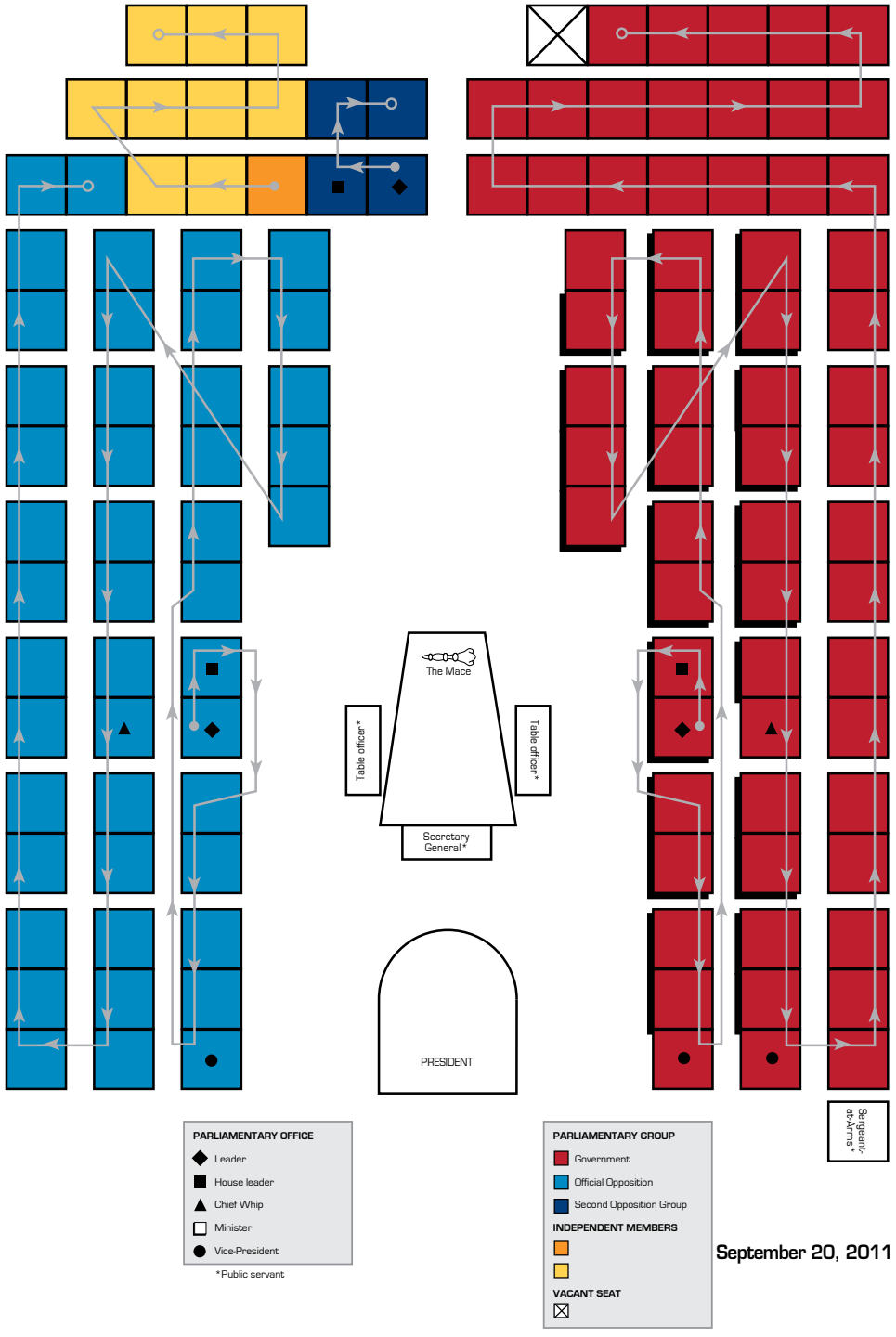
Order of the vote during a recorded division



consent of the Members.[107] The names of the Members are recorded in the *Votes and Proceedings*, according to how they voted (yeas, nays, absentions).

12.3.3 Deferred Divisions

At the Government House Leader's request, the Chair may defer a division to a later time in the sitting or to the Routine Proceedings of the next sitting. Deferred divisions during Routine Proceedings take place under a heading of their own, immediately following Question Period, when most of the Members are present in the House (S.O. 53(6) and 83). Five minutes before the vote is to be taken, the division bells are sounded throughout the precinct of the Assembly (S.O. 224).[108]

Under the second paragraph of S.O. 223, only two motions may not be deferred: a motion for adjournment and the previous question. On all other motions, including a want of confidence motion,[109] deferral is possible, even in the case of business having precedence,[110] for Standing Order 223 makes no distinction between business having precedence and other business. The deferral of a division allows another matter to be brought before the Assembly. The purpose of deferral is not to hinder the work of the Assembly, but rather to ensure that its work proceeds smoothly by allowing votes to take place at the conclusion of Question Period, when all the Members are present in the House.[111]

Although the Chair has the discretionary power to reject a motion to defer (S.O. 223), this power seems never to have been exercised.[112]

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107. JD, March 13, 1991, pp. 6971–6973 (Jean-Pierre Saintonge)/*RDPP*, no. 226/3. However, the Secretary General may correct any errors in the computation of votes, unless the correction changes the result (Geoffrion 1941, S.O. 307).
108. See Chapter 9, "Conduct of a Sitting".
109. 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, pp. 1700–1701 (Michel Bissonnet).
110. 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 in the course of 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.
111. 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 in the course of Routine Proceedings, during the time provided for that purpose at the end of Question Period (S.O. 53 (6)).
112. JD, June 18, 1985, pp. 4781–4784 (Richard Guay)/*RDPP*, no. 223/2; JD, May 30, 1996, pp. 1517–1518 (Raymond Brouillet).

12.3.4 Required Majority

Barring an explicit provision to the contrary, questions brought before the Assembly are decided by a simple majority vote.[113] This principle is stated in section 49 of the *Constitution Act, 1867*, and applies to the Assembly under section 87 of that Act.[114]

The Chair does not participate in the discussions of the Assembly and may vote only to break a tie (S.O. 4), in which case it has the casting vote.[115]

Some motions require the support of a qualified majority in order to be adopted. For example, some statutes specify that a motion to appoint[116] or dismiss[117] a person must be carried by a two-thirds majority of the National Assembly. This means two thirds of all Members, not just those present for the vote. In the case of such motions, a division must be taken to determine the result.[118]

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113. JD, June 2, 1998, p. 11564 (Jean-Pierre Charbonneau)/*RDPP*, no. 219/2.

114. 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."

115. See Chapter 4, "The Office of President".

116. *Act respecting Access to documents held by public bodies and the Protection of personal information*, L.Q., c. A-2.1, s. 104; *Charter of Human Rights and Freedoms*, L.Q., c. C-12, s. 58; *Code of Ethics and Conduct of the Members of the National Assembly*, L.Q., c. C-23.1, s. 62; *Election Act*, L.Q., c. E-3.3, ss. 478, 526 and 531; *Public Service Act*, L.Q., c. F-3.1.1, ss. 106 and 122; *Public Protector Act,* L.Q., c. P-32, s. 1; *Lobbying Transparency and Ethics Act*, L.Q., c. T-11.011, s. 33; *Auditor General Act*, L.Q., c. V-5.01, s. 7.

117. *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; *Election Act*, ss. 480 and 530; *Public Service Act*, s. 108; *Public Protector Act,* s. 3; *Lobbying Transparency and Ethics Act*, s. 34; *Auditor General Act*, s. 13.

118. 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 adopted.

Apart from 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.[119]

119. *Code of Ethics and Conduct of the Members of the National Assembly*, s. 104.

13

Rules of Parliamentary Debate and Distribution of Debating Time

According to parliamentary doctrine, "debate arises when a question has been proposed by the Speaker and before it has been fully put".[1] During debate itself Members must observe certain rules. As seen in Chapter 3, although the constitutional privilege of freedom of speech is a Member's

1. May, *Treatise*, 23rd ed., p. 427; Beauchesne, p. 135; JD, December 16, 1992, pp. 4817–4819 (Roger Lefebvre)/*RDPP*, no. 22/1.

most undisputed and fundamental right, it is circumscribed by the rules of parliamentary debate.[2]

The rules of parliamentary debate are vital for the Assembly to be able to exercise in a structured manner the role the Constitution confers on it in the organization of the State. In other words, they are intended to facilitate the progress of business and prevent any excesses. They guarantee a Member's right to speak while limiting what may be said and by whom.

The rules of parliamentary debate also determine when and how long a Member may speak. Every debate held in the Assembly is governed by an established distribution of time, with Members given more leeway in some debates than in others. In fact, time is the main resource available to a Member in exercising parliamentary duties.

13.1 RULES OF PARLIAMENTARY DEBATE

13.1.1 Right to Speak

To speak in the Assembly, a Member must be entitled to do so in the context of a debate. As a general rule, any Member may express an opinion on a given subject. However, as we will see in Section 13.2, the distribution of debating time does not always allow every Member to speak.

Members who wish to speak during a debate must rise and ask leave of the Chair to do so. The Chair has complete discretion over the order of interventions, although the mover of the motion will, of course, be allowed to speak first. In theory, no precedence is given and the floor is granted to the first Member to rise,[3] but in practice, the Chair abides by certain rules, including the rule of rotation and the principle of alternation.[4]

Under the rule of rotation, a representative of each political party is entitled to speak at the beginning of a debate. Then, in accordance with established tradition, the principle of alternation comes into play, with a debater in favour of the motion taking the floor, then a debater against, and so on. While the principle of alternation is easily applied when the Assembly comprises only two parliamentary groups—the group forming the Government and that forming the Official Opposition—it is another matter when it

2. See Chapter 3, Section 3.2.1.2, "Second Limitation: The Rules of Parliamentary Debate".
3. 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.
4. JD, June 7, 1979, p. 1809 (Louise Cuerrier)/*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.

comprises three groups. In such cases, the Chair opts instead to abide by the rule of rotation at all times.[5]

The rule of rotation and the principle of alternation are neither absolute nor binding. No one but the Chair may determine the order of interventions and the Chair's decisions may not be questioned.[6]

13.1.2 Language of Debate

Under section 133 of the *Constitution Act, 1867*,[7] either French or English may be used in debates.[8] Members occasionally use another language briefly during a debate, in particular if a motion is moved to draw attention to an event that is particularly significant for a foreign nation or people. Historically, the Chair has tolerated such brief incursions in languages other than French or English. However, two problems arise as a consequence. First, what is said is generally incomprehensible to the Chair and the Members, and second, it is difficult to transcribe passages in a foreign language in the *Journal des débats* (Hansard). This is why the *Journal* generally merely records that the Member spoke in a language other than French or English.[9] Consequently, foreign languages should only be used exceptionally and sparingly.

13.1.3 Rule of Relevance

The relevance of a speech in the Assembly can be evaluated differently depending on the type of debate being held. However, barring a special rule under the Standing Orders, the general principle requires that speeches be directed only to the matter under discussion (S.O. 211). The purpose of this rule is to prevent anyone from wandering from the subject.

In addition to this general principle, the Standing Orders contain special provisions with respect to the application of the rule of relevance in connection with certain debates. It is applied differently in the case of the debate on a bill's passage in principle (S.O. 239), the opening speech debate (S.O. 50)

5. See Chapter 11, Section 11.2.2, "Addressing the Assembly".
6. JD, October 24, 1979, pp. 3121–3122 (Clément Richard)/*RDPP*, no. 33/3.
7. (U.K.), 30 & 31 Vict., c. 3 (reprinted in R.S.C. 1985, app. II, no. 5).
8. 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". See Chapter 8, Section 8.2, "Bills and Statutes".
9. When the Chair greets guests in the public gallery in a foreign language, the Chair's words are transcribed in that language in the *Journal des débats*.

and the budget speech debate (S.O. 274). In the latter two cases, the Standing Orders allow Members to touch on any matter.

With regard to relevance in the debate on a bill's passage in principle, the Standing Orders specify that the debate must be limited to the expediency, principles and merits of the bill and to alternative means of achieving its purpose. Longstanding jurisprudence dictates that the relevance of a speech on a bill's passage in principle must be interpreted broadly.[10] Members are free to analyze a bill as they see fit,[11] provided their remarks are related to the bill being discussed. However, the debate must not introduce issues that are not at the heart of the bill.[12] In that respect, the Chair has stated that it could not allow a 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 a debate on the general administration of the law.[13]

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 Chair will call the Member to order. Usually, only excessive digressions are disallowed and, when in doubt, the rule is interpreted in favour of the person speaking.[14] All in all, it is difficult to establish criteria that apply in every circumstance. In a sense, each situation is unique, and it is up to the Chair to decide on the relevance of remarks, keeping in mind the basic principles mentioned above and the particular context of the debate.

13.1.4 Quoting From a Document

When a minister quotes from a document in the course of parliamentary proceedings, any Member may request that the minister table it at once (S.O. 214). The documents a minister could be required to table under that provision include official documents belonging to the State, correspondence

10. JD, November 17, 2005, pp. 10274–10275 (William Cusano)/*RDPP*, no. 211/5. According to the decision, the rule of relevance is to be interpreted even more broadly in the case of the debate on the passage in principle of a bill giving effect to the budget speech, as it may not be possible for the Chair to assess whether a Member's remarks relate to the content of the bill, given its scope.
11. JD, June 4, 1986, pp. 2226–2227 (Jean-Pierre Saintonge)/*RDPP*, no. 239/4; JD, November 17, 2005, pp. 10274–10275 (William Cusano)/*RDPP*, no. 211/5.
12. 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.
13. JD, December 8, 1987, p. 10395 (Jean-Pierre Saintonge)/*RDPP*, no. 239/7.
14. JD, June 4, 1986, pp. 2226–2227 (Jean-Pierre Saintonge)/*RDPP*, no. 239/4; JD, November 17, 2005, pp. 10274–10275 (William Cusano)/*RDPP*, no. 211/5.

between public servants and other documents of a similar nature,[15] but exclude personal notes.[16]

Quoting from a document implies that the speaker has communicated an excerpt of it. Consequently, a minister is not required to table a document he or she referred to without quoting from it.[17] Moreover, only the minister can tell the Chair whether he or she actually quoted from a document,[18] and the Chair must take the minister's word for it (S.O. 35(6)). It would not be practical for the Chair to have to analyze a minister's documents whenever a Member alleges the minister quoted from a document while the minister claims to have merely referred to it. In practice, it is not unusual for a minister to make reference to written information while speaking in the Assembly.

Nevertheless, a minister may refuse to table a quoted document if he or she considers that it would not be in the public interest to do so (S.O. 214). The Chair must record the minister's refusal, but has no power to compel the minister to do otherwise. On the other hand, if the minister agrees to table the document, Members must take the minister's word for it that the document actually is the quoted document.[19] The minister may identify the document on tabling it, provided the identification is done quickly and does not involve reading the document in its entirety.[20]

A Member who is not a minister may quote documents in a speech, but is neither entitled nor required to table them. In fact, a Member may do so only with the consent of the Assembly.[21] Moreover, a minister has no more rights than a Member as regards the tabling of a document during a debate. Although, under Standing Order 59, a minister may table a document at the stage of Routine Proceedings reserved for the presentation of papers, a minister who wishes to table a document during a debate must first obtain the Assembly's consent.

13.1.5 Explanations on a Speech

A Member who feels his or her words in a debate have been misunderstood or misquoted may give very brief explanations of what was said (S.O. 212).

15. 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.
16. JD, May 21, 1986, pp. 1700–1701 (Pierre Lorrain)/*RDPP*, no. 214/6; JD, June 9, 1998, p. 11756 (Jean-Pierre Charbonneau).
17. 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.
18. JD, June 3, 1999, p. 2177 (Claude Pinard)/*RDPP*, no. 214/8.
19. JD, December 1, 1977, pp. 4444–4445 (Clément Richard)/*RDPP*, no. 214/2.
20. JD, June 18, 1990, pp. 3478–3479 (Jean-Pierre Saintonge)/*RDPP*, no. 214/7.
21. JD, April 17, 1991, pp. 7377–7379 (Jean-Pierre Saintonge).

The Member must do so immediately after the remarks eliciting explanations.[22] If it only becomes evident in the reply of the mover of the motion under discussion that a Member's remarks have been misunderstood or distorted,[23] explanations may be given even though that reply normally concludes the debate (S.O. 218). The explanations must not introduce new elements or give rise to a debate.

As this rule only applies to debates, including debates upon adjournment,[24] no such explanations may be given during Question Period or following a deferred answer.[25] Similarly, explanations may not be given regarding a document quoted by a Member because it is not a speech.[26] Explanations must be limited to a speech made during the debate on the same question and may not pertain to a prior debate.[27]

Standing Order 212 specifies that explanations must be very brief, which implies short speaking times. It is up to the Chair to determine how much time is actually allotted.[28]

13.1.6 Questions Regarding a Speech

Any Member may request leave to ask a question of a Member immediately after that Member finishes speaking. That right is not limited in any way. However, both the question and the answer must be concise (S.O. 213). A Member who wishes to ask such a question must request that the Chair enquire whether the other Member agrees to take a question. The latter Member is free to accept or decline and refusal may not be disputed. The Chair must see to it that the rule of conciseness is observed to avoid launching a new debate.

A Member may ask a question of a Member belonging to the same parliamentary group and more than one Member may request leave to pose

22. A Member who feels his or her remarks have been misunderstood or misquoted must wait to explain them until the person who has the floor is finished speaking (JD, December 11, 1996, p. 4216 (Claude Pinard)/*RDPP*, no. 212/6).
23. JD, May 16, 1995, pp. 2757–2758 (Raymond Brouillet)/*RDPP*, no. 212/5.
24. Ibid.
25. 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.
26. JD, June 14, 1984, p. 7064 (Richard Guay)/*RDPP*, no. 212/3.
27. JD, December 7, 1981, pp. 932–934 (Claude Vaillancourt)/*RDPP*, no. 212/1; JD, May 23, 2000, pp. 6092–6093 (Claude Pinard).
28. JD, May 16, 1995, pp. 2757–2758 (Raymond Brouillet)/*RDPP*, no. 212/5.

a question, but Members may only ask one question each.[29] That said, the Standing Orders do not otherwise limit this right, which means that, theoretically, every Member could rise in turn to pose a question. To date, the Chair has never had to rule on the matter, but it has been ruled that it could intervene if repeatedly invoking a procedure would make a mockery of the Assembly.[30]

Standing Order 213, like Standing Order 212, applies only in the context of a debate.[31] It may be invoked during debates upon adjournment, but not during Question Period, which is not considered a debate.[32]

13.2 DISTRIBUTION OF DEBATING TIME

The most significant restriction placed on the privilege of freedom of speech by the rules of parliamentary debate is without question the limited speaking time available to a Member during a debate. A time frame is established for every debate held in the Assembly, some of which time frames are more restrictive than others. The Standing Orders prescribe three main models for the distribution of debating time.

The stopwatch in the National Assembly Chamber, used to show Members how much speaking time they have left

First, speaking times may be arranged on an individual basis with a specific amount of time allotted to each Member. The overall length of the debate is thus limited only by the number of Members who wish to speak. This is the general rule.

29. JD, June 8, 2000, p. 6782 (Claude Pinard)/*RDPP*, no. 213/2.
30. JD, June 19, 1992, pp. 2817–2824 (Roger Lefebvre)/*RDPP*, no. 195/2.
31. JD, April 18, 1996, pp. 449–450 (Jean-Pierre Charbonneau)/*RDPP*, no. 213/1.
32. JD, May 16, 1995, pp. 2757–2758 (Raymond Brouillet)/*RDPP*, no. 212/5.

Second, debating time can be organized on a collective basis with an overall time envelope for the entire debate. Such a "limited debate" normally does not allow all the Members to speak.

Third, the Standing Orders allocate specific speaking times to certain debates or speeches, considerably limiting the length of debates and specifying who may speak. This is the case with debates on procedure—also called "short limited debates"—and speeches that are not necessarily part of a debate.

This chapter examines the general distribution of debating time in the National Assembly. It does not deal with every particular case provided for in the Standing Orders for various debates and speeches. Specific cases will be examined in other chapters in connection with the rules of procedure with which they are associated. The Standing Orders that specifically allot speaking times are the best introduction to the subject.

13.2.1 General Rule

13.2.1.1 Substantive Motions and Formal Motions

The general rule as regards speaking time is set out in Standing Order 209. According to that 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 20 minutes to any other matter. However, the mover of a motion, the Premier and the other parliamentary group leaders, or their representatives, may each speak for up to one hour to a substantive motion and 30 minutes to a formal motion.

But who may represent the mover of a motion? Standing Order 189 provides that a motion is moved by the Member in whose name it stands or, with the Member's leave, by any other Member. Moreover, a minister may always act on behalf of another minister: this stems from the constitutional principle of ministerial responsibility. The Standing Order therefore seems to imply that if the mover of a motion is not a minister, he or she may be represented by any Member, including a minister. However, if the mover of a motion is the Premier or a minister, he or she may only be represented by a minister.[33]

In a debate in the Assembly, the Premier and the other parliamentary group leaders may be represented by any other Member if they did not move

33. Thus, in a debate, a minister may not be replaced by a parliamentary assistant. Section 25 of the *Act respecting the National Assembly* specifies that a parliamentary assistant may replace a minister in title only during the oral question and answer period (JD, October 16, 1990, pp. 4426–4427 (Michel Bissonnet)/*RDPP*, no. 253/4).

the motion under discussion. In practice, this means that the Premier or the parliamentary group leader transfers his or her special speaking time to another Member, which allows the Member more speaking time than he or she would otherwise be entitled to.

The representation rule mostly benefits the opposition groups. Typically, it is the critic for the portfolio concerned who represents the party leader, but the Standing Orders do not require it. Also, there is nothing to prevent a Member who is not a critic for the matter at hand from representing the party leader.[34] Critics are normally assumed to represent their party leader, and other Members need simply state on taking the floor that they are representing their party leader for the question under discussion. For their part, government Members seldom speak on behalf of the Premier, even though they too are entitled to do so. If they do, they are given the same speaking time as the mover of the motion or of the bill under discussion, since the leader of a parliamentary group has the same speaking time as the mover of a motion in a debate.[35] In this way, the different points of view are given a fair hearing.

When a Member uses the speaking time reserved for the leader, it is customary to allow the leader to speak to the motion at hand, but the leader's speaking time must not exceed that to which the Member would normally have been entitled, namely 10 minutes for a formal motion or 20 minutes for any other matter (S.O. 209).

13.2.1.2 Motions in Amendment

Unless otherwise provided, any substantive motion may be amended (S.O. 196). A motion in amendment is a question in itself. It is a formal motion and, as such, gives rise to a debate in which time is distributed according to Standing Order 209—the mover of the motion and 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, the mover of a motion in amendment does not have the right to speak in the debate on that motion. The mover, who presented the amendment during his

34. JD, October 27, 2004, pp. 5371 and 5374 (François Gendron)/*RDPP*, no. 209/3.
35. 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).

or her address on the main motion, is considered to have already spoken to the motion in amendment.[36]

Pursuant to Standing Order 209, under which a Member may speak only once to a given question, a Member who has already spoken may not speak again to move a motion in amendment. However, a Member who has already spoken to a question may intervene in the debate on a motion in amendment moved by another Member. Furthermore, given that it is a question in itself, a Member who spoke only to the motion in amendment may speak to the main motion once the debate on the motion in amendment is over, that is to say after the vote.

Subamendments may be moved to any amendment, provided each subamendment is disposed of before another is moved. Subamendments are subject to the same rules as amendments (S.O. 200). Because the mover of a motion in amendment may not speak to it, he or she may not propose a subamendment. On the other hand, nothing prevents the mover of the main motion from rising to propose a subamendment. As is the case for a motion in amendment, the mover of a motion in subamendment may not speak to 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 moves a substantive motion[37] is entitled to a reply (S.O. 215) that may last no more than 20 minutes unless otherwise provided (S.O. 216).

The reply concludes the debate (S.O. 218), which is why it is not possible, at that stage, to move a motion or, by the same token, to move an amendment to the motion being debated.[38] The reply is the last intervention in a debate prior to the vote; it gives the mover an opportunity to respond to everyone who spoke during the debate and to convince the Members, once and for all, to vote in favour of the motion.[39]

36. JD, April 4, 1995, pp. 1905–1906 (Raymond Brouillet)/*RDPP*, no. 209/2; JD, June 7, 1993, pp. 7203–7207 (Michel Bissonnet)/*RDPP*, no. 241/6; Beauchesne, pp. 137–138.
37. 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 6 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.
38. JD, November 22, 2000, p. 8059 (Michel Bissonnet)/*RDPP*, no. 215/1.
39. Geoffrion 1941, S.O. 268.

Since the right of reply belongs to the mover of a substantive motion, if the initiator of a motion asks a representative to move it, the representative can exercise the right of reply. Conversely, if the initiator does not ask a representative to move the motion, the reply cannot be given by a representative either.[40] However, if the Premier or a minister moves a motion, he or she can be represented by another minister for the reply,[41] given the constitutional principle of ministerial responsibility.

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 (S.O. 239). At the committee report stage, speaking times are those prescribed for a debate on a formal motion, with the particularity that the minister or Member who introduced the bill may comment for up to five minutes after each speech (S.O. 253). There is a special time frame, however, for the final passage of a bill. For such a debate, a Member's speech 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 one hour. The minister or Member who introduced the bill is then entitled to address the Assembly in reply for up to 20 minutes (S.O. 256).

When considering a bill clause by clause in committee, in addition to preliminary remarks and preliminary motions, the members of the committee may speak as often as they wish, for a total of not more than 20 minutes, to each section, paragraph or subparagraph of the bill, each amendment or subamendment, and each section that is proposed for amendment or insertion in an existing Act (S.O. 245). The minister or Member who introduced the bill may respond for an additional five minutes each time another Member speaks (S.O. 246).

The distribution of debating time in committee thus departs from the general principle of Standing Order 209, according to which a Member may only speak once to a given question. This is because, unlike speeches made in the Assembly, remarks in a committee, given the very nature of a committee's orders of reference, are made in the context of exchanges or discussions

40. JD, October 30, 2003, pp. 1238–1239 (Diane Leblanc)/*RDPP*, no. 215/2.
41. Ibid.

rather than formal debates.[42] This is true not only of the detailed consideration of bills, but of other committee proceedings as well, though the rules relating to the distribution of speaking time may vary from one order of reference to another. Standing Order 209 is a rule of principle that applies to parliamentary committees when no other provision prescribes special rules.[43]

Both the examination process and the distribution of time differ somewhat in the case of private bills. At the passage in principle and the passage of the bill, Members may speak for no more than 10 minutes. The Member who introduced the bill and the parliamentary group leaders are entitled to 30 minutes (S.O. 269). However, there seems to be an anomaly in the Standing Orders with regard to the possibility for parliamentary group leaders to be represented during these debates. Since the Standing Orders specifically grant the leaders speaking time without providing for the possibility that they be replaced, the Chair has ruled that the speaking time of any opposition group critic is limited to 10 minutes.[44] 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 (S.O. 267). However, the distribution of debating time for the consideration of a private bill by a committee is the same as that prescribed for a public bill (S.O. 267 and 245).

13.2.2 Limited Debates

According to the general rule, 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.

The Standing Orders also provide for certain time-limited debates, called "limited debates" in parliamentary jargon (S.O. 210). Instead of individual speaking times, an overall time envelope is allotted to all the Members as a group. Time is apportioned among the parliamentary groups and independent Members by the President after conferring with the House leaders. Generally, the House leaders agree on the distribution of debating time.

42. For the same reason, time spent on a point of order in committee is not deducted 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).
43. See Chapter 18, "Parliamentary Committees".
44. JD, November 15, 1990, pp. 5105–5106 (Roger Lefebvre)/*RDPP*, no. 269/1.

The President and the House leaders decide a number of other things during their meeting. First, they may determine the length of the reply to be made by the mover of the motion, 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 an overall time envelope to independent Members, leaving them to divide it up among themselves. This does not pose a problem when the independent Members come from the same political party. If they do not, a specific speaking time may be assigned to each independent Member.[45] Third, they generally decide how the parliamentary groups will share the remaining time. At this point, the composition of the National Assembly is particularly pertinent. When there are only two parliamentary groups, the time is usually divided equally. However, when there are more than two groups, it is divided up proportionally according to each group's representation in the Assembly. Indeed, as the Chair has 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, time would necessarily wind up distributed proportionally among the parliamentary groups. There is no reason things should be otherwise for limited debates.[46] Fourth, the President and the House leaders may decide whether to redistribute time that is not used by the parliamentary groups or the independent Members. Unless it is expressly agreed that unused time is not to be redistributed, the Chair will take the initiative to do so to

45. At the beginning of the 39th Legislature, a time envelope for limited debates was set aside for all independent Members, regardless of political affiliation. When the Action démocratique du Québec (ADQ) was recognized as a political group on April 21, 2009, the distribution of speaking time for limited debates was set out in a document tabled at that time (see Appendix III) and adopted by the Assembly. The document provided a time envelope for 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, the Chair ruled that speaking times for the two new independent Members would be determined based on the time allocated to Members of 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). The Chair issued a new decision on the matter when certain Members from the Official Opposition chose to sit as independents. See Chapter 5, "Parliamentary Groups and Independent Members" and Appendix II, "Allocation of Measures and Speaking Time".

46. Note that the Chair made this decision during the 38th Legislature, at a time when the composition of the National Assembly was entirely unprecedented (JD, May 10, 2007, p. 69 (Michel Bissonnet)/*RDPP*, no. 50/3). This decision was rendered during the debate on the opening speech of the 1st Session of the 38th Legislature. Subsequently, the Chair 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).

encourage an exchange of ideas.[47] As, generally, not all Members are able to speak in a limited debate, the Chair must ensure that the time allotted to a debate will be used in its entirety to allow as many Members as possible to be heard, whatever the apportionment determined beforehand with the House leaders. Fifth, they determine whether the time given to each speaker is to be limited. If not, each parliamentary group must distribute the time within the envelope allocated to it. As a matter of fact, the Chair has ruled that the organization of a limited debate is not subject to Standing Order 209: it therefore need not follow the speaking times prescribed for a substantive or a formal motion.[48]

If the House leaders cannot agree, it is up to the President to allocate speaking time. On one such occasion, in order to allow as many Members to speak as possible, the President limited each intervention to 10 minutes.[49] In such cases, the Chair must encourage discussion on a motion by recognizing any Member who wishes to speak.

The Standing Orders provide for four types of limited debates: there are two-hour limited debates, which are the norm since, unless otherwise provided, the Standing Orders provide that a limited debate is to last no more than two hours (S.O. 210);[50] there are one-hour limited debates[51] and five-hour limited debates;[52] and the Standing Orders provide for two extended limited debates, which are especially important, the opening speech debate

47. JD, June 3, 1986, p. 2137 (Louise Bégin)/*RDPP*, no. 210/2.
48. JD, March 21, 1990, p. 1249 (Jean-Pierre Saintonge)/*RDPP*, no. 210/4.
49. JD, June 3, 1986, p. 2137 (Louise Bégin)/*RDPP*, no. 210/2.
50. 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 (S.O. 27), urgent debates (S.O. 91), debates on committee reports containing recommendations (S.O. 95), adjournments for more than 15 days (S.O. 107), motions to introduce an exceptional procedure (S.O. 182), hoist motions (S.O. 240), motions to divide a complex question (S.O. 241) and reports from committees that examined estimates (S.O. 288).
51. The Standing Orders currently provide for two limited debates not exceeding one hour each: referral of any matter to a committee (S.O. 146) and referral of a bill to a committee at the introduction stage for special consultations (S.O. 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 (S.O. 27.1). Similarly, in the case of an exceptional legislative procedure, a time envelope of one hour each is reserved for the consideration of the committee's report (S.O. 257.1(3)) and the debate on the motion for the passage of the bill (S.O. 257.1(4)).
52. The debate on passage in principle of a bill for which an exceptional procedure is introduced is a five-hour debate (S.O. 257.1(1)). The report of the Commission de la représentation électorale on electoral division delimitation is also the subject of a five-hour debate in the Assembly or, if it is not sitting, in the Committee on the National Assembly (*Election Act*, L.Q., c. E-3.3, s. 28).

(S.O. 50)[53] and the budget speech debate (S.O. 272).[54] In addition, there are two limited debates whose length is not set: debates on business standing in the name of Members in opposition (S.O. 97) and debates on want of confidence motions (S.O. 306). The Standing Orders do specify when these debates are to end but their exact length is indeterminate.[55]

During a limited debate of fixed length, the time spent on a motion to adjourn the debate is added to the time set aside for the limited debate.[56] However, the time spent on a point of order is not tallied.[57] Thus, in the case of a two-hour limited debate, the debate ends when two hours have elapsed counting only the time used for the Members' remarks. By contrast, limited debates of indeterminate length may not extend beyond the exact time set in the Standing Orders. In that case, the time spent on a motion to adjourn the debate or on a point of order is deducted from the total time for the debate and, consequently, from the remaining time allocated to the parliamentary groups.

13.2.3 "Very Limited Debates" and Time-Limited Statements

The Standing Orders also provide for certain debates or statements that carry special speaking-time constraints and do not come under the general rule set out in Standing Order 209 or the rules relating to limited debates, though some limited debates with specific speaking times could qualify as "very limited debates". The debates and statements in question include statements by Members (S.O. 54.3), statements by ministers (S.O. 55 and 56), speeches on a motion regarding the conduct of a Member of Parliament (S.O. 319), debates upon adjournment (S.O. 310) and certain procedural debates.[58]

53. See Chapter 6, "Legislatures, Sessions and Sittings".
54. See Chapter 15, "The Budget Process".
55. 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, were considerably shortened on two occasions in 2010 because of business having precedence. Thus, on April 14, 2010, the debate on a motion placed on the Order Paper by the Leader of the Official Opposition lasted a mere 40 minutes as the Assembly first had to wrap up the first part of the budget speech debate (VP, April 14, 2010, no. 104, pp. 1179–1180). Likewise, on May 12, 2010, the debate on a motion moved by a Member from the Official Opposition only began at 3:55 p.m. because of a limited debate on the reports of the committees that considered the estimates, followed by the introduction, passage in principle and passage of an appropriation bill (VP, May 12, 2010, no. 116, pp. 1295–1297).
56. JD, December 15, 2003, p. 2676 (Michel Bissonnet)/*RDPP*, no. 210/5.
57. Ibid.
58. The procedural debates in question deal with motions to meet in secret (S.O. 29), motions to adjourn the debate (S.O. 100 and 101), motions to adjourn the proceedings (S.O. 105

Lastly, the Standing Orders refrain from limiting the length of certain speeches. They simply mention that the presiding officer may allow a few remarks or *arguments* on a point of order (S.O. 40), and provide for *brief or concise statements* when a Member raises a point of privilege (S.O. 68) or gives personal explanations (S.O. 71) and when amendments are referred to the Committee of the Whole at the passage of a bill (S.O. 257). In the case of a speech by a Member who feels he or she was misunderstood or misquoted in a debate, explanations are to be *very brief* (S.O. 212).[59]

and 106), motions to withdraw (S.O. 195), the previous question (S.O. 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 (S.O. 261).

59. In this regard, the Chair has determined that [Translation] "even if the speaking time granted to a Member under Standing Order 212 is not specified, it is necessarily very brief. In fact, it 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 Chair" (JD, May 16, 1995, pp. 2757–2758 (Raymond Brouillet)/ *RDPP*, no. 212/5).

14

The Legislative Process

In an age of accountability and the strict management of public finances, the role of the Members of the National Assembly is becoming more and more diversified. What was once essentially a legislative role has since broadened to encompass the supervision of government activity. Despite this, the consideration of bills continues to be one of the main functions exercised by Members during parliamentary debates.

Although the 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 House 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 complete the governmental phase of the legislative process. The formulation and introduction 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 Parliament, made up of the

1. *Reference Re Canada Assistance Plan (B.C.)*, [1991] 2 S.C.R. 525, 559.
2. L.Q., c. A-23.1.

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. To ensure the peaceful coexistence of the Assembly and the Government in the House, parliamentary law provides various means of oversight, control, contact and coercion. One way the Government exercises 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 p.m. and 5 p.m.

Since the Government controls the Assembly's order of business, it decides which bills will be studied in the House during a sitting. While a Member may propose to the Assembly that it take a bill under consideration, if that Member does not have 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,[3] whether or not the Government has a majority in the House. 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 can initiate new legislation. In fact, as noted in Chapter 2, the privilege of freedom of speech may be limited by the rules of parliamentary debate. In the case of legislation, freedom of speech does enable Members to openly criticize the content of the bills submitted to the Assembly for examination and to propose any amendment they see fit.

3. Statistics on this point are revealing. During the 34th Legislature, the Assembly passed 369 public bills brought in by the Government and only seven 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 tabled by the Government and 13 introduced by private Members; in the 37th Legislature, it passed 167 government bills and 5 introduced by private Members; over the course of the 38th Legislature, the Assembly passed 72 government bills and 2 bills tabled by private Members, despite the context of a minority Government.

14.1.1 Government Control over the Assembly's Order of Business

Under Standing Order 96, it is up to the Government House Leader to indicate which business standing on the Order Paper will be debated, 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 brings in a bill can push it through the various stages leading to adoption on Wednesdays during the debates on business standing in the name of Members in opposition (S.O. 97ff.)[4]—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 Parliament. 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, is the fruit of the evolution of British-style government.[5]

The principle of financial initiative led to a ruling by the Chair that a Member cannot bring in a bill whose effect is to limit the Government in carrying out its budget expenditures by setting in advance the amount of the deficit allowed in future ongoing operations. The Chair 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 Chair also specified that the Assembly's oversight is not to be exercised a priori or at the beginning of the budget process. The executive and the National Assembly each have a specific and decisive role to play in drawing up the Government's annual budget.[6]

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 funds. In other words, only ministers can submit to the Assembly

4. See Chapter 9, Section 9.3.5, "Business Standing in the Name of Members in Opposition".
5. JD, December 16, 1991, pp. 11643–11647 (Jean-Pierre Saintonge)/*RDPP*, no. 233/2.
6. Ibid.; JD, April 7, 2004, pp. 4044–4045 (Michel Bissonnet)/*RDPP*, no. 279/2.

how amounts will be collected and spent. The Assembly must then decide whether or not to approve the proposal.[7]

The financial initiative of the Crown finds its basis in sections 54 and 90 of the *Constitution Act, 1867*.[8] 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. Section 54 entrenches in the Constitution the principle according to which a money bill must be accompanied by a royal recommendation. However, it does not specify the procedure applicable to this recommendation. The procedure was a formal one in the Assembly under Geoffrion's Standing Orders in effect between 1941 and 1972.[9] Since then, the Assembly has dropped the formality to adopt a more flexible procedure: the recommendation is given by a minister of the Crown and is presumed to carry the consent of the Lieutenant-Governor. Under a ruling by the Chair, the presiding officer must take the minister on faith when such a declaration is made.[10] The Chair also ruled that while the royal recommendation is usually given to the Assembly by the

7. The President of the Assembly declared out of order a proposal to amend a bill submitted at the report stage, 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).
8. (U.K.), 30 & 31 Vict., c. 3 (reprinted in R.S.C. 1985, app. II, no. 5). Section 54 of the *Constitution Act, 1867* states the following:
"**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."
9. Geoffrion 1941, ss. 548 ff.
10. JD, December 3, 1990, p. 5537 (Jean-Pierre Saintonge)/*RDPP*, no. 179(1)/1.

sponsoring minister at the beginning of the debate on the passage in principle, there is no firm obligation to do so at that moment.[11]

Recommendation of the Lieutenant-Governor

[TRANSLATION]

"Mr. President, the Honourable Lieutenant-Governor has read the bill and recommends that it be studied by the National Assembly."

Statement by a minister in the Assembly

The financial initiative of the Crown 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,[12] the remission of a debt owing to the Province or the alienation of property owned by the Province." Moreover, Standing Order 192 states that only a minister may make a motion for one of those purposes. In terms of the legislative process, this means that a Member who is not a minister may not present an amendment with a financial incidence.

Thus, to determine whether a bill must be presented by a minister following a royal recommendation, the Chair must first decide whether it serves one of the purposes mentioned in section 54 of the *Constitution Act, 1867* or section 30 of the *Act respecting the National Assembly*. In this connection, the Chair has been 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 Chair 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 budget appropriations in order to be equated with the commitment of public funds, that is, the motion or bill must

11. JD, June 4, 2002, p. 6565 (Raymond Brouillet)/*RDPP*, no. 179(1)/4.
12. [TRANSLATION] Any motion that may impose a tax or a tax increase is considered a motion resulting in a charge upon the people (Geoffrion 1941, S.O. 155, Note 4). See May, *Treatise*, 23rd ed., p. 849: "The term 'charge upon the people' is now primarily taken to connote any impost in the nature of a tax or duty, the proceeds of which are payable into the Consolidated Fund."

> 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 secured through another measure, whether legislative or budgetary. It is that measure that would be considered a financial initiative of the Crown.[13]

Based on the criteria of a direct effect on the Consolidated Revenue Fund, the Chair ruled that a bill that reduces certain fees payable by the State does not commit public funds. While recognizing that such a reduction could have an incidence on the State's revenues, the Chair was of the opinion that the incidence was indirect and approximate. By the same token, the Chair 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 Chair that the reduction of certain fees payable by the State as

13. JD, June 5, 1995, pp. 3429–3430 (Roger Bertrand)/*RDPP*, no. 233/4. Using those criteria, the Chair 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 Finance Minister's budget speech, tax credits could be granted for investments in the Fonds de développement. The President stated that the Chair 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, neither was it 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 Chair'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 budget 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 ensure 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)).

the result of a bill passed in the Assembly does not free a debtor from an obligation toward the State.[14]

14.2 TYPES OF BILLS

In addition to restricting legislative initiative, parliamentary law imposes procedural constraints on 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.[15] In addition, section 31 of the *Act respecting the National Assembly* states that the enacting formula is to read: "The Parliament of Québec enacts as follows:". However, the main procedural requirement for the content of bills is determined by the type of bill presented. The Standing Orders recognize two types of bills: public bills and private bills. A public bill 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 for the interest of a particular person or locality (S.O. 264, 1st par.).

In theory, a bill containing provisions that in essence characterize a private bill cannot be introduced as a public bill and vice versa.[16] In practice,

14. JD, December 8, 1999, pp. 4135–4136 (Jean-Pierre Charbonneau)/*RDPP*, no. 233/6. The Chair ruled that the principle of the financial initiative of the Crown 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 Chair deemed that a bill that created a refundable tax credit did not constitute 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).
15. For the Supreme Court, this means that laws must be enacted in both languages (*Québec* (*Attorney General*) *v. Blaikie*, [1979] 2 S.C.R. 1016 at 1022); *Re Manitoba Language Rights*, [1985] 1 S.C.R. 721). 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 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). See Chapter 8, Section 8.2, "Bills and Statutes".
16. A bill introduced as a private bill cannot be passed as a public bill. Similarly, a bill introduced as a public bill cannot be passed as a private bill (Geoffrion, 1941, S.O. 594(3)). In the comments

it is not always easy to distinguish between the two types of bills.[17] Laws affecting specific municipalities or large groups have been introduced and adopted in the National Assembly as private Members' public bills.[18] In any case, to date, the President of the National Assembly has not had to rule on the matter.

Over and above 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 in which they are brought in and the way in which 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 can only be introduced by a single Member or a single minister.[19]

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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.

17. "The distinction between public and private bills has been generally defined, but considerable difficulties often arise in determining to which description particular bills properly belong." (May, *Treatise*, 23rd ed., p. 969).

18. For example, during the 1st Session of the 36th Legislature, the following bills were adopted as public bills: Bill 195, *An Act to amend the Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi*, introduced by the Member for Sainte-Marie–Saint-Jacques on May 13, 1999 and assented to on November 4, 1999; Bill 196, *An Act respecting the pension plan of the non-teaching staff of the Commission des écoles catholiques de Montréal*, introduced by the Member for Sainte-Marie–Saint-Jacques on May 13, 1999 and assented to on November 4, 1999; Bill 197, *An Act respecting the practice of the sport of hockey by young players of the municipality of Saint-Ignace-de-Stanbridge*, introduced by the Member for Brome-Missisquoi on November 14, 2000 and assented to on December 20, 2000. During the 2nd Session of the 36th Legislature, the following bills were adopted as public bills: Bill 199, *An Act respecting Ville de Léry*, introduced by the Member for Châteauguay on April 30, 2002 and assented to on May 2, 2002; Bill 391, *An Act concerning a landing facilities project in the port of Chandler*, introduced by the Member for Gaspé on November 5, 2002 and assented to on November 7, 2002; Bill 392, *An Act to secure the supply of hogs to a slaughterhouse enterprise in the Abitibi-Témiscamingue region*, introduced by the Member for Abitibi-Est on November 6, 2002 and assented to on December 13, 2002; and Bill 393, *An Act respecting the Agence de développement de Ferme-Neuve*, introduced by the Member for Labelle on November 7, 2002 and assented to on December 19, 2002.

19. JD, December 19, 1980, p. 1204 (Claude Vaillancourt)/*RDPP*, no. 232/1. However, on December 15, 1999, with the consent of the Members to depart from Standing Order 185, the Assembly adopted 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

Again according to custom, bills introduced in the Assembly by a minister are numbered from 1 through 189 and 400 upwards, 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 on the Order Paper under the heading "Private Members' Public Bills".[20]

If a bill is introduced by a Member who subsequently becomes a minister, the change of status has no impact on the legislative process. The Chair of the Assembly has already specified that it 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. It must only evaluate whether the introduction and consideration of the bill comply with the legislative rules of parliamentary procedure.[21] In addition, the Chair 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 (S.O. 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 (S.O. 263).

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that was jointly introduced 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 brought before the Assembly. On March 29, 2001, with the consent to depart from Standing Order 193, the Assembly adopted a motion allowing the bill to be introduced by two Members. The motion of the Government House Leader read as follows:
"THAT, notwithstanding the usages of this Assembly and the economy of the Standing Orders, which prohibit the introduction of a bill by more than one Member, the Member for Acadie and the Member for Crémazie be granted leave to jointly introduce a bill entitled *Loi proclamant le Jour commémoratif du génocide arménien, An Act to proclaim the Armenian Genocide Memorial Day*;
THAT, notwithstanding the provisions of Standing Order 193, the President of the Assembly be authorized to place the notice for the introduction of the aforementioned bill on the Order Paper;
THAT all of the provisions of the Standing Orders which may apply to a Member presenting a bill be applicable to both the Member for Acadie and the Member for Crémazie;
THAT any incompatible provision of the Standing Orders be interpreted in such manner so as to enable the aforementioned bill to pass all of the stages of the legislative process."
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 (VP, November 20, 2002, p. 7670). Bills 191 and 394 died on the Order Paper when the 36th Legislature was dissolved.

20. For more information on the numbering of bills, see Chapter 8, Section 8.2, "Bills and Statutes".
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.

14.2.2 Private Bills

Unlike public bills, which are of public and general interest, private bills deal with specific or local interests. Bills are considered private when they are designed to obtain for an individual, a body or a locality either exclusive or special rights or privileges, or the ability to do something that could infringe on the rights, privileges or property of another person, or when they deal specifically with the interests of a locality or a group of citizens.[23]

That is why private bills do not in principle stem from a government or parliamentary initiative, but rather from what might be termed an "outside" or "private" initiative—the initiative in fact of the people directly interested in the bill. However, even if a private bill does not directly concern the general public, the National Assembly must consider the interests of third parties, that is, anyone who could be affected by the adoption of the bill. As a result, the rules of procedure of the National Assembly stipulate that anyone who requests the adoption of a private bill, i.e. its promoter, must have a notice of introduction of the bill published in the *Gazette officielle du Québec* and in a newspaper in the promoter'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 (R.C.P. 36 and 37). The Law Clerk must give the President a report stating whether the notice was published as required (R.C.P. 38). The President then sends a copy of the report to the Government House Leader and the Member who has agreed to introduce the bill (R.C.P. 38).

23. Geoffrion 1941, S.O. 594(1). According to standard practice, if a Member becomes minister while a private bill that he or she has introduced is still being studied at the Assembly, the name of another Member is substituted as the bill sponsor. On March 8, 2006, the deputy Government House Leader moved a motion that the name of the Member for Bellechasse be substituted for that of the Member for Frontenac as sponsor of Bill 220, *An Act respecting Ville de Thetford Mines* (VP, March 8, 2005, pp. 1270–1272).

Notice in the *Gazette officielle du Québec*

Projet de loi d'intérêt privé,
Avis de présentation d'un...

Régie intermunicipale du secteur nord
de Lac-Saint-Jean-Est

Avis est, par la présente, donné que la Régie intermunicipale du secteur nord de Lac-Saint-Jean-Est présentera devant le Parlement du Québec, un projet de loi d'intérêt privé ayant notamment pour objet de lui permettre d'exploiter les biogaz non utilisés provenant du site d'enfouissement de l'Ascension dans le but de fournir en énergie les entreprises qui sont établies ou qui s'établiront dans son parc industriel.

Toute personne qui a des motifs d'intervenir sur ce projet de loi d'intérêt privé doit en informer le directeur de la législation de l'Assemblée nationale du Québec.

Alma, le 19 janvier 2011

Les procureurs de la Régie intermunicipale
du secteur nord de Lac-Saint-Jean-Est,
LAROUCHE LALANCETTE PILOTE HUDON, S.E.N.C.R.L.

par : JEAN HUDON, *avocat*

Notice of introduction of a private bill published in the *Gazette officielle du Québec*

Any Member of the National Assembly may sponsor a private bill (ANA, s. 30; S.O. 264). However, it is parliamentary custom that ministers do not initiate or promote private bill legislation.[24] Nevertheless, in practice, a minister whose area of responsibility is affected by the subject of the bill is soon 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 always states that the minister concerned will sit on the committee.

The sponsor of a private bill is not answerable for its content and does not necessarily endorse its provisions (R.C.P. 33). The Member's role is, in fact, limited to submitting the bill to the Law Clerk (R.C.P. 33),[25] and then introducing it in the Assembly. The Member may also participate in the work of the standing committee, since a bill's sponsor is automatically a member

24. Beauchesne, p. 287.
25. The bill must be accompanied by a notice stating the name of the Member introducing the bill, a copy of each document mentioned in the bill and any other relevant document. In the case of a bill relating to a municipal corporation governed by the *Cities and Towns Act*, the *Municipal Code of Québec* or a special charter, the bill must also be accompanied by a certified copy of the resolution authorizing its introduction (R.C.P. s. 34).

of the committee responsible for the clause-by-clause consideration (S.O. 125). However, as mentioned above, 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 required (S.O. 266).

14.3 LEGISLATIVE PROCEDURE

There are five essential stages in the consideration of a bill by the National Assembly: introduction, passage in principle, committee stage, report stage and passage (S.O. 229). Each stage ends with a vote by the Members and must be held at a separate sitting. Nevertheless, a bill may be adopted in principle and considered in committee during the same sitting and, if the clause-by-clause consideration is entrusted to the Committee of the Whole, the report may be adopted without waiting for the next sitting (S.O. 230).[26] A question of privilege raised regarding a bill does not prevent the bill from being introduced[27] or the legislative process from running its course,[28] even if the President deems the question admissible.

Although every bill goes through the same stages, the procedure may vary, depending on whether it is a private or a public 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. The bill may be introduced the next day. The Member must send a copy of the bill to the President one hour before Routine Proceedings begin (S.O. 232).[29]

26. See Chapter 17, "Committees of the Whole".
27. JD, June 2, 2010, pp. 7004–7005 (Yvon Vallières)/*RDPP*, no. 67/58. However, the Chair once asked a minister to postpone the introduction of two bills so that the Members could be apprised of its ruling on a question of privilege concerning the bills before deciding whether to take the bills under consideration (JD, November 14, 2007, pp. 2008–2010 (Michel Bissonnet)/*RDPP*, no. 67/56).
28. 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.
29. This provision allows the President to become acquainted with 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). Similarly, the President has already used this provision to rule on a question of privilege against a minister accused of

Notice on the Order Paper

Part 6

NOTICES

I. NOTICES PREVIOUSLY GIVEN

Government Bills

Private Members' Bills

(a) 12 May 2004
An Act to amend the Labour Code – *Member for Rivière-du-Loup*.

Private Bills

Interpellations

(b) 21 October 2003
Interpellation by the Member for Lotbinière to the Minister of Health and Social Services on the following subject: *Québec's health system*.

(c) 21 October 2003
Interpellation by the Member for Chutes-de-la-Chaudière to the Minister of Finance on the following subject: *Government-owned Loto-Québec*.

(d) 21 October 2003
Interpellation by the Member for Beauce-Nord to the Minister for Regional Development and Tourism on the following subject: *The development of regions*.

(e) 21 October 2003
Interpellation by the Member for Rivière-du-Loup to the Premier on the following subject: *Québec's relations with the Federal Government*.

II. NOTICES APPEARING FOR THE FIRST TIME

(aa) An Act to facilitate organ donation – *Member for Viau*.

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Notice of a bill on the Order Paper

While a bill is on the Order Paper, it can be withdrawn upon a simple oral request to the President or upon a written request to the Secretary General of the Assembly (S.O. 195, 2nd par.).[30] Although no decision has been rendered in the matter, a precedent indicates that once a bill has passed one or more stages in its consideration, a motion to rescind the order adopted at each stage is required to withdraw the bill from the *Order Paper and Notices*.[31]

unveiling a bill before its introduction in the National Assembly (JD, November 15, 2006, pp. 3324–3325 (Michel Bissonnet)/*RDPP*, no. 67/55).

30. JD, November 26, 1992, p. 3851 (Jean-Pierre Saintonge)/*RDPP*, no. 195/3.
31. VP, June 14, 2002, p. 1238.

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. Since this is not a legislative bill but a simple government document, it is not part of the legislative process. Consequently, no notice is entered on the Order Paper, and the draft bill is presented during the presentation of papers under Routine Proceedings, not during the introduction of bills.

14.3.1.1 Introduction

The first stage in the consideration of a bill is its introduction (S.O. 229), referred to as the First Reading in the former Standing Orders. It takes place during Routine Proceedings. A 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 (S.O. 233).[32]

Standing Order 233 does not give the Chair the power to verify whether the explanatory notes effectively summarize the purpose of a bill. It is not up to the Chair to check the explanatory notes against the content of a bill any more than it is up to the Chair rather than the Assembly to decide on the veracity of a motion. Instead, the Chair must presume that the purpose of the bill is in effect set out in those notes.[33] Once the explanatory notes have been read, the Chair asks the Assembly if it agrees to consider the bill. The motion is decided without debate (S.O. 234).

14.3.1.2 Referral for Consultation

Immediately after the Assembly agrees to consider a bill, the Government House Leader may make a motion without notice to send the bill to committee so that the persons and organizations who wish to make their views known may be consulted (S.O. 235). The motion may provide for a general consultation or for special consultations. This motion is also decided without debate, unless it sets aside the rules on special consultations, that is,

32. Nowhere do the Standing Orders state the consequences of failing to comply with Standing Order 233. It is therefore up to the Chair to rule on the matter. In 1997, the Chair 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 contained reasons and arguments, the Chair asked the Minister to change them (JD, May 15, 2001, p. 1204 (Jean-Pierre Charbonneau)).
33. JD, December 16, 1993, pp. 9837–9838 (Jean-Pierre Saintonge)/*RDPP*, no. 233/3.

Standing Orders 170 to 173, under which the committee determines the terms of consultation (choice of organizations, date and length of hearings, etc.),[34] in which case the motion is subject to a one-hour debate, which is held immediately afterward. When the committee has finished the consultations it was mandated to hold, it reports to the Assembly (S.O. 174). There is no vote on the report.

Standing Order 235 applies only to the introduction stage. However, 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 the provisions relating to special or general consultations do not confine the Assembly's power of referral for consultation to the period following the introduction of a bill. Standing Order 146 allows the Assembly to refer any matter to committee for examination. A motion must therefore be moved under Standing Order 146 to hold consultations on a bill at the passage-in-principle stage or at another stage of study. Notice of any such motion by the Government House Leader must first be given in the *Order Paper and Notices*.[35] The motion cannot be amended, but can be discussed in a limited debate for up to one hour (S.O. 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 (S.O. 84.1). In such cases, the motion is often adopted without debate, having been the subject of negotiations among the parliamentary groups and independent Members beforehand.

In addition to a motion by the Government House Leader, Standing Order 146 also provides that a matter may be referred to a committee following a motion by an opposition Member at a Wednesday meeting, during the period reserved for business standing in the name of Members in opposition. Apart from this exception, only the Government House Leader (or the deputy Government House Leader or a minister) may make a motion to hold a general consultation or special consultations, whether the motion is under Standing Order 146 or Standing Order 235. The Chair does not rule on decisions made in the exercise of this authority.[36]

While parliamentary jurisprudence recognizes that Standing Order 146 may be invoked to hold consultations on a bill at any stage in the legislative process, jurisprudence has also established that consultation mandates must be processed the same way, whether they are referred under Standing Order

34. JD, November 15, 2000, pp. 7898–7899 (Jean-Pierre Charbonneau)/*RDPP*, no. 235/1.
35. JD, May 23, 2001, p. 1421 (Jean-Pierre Charbonneau)/*RDPP*, no. 235/2.
36. JD, November 9, 2006, p. 3240 (Diane Leblanc)/*RDPP*, no. 235/3.

235 or Standing Order 146. Standing Order 235 provides that the Assembly may give a committee a mandate to hold consultations and, under Standing Order 236, the committee report must be tabled before the bill examination process can continue. In the same vein, bills may be referred for consultation under Standing Order 146 and, under Standing Order 174, a committee must table a report upon concluding its consideration of any matter. As a result, the Chair has ruled that the examination of a bill cannot proceed before the tabling of the committee consultation report.[37]

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 (S.O. 229) and cannot take place during the sitting day on which the bill was introduced (S.O. 230).

The debate on the passage in principle of a bill is entered in the Orders of the Day for the sitting following either its introduction or the tabling of the committee report following consultations (S.O. 236).[38] However, it may begin no earlier than one week after the bill is introduced (S.O. 237), in order to give the Members sufficient time to prepare and thus ensure the quality of the work done in Parliament.[39] There are two exceptions to this rule, however, to avoid paralyzing parliamentary business. First of all, the first week of the sitting periods in February and September and during extraordinary sittings, the rule is not applied (S.O. 237, par. 2). The term "week" has been interpreted to mean a period of seven consecutive days, no matter what the first day. As a result, a debate on the principle of any bill introduced during the first week of parliamentary business in February or September may be held during that same week and on the following Tuesday, as long as the required interval between the other stages of examination of the bill is complied with (S.O. 230).[40] Secondly, if the bill is referred to committee for consultation and the committee's report recommends that it be reprinted, the debate

37. JD, June 1, 2006, pp. 2008–2009 (Diane Leblanc)/*RDPP*, no. 147/3.
38. JD, December 2, 1996, pp. 3544–3545 (Claude Pinard)/*RDPP*, no. 236/1.
39. JD, March 21, 1991, pp. 7163–7164 (Roger Lefebvre)/*RDPP*, no. 237/1.
40. 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 adoption 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 article 8 of the *Code of Civil Procedure*, which states that in the computing of any time limit, the day on which the period starts is not counted, but the day on which it ends is.

cannot begin until the third sitting following the one at which the reprinted text is tabled (S.O. 238).[41]

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, unless at least five Members object (S.O. 242). Needless to say, such a motion may not be made once the debate on passage in principle has begun. Moreover, the President 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 to achieving its purpose (S.O. 239). In other words, the general relevance rule stated in Standing Order 211 does not apply here.[42] 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 has the floor.[43] 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.[44]

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

41. The minister who introduced a bill may also move that it be reprinted (S.O. 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). In neither case must the bill be reintroduced, 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).
42. See Chapter 13, "Rules of Parliamentary Debate and Distribution of Debating Time".
43. JD, June 4, 1986, pp. 2226– 2227 (Jean-Pierre Saintonge)/*RDPP*, no. 239/4.
44. JD, November 17, 2005, pp. 10274–10275 (William Cusano)/*RDPP*, no. 211/5. The rule on relevance in debate is interpreted even more broadly upon passage in principle of a bill following a budget speech, since the Chair cannot always link the Member's comments to the content of the bill, which is often sweeping in scope. Nonetheless, the Chair must ensure that digressions are not unwarranted and that they have to do with budget-related matters.

once, except the mover, who has a right of reply (S.O. 239 and 209). When no one else wishes to take the floor, the Chair puts the motion to a vote.

Hoist Motion

A motion to pass a bill in principle cannot be amended. There is one exception to this rule: a hoist motion, which is in fact an amending motion to defer the passage in principle of a bill for a fixed period. However, in accordance with section 5 of the *Constitution Act, 1982*,[45] 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.[46]

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.[47]

If the hoist motion is declared in order, it is the subject of a limited debate and no subamendment may be made (S.O. 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.[48] In fact, according to a principle of parliamentary law, the mover of such a motion is considered to have spoken to it when the main motion was made.[49]

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. If the motion is deemed admissible and is adopted, each part of the bill referred to in the motion becomes a separate bill. This type of motion may be made only once,[50] unless it is made by a

45. Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 (reprinted in R.S.C. 1985, app. II, no. 44).
46. JD, December 14, 1977, pp. 4750– 4751 (Louise Cuerrier)/*RDPP*, no. 240/2.
47. JD, November 28, 1972, pp. 2799–2800 (Denis Hardy)/*RDPP*, no. 240/1.
48. 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 Chair 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 President cannot oblige anyone to speak to the motion (JD, June 7, 2000, pp. 6676–6677 (Michel Bissonnet)/*RDPP*, no. 240/5).
49. See Chapter 13, "Rules of Parliamentary Debate and Distribution of Debating Time".
50. However, the Chair has accepted a motion to divide a bill from the Official Opposition, as the previous motion had been deemed inadmissible (VP, May 27, 2004, pp. 747–749).

minister.[51] It cannot be amended and it is discussed during a limited debate (S.O. 241). The Chair rules on the admissibility of the motion, after examining the bill to determine whether it contains more than one principle. In addition to the criteria in Standing Order 205 that determine whether a motion to divide a bill is admissible, other criteria establishing whether or not 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 between the essence and the mechanics or procedures of a bill.[52] A principle is an essential element of a bill, whereas the mechanics are simply incidental to that principle.[53] It should not be concluded that a bill contains more than one principle just because it comprises various procedures.[54] 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.[55]

The Chair can also consider other elements. For instance, although the explanatory notes have no legal value in identifying the principles of a bill,[56] they may nevertheless indicate the existence of more than one principle.[57] In one ruling, the Chair found that appending the text of an entire bill to another bill spoke volumes, and pointed out the difficulties of application created by

51. In the vast majority of cases, motions to divide a bill are moved by a Member of the Opposition, but a minister can also move to divide a government bill. On March 23, 2010, Robert Dutil, Minister of Revenue, on behalf of Claude Béchard, 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.
52. JD, December 3, 1990, p. 5612 (Roger Lefebvre)/*RDPP*, no. 241/4.
53. 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).
54. JD, May 21, 1986, pp. 1685–1689 and 1722 (Louise Bégin)/*RDPP*, no. 241/3.
55. JD, December 3, 1992, p. 4152 (Roger Lefebvre)/*RDPP*, no. 241/5.
56. JD, June 12, 1985, pp. 4532–4540 (Richard Guay)/*RDPP*, no. 241/1.
57. JD, June 1, 1995, pp. 3306–3307 (Raymond Brouillet)/*RDPP*, no. 241/7.

this type of drafting.[58] However, compliance with legislative drafting rules does not ensure that a bill contains only one principle.[59]

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.[60] Furthermore, when determining the principle or principles of a bill, the Chair need not consider the importance given to certain parts of the bill, nor evaluate whether one part of the bill is incidental to another.[61] The Chair should not seek to clarify the legislator's intention, but should simply read the text, without trying to interpret it.[62] That being said, the Chair must necessarily analyze the provisions of the bill to determine whether they contain one or more principles. However, this must be done on the basis of the text itself and not by seeking to determine all the possible consequences of applying the bill once it has been adopted.[63]

A bill that amends a number of laws does not necessarily contain more than one principle. By definition, an omnibus bill amends a number of Acts.[64] To determine whether such a bill may be subject to a motion to divide, the Standing Orders define three categories of principles: a series of amendments that embody one principle that are made to one or more statutes (S.O. 260(1)); a series of amendments to a single statute that embodies only one principle (S.O. 260(2)); for a statute that contains more than one principle, a series of amendments to a part of the statute that embodies a single principle (S.O. 260(3)).

58. JD, May 18, 2011, pp. 2008–2009 (Fatima Houda-Pepin)/*RDPP*, no. 241/23. In this particular case, the motion was intended to divide into two separate bills 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*. 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 budgetary policy adopted by the Assembly. The Chair rejected that argument, ruling that it could not be used to determine whether or not the motion was receivable and that it was not imperative that all the measures announced in the budget speech be included in a single bill.
59. JD, June 12, 1985, pp. 4532–4540 (Richard Guay)/*RDPP*, no. 241/1.
60. JD, December 11, 2007, pp. 2513–2514 (Fatima Houda-Pepin)/*RDPP*, no. 241/22.
61. JD, June 3, 1998, pp. 11650–11651 (Claude Pinard)/*RDPP*, no. 241/11.
62. JD, December 11, 1997, p. 9417 (Claude Pinard)/*RDPP*, no. 241/10; JD, May 18, 2011, pp. 2008–2009 (Fatima Houda-Pepin)/*RDPP*, no. 241/23.
63. 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.
64. 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 (S.O. 258 and 259).

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 whole,[65] independent from the rest.[66] If a motion to divide a bill does not satisfy all these conditions, the Chair 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.[67] The Chair cannot make changes to the substance of a bill. Changes must be limited to form, in accordance with Standing Order 193, and the modification of certain sections referred to in a motion to divide is not a correction of form.[68] 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.[69] It is nonetheless possible to cut some words from a section provided that they are transposed integrally into the other bill.[70]

The Chair must determine the admissibility of the motion to divide on the sole basis of the contents of the motion.[71] It is not the Chair'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 resulting bills are clear.[72]

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.[73] It has on several occasions been recognized that a section relating to the coming

65. JD, June 9, 1986, pp. 2242–2243 (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, May 26, 2004, p. 4647 (François Gendron)/*RDPP*, no. 241/15; JD, December 11, 2007, pp. 2513–2514 (Fatima Houda-Pepin)/*RDPP*, no. 241/22.
66. 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.
67. JD, June 3, 1998, pp. 11650–11651 (Claude Pinard)/*RDPP*, no. 241/11.
68. JD, May 27, 2004, pp. 4743–4744 (François Gendron)/*RDPP*, no. 241/17.
69. JD, December 9, 2005, p. 10933 (Diane Leblanc)/*RDPP*, no. 241/19. 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).
70. JD, June 5, 2006, pp. 2112–2113 (François Gendron)/*RDPP*, no. 241/20.
71. JD, May 27, 2004, pp. 4733–4734 (François Gendron)/*RDPP*, no. 241/16.
72. JD, November 7, 2006, pp. 3133–3134 (François Gendron)/*RDPP*, no. 241/21.
73. JD, November 29, 2000, p. 8259 (Raymond Brouillet)/*RDPP*, no. 241/13.

into force of a bill can be included in two or more bills resulting from a division,[74] provided that it does not refer to provisions contained in only one of them.[75]

If a motion to divide is declared in order by the Chair, 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 follows.[76] Nor may the mover speak when the debate resumes on passage in principle, because he or she is deemed to have already spoken to the motion to divide when introducing it during his or her address.[77]

14.3.1.4 Committee Stage

Following 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.[78] This motion is not debated (S.O. 243).

Passage in principle and clause-by-clause consideration may take place during the same sitting (S.O. 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 House Leader (S.O. 147). A committee cannot be convened ahead of time.[79] Consequently, the Government House Leader cannot convene the competent parliamentary committee for

74. 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.
75. JD, May 27, 2004, pp. 4733–4734 (François Gendron)/*RDPP*, no. 241/16.
76. JD, June 7, 1993, pp. 7203–7207 (Michel Bissonnet)/*RDPP*, no. 241/6.
77. JD, May 22, 2001, p. 1371 (Raymond Brouillet)/*RDPP*, no. 241/14.
78. 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 he or she designates for clause-by-clause consideration (S.O. 261). If the bill falls within the area of competence of a single committee, it is sent to that committee following passage in principle (S.O. 262).
79. JD, April 26, 1990, pp. 1889–1897 (Jean-Pierre Saintonge)/*RDPP*, no. 85/2.

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 the Orders of the Day.[80] 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[81] unless, of course, the bill is referred to the Committee of the Whole for clause-by-clause consideration.

The motion to refer a bill to committee only takes effect 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.[82] To determine whether the bill was referred to the right committee, the Chair relies on Standing Order 118, which establishes the areas of competence of the sectorial standing committees.

The committee examines each clause of the bill and discusses the details. Before beginning clause-by-clause consideration, the committee may decide to hold special consultations within the terms of its order of reference (S.O. 244).[83] During the clause-by-clause consideration of the bill, 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 interrupt 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.

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80. JD, May 24, 2000, pp. 6127–6128 (Jean-Pierre Charbonneau)/*RDPP*, no. 147/2.
81. At the time that decision was rendered, Routine Proceedings during regular hours began at 2 p.m. (S.O. 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 (S.O. 52).
82. JD, June 10, 1992, pp. 2119–2122 and 2165–2172 (Jean-Pierre Saintonge)/*RDPP*, no. 243/1.
83. See Chapter 18, "Parliamentary Committees".

The first motion is presented after the Chair has convened the parliamentary group House leaders at the request of the Government House Leader and they have all come to an agreement (S.O. 249). The Government House Leader may make such a request even if the competent committee has not been convened to examine the bill.[84] Before the motion is presented, the Chair informs the Assembly that the House leaders have reached an agreement (S.O. 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 (S.O. 250).

If no agreement is reached, the Chair informs the Assembly to that effect (S.O. 249). The Government House Leader may then introduce a closure motion specifying when the committee must interrupt its proceedings and report to the Assembly (S.O. 251). In essence, the matter is withdrawn from the committee and referred back to the Assembly by means of a report. An exceptional measure available only to the Government House Leader,[85] the motion may be made regardless of the committee's progress. It is 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 (S.O. 209), the Government House Leader is entitled to speak for 10 minutes in reply at the conclusion of the debate (S.O. 251). It should be noted, however, that the closure motion has not been used for a long time.[86] Rather, the Government uses the procedure provided in Standing Order 182 when it wants to put a stop to the proceedings of a committee.[87] The two procedures cannot be used for the same bill. The Standing Orders stipulate that no motion to introduce an exceptional procedure may be made once a closure motion has been carried (S.O. 251, 2nd par.).

The report of a committee following clause-by-clause consideration of a bill is tabled, at the appropriate stage of Routine Proceedings (S.O. 53(3)(b)), by the committee Chair or a committee member named by the Chair (S.O. 61). The report contains the minutes of the proceedings and the text of the bill as adopted by the committee (S.O. 248). Since the content of the report is

84. JD, June 15, 1990, pp. 3447–3448 (Lawrence Cannon)/*RDPP*, no. 249/1.
85. JD, December 12, 1990, pp. 6254–6255 (Jean-Pierre Saintonge)/*RDPP*, no. 251/4.
86. 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.
87. See Chapter 16, "Unanimous Consent and the Motion to Introduce an Exceptional Procedure".

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 (S.O. 248). In this case, the committee Chair makes an oral report to the Assembly once the bill has been fully considered (S.O. 110). The report is then put to the vote without debate and the passage of the bill is set for a subsequent sitting (S.O. 248).[88]

14.3.1.5 Consideration of the Committee's Report

The Assembly may consider a committee's report on a bill at the sitting following the tabling of the report (S.O. 253). Thus, the rule according to which each stage of the examination of a bill must take place at a separate sitting is observed (S.O. 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 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 Chair then decides whether the amendments are in order[89] 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 (S.O. 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 the bill or are equivalent to its rejection; if they concern areas outside the scope of the bill or are unrelated to its subject; if they propose to include in the bill a statute that is no longer in force; or if they render the section under consideration unintelligible or incoherent. Furthermore, amendments are deemed out of order if they are repetitive or handed in after the deadline (S.O. 252). However, amendments rejected in committee may still be considered admissible.[90]

88. See Chapter 17, "Committees of the Whole". Since the report is put to the vote without debate, Standing Order 252, under which a Member has until 10 p.m. on the day of the tabling of the report to hand in any amendments he or she wishes to make, does not apply (JD, December 21, 1988, pp. 4548–4552 (Louise Bégin)/*RDPP*, no. 248/1).
89. See Chapter 12, "The Decision-Making Process".
90. JD, October 19, 2006, pp. 2813–2814 (François Gendron)/*RDPP*, no. 252/2. 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 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 (S.O. 253 and 209).[91] There is no right of reply.[92]

Before the debate is held, the Chair organizes the taking of the vote on the proposed amendments following a meeting with the House leaders (S.O. 253). Once the debate is over, the amendments are put to the vote one after another, in the manner determined by the Chair. The amendments are grouped together to reduce the number of votes to be taken. The amendments adopted are integrated into the report,[93] on which the House then votes (S.O. 254).[94]

If a minister believes a bill should be reprinted, given the amendments made to it, he or she may make a motion without notice to that effect. The motion is decided without debate (S.O. 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, referred to in parliamentary language as the Third Reading, an expression left over from the former Standing Orders. 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 (S.O. 22), except with the unanimous consent of the

91. 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).
92. JD, March 25, 1987, p. 6346 (Jean-Pierre Saintonge)/*RDPP*, no. 253/2.
93. 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).
94. 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).

Members.[95] This provision does not apply to an appropriation bill, which must be introduced and passed during the same sitting (S.O. 263).[96]

Further to a decision in 1992, in the case of government bills, a minister must be present to move the motion for passage of the bill,[97] although another minister may replace the bill's sponsor.

The debate on the motion to pass a bill is limited to the content of the bill and the motion may not be amended (S.O. 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 that Member identifies. This is the last opportunity to make amendments to a legislative text. The motion cannot be amended and a vote is taken immediately after the sponsor gives a brief explanation and the parliamentary groups each make a short comment (S.O. 257). If the motion is carried, the Government House Leader must move that the Assembly resolve itself into a committee of the whole (S.O. 108).

It is up to the Chair 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.[98] In the same vein, the President has ruled that, at the passage stage of a bill, the Committee of the Whole may consider only those amendments received from the bill's sponsor that have been declared in order by the Chair of the Assembly.[99] The Committee of the Whole must limit itself to considering the amendments proposed (S.O. 257, 2nd par.).

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 (S.O. 256).

95. JD, December 16, 1992, pp. 4817–4819 (Roger Lefebvre)/*RDPP*, no. 22/1.
96. JD, May 16, 2001, p. 1273 (Michel Bissonnet)/*RDPP*, no. 288/1.
97. JD, December 16, 1992, pp. 4828–4829 (Jean-Pierre Saintonge)/*RDPP*, no. 35(6)/5. Under that decision, a minister need not be present during the debate on any stage of consideration of a bill.
98. JD, June 14, 1993, pp. 7677–7678 (Roger Lefebvre).
99. JD, June 17, 1996, p. 2403 (Raymond Brouillet)/*RDPP*, no. 257/1.

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 bill[100] and must give the Chair a copy of the bill before the sitting at which it is to be introduced (S.O. 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 (R.C.P. 41).

14.3.2.1 Introduction

Like a public bill, a private bill is introduced at the appropriate time during Routine Proceedings (S.O. 53(2)). The Member who introduces a private bill does not say anything at this stage. Instead, the Chair summarizes the content of the Law Clerk's report and tables it (S.O. 265), then calls a vote on the motion to introduce the bill. 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 (S.O. 267).

14.3.2.2 Consultation of Interested Parties and Clause-by-Clause Consideration

This stage in the examination of a private bill must take place during a separate sitting following the tabling of the bill (S.O. 230). In fact, it can only take place seven days after the bill is introduced, since the interested parties must be convened not less than seven days before the bill is to be considered in committee (R.C.P. 40). The persons convened are those who have already

100. 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 promoter or the promoter'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-Jérome* that had been placed on the Order Paper on May 10, 2006, in the name of the Member for Prévost, was withdrawn at her request (VP, October 17, 2006, p. 498).

informed the Law Clerk of their reasons for wishing to speak to the bill (R.C.P. 39).[101]

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 member named by the Chair (S.O. 61). The report is put to the vote immediately without debate (S.O. 267, 2nd par.). The Chair of the Assembly must therefore ask the Assembly to adopt the committee's report immediately after it has been tabled. This formality moves the bill on to the next stage in the legislative process.

14.3.2.4 Passage in Principle

The motion to pass a private bill in principle is dealt with at a subsequent sitting (S.O. 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 (S.O. 269).[102] In actual fact, debates on the passage in principle of a private bill are not very long, since Members have an opportunity to express their opinions before the competent committee after hearing the promoter of the bill and the other interested parties. The passage in principle of a private bill cannot be deferred, and there can be no motion to divide (S.O. 268).

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. It is passed at the same sitting as that in which it is passed in principle, unless five Members object (S.O. 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 (S.O. 269). The sponsor may move that the bill be referred to the Committee of the Whole so that amendments identified by that Member may be considered (S.O. 268 and 257). The rules set out in Standing Order 257 apply.

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101. See Chapter 19, "Committee Mandates".
102. See Chapter 13, "Rules of Parliamentary Debate and Distribution of Debating Time". According to Standing Order 269, only the sponsor and the leaders of parliamentary groups have 30 minutes to speak to the bill. In a ruling by the Chair, the representative of the Official Opposition therefore has only 10 minutes in which to speak (JD, November 15, 1990, pp. 5105–5106 (Roger Lefebvre)/*RDPP*, no. 269/1).

A private bill deposited with the Law Clerk during a sitting period as defined in Standing Order 19 cannot be passed during that same period (R.C.P. 35). For example, if a bill is deposited with the Law Clerk in October, it cannot be passed until the sitting period beginning in February.

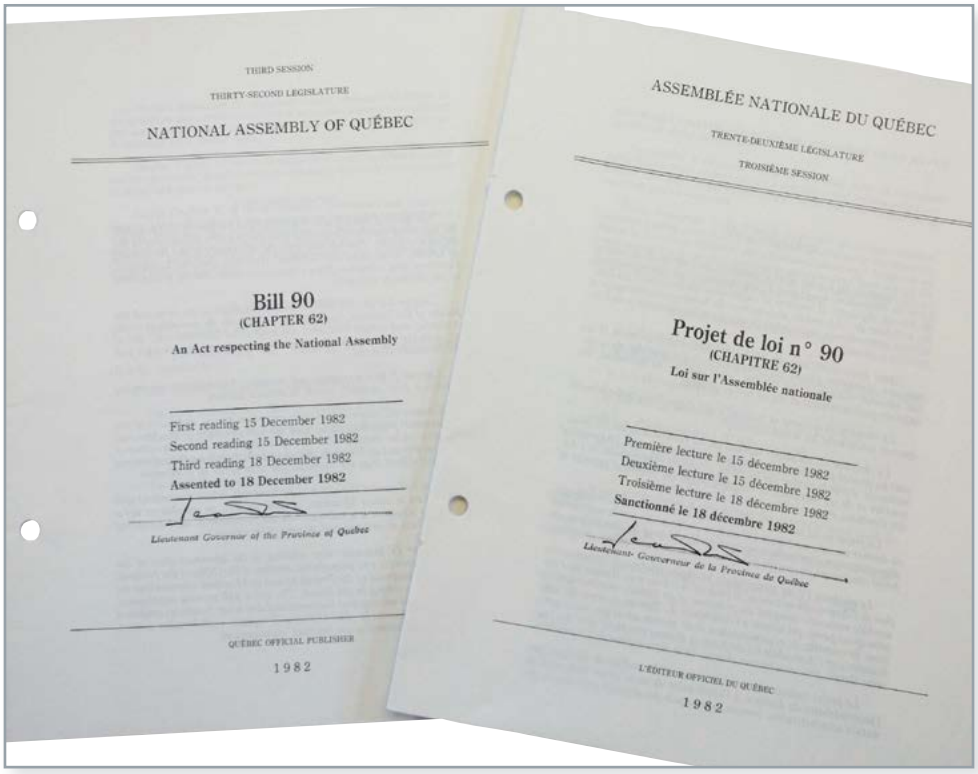
14.3.3 Assent to a Bill

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).[103] The Chair 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*.[104]

Coat of arms of the Lieutenant-Governor of Québec

103. An Act comes into force on the thirtieth day after it is assented to, unless otherwise provided by law (*Interpretation Act*, L.Q., c. I-16, s. 5).

104. 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.



THIRD SESSION

THIRTY-SECOND LEGISLATURE

NATIONAL ASSEMBLY OF QUÉBEC

Bill 90
(CHAPTER 62)
An Act respecting the National Assembly

First reading 15 December 1982
Second reading 15 December 1982
Third reading 18 December 1982
Assented to 18 December 1982

Lieutenant Governor of the Province of Québec

QUÉBEC OFFICIAL PUBLISHER
1982

ASSEMBLÉE NATIONALE DU QUÉBEC

TRENTE-DEUXIÈME LÉGISLATURE

TROISIÈME SESSION

Projet de loi n° 90
(CHAPITRE 62)
Loi sur l'Assemblée nationale

Première lecture le 15 décembre 1982
Deuxième lecture le 15 décembre 1982
Troisième lecture le 18 décembre 1982
Sanctionné le 18 décembre 1982

Lieutenant-Gouverneur de la Province de Québec

L'ÉDITEUR OFFICIEL DU QUÉBEC
1982

Bill assented to by the Lieutenant-Governor

In the absence of the Lieutenant-Governor, the administrator of the province assents to bills.[105] 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 so that the Act may be printed up (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 the annual compilation of statutes to the Lieutenant-Governor and to the Registrar of Québec (ANA,

105. 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."

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 established by the Office of the Assembly (ANA, s. 37, 2nd par.).[106]

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 adopted 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.

106. The Office of the National Assembly establishes by by-law the conditions and procedures for printing, publishing and distributing the statutes, the copies of the annual compilation of the statutes, the bills and other parliamentary documents (ANA, s. 37, 1st par.).

15

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 these 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 obtain funds for the Crown's activities.[2]

The financial initiative of the Crown, that is, the Government, is entrenched in sections 54 and 90 of the *Constitution Act, 1867*,[3] and embodied

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.
3. (U.K.), 30 & 31 Vict., c. 3 (reprinted in R.S.C. 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

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 or motion that has a financial impact—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 Erskine May describes the relationship between Government and Parliament as regards financial matters:

> The Sovereign, being the executive power, is charged with the management of all the revenue of the State, and with all payments for the public service. The Crown, therefore, acting with the advice of its responsible ministers, makes known to the Commons the financial requirements of the government; the Commons, in return, grant such aids or supplies as are required to satisfy these demands; and they provide by taxes, and by the appropriation of other sources of the public income, the ways and means to meet the supplies which they have granted. Thus the Crown demands money, the Commons grant it, and the Lords assent to the grant: but the Commons do not vote money unless it is required by the Crown; nor do they impose or augment taxes, unless such taxation is necessary for the public service, as declared by the Crown through its constitutional advisers.[4]

The budget process as it exists today is the mechanism by which the Government submits its budgetary policy and annual estimated expenditures to the National Assembly for approval and seeks authorization to collect the sums required to cover those expenditures. There are two main stages in the budget process. For every new fiscal year, the Government tables an expenditure budget that sets out annual or supplementary budget estimates. The estimates are the starting point, as it were, of the budget process, while the bills passed by Parliament to make appropriations are its outcome. The Parliament uses two types of legislative authority to grant the Government the power to spend: continuing appropriations and annual appropriations. During the fiscal year, the Government also presents a budget speech in which it broadly outlines its budgetary policy, that is, its financial needs and the means by which it plans to meet them.

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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."

4. May, *Treatise*, 21st ed., p. 684. See Chapter 14, "The Legislative Process".

15.1 APPROPRIATIONS

This section will first look at the consideration and approval of the expenditure budget and then at the presentation of the budget speech and the approval of the Government's budgetary policy by the Assembly.

15.1.1 Continuing Appropriations

Since continuing appropriations are based on legislation, they are not voted annually by the National Assembly:

> Also called "statutory appropriations", continuing appropriations do not have to be voted annually since they have already been authorized on a permanent basis by the Act they serve to apply, which provides for the funds necessary to accomplish the object of the Act to be paid out of the Consolidated Revenue Fund. Such authorization is permanent and without restriction, subject to any legislative and regulatory norms that may govern the payment of the expenditures concerned: salary levels, amount of allowances, etc. Appropriations of this type usually concern activities or charges which the legislator has chosen to make permanent or long-lasting.[5]

The appropriations for the National Assembly are a case in point. Section 126 of the *Act respecting the National Assembly* provides that "the sums required for the carrying out of this Act shall be taken out of the Consolidated Revenue Fund".[6] Although continuing appropriations are not put to a vote each year, the Members are informed, through the expenditure budget tabled before Parliament, of the yearly amounts these appropriations represent, as expressly required under the *Public Administration Act*.[7]

15.1.2 Annual Appropriations

Since not all appropriations are provided for in legislation, the Assembly considers proposed expenditures for which the Government must seek appropriations yearly. These are called "annual estimates" in parliamentary language.

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5. Dussault and Borgeat, *Administrative Law*, vol. 2, p. 314.
6. Under section 125 of the *Act respecting the National Assembly*, L.Q., c. A-23.1, however, budget estimates and supplementary budget estimates for the Assembly are prepared by the President in consultation with the Office of the National Assembly, which must also approve them.
7. Section 47 of the *Public Administration Act*, L.Q., 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."

As the Chair explained in a 2005 ruling, 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 or not it will grant them in an appropriation bill.[8]

A basic rule dictates that no amount may be taken out of the Consolidated Revenue Fund without prior legislative authorization.[9] A few days after handing down the previously cited ruling, the Chair stated that, while the Assembly has no role to play in preparing the budget estimates, it takes centre stage as soon as they are tabled.[10] According to the Chair, 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 the Government, which could likely, at first glance, constitute a contempt of Parliament.[11] Consideration of the budget estimates by the National Assembly is therefore an important exercise in parliamentary oversight. It gives Members the opportunity to scrutinize the various items of the Government's budget programs and question the ministers responsible for their administration.

The annual expenditure budget or annual estimates are normally tabled before April 1, the first day of the new fiscal year,[12] during the portion of

8. JD, March 17, 2005, p. 7180 (Michel Bissonnet)/*RDPP*, no. 279/3; VP, March 17, 2005, p. 1321.
9. This rule is set out in sections 27 and 28 of the *Financial Administration Act*, L.Q., c. A-6.001:
   "**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."
10. JD, March 21, 2005, pp. 7242–7244 (Michel Bissonnet)/*RDPP*, no. 279/4; VP, March 21, 2005, p. 1337.
11. JD, March 21, 2005, p. 7246 (Michel Bissonnet)/*RDPP*, no. 279/5; VP, March 21, 2005, p. 1339.
12. 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".

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*.[13] The usual procedure is for interim supply to be considered and adopted in Committee of the Whole, after which the main estimates are referred to a standing committee for detailed consideration (S.O. 283). The National Assembly then passes an appropriation bill authorizing the Government to draw from the public treasury, up to specified limits (S.O. 263 and 288). In the course of the fiscal year, the Government may also table supplementary estimates which, like interim supply, are considered in Committee of the Whole.

Recommendation of the Lieutenant-Governor

LE LIEUTENANT-GOUVERNEUR DU QUÉBEC

L'honorable Pierre Duchesne

Message
à
l'Assemblée nationale

Le 24 mars 2010

Conformément aux dispositions de l'article 54 de la Loi constitutionnelle de 1867, je transmets et recommande à la considération de l'Assemblée nationale les crédits pour l'année financière se terminant le 31 mars 2011.

13. A royal recommendation is not required, however, for papers of an explanatory nature that do not contain measures referred to in section 54 of the *Constitution Act, 1867* (JD, March 30, 2001, pp. 513–515 (Jean-Pierre Charbonneau)/*RDPP*, no. 279/1).

15.1.2.1 Consideration of Interim Supply

The first step in the consideration of the budget estimates consists in adopting interim supply during a sitting of the Committee of the Whole.[14] As the Government's fiscal year comes to a close, the National Assembly may pass an interim supply bill granting funds to cover a quarter of the main estimates for the new fiscal year. The Standing Orders require that consideration of interim supply be attended to before April 1, the first day of the new fiscal year (S.O. 280), and specify that this business has precedence.[15]

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 before April 1. The Government may then order a special warrant under section 51 of the *Public Administration Act* to cover its current expenses. 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 Government may order that a special warrant be prepared to authorize the outlay of the necessary funds.[16]

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14. See Chapter 17, "Committees of the Whole".
15. The consideration of interim supply became business having precedence under the 2009 parliamentary reform. It now ranks fifth in order of precedence, after the budget speech and the addresses by the parliamentary group leaders or their representatives, but before resumption of the debate on the budget speech (S.O. 87(4.1)). Formerly, consideration of interim supply could be postponed, as various items of business had precedence, including resumption of the debate on the opening speech, resumption of the debate on the budget speech and, of course, want of confidence motions moved by an opposition Member. But now that consideration of interim supply has precedence over these items of business, there is little chance of delay. Subject to higher-ranking business having precedence, interim supply can be considered at any sitting between the time the annual estimates are tabled and April 1, at the date and time specified in the motion without notice made by the Government House Leader setting out the relevant details. Normally, interim supply is considered at the sitting following the one during which the budget speech is presented and preceding the one during which the finance critic for the Official Opposition and any other parliamentary group finance critics are to speak on the budget.
16. 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."

Since special warrants are an exception to the principle of prior legislative authorization,[17] their issue falls under the financial initiative of the Government. That is why, in a 2004 directive,[18] the Chair stated that it did not have the authority to rule on their validity or expediency,[19] but that it did have concerns about anything that could diminish the Assembly's role in the oversight of public expenditures. The Chair cautioned that special warrants are exceptional measures and should not replace the process for considering and adopting estimates described in the Standing Orders, a process that also applies to interim supply. According to the Chair, examining estimates and granting the necessary funds for the proper functioning of the Government is one of the central roles of the Assembly and its Members, and it must be preserved.

17. 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 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 in the House and passed by the Assembly. A form of "after-the-fact" accounting is nonetheless required under section 92 of the *Financial Administration Act*:

    "**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."

18. JD, April 7, 2004, pp. 4044–4045 (Michel Bissonnet)/*RDPP*, no. 279/2; VP, April 7, 2004, pp. 608–609. 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 Chair took under advisement a request from the Official Opposition House Leader for a directive on the validity of such a warrant and its impact on the consideration of the budget estimates by the Assembly. Later in the same sitting, the Assembly, after considering a quarter of the estimates for the fiscal year 2004–2005, passed an appropriation bill that cancelled the February 25 warrant. Even if the Official Opposition House Leader's request thus became moot, the Chair still felt a response was in order because of the importance of the issues it raised.

19. 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 by April 1, 2004. Immediately after the directive was read in the House, the Official Opposition House Leader raised another point of order on 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 Chair acknowledged the fact, but reiterated that it did not have the authority to rule on the legality or expediency of a special warrant or on the reasons cited by the Government to justify its issue (JD, April 23, 2004, pp. 4325–4326 (Michel Bissonnet)).

That being said, as noted by the Chair, the Standing Orders did not require the Assembly to adopt interim supply.[20] Since 1984, there have been two instances in which the budget estimates were referred to the standing committees directly after being tabled, without the Assembly adopting interim supply. In both cases, a general election had just been held and it would have been impossible to adopt interim supply before April 1 since the Assembly had been dissolved.[21]

Even when the Assembly is sitting, the Government may, for one reason or another, wish to postpone the tabling of the annual budget estimates, in which case adopting a quarter of them before April 1 becomes impossible. This is what occurred in 2005, when the Government moved to suspend certain rules of procedure in order to have the Assembly consider and adopt, before April 1, the estimates required to administer the Government from April 1 to June 30, 2005, even though it had not yet tabled its annual budget

20. JD, April 7, 2004, pp. 4044–4045 (Michel Bissonnet)/*RDPP*, no. 279/2. Note that this decision dates back to 2004, that is, several years before the 2009 parliamentary reform, under which the consideration of interim supply became business having precedence.

21. The two instances referred to here occurred in 2003 and 2007. 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 interim supply 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 for $187,000,000 to cover the expenditures to be incurred before the end of the 2002–2003 fiscal year and the second for $3,537,282,700 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 6, 2003, authorizing expenditure in the amount of $3,731,157,400 for the month of May. 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 for $3,791,061,700 or 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, on the Premier's request, the Assembly convened for an extraordinary sitting to hear the Minister of Finance 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 $12,910,701,180 for its administration from April 1, 2007. The Quebec Liberal Party won the general election held on March 26, 2007 and formed a 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. The motion was adopted without debate (VP, May 24, 2007, pp. 72–73).

estimates for the new fiscal year.[22] The Chair 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 adopt or reject the estimates. The Chair acknowledged that the proposed procedure was a departure from standard practice, yet felt it was not its responsibility but rather that of the Assembly to rule on the Government's decision, through the vote on the Government's motion to suspend the rules.[23]

Debate on interim supply in Committee of the Whole may last up to five hours. The debate may focus on interim supply or encompass all the estimates the Government wishes the Assembly to adopt (S.O. 280). The budget programs to be examined and the timetable for debate between Members and the ministers responsible for the administration of the various programs are generally agreed upon beforehand by the parliamentary groups. This agreement is then endorsed by the National Assembly and becomes an order. The Chair has recognized[24] that such a special order takes precedence over any provision of the Standing Orders that it departs from implicitly.[25] For example, if a special order specifies that a debate between a minister and

22. On March 17, 2005, when the Chair of the Conseil du trésor tabled the interim supply for April 1 to June 30, 2005, the Official Opposition House Leader raised a point of order, arguing that the Government could not table 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 the budget estimates for the government departments and bodies in the National Assembly for the purpose of establishing the appropriations required during the fiscal year. The Chair of the Assembly rejected both arguments, stating that the Government has complete latitude 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 Chair went on to explain that its role was to safeguard the Assembly's role and that it was therefore not for the Chair to interpret the law or to rule on or evaluate the document tabled (JD, March 17, 2005, p. 7180 (Michel Bissonnet)/*RDPP*, no. 279/3; VP, March 17, 2005, p. 1321).
23. JD, March 21, 2005, pp. 7242–7244 (Michel Bissonnet)/*RDPP*, no. 279/4. In this case, the budget estimates for the fiscal year ending on March 31, 2006 were tabled on April 21, 2005, the very day of the budget speech. Immediately afterward, the Assembly adopted a motion without notice made by the Government House Leader that the estimates, except those for the National Assembly, be referred to the standing committees (VP, April 21, 2005, pp. 1450–1451).
24. JD, March 3, 1999, pp. 22–23 (Jean-Pierre Charbonneau)/*RDPP*, no. 18/1.
25. Geoffrion 1941, S.O. 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."

the members of the Committee of the Whole is to last two hours, the debate is held for two hours, even if it must continue past the time at which the sitting should normally be suspended or adjourned under the Standing Orders.

The Standing Orders contain no further guidelines as to how consideration of interim supply is to be organized. To determine speaking times for Members and ministers, the President may draw from the rules governing consideration of the main estimates by the standing committees or refer to the rules for the consideration of supplementary estimates.[26] Once the time allocated for debate is up, the Chair of the Committee of the Whole puts a quarter of the main estimates for the new fiscal year to a vote en masse. The Committee of the Whole then reports to the National Assembly, which puts the report and the resulting supply bill to a vote without debate (S.O. 281). With the money thus supplied, the Government is able to meet its obligations until the annual estimates are passed.

15.1.2.2 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 committee for consideration. This motion is made without notice and is not debated (S.O. 281).

Consideration of the main estimates by the standing committees may start no earlier than 15 days after they are tabled (S.O. 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 allotted to the estimates of any one government department (S.O. 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.

During this period, the committees keep the same extended hours as during the last few weeks of a sessional period, and the National Assembly limits its activities to Routine Proceedings (S.O. 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 only Routine Proceedings should not be interpreted to mean that it must meet 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.[27]

26. See Section 15.1.2.5, "Consideration of Supplementary Estimates".
27. JD, June 11, 2003, pp. 257–258 (François Gendron)/*RDPP*, no. 282/3. In this case, a general election was held on April 14, 2003 and the 1st Session of the 37th Legislature opened on

The fact that Orders of the Day are not taken up precludes debates in the House, including debates on business having precedence, such as the opening speech debate,[28] and debates upon adjournment.[29] There may, however, be debates on motions without notice since these come up under Routine Proceedings.

While the Standing Orders are mum on the consideration of interim supply and supplementary estimates, they do address the consideration of the main estimates in committee. Under Standing Order 285, 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.[30] 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 Official 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.

At the same meeting, in keeping with the principle of ministerial accountability, the Government may presumably propose any minister it chooses to defend its estimates. Consequently, "the minister called upon to defend his estimates" referred to in Standing Order 287 is not necessarily the minister responsible for the estimates under consideration but could reasonably be the minister named in the agreement the House leaders made

June 4, 2003. On June 6, the Official Opposition House Leader asked the Chair whether the standing committees could be called to meet in July to consider the budget estimates given that, according to Standing Order 19, the House does not ordinarily meet at that time. Although the question was hypothetical, the Chair felt a response was in order because of the importance of the issues it raised. In a ruling handed down on June 11, the Chair 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 Chair 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 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.

28. JD, April 24, 2001, pp. 1038–1043 (Jean-Pierre Charbonneau)/*RDPP*, no. 282/2. The opening speech debate does not lose its status as business having precedence as defined in the Standing Orders. It must be given precedence as soon as the Assembly may once again take up Orders of the Day, after the consideration of the main estimates has been completed.
29. JD, May 24, 1990, p. 2693 (Jean-Pierre Charbonneau)/*RDPP*, no. 308/2; JD, April 15, 1986, p. 924 (Pierre Lorrain); JD, April 24, 2001, pp. 1038–1039 (Jean-Pierre Charbonneau).
30. In 2007, the President of the Assembly asserted his role under Standing Order 285 to allocate 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, "Committee Mandates".

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 in order to reach agreements on the matter. The committee Chairs must therefore apply the terms of these agreements and consult with the House leaders if any problems arise in doing so.

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 the estimates (S.O. 288). The reason neither a committee nor the National Assembly may increase the 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.

15.1.2.3 Voting of Appropriations by the National Assembly

Once the standing committees have considered the estimates, they submit their reports together to the National Assembly. 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 (S.O. 288).[31] This limited debate falls under business having precedence (S.O. 87(6)) and deals with all the Government's budget estimates and all the committee reports.[32]

After first ruling on want of confidence motions and motions stating a grievance moved during the budget speech debate, as well as on the motion of the Minister of Finance to approve the Government's budgetary policy

31. The estimates have been negatived in committee on two occasions. The first of these occurred on May 9, 1985, when the Committee on Institutions negatived a program. On May 21, 1985, the Assembly adopted a motion introduced by the Government House Leader with the unanimous consent of the Members in order to amend the Committee's report on the estimates to include the negatived program (VP, May 21, 1985, p. 297). The second occasion 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 adopted a motion by the Government House Leader to suspend certain rules of procedure so that the joint report of the committees could be amended on a motion without notice by a minister (VP, May 11, 1989, pp. 806–807). In light of these two occurrences, on November 21, 1991, the Assembly adopted a permanent amendment to Standing Order 288 that allows a minister to propose amendments in order to reinstate budget estimates that were reduced or negatived in committee.

32. JD, June 1, 1984, p. 6616 (Jean-Pierre Jolivet)/*RDPP*, no. 211/1.

(S.O. 288), the Assembly next votes on any amendments to the estimates, then on all the reports together, whether amended or not, and finally on the resulting appropriation bill, which it introduces, passes in principle and passes.[33] An appropriation bill may be introduced without notice and does not require explanatory notes (S.O. 263).

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.[34] These three stages are indivisible and so must take place during the same sitting. That is why Standing Order 22, which prohibits a bill introduced after May 15 or November 15 in a given sessional period from being passed in that same sessional period, does not apply to appropriation bills.[35] Moreover, all these stages are taken without debate and do not qualify as business having precedence, unlike the limited debate on the committee reports.[36]

15.1.2.4 Consideration of the Estimates for the National Assembly

The President of the National Assembly during consideration of the estimates for the Assembly

Once consideration of the estimates for the government departments has been completed, the Committee of the Whole devotes one sitting to considering the estimates for the National Assembly. This sitting has precedence (S.O. 286). As mentioned in section 15.1.1, under section 126 of the *Act*

33. 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 table the bill. Under current procedure, it is the Chair of the Assembly's role to bring the necessary motion before the Assembly for the passage of the bill (JD, December 11, 2003, p. 2548 (Diane Leblanc)/*RDPP*, no. 263/1; VP, December 11, 2003, p. 395).
34. JD, May 17, 2001, p. 1299 (Jean-Pierre Charbonneau)/*RDPP*, no. 288/3.
35. JD, May 16, 2001, p. 1273 (Michel Bissonnet)/*RDPP*, no. 288/1.
36. JD, May 17, 2001, p. 1281 (Raymond Brouillet)/*RDPP*, no. 288/2. In this 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.

respecting the National Assembly, appropriations for the National Assembly are permanent and therefore do not need to be voted each year.[37] They must, however, be approved by the Office of the National Assembly. The meeting of the Committee of the Whole does not lead to a decision,[38] therefore, but is an occasion for Members to question the President on the Assembly's management and the support provided to them by the Assembly's administrative services. It also gives the President the opportunity to communicate information and his or her thoughts on the Assembly's management to the Members.

15.1.2.5 Consideration of Supplementary Estimates

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 have turned out to be greater than anticipated.

Supplementary estimates laid before the National Assembly are considered in Committee of the Whole, on a motion by the Government House Leader moved without notice and decided without debate (S.O. 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 the same amount of time in reply.[39] As is the case with interim supply, certain points 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 Assembly that has precedence over any provision of the Standing Orders that it departs from implicitly.[40]

Unless the National Assembly issues an order specifying which ministers are to speak to the estimates, no particular minister can be required to attend

37. JD, April 30, 1996, p. 526 (Raymond Brouillet)/*RDPP*, no. 286/1.
38. This is probably 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.
39. 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)).
40. JD, December 11, 2003, p. 2547 (Diane Leblanc)/*RDPP*, no. 291/1. See Section 15.1.2.1, "Consideration of Interim Supply".

proceedings to consider supplementary estimates.[41] 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.[42] The minister may be accompanied by public servants, who speak only with the consent of the minister and the Committee of the Whole. Opposition Members may also have advisers on hand.[43]

Consideration of the supplementary estimates in Committee of the Whole may not run more than eight hours (S.O. 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,[44] unless a vote was demanded at the end of a given debate.[45] Now it seems customary for the Chair, where applicable,[46] to put the estimates for a particular program to a vote immediately after they have been discussed. At the end of proceedings, the Chair calls a vote on any estimates not yet addressed.

The Committee of the Whole reports to the Assembly, which votes on the report and on the resulting appropriation bill without debate (S.O. 291). As there is no debate on the report, no motions can be made to amend its contents, despite Standing Order 288, which states that a minister may move an amendment to reinstate estimates that have been reduced or negatived in

41. 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).
42. JD, December 12, 1994, pp. 481–484 (Roger Bertrand)/*RDPP*, no. 290/1.
43. JD, May 24, 2001, pp. 1470–1471 (Raymond Brouillet).
44. 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 were rejected on a standing vote, the Committee of the Whole could not then vote on all the supplementary estimates at the end of proceedings without ending up with two contradictory votes. The detailed consideration of a bill could come up against a similar brick wall, but in a decision handed down in 1999, the Chair of the Committee of the Whole ruled that there was no requirement to vote on all the clauses of a bill after having voted on each of them in turn (JD, June 4, 1999, p. 2258 (Michel Bissonnet)/*RDPP*, no. 244/6; VP, June 4, 1999, p. 351).
45. 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).
46. 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 is normally taken at the end of the discussion on that government department. Moreover, a special order made by the Assembly may set out how the vote is to be held.

committee. As soon as the Committee of the Whole submits its report to the Assembly, the Chair puts it to a vote. If the motion to concur in the report is adopted, the resulting bill must contain all the estimates carried by the Committee of the Whole and omit any that were negatived.[47]

15.2 THE BUDGET SPEECH AND THE BUDGET SPEECH DEBATE

While the budget estimates are the amounts the Government plans to spend in a given fiscal year, the budget speech is a forecast of the Government's financial needs and the resources required to meet those needs. But it is also more than that. Since parliamentary procedure does not dictate what a budget speech must contain, it is often used by the Government as a political vehicle to get certain messages across to the public. In addition to providing an overview of sorts of projected public expenditures and revenues for a given fiscal year, the budget speech is often an opportunity for the Government to announce its budget priorities and its strategies for social and economic development. In certain cases, the measures unveiled in the budget speech are immediately applicable, as explained by 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.[48]

47. 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 the Committee of the Whole had 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; VP, December 11, 2002, p. 1502).
48. Dussault and Borgeat, *Administrative Law*, vol. 2, p. 395. In a 2007 directive, the Chair of the Assembly stated that the introduction of a bill giving effect to the budget speech falls under the Government's initiative and that the Chair may not interfere in the process leading to its introduction. The Chair was answering a question from the House Leader of the

Unlike certain other legislatures, Québec has no law requiring the Government to present a new budget each fiscal year. The Standing Orders, however, require that a budget speech be presented before the budget estimates are passed each fiscal year,[49] strictly for the purpose of parliamentary oversight. That is why the budget speech is usually presented in the spring, at about the same time the annual estimates are tabled. Although the Standing Orders require that a budget speech be presented for each fiscal year, they set no requirements as to when the speech is to be delivered or what it must contain.[50] In other terms, more than one budget speech may be presented for any fiscal year and the content of a budget speech is not limited to a single fiscal year but may cover several.[51]

15.2.1 The Budget Speech

The budget speech and the ensuing debate may last no more than 25 hours. Fifteen of these are for proceedings in the National Assembly, and 10 for proceedings in the Committee on Public Finance. Both the speech and the debate in the National Assembly fall under business having precedence (S.O. 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 National Assembly until the committees have finished their work. It may be presented before or after committee consideration of the estimates[52] but must be presented before the Assembly votes on the committee reports as a

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 (JD, May 25, 2007, pp. 845–847 (Michel Bissonnet)/*RDPP*, no. 271/5).

49. JD, November 7, 2001, pp. 3494–3495 (Jean-Pierre Charbonneau)/*RDPP*, no. 278/1. Under Standing Order 288, the National Assembly may only vote the budget estimates for a fiscal year once it has voted on the motions presented during the budget speech debate and the motion of the Minister of Finance that the Assembly approve the Government's budgetary policy.
50. Ibid.
51. 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 had taken 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 Section 15.2.3, "Supplementary Budget Statements".
52. JD, April 30, 1986, pp. 1035–1036 (Pierre Lorrain)/*RDPP*, no. 282/1.

block and on the resulting appropriation bill (S.O. 288). As seen earlier, 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 it.[53]

After giving the budget speech, the Minister of Finance moves a budget motion, that is, a motion proposing that the Assembly approve the Government's budgetary policy. Standing Order 271 allows the Minister no leeway in the wording of this motion and, as it is always worded the same way, it does not need to be put in writing (S.O. 190).[54] This partly explains why it cannot be amended even though it is a substantive motion.[55] Also, a Member of the National Assembly could not, by way of an amending motion, enjoy more leeway than the Minister of Finance.[56] As the Chair explained in a directive issued in 2007, nothing in the Standing Orders allows Members to move to amend the budget motion. Instead, Standing Order 274 allows Members to move want of confidence motions (and now, in addition, motions stating a grievance). If there had been any intent to provide for motions amending the budget motion, the Standing Orders would not have concurrently authorized another type of motion.[57]

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 under the appropriate item of business during Routine Proceedings. If consent is not given, the budget papers cannot be tabled during the budget speech, but this would not prevent the Minister

53. JD, April 30, 1987, pp. 7010–7016 (Pierre Lorrain)/*RDPP*, no. 271/1.
54. JD, June 3, 1993, pp. 7059–7064 (Jean-Pierre Saintonge)/*RDPP*, no. 271/2.
55. Ibid.
56. Ibid.
57. JD, May 25, 2007, pp. 845–847 (Michel Bissonnet)/*RDPP*, no. 271/5. This directive was rendered in a minority government context. The Chair 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 Chair 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. Following this directive, the Minister of Finance made a statement in the House on June 1, 2007 on the Government's budgetary policy and 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).

of Finance from tabling them at the next sitting during Routine Proceedings. According to the Chair, not tabling the budget papers immediately would in no way affect the procedure set out in the Standing Orders, which only requires that the Minister of Finance conclude the budget speech with the budget motion. 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 or not to give their consent.[58]

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 (S.O. 271). It is customary to prohibit points of order or privilege before[59] and during[60] the budget speech. The Chair may, however, allow a point of order 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,[61] 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.[62] The custom according to which 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 political convention is to prevent anyone from using sensitive confidential information for illicit gain, and its stringent enforcement 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.[63]

58. Ibid.
59. JD, April 30, 1987, pp. 7010–7016 (Pierre Lorrain)/*RDPP*, no. 271/1.
60. JD, June 12, 2003, pp. 330–331 (Michel Bissonnet)/*RDPP*, no. 271/3.
61. Ibid. In another ruling made the same day, the Chair specified that a point of privilege 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; VP, June 12, 2003, p. 54).
62. JD, June 12, 2003, pp. 330–331 (Michel Bissonnet)/*RDPP*, no. 271/3. According to the same ruling, should a minister be linked to an alleged budget leak, paragraph 3 of Standing Order 316 could not be cited as the grounds for raising a point of privilege, as it is reserved for impugning the conduct of a Member of the National Assembly in that capacity, that is, in the performance of his or her parliamentary functions, not his or her ministerial functions. The Chair then concluded that a want of confidence motion seemed to be the only means available to assign blame to a minister for a budget leak.
63. Ibid. On this matter, the Speaker of the Legislative Assembly of Ontario found the presentation of the budget outside the House 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

15.2.2 The Budget Speech Debate

The budget speech debate begins at the second sitting after the presentation of the budget speech (S.O. 273). The two days are meant to give opposition Members the 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 (S.O. 272 and 87). Committee proceedings are suspended during the budget speech and during the speeches by the representatives of the opposition groups (S.O. 87).

The debate unfolds in three stages: the first 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 of no more than 13½ hours, including the budget speech itself. Once the representative of the Official Opposition has spoken, the President confers with the House leaders of the parliamentary groups, then divides the remaining time allocated for the limited debate among the parliamentary groups, with due regard for independent Members (S.O. 210). Each Member may speak only once but is free to speak on any topic. While speaking, a Member may move a want of confidence motion or a motion stating a grievance. Such motions require no prior notice and may not be amended (S.O. 274).

When no more Members wish to speak or 13½ hours have been spent on the matter, including the budget speech, the debate is suspended in the National Assembly and resumed in the Committee on Public Finance not later than at the next sitting (S.O. 275).[64] 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 very points (S.O. 292).

The committee Chair reports to the Assembly during Routine Proceedings at the next sitting after the conclusion of the debate in committee (S.O. 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 and a one-hour reply by the Minister of Finance. Once the debate is over, the President puts the question on motions stating a grievance and

the people of Ontario" (Legislative Assembly of Ontario, *Official Report of Debates* (Hansard), May 8, 2003, pp. 230–234).

64. See Chapter 19, "Committee Mandates".

want of confidence motions moved by the Members during the debate in the Assembly and on the motion moved by the Minister of Finance for the approval of the Government's budgetary policy (S.O. 277).

15.2.3 Supplementary Budget Statements

Besides the budget speech, another vehicle the Government may use to submit its budgetary policy to the Assembly is the supplementary statement on the budget provided for in Standing Order 278.

As its name indicates, a supplementary budget statement supplements a budget speech for a given fiscal year. The fact that the Government may make a supplementary budget statement does not rule out its 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.[65]

The rules that apply to the budget speech and the ensuing debate also apply to a supplementary budget statement,[66] except that the time allocated for the statement and the debate is 12½ hours, and the speaking time available to the Minister of Finance and the opposition finance critics is cut by half (S.O. 278).

65. 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 House Leader of the Official Opposition argued that, as the latter budget pertained to the state of the economy in 2001–2002 and its impact on public finance, as well as to 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 12½-hour debate. The Chair 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 him to determine whether part of a budget speech should have been delivered as a supplementary statement.
66. As is the case for the budget speech, a supplementary budget statement and the ensuing debate are considered to be business having precedence. Committee proceedings are suspended during the statement by the Minister of Finance and during the speeches by the representatives of the opposition groups. The debate begins at the second sitting after the supplementary statement with a speech by the representative of the Official Opposition.

16

Unanimous Consent and the Motion to Introduce an Exceptional Procedure

As the presiding officer of the National Assembly, the Chair 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. In order to do this, the Chair's primary role is to apply and interpret the rules governing procedure in the Assembly.

The sources of Assembly procedure are, in 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, precedents and usage in the Assembly.[1]

Although certain rules of procedure are established by law, the majority are 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, it may disregard them by unanimous consent, by a special order or by a motion to introduce an exceptional procedure (S.O. 182 to 184.2).

1. See Chapter 2, "The Foundations of Parliamentary Procedure".

16.1 UNANIMOUS CONSENT

The rules of procedure contained in the Standing Orders and the Rules for the Conduct of Proceedings constitute, in parliamentary terms, permanent orders of the Assembly. This means that, unless the Assembly indicates otherwise, these rules automatically apply and must be enforced by the Chair, although, as mentioned previously, the Assembly can disregard its own rules by unanimous consent since, while the rules of procedure are essential to the proper functioning of the Assembly, ensuring a balance between parliamentary oversight and the will of the Government to have its proposals adopted, the Members may decide in certain cases to temporarily adopt a new procedure to deal with a particular situation for which the established rules of procedure seem inadequate. All that is required is unanimous consent.

Unanimous consent is an integral part of parliamentary practice that may be used to facilitate and accelerate parliamentary proceedings. Despite its important function, however, there is little jurisprudence on this mechanism, since measures taken in the House by unanimous consent apply exclusively to the immediate situation and do not constitute parliamentary precedents.

Unanimous consent can be seen as a quick way to modify an existing order while the Assembly is sitting. Normally, this would require a notice of motion and then a debate before the question is put. By consenting to proceed differently, all Members present agree to forgo the notice and the debate, and adopt a rule that applies only to the situation at hand.

16.1.1 Use of Unanimous Consent

When the Assembly wishes to override certain rules of procedure by unanimous consent, the Chair must ensure that at the time the request is made all Members agree to it. It is an accepted fact that only the consent of the Members present is required.[2] 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 be binding on the Assembly, since those conditions must be known and consented to by every Member present.[3]

A request for unanimous consent may be made to deal with a current or a future situation. Moreover, it is important that consent be requested for a

2. JD, May 13, 1987, pp. 7562–7564 (Pierre Lorrain)/*RDPP*, no. 223/3.
3. 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.

specific purpose so that its scope may be easily evaluated after the fact. This makes it possible to determine the period covered by the consent, which often corresponds to the time required to examine the matter for which consent was requested, but may be shorter[4] or longer. [5]

Since, by definition, 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.

While unanimous consent allows the Assembly to override any rule of procedure (within certain limits discussed in Section 16.1.4), there is only one Standing Order that deals explicitly with requests for unanimous consent in the Chamber. Standing Order 84.1 allows the Assembly to debate a motion by unanimous consent, even without the prior notice on the Order Paper required under Standing Order 188. The Standing Orders and the Rules for the Conduct of Proceedings also include three provisions governing unanimous consent in committee, which will be addressed in Section 16.1.5.

Unanimous consent is undeniably a well-established practice in Québec political life, since it is used at almost every sitting of the National Assembly. The sittings leading up to the summer and winter adjournments are characterized by considerable effervescence and, without unanimous consent, a large number of bills would not be passed.[6]

4. By way of illustration, in committee, consent may be given for a specific occasion, for the duration of a sitting or for the duration of a mandate. The Chair of a committee 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 concerned wanted the public servant to speak (JD, November 22, 2000, CAT-60 p. 14 (Yvon Vallières)/*RDPP* (Com. Vol.), no. 246/4).
5. 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 derogate from 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).
6. In legislative matters, the most frequent reasons for derogations are the introduction of a bill without proper notice (S.O. 232), the passage of a bill introduced after the deadline (S.O. 22), and the completion of several stages of the consideration of a bill in one sitting (S.O. 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 (S.O. 59), the tabling of a committee's report outside the time reserved for it under Standing Orders 53 and 61, and the continuing of a sitting beyond the time set for suspension or adjournment (S.O. 20 and 21).

16.1.2 Special Order of the Assembly

In certain cases, the Members of the Assembly wish to take the additional step of replacing certain permanent orders of the Assembly by temporary orders applicable during the examination of a particular matter.[7] A special order can also be used to establish a new procedure that is not provided for in the permanent rules of procedure.

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 also required 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 special order of the Assembly has priority over the permanent order that it departs from implicitly.[8] If no Member demanded a consent vote when it was required, the Assembly must live with the consequences once the special order is adopted, and accept the precedence of the rules it contains.

16.1.3 Withdrawal of Unanimous Consent

The question arises as to whether a Member who was present when a request for consent was made may withdraw that consent, or whether a Member who joins in the deliberations in the House after consent is given may object to overriding the Standing Orders. As explained earlier, the Chair must ensure that all Members present when the request is made give their consent, and the consent must be specific enough for its scope to be defined. Consequently, it should not be possible to withdraw one's consent simply because the debate is not going to one's liking.[9] When the Assembly is asked to give its consent, each Member present must evaluate the consequences. Unless unanimous consent is again obtained to go back on the decision, the consent remains valid for the purposes for which it was given.

7. One of the best examples of a special order occurs during the consideration of interim supply or supplementary estimates when, more often than not, an agreement is made between the Government and the opposition Members on how consideration of the estimates is to be organized. The agreement is then approved by the Assembly on a motion by the Government House Leader, thereby becoming a special order having precedence over any other Standing Order, especially with respect to the Assembly's schedule.
8. JD, May 15, 1996, pp. 1104–1105 (Jean-Pierre Charbonneau)/*RDPP,* no. 308/6; JD, March 3, 1999, pp. 22–23 (Jean-Pierre Charbonneau)/*RDPP,* no. 18/1.
9. "Once granted, leave cannot be withdrawn": Harris, *House of Representatives Practice*, p. 487.

16.1.4 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 could limit the use of this mechanism.

A rule established by law, however, cannot be overridden by the Assembly by unanimous consent, unless a legislative provision allows it.[10] The Assembly may, in principle, disregard any rule set out in a Standing Order, but how far can it go? Can the Chair's powers under the Standing Orders be limited by unanimous consent when one of the Chair's main functions is to enforce those very Standing Orders (S.O. 2(3))? For example, under the Standing Orders, the Chair must rule on the admissibility of every motion presented in the Assembly. Thus, Standing Order 193 states that the Chair 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 Chair must determine the admissibility of motions in amendment. Could the Assembly set aside these duties of the Chair in order to allow a motion that fails to meet 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 Chair is tantamount to departing from Standing Order 2(3), which deals with the Chair's general power to enforce the Standing Orders.

The Chair has never officially ruled on the Assembly's right to allow, by unanimous consent, a motion that does not meet the admissibility criteria.[11] However, the Chair has recognized that it was possible, by means of a motion to suspend the rules of procedure, 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,[12] and 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

10. For example, section 22.3 of the *Act respecting the Ministère des Relations internationales*, L.Q., 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".
11. However, even though it was not an official decision, a 1995 precedent exists in which, following a request by the Chair, the Assembly's consent was obtained in order to render admissible certain irregular amendments (JD, June 13, 1995, p. 4002).
12. JD, December 14, 2004, pp. 6731–6733 (Michel Bissonnet).

with its nature and purpose.[13] It being possible 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 Chair, but rather on the rules the Chair must enforce. There is another solution, however: rather than overriding the rules on admissibility by unanimous consent, the Assembly can simply choose to authorize the Member to present a new motion that satisfies the admissibility criteria, as has been done in the past.[14]

In any case, since the Chair's primary responsibility is to ensure that the Assembly's rules of procedure are observed, it must strive to avoid taking the initiative with regard to unanimous consent. The Chair must, of course, take note of the common will of the Members to override certain rules. However, it may also go one step further by seeking to understand the intention underlying such a request and then proposing, whenever possible, a procedure in conformity with the rules that would produce the same result.

16.1.5 Unanimous Consent in Parliamentary Committee

Another context in which unanimous consent may be obtained to override the rules of procedure is in committee. Two Standing Orders and a provision of the Rules for the Conduct of Proceedings expressly allow committees to resort to unanimous consent in order 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.[15]

13. JD, December 15, 2003, pp. 2667–2669 (Michel Bissonnet)/*RDPP*, no. 180/2.
14. 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, p. 71; VP, March 21, 2006, p. 52; VP, April 2, 2009, pp. 145–146; VP, April 7, 2009, pp. 175–176). On the other hand, on April 21, 2010, after ruling four motions stating a grievance moved by opposition Members out of order, the Chair requested leave of the Assembly to substitute four differently worded motions, but leave was refused (VP, April 21, 2010, pp. 1209–1210).
15. On the other hand, 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 adopted, on division, 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 times at which the committee could meet could not be changed unless unanimous consent was obtained under Standing Order 144.

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 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 on shorter notice than the regulatory 15 days.

But 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 committee disregard rules adopted by the whole Assembly? A strict, theoretical interpretation of the rules of procedure 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 for the conduct of proceedings. In practice, however, this is not quite true, given the context in which parliamentary committee proceedings take place.

Proceedings in parliamentary committee consist mainly in carrying out a detailed examination of different matters. Even though rules of procedure are paramount in ensuring that such examination proceeds in an orderly fashion, they may not be suited to the committee's needs in certain specific cases. Unanimous consent then becomes an attractive 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, of whatever stripe or colour. As in the Assembly, when unanimous consent is requested, the committee Chair must ensure that the subject of the request is specific enough so that the scope of the consent can be measured and the committee members may fully understand what they are consenting to.[16]

It is also important to note that a committee cannot, by unanimous consent, set aside an order of the Assembly directing it to do something. Nor may a committee unanimously consent to allowing a Member to become a temporary member of the committee with voting rights. Only the National

16. A committee Chair ruled that unless consent given at the beginning of a meeting was clearly intended to allow a public servant to speak for the duration of the meeting, the committee's consent had to be requested each time the minister wanted the public servant to take the floor (JD, November 22, 2000, CAT-60 p. 14 (Yvon Vallières)/*RDPP* (Com. Vol.), no. 246/4).

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.[17]

16.2 MOTION TO INTRODUCE AN EXCEPTIONAL PROCEDURE

Unanimous consent to set aside rules of procedure requires a favourable environment and total harmony. 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 matter. Used on a temporary basis for part of the 36th Legislature, the motion to introduce an exceptional procedure reappeared in the Standing Orders adopted in April 2009 during the 39th Legislature, permanently replacing the motion to suspend rules of procedure.

From the Suspension of Rules to the Exceptional Procedure

As its name indicates, the motion to suspend rules of procedure used to allow 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 constraints on recourse to such a motion, its effects were almost limitless: 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 in the Assembly, which is why the motion was frequently referred to as a "gag order" or "guillotine".

Originally, far from being a means to muzzle the Opposition, the motion to suspend rules of procedure, which could only be adopted by a unanimous vote of the Members of the Assembly, was a means to deal 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

17. 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 present motions, with leave of that committee. For more information on these subjects, see Chapter 18, Section 18.2.1.7, "Participation of Non-Members".

out the grounds for urgent action and justifying suspension of the rules.[18] 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 being included in the text of the motion itself.[19] In 1984, the rule was relaxed further: a recital of grounds was no longer required in the motion; urgency had simply to be mentioned 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, when 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 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 Chair handed down a significant decision on the use of a motion to suspend rules of procedure. The motion in question, which concerned four bills, proposed very short debating times for each uncompleted 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 Chair 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 most uncontested and the most fundamental right of a Member within the Chamber, it is limited by the rules of parliamentary debate to which the Members unanimously agreed to submit when the Standing Orders were adopted. The motion to suspend rules is part of the Standing Orders, which the Chair did not consider it could amend on its own initiative, even though it recognized that the motion was not the best tool at the Assembly's disposal for setting a time frame for the credible consideration of a bill in keeping with fundamental democratic principles.[20]

In the ruling, the Chair 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 when considering a bill, as suggested in the President's proposed parliamentary reform tabled in the Assembly in 1998. One year later, on December 6, 2001, the Assembly

18. Geoffrion 1941, S.O. 219(2). The declaration of urgency required the unanimous consent of the House, unless the suspension of the rules was for the purposes of a vote to adopt a bill, resolutions preliminary to a bill, or estimates. As the new Standing Orders only came into force 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.
19. 1972–1984 Standing Orders, S.O. 84(2).
20. JD, December 19, 2000, pp. 8933–8934 (Jean-Pierre Charbonneau).

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 some matter whether or not it was already on the Order Paper. The amended rules were renewed twice, on June 5, 2002[21] and December 19, 2002,[22] but not at the beginning of the 37th Legislature.[23] 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. On April 21, 2009, the National Assembly adopted a permanent reform of the Standing Orders, including the immediate replacement of the motion to suspend rules of procedure[24] by a new motion to introduce an exceptional procedure very similar to the one that had been temporarily in force during the 36th Legislature. ■

16.2.1 Moving the Motion

Under the new Standing Order 182, the Government House Leader may, without notice, move a motion to introduce an exceptional procedure for the consideration of a matter that may or may not be on the Order Paper. The motion is discussed in a limited debate, but it may be neither amended nor divided.

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 replacing it stipulates that a motion to introduce an exceptional procedure is presented, without notice, by the Government House Leader. Thus, unlike the motion to suspend rules of procedure, which had to be moved 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. Another change is that while the motion to suspend rules of procedure required prior notice except in a case of urgency, the motion to introduce an exceptional procedure may be moved without notice and the Government House Leader no longer has to invoke urgency.[25] Again, while

21. VP, June 5, 2002, pp. 1129–1154.
22. VP, December 19, 2002, pp.1586–1600.
23. VP, November 19, 2003, p. 276.
24. Until finally replaced, the motion to suspend rules of procedure made its mark on the proceedings and gave rise to considerable jurisprudence. In that connection, see Appendix V.
25. Since no prior notice is necessary, the motion may be moved either at the time set aside during Routine Proceedings for motions without notice (S.O. 84) or during Orders of the

the Government House Leader could use a motion to suspend rules of procedure to deal with several matters, the Standing Orders now impose a very stringent constraint on the Government by prescribing that the motion to introduce an exceptional procedure may only be used to deal with one matter at a time (S.O. 182). This is a major change in relation to the motion to suspend rules of procedure, which often covered several bills.

If the purpose of the motion is to allow the adoption of a motion that is not on the Order Paper or the adoption of a bill not yet introduced, that motion or bill must be distributed at the time the motion is presented (S.O. 184). In contrast, if 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 when the motion was moved, but if its purpose was to allow the adoption of another motion, the Standing Orders were silent about any obligation to distribute that motion. The new Standing Orders therefore fill a void that the Chair noted in a ruling handed down in 2000.[26] 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.[27] 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.[28]

16.2.2 Content and Admissibility of the Motion

Unlike the case of the motion to suspend rules of procedure, the Standing Orders impose very few obligations as to the content of a motion to introduce an exceptional procedure. Thus, while the former motion had to include two aspects—the suspension per se of certain rules and their replacement—the motion to introduce an exceptional procedure does not have to list the rules that are to be suspended.[29]

As an exceptional procedure may cover only one matter at time, the matter must be specified in the motion. 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. No mention of the duration is necessary, however, if the purpose of the motion is to allow consideration of a bill, since the duration of debate at each stage that remains

Day (JD, December 19, 1988, pp. 4324–4332 (Pierre Lorrain)/*RDPP*, no. 84/7).

26. JD, March 21, 2000, pp. 5068–5071 (Jean-Pierre Charbonneau).
27. JD, December 17, 1996, pp. 4682–4683 (Jean-Pierre Charbonneau).
28. JD, March 21, 1997, pp. 5445–5446 (Jean-Pierre Charbonneau).
29. 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 be completed in the bill's consideration is specified in Standing Order 257.1: five hours for passage in principle, five hours for clause-by-clause consideration in a committee of the whole, one hour for the report stage and one hour for passage of the bill (S.O. 184.1 and 257.1). No other duration may be specified in the motion for any uncompleted stage in a bill's consideration.

Since the motion to introduce an exceptional procedure is still very recent, there is virtually no jurisprudence on its admissibility. However, among the elements that could be included in such a motion are sitting times,[30] the voting procedure and any other rule the Government House Leader may wish to apply, provided it is not inconsistent with the Standing Orders that relate to the exceptional procedure. As the Chair once determined regarding a motion to suspend rules of procedure, it is not up to the Chair to rule on the advisability of presenting 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.[31] Moreover, the Chair is not required to rule on the legality of the provisions contained in a bill that is the subject of a motion to introduce an exceptional procedure, nor on the legal effects of the bill or its conformity with other legislative provisions. The Chair's only role is to determine whether the motion satisfies the procedural requirements set out in the Standing Orders.[32] It is not incumbent on the Chair to interpret other legal rules than those that concern parliamentary procedure.[33] Nor is it incumbent on the Chair to ensure that the French and English versions of a bill coincide, as the Members of the Assembly are responsible for seeing that the texts of the bills on which they vote are in agreement.[34]

16.2.3 Debate on the Motion

As was the case for the motion to suspend rules of procedure, the motion to introduce an exceptional procedure is the subject of a limited two-hour debate during which it may not be amended or divided.

The debate has priority over any other business having precedence (S.O. 184.2, 1st par.) and the Assembly may not take up any other matter

30. For example, the motion may propose that the Assembly be authorized to sit without regard to the times prescribed for suspension or adjournment.
31. JD, June 18, 1998, pp. 12112–12113 (Claude Pinard).
32. Ibid.
33. JD, December 14, 2004, pp. 6731–6733 (Michel Bissonnet).
34. JD, July 2, 1999, p. 2885 (Jean-Pierre Charbonneau)/*RDPP*, no. 182/17.

until the exceptional procedure has been concluded (S.O. 184.2, 3rd par.). Moreover, only one such motion may be before the Assembly at any time (S.O. 182, 4th par.). Therefore, 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,[35] and no other matter may be debated in the meantime. The Government House Leader may not move another motion to introduce an exceptional procedure without first presenting a motion proposing the withdrawal of the first one. In contrast to the general rule concerning withdrawal motions, such a motion is to be put to the vote without debate (S.O. 195).

16.2.4 Consequences of Passage of the Motion

As soon as the motion to introduce an exceptional procedure is passed, any 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 (S.O. 182, 3rd par.). The Chair has recognized, for instance, that if there is a conflict between the motion and the Standing Orders relating to the timetable and calendar of the Assembly, the latter are automatically suspended on passage of the motion.[36]

Like the limited debate on the motion itself, any debate in the Assembly on the matter for which the motion was introduced has priority over the business having precedence listed in the first paragraph of Standing Order 87. Despite Standing Order 100, under which a Member may propose adjournment of a debate, only a minister or a deputy Government House Leader (the Government House Leader always being a minister) may propose adjournment of the debate on the matter. Moreover, the Assembly cannot take up any other business before the conclusion of the exceptional procedure (S.O. 184.2). In other words, even if a motion to adjourn the debate were passed, the Assembly could not take up or continue with any other matter. To consider other business, the Assembly would first have to adopt a motion without notice proposing the rescission of the exceptional procedure, presented by a minister and put to the vote without debate (S.O. 186).

35. In accordance with the practice in the days of the motion to suspend rules of procedure, the motion is entered under Orders of the Day for the following sitting (JD, December 16, 2003, pp. 2698–2699 (Michel Bissonnet)/*RDPP*, no. 51/1).

36. JD, October 18, 2010, pp. 1632–1633 (Yvon Vallières)/*RDPP*, no. 26.1/2.

16.2.5 Exceptional Legislative Procedure

The Standing Orders provide that if the purpose of the motion to introduce an exceptional procedure is to allow consideration of a bill, the exceptional legislative procedure set out in Standing Orders 257.1 to 257.10 applies. The exceptional legislative procedure may be introduced with regard to any bill at any stage (S.O. 257.1), except a bill that has been the subject of a closure motion (S.O. 251, 2nd par.).

The exceptional legislative procedure determines the duration of debate at each of the stages of consideration not yet completed, as specified in the motion. Five hours must be allotted for the debate on passage in principle, exclusive of the time elapsed before the motion is passed but including any debate on a motion to divide the bill (S.O. 257.1(1)). If such a motion is ruled in order, the debate continues both on the motion and on the principle of the bill. If the motion to divide the bill is passed, Standing Order 257.2, just like Standing Order 241, provides that the bills resulting from the division must be placed on the Order Paper again at the introduction stage.

The time allotted for clause-by-clause consideration in committee is five hours (S.O. 257.1(2)). The bill is considered in a committee of the whole (S.O. 257.4, 1st par.). If the bill is at the stage of clause-by-clause consideration in a standing committee when the exceptional procedure motion is passed, the committee must immediately interrupt its proceedings and report to the Assembly within the hour. The Assembly's proceedings are suspended until the expiry of this period. The report of the committee is tabled on resumption of the proceedings (S.O. 257.3, 1st par.). It consists of the text of the bill at the stage it had reached when the committee interrupted its proceedings and the minutes of the committee's proceedings on the bill. The report must state whether consideration of the bill has been completed. If it has not been completed, consideration is resumed in a committee of the whole (S.O. 257.3, 2nd par.).

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 (S.O. 257.4, 2nd par.). The committee report consists of the text of the bill at the stage it had reached when the committee interrupted its proceedings and the minutes of its proceedings on the bill. The report must state whether consideration of the bill was completed (S.O. 257.5).

After the Committee of the Whole has reported to the Assembly, 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 Chair of the Assembly decides whether the

amendments are admissible and may make a selection among them so as to prevent repetition and overlapping (S.O. 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 (S.O. 257.6). (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 (S.O. 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 Chair reading them beforehand. The voting is by a show of hands. The adopted sections and elements, amended or not, are incorporated into the report, which is then voted on in its final form (S.O. 257.7).

Depending on the number of amendments presented, reading each one before it is put to a vote can take considerable time. That is why the vote on the amendments may be deferred to Orders of the Day at a subsequent sitting at the request of the Government House Leader. The amendments are then put to a vote by a show of hands without the Chair 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 (S.O. 257.8). The Chair 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. 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 time. Again, the vote is by a show of hands. The adopted sections and other elements of the bill, amended or not, are incorporated into the report, which is then voted on in its final form (S.O. 257.8).

The debate on the passage of the bill lasts at least one hour (S.O. 257.1(4)). During the debate, the Member who introduced the bill may, without notice, move that it be referred to a committee of the whole for consideration of one or more amendments that the Member specifies. The motion is voted on immediately, without debate, by a show of hands. If the motion is passed, the amendments concerned may be considered in a committee of the whole for a period of up to 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 also voted on, without debate, by a show of hands (S.O. 257.9).

During consideration of amendments in a committee of the whole, debate on the motion for passage of the bill is suspended. Once the amendments have been considered and the committee report adopted, debate resumes until the time specified in the exceptional procedure motion has elapsed, without taking into account 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 consistent with the motion to introduce an exceptional procedure (S.O. 257.10).

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

17

Committees of the Whole

The Assembly may choose to entrust a matter to one of its standing committees or 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. The Assembly may not resolve itself into a committee of the whole, however, until a matter is referred to such a committee.

The Standing Orders explicitly provide that certain matters must be referred to a committee of the whole. These include the consideration of interim supply (S.O. 280), the consideration of the estimates for the National Assembly (S.O. 286), the consideration of supplementary estimates (S.O. 290), the consideration of amendments proposed at the passage stage of a bill (S.O. 257) and, as explained in Chapter 16, the clause-by-clause consideration

of bills for which an exceptional legislative procedure has been introduced. The Assembly may also simply consider 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[1] may not be committed to a committee of the whole unless there is unanimous consent or a special order.

17.1 HOW COMMITTEES OF THE WHOLE FUNCTION

Until 2009, the Standing Orders gave very little information on the workings of a committee of the whole. In fact, they contained only a few provisions on the subject, which constituted rather vague guidelines for the committee Chair. The parliamentary reform clarified the way committees of the whole operate by adapting the rules to long-established practices and introducing a few 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 adoption of a motion without notice presented by the Government House Leader and decided without debate (S.O. 108). As soon as the motion is adopted, the Chair suspends the sitting to allow Members, their political attachés and the public servants accompanying ministers to take a seat in the Chamber.

Under the Standing Orders, one of the three Vice-Presidents of the Assembly presides over the Committee of the Whole (S.O. 109).[2] The Vice-President presiding over the sitting when the Assembly is transformed into a committee of the whole leaves the President's chair and takes the chair generally reserved for the Secretary General of the Assembly at the Table. To symbolize the fact that it is no longer the Assembly but rather a committee

1. For instance, once the first part of the debate on the budget speech has ended in the Assembly, debate resumes in the Committee on Public Finance for 10 hours (S.O. 272 and 275). Likewise, the Committee on Public Administration is responsible for hearing the Auditor General on his or her annual management report, and the Committee on Institutions hears the Public Protector and the Chief Electoral Officer annually. See Chapter 19, Section 19.6, "Mandates Specific to Certain Committees".
2. Under the Standing Orders in force prior to 2009, it was up to the Chair of the Assembly to designate the Chair of a committee of the whole (1985 S.O. 109). In practice, however, the Vice-President who was presiding over the sitting when the Assembly was transformed into a committee of the whole acted as committee Chair. This practice was codified in the Standing Orders resulting from the reform of 2009.

of the whole that is sitting, the Mace is removed from the Table and placed in the brackets at the south end. Two Table officers act as committee clerks.

When the Assembly is transformed into a committee of the whole, the Mace is removed from the Table and placed in its 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 in 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.[3] That rule was not retained in the current Standing Orders, nor is it applied.

Once a sitting of a committee of the whole has begun, it is up to the committee Chair to rule on points of order or procedure; such rulings may not be appealed. The Chair has the same powers as the Chair of the Assembly and the Chairs of the standing committees.

In a committee of the whole, Members are not required to sit in the seats assigned to them by the President of the National Assembly, except during a recorded division (S.O. 109.1), since committee of the whole proceedings more closely resemble those of a standing committee, that is, the detailed consideration of a matter, than those of the Assembly, which consist mainly of speeches. The committee context fosters lively exchanges between the Members, mainly between the minister responsible for the matter under

3. Standing Orders of the National Assembly, 1972–1984, S.O. 28(2).

consideration and the corresponding critic from each opposition party or any independent Members. In order to facilitate discussion, the minister and the Member of the Official Opposition face each other, occupying the seats of the Government House Leader and the Official Opposition House Leader, respectively. This arrangement also facilitates the work of the Chair, who is seated at the Table in the middle of the Chamber.[4]

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.[5] 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 the case for a recorded division, the division bells were not rung throughout the precinct of the Assembly 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.[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 five or more Members, as opposed to one. No one may enter the House after the question is put nor leave before the result is announced (S.O. 225). Lastly, like the Chair of the Assembly, the Chair of a committee of the whole has only a casting vote.

4. As is the case in parliamentary committee, the rules governing committee of the whole proceedings are less rigid than those governing Assembly proceedings, and Members are not required to rise to be given the floor (JD, March 30, 2001, p. 554 (Raymond Brouillet)).
5. JD, May 24, 2001, pp. 1470–1471 (Raymond Brouillet). This ruling, which was made during consideration of supplementary estimates, referred only to the usual practice for the consideration of budget estimates in a committee of the whole or a standing committee. The practice has since been extended to other mandates, such as detailed consideration of bills.
6. Ibid.
7. Geoffrion 1941, S.O. 351; JD, December 21, 1988, pp. 4545–4547 (Jean-Pierre Saintonge).
8. The procedure for voting in Committee of the Whole was established by a private ruling rendered on April 18, 2000 and tabled in the Assembly the next day (JD, April 19, 2000, p. 5627 (Jean-Pierre Charbonneau)).

Under Standing Order 114.2, voting in committees of the whole is governed by Standing Orders 219 to 228, with the exception of Standing Order 223, which is not applicable in this context. Thus, in the case of a recorded division in a committee of the whole, the question must be put immediately.[9]

17.1.4 Report of the Committee of the Whole

When the Committee of the Whole has concluded consideration of a matter, 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 parliamentary proceedings resume. At this point, a Member who was present at the proceedings of the Committee of the Whole must report to the Assembly (S.O. 110). The Member gives a very brief oral report informing the Chair that the Committee has carried out its mandate and giving the conclusions of its deliberations.

Under the Standing Orders in force in 2009, the Chair of the Committee of the Whole was responsible for reporting to the Chair of the Assembly (1985 S.O. 110). Under the new Standing Orders, a Member who was present at the proceedings of the Committee of the Whole reports to the Assembly. This is another instance of a long-standing practice becoming an official rule. In practice, the Vice-President presiding over the proceedings of the Assembly usually becomes the Chair when the Assembly resolves itself into a committee of the whole, and the opposite occurs when the committee sitting ends: 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 present at the time.

If the Committee of the Whole has not fully considered a matter by the scheduled recess of the Assembly, the Chair rises and the sitting is suspended (S.O. 111).[10] If a vote is in progress, however, the Chair must wait until the

9. Under Standing Order 223, a recorded division may be deferred until later in the same sitting or until Routine Proceedings at the following sitting. Given that Routine Proceedings take place only in the Assembly, the Assembly is the only body to which a recorded division may be deferred.

10. Before the 2009 parliamentary reform, the procedure varied, depending on whether or not the sitting 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 Chair of the Assembly, unless a vote was being conducted. Committee proceedings were then adjourned. However, during extended hours of meeting, the Chair rose and the sitting was suspended (1985 Standing Orders, S.O. 111). The difference can be explained by the fact that, during ordinary hours of meeting, Routine Proceedings were

result has been announced before suspending the proceedings, as is the case in the Assembly (S.O. 103).

When a matter referred to Committee of the Whole has not been fully considered at the time scheduled for the Assembly to rise, however, committee proceedings are adjourned to a later sitting, unless a vote is in progress. A Member who was present at committee proceedings reports progress to the Assembly and the Assembly rises (S.O. 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, whose Chair then adjourns the Assembly sitting.

Any Member may move that the Committee adjourn proceedings (S.O. 113). Only a minister may make a subsequent motion to that effect at the same sitting. Such a 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 10 minutes and the mover may reply for up to five minutes (S.O. 114). It is, in fact, equivalent to a motion to adjourn the debate made in the Assembly under Standing Order 100. If the motion is adopted, proceedings are adjourned even though the Committee has not finished deliberating, and progress is reported to the Assembly. Since the motion does not relieve the Committee of its mandate, a motion by the Government House Leader suffices to transform the Assembly into a committee of the whole to resume consideration of the matter referred to it.

17.2 MAIN ORDERS OF REFERENCE

Subject to the provisions of the Standing Orders that 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 a standing committee. Aside from the previously mentioned matters that must be referred to it, the main matter committed to a committee of the whole by the Assembly is the detailed consideration of bills.

17.2.1 Detailed 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

held at 2 p.m., immediately after the suspension, but during extended hours of meeting, they took place at 10 a.m., at the opening of the sitting. During ordinary hours of meeting, the Committee of the Whole was unable to resume proceedings after Routine Proceedings, whereas during extended hours of meeting, it could do so in the afternoon.

Leader proposes without notice to refer the bill to the appropriate committee or to a committee of the whole for detailed consideration (S.O. 243). The order of reference is often preceded by discussions between the parliamentary groups. When a bill is short and is not controversial, and all the Members agree to pass it quickly, its detailed consideration in a committee of the whole may be appropriate, allowing Members to skip the report stage. In other cases, standing committees unquestionably remain the more suitable forum.

Although the Standing Orders provide that each of the five stages of the legislative process must take place at separate sittings, passage in principle and detailed consideration in committee may be carried out during one and the same sitting. If detailed consideration is carried out by a committee of the whole, the report may also be adopted during the same sitting (S.O. 230), since the committee report is communicated orally to the Assembly immediately after committee proceedings[11] and is voted on without debate, unlike standing committee reports (S.O. 248).[12] 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.[13]

The procedure is quite different when a standing committee considers a bill. First of all, the committee report is more detailed, consisting of the minutes of its proceedings and the text of the bill as adopted by the committee. Secondly, the committee Chair must table the report in the Assembly during the part of Routine Proceedings reserved for that purpose. Before 10 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 (S.O. 252). The Assembly may take the report into consideration during a debate at the following sitting, a debate that can be rather long, since all the Members are entitled to participate (S.O. 253).

11. Standing Order 248 provides that, when detailed consideration is carried out in a committee of the whole, the report consists of the text of the bill as adopted 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 passed the bill and whether there were any amendments.
12. However, despite Standing Order 248, if a bill is the object of an exceptional legislative procedure, the report of the Committee of the Whole on the detailed consideration of the bill is followed by a one-hour debate (S.O. 257.1(3) and 257.6).
13. Special provision is made for cases in which a bill is the object of an exceptional legislative procedure. 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 (S.O. 257.6). See Chapter 16, "Unanimous Consent and the Motion to Introduce an Exceptional Procedure".

The procedure for the detailed consideration of a bill in Committee of the Whole is similar to the procedure in standing committee.[14] Chapter 14 on the legislative process and Chapter 19 on parliamentary committees give further details.

17.2.2 Mandates Committed Specifically to a Committee of the Whole

Aside from ad hoc orders of reference from the Assembly, such as the detailed consideration of bills, certain matters must be referred to a committee of the whole, as expressly required by the Standing Orders. As mentioned earlier,[15] when a bill is the object of an exceptional legislative procedure, its detailed examination must take place in a committee of the whole. In addition to such cases, a committee of the whole may be called on to play another role in the legislative process. During the passage stage of a bill, 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 (S.O. 257). If the motion is adopted, the committee receives its order of reference and the Government House Leader must present a motion for the Assembly to resolve itself into a committee of the whole (S.O. 108). Chapter 14 deals with the consideration of amendments at the passage stage of a bill.

The Committee of the Whole also plays a key role in the consideration of the budget estimates, beginning with interim supply. Before April 1 each year, the Assembly may adopt en bloc a quarter of the budget estimates, that is, a quarter of the expenditure estimates of the Government for the coming fiscal year. These proceedings are given priority over other matters, take place in Committee of the Whole, may deal with any or all of the estimates, and last up to five hours. The estimates are then voted on (S.O. 280). Examination of interim supply is more fully described in Chapter 15.

After examination of the estimates for the government departments, the Committee of the Whole devotes one sitting to the consideration of the estimates for the National Assembly, that is the Assembly's expenditure plan for the new fiscal year (S.O. 286). This procedure is also described in Chapter 15.

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14. JD, December 14, 1992, pp. 4753–4756 (Michel Bissonnet)/*RDPP*, no. 244/4. As a result, a motion to hold special consultations under the second paragraph of Standing Order 244 is admissible in Committee of the Whole.
15. See Chapter 16, "Unanimous Consent and the Motion to Introduce an Exceptional Procedure".

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 (S.O. 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 go into committee (S.O. 108). The procedure for examination of the supplementary estimates is outlined in Chapter 15.

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 orders referred to them by the Assembly (ANA, s. 10). A significant part

1. L.Q., c. A-23.1.

of parliamentary business is therefore conducted in committee rather than in the Assembly. Indeed, while the Assembly is the appropriate forum for Members to express general points of view on matters submitted for parliamentary debate, the committees, made up of fewer Members, are a generally much more suitable context for the detailed consideration of bills and other matters of current interest. In an age of accountability and stricter management of public finances, they also play an increasingly significant role in parliamentary oversight.

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 the major restructuring of the existing committee system, which paved the way for better oversight of the executive and the public administration as well as 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 based on the government model, with a total of 27 committees: one for each government department, plus three others.[3] With the possible exception of the Committee on Financial Commitments, the committees had no practical autonomy and met only when convened by the Government House Leader. Their membership varied constantly, with Members potentially being required to sit on a number of unrelated committees. It was thus difficult for the Members of the National Assembly 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 area of competence of each committee would no longer be based on the government departmental 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, eight sectorial standing committees were created,[4] each composed of "perma-

2. JD, March 13, 1984, p. 5086 (Richard Guay).
3. These were the Committee on the National Assembly, the Committee on Financial Commitments and the Committee on Professional Corporations.
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 Infrastuctures; the Committee on Education and Manpower; and the Committee on Culture.

nent" members appointed for two-year terms. This structure ensures stability and enables committee members to become specialized in a field of activity broader than that of a departmental sector. Even though Members are not elected as specialists per se, familiarity with the sector of state activity of their respective committees necessarily facilitates improved parliamentary oversight.

Committee specialization has lent greater credibility to committee work. Not only do the committees have a better grasp of the matters referred to them but they are also better able to make links between their various mandates. A more integrated management of entire sectors of state activity enables them to make better-informed decisions.

This does not mean that committee structure has remained static since 1984. Given that the exercise of parliamentary oversight is constantly evolving and that the committees are the main instrument of that oversight, they too have necessarily continued to develop. Since the reform, they have taken on additional responsibilities, in overseeing the public administration, for instance, under the *Act respecting the accountability of deputy ministers and chief executive officers of public bodies*[5] and, later, the *Public Administration Act*.[6] 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 certain sector of government activity. Twelve years later, the parliamentary reform of 2009 significantly changed the distribution of areas of competence among the committees 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 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 the members. The very nature of committee mandates, which consist mainly in carrying out the detailed examination of various matters, and the relatively small number of participants certainly contribute to the more casual atmosphere.

5. L.Q., c. I-4.1 (repealed by L.Q. 2000, c. 8, s. 153).
6. L.Q., 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 Commitee 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.

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 of this is the systematic obstruction—commonly called "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 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 eleven committees existing today may be qualified as "sectorial", since each one specializes in a rather homogenous 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 the sectorial committees basically function in the same way and carry out similar mandates, primarily the consideration of bills. However, the parliamentary role of Members has changed significantly over the years. While mainly legislative at first, that role has become increasingly one of overseeing government activity and consulting the public on various societal concerns.

In addition to the nine sectorial committees, two other standing committees have a role that may be qualified as "horizontal": the Committee on the National Assembly and the Committee on Public Administration. These committees have a specific role assigned to them by law and the rules of procedure, but no specific area of competence.

18.1.1 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, and may even be described as "internal", since the Committee is the ideal discussion and decision-making forum for all aspects of Assembly and committee operations. Simply put, the Committee on the National Assembly does not actually oversee government activity but rather controls the way oversight is 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 Assembly and its committees, it is hardly surprising that it is composed of the Members who exercise the principal parliamentary functions, namely, the President of the Assembly, 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 (S.O. 115).

18.1.1.2 Functions

The role of the Committee on the National Assembly is more horizontal than sectorial. It establishes the Standing Orders, as well as the Rules for the Conduct of Proceedings of the National Assembly and those of the other standing committees, and submits them to the National Assembly for approval (S.O. 116(1)). The Committee on the National Assembly is also vested with a certain number of powers relating to the operation of the other committees. For instance, it determines the membership of each committee and the allocation of chairships and sets the date for each committee's first meeting (S.O. 127). It also fills vacancies and makes permanent substitutions when the Assembly stands prorogued or is adjourned for more than five days (S.O. 129). In addition, the Committee on the National Assembly coordinates

the proceedings of the other committees, in particular by determining to which committee a public body is accountable and by clarifying each committee's area of competence whenever necessary (S.O. 116(2)). It may also approve the striking of joint committees or subcommittees (S.O. 153) and designate their co-Chairs (R.C.P. 10). It may authorize a committee or steering committee to travel to or meet in a place other than the precincts of the National Assembly (S.O. 116(3) and R.C.P. 4.1(a)), provided the committee has submitted a written request to that effect giving reasons and estimated costs (R.C.P. 1). It also receives the required committee reports on travel activities (R.C.P. 1 and 4.1(b)). Lastly, the Committee on the National Assembly carries out any other functions conferred on it by the Standing Orders. For instance, it inquires into the conduct of a Member of Parliament or any other person accused of breaching the rights and privileges of the Assembly (S.O. 319 and 325).[8]

The Committee on the National Assembly 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*[9] and designating the committees that are to examine certain reports.[10] Moreover, the *Auditor General Act* provides that the Committee on the National Assembly must be consulted before the Auditor General may be dismissed.[11]

In 2009, the Committee on the National Assembly was assigned a new responsibility: hearing, if necessary, any persons who, under Québec law, must be appointed by the Assembly, and then reporting to the Assembly without presenting any observations, conclusions or recommendations (S.O. 116(3.1)). It also examines any matter referred to it by the National Assembly (ANA, s. 11) or any matter not specifically referred to another

8. See Chapter 3, "Parliamentary Privileges".
9. Under section 25 of the *Election Act*, L.Q., 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 committee 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 (*Election Act*, s. 28).
10. *An Act respecting Access to documents held by public bodies and the Protection of personal information,* L.Q., c. A-2.1, ss. 119.1, 134 and 179.1; *Election Act*, L.Q., c. E-3.3, s. 542.1; *An Act respecting the Ministère du Conseil exécutif*, L.Q., c. M-30, s. 3.41; *An Act respecting the protection of personal information in the private sector*, L.Q., c. P-39.1, s. 89.
11. *Auditor General Act*, L.Q., c. V-5.01, s. 13.

committee (S.O. 116(4)). Hence, it has in the past been mandated to carry out the detailed consideration of a bill[12] and to hold special consultations.[13]

The Committee is 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 Assembly, who acts as Chair, the Vice-Presidents of the 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 (S.O. 117).[14] In the absence of the President or at the President's request, a designated Vice-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 (S.O. 117).[15]

A steering committee, made up of the President of the Assembly, the House leaders of the parliamentary groups and the committee clerk, was established to assist the Committee on the National Assembly in carrying out its mandate. The steering committee exercises certain functions between meetings of the Committee on the National Assembly.[16] The President of the

12. 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 detailed 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).
13. 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).
14. 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 override Standing Order 117, the Assembly adopted a motion presented by the second Vice-President, Diane Leblanc, to allow Marc Picard, Member for Chutes-de-la-Chaudière, 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.
15. See Chapter 2, "The Foundations of Parliamentary Procedure".
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:

Assembly determines the order of business for the steering committee's meetings, which may be conducted by telephone (R.C.P. 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 the standing committee (R.C.P. 4.3). The steering committee then reports to the standing committee at the earliest opportunity (R.C.P. 4.4).

18.1.2 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.

18.1.2.1 Membership

The Committee on Public Administration has a unique makeup 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

(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."

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 permanent members are appointed by the Committee on the National Assembly for a two-year term (S.O. 117.2), as follows: six from the parliamentary group forming the Government and four from the Opposition, at least three of whom are from the Official Opposition (S.O. 117.1). The temporary members are appointed by the whip of their parliamentary group for one sitting or for the consideration of a particular matter. Five temporary members may be appointed by the Government Whip, while the other three are appointed by the Official Opposition Whip. The temporary members take part in committee proceedings and may present motions (S.O. 117.3) but are not entitled to vote. Independent Members or Members belonging to an opposition group other than the Official Opposition may also take part in committee proceedings but may not vote or move motions (S.O. 117.4).

Special Committee Makeup During the 38th and 39th Legislatures

Throughout the 38th Legislature, the Committee on Public Administration was composed of 12 permanent members as follows: five from the parliamentary group forming the Government, four from the Official Opposition, and three from the Second Opposition Group, one of whom was not entitled to vote. In addition, there were 12 temporary members in the same ratio (T.S.O. 117.1, 38th Leg.). The Members from the Second Opposition Group who were not members of the Committee could not take part in committee proceedings without committee consent (T.S.O. 117.4, 38th Leg.).

Similarly, at the opening of the 39th Legislature, the Assembly gave its consent so that the Committee could be composed of 12 permanent members.[17] After the Action démocratique du Québec was recognized, the Committee included a second Vice-Chair, chosen from the Second Opposition Group. ■

18.1.2.2 Chair and Vice-Chair

The Chair and Vice-Chair of the Committee on Public Administration are elected by its permanent members at the beginning of the first session of each legislature and as needed during that legislature for a two-year period. The Chair is chosen from among the Members of the Official Opposition and the Vice-Chair from among the government Members (S.O. 117.5). Due to its specific parliamentary oversight functions, the Committee on Public

17. VP, January 15, 2009, p. 27.

Administration is the only standing committee always chaired by a Member of 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 (S.O. 117.6(1)). This mandate will be discussed in detail in Chapter 19. Second, the Committee hears the Auditor General each year on his or her annual report.[19] This mandate does not extend to the Auditor General's investigative reports.[20]

The Committee on Public Administration also exercises certain specific mandates under the *Public Administration Act*. These include hearing any ministers who deem it expedient and any deputy ministers or chief executive officers of public bodies whose administrative management has been the subject of a comment in a report of the Auditor General or the Public Protector (S.O. 117.6(3)). It also shares with the other sectorial committees the responsibility of hearing at least once every four years any ministers if they deem it expedient and every deputy minister and chief executive officer of a public body, whether or not their administrative management has been the subject of a report by the Auditor General or the Public Protector. Until 2009, the Committee on Public Administration was the only committee to exercise this mandate, which is now conferred by section 29 of the *Public Administration Act*.[21] Under that section, the parliamentary committees, each in its respective

18. See Section 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 his or her annual report, and the Committee on Institutions, which hears the Chief Electoral Officer and the Public Protector.
20. JD, December 13, 1995, CBA-30 p. 2 (Jacques Baril)/*RDPP* (Com. Vol.), no. 116 (4)/1.
21. Section 29 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.

area of competence, must hear the deputy ministers and the chief executive officers of public bodies at least once every four years to discuss their administrative management. This mandate replaced another one initially conferred by section 8 of the *Act respecting the accountability of deputy ministers and chief executive officers of public bodies*,[22] adopted in 1993. Until the Committee on Public Administration was created in 1997, the committees, each in its respective area of competence, were required to hear the deputy ministers and the chief executive officers every year. In 1997, the new Committee on Public Administration inherited full responsibility for the mandate. However, the passage of the *Public Administration Act* in 2000 significantly increased the Committee's already heavy workload, since there were now 120 departments and public bodies subject to the new Act, compared to 70 under the previous Act, and it became virtually impossible for the Committee to fulfill its obligation to hear all the deputy ministers and chief executive officers annually. 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 retained full authority over the departments and public bodies whose administrative management is the subject of a comment in a report of the Auditor General or the Public Protector,[23] and remained responsible for examining the annual report on the administration of the *Public Administration Act*.

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."

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.

23. While the Committee on Public Administration devotes a significant portion of its time to hearing the deputy ministers and the chief executive officers of public bodies whose administrative management is the subject of a comment in a report by the Auditor General, to this day no report by the Public Protector has been examined by the Committee.

The Committee on Public Administration also examines any matter referred to it by the Assembly.[24] However, unlike the sectorial committees, it may not decide to examine a matter on its own initiative.

18.1.3 Sectorial Committees

Nine sectorial committees carry out a broad range of mandates related to government oversight and the consideration of bills, each in a specific sector of government activity.

18.1.3.1 Name and Areas of Competence

Following the significant changes brought about by the 2009 parliamentary reform, the nine sectorial standing committees and their areas of competence are as follows (S.O. 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;

24. Twice in the 38th Legislature, the Assembly referred an order to the Committee on Public Administration as a result of a motion presented 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 examine the dismissal of Québec's delegate general in New York.

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: chairship 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.

18.1.3.2 Membership

Not later than the third sitting of the Assembly following the election of the President at the opening of a legislature and as needed during that 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. 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 (S.O. 127).

Under the permanent rules currently in force, each sectorial committee is composed of 10 members: six from the Government and four from the Official Opposition (S.O. 121).[25] An independent Member or a 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 Government, four from the Official Opposition and one independent Member or one Member from another opposition group (S.O. 122).

Special Sectorial Committee Makeup During the 38th and 39th Legislatures

At the opening of the 38th Legislature, the Members of the National Assembly unanimously adopted temporary amendments to the Standing Orders to bring the composition of the committees more closely in line with that of the Assembly, which stood as follows: Government: 48 Members; Official Opposition: 41 Members; and Second Opposition Group: 36 Members. Under the rules in force during the 38th Legislature, every committee had 12 members: five from the Government, four from the Official Opposition and three from the Second Opposition Group, one of whom was not entitled to vote (T.S.O. 121, 38th Leg.). The Whip of the Second Opposition Group or the Whip's representative identified, as needed, the members entitled to vote (R.C.P., T.R. 3.1, 38th Leg.).[26] If the Whip or representative failed to designate which members were entitled to vote, it was up to the members from the Second Opposition Group themselves to let the Chair know, when a recorded division was requested, which members would be voting.[27] Quorum for each committee was set at four members (T.S.O. 117.8, 38th Leg.).

Similarly, at the opening of the 39th Legislature, in order to allow two independent Members to sit on the Committee on Social Affairs (which later

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25. 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.
26. VP, May 24, 2007, pp. 73–78.
27. JD, May 24, 2007, CAS-2 p. 1 (Geoffrey Kelley)/*RDPP* (Com. Vol.), no. 121/1.

became the Committee on Health and Social Services), the membership of the Committee was raised to 14 members,[28] with the consent of the Assembly to override Standing Order 122. Later, after one of those independent Members made a request to join the Committee on Agriculture, Fisheries, Energy and Natural Resources, that Committee's membership was also raised to 14, again with the consent of the Assembly.[29] In both cases, the number of government Members was increased from seven to eight in order to maintain a balance of power within the Committee. ■

A minister may sit on a committee for the duration of a mandate if the order of reference from the Assembly (S.O. 124) explicitly allows it. The minister is not obligated, however, to take part in committee proceedings.[30] A minister also sits on a committee, by right, during consideration of a bill he or she introduced (S.O. 125).[31] 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.[32] However, nothing prevents the minister from designating another minister as his or her substitute.[33]

Committee members are appointed for two years (S.O. 121).[34] 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 (S.O. 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 sittings of that Committee, by its steering committee, which then reports to the Committee on the National Assembly at its next meeting (R.C.P. 4.1(d) and 4.4). At the earliest opportunity, the President must report on that meeting to the National Assembly, which votes on the report immediately, on a motion presented without notice by a Vice-President (S.O. 129).

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28. VP, January 15, 2009, p. 27.
29. VP, December 1, 2009, pp. 913–914.
30. JD, March 26, 1986, pp. CBA-511–514 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 124/1.
31. In addition, the Minister of Finance is a member of the Committee on Public Finance during the debate on the budget speech (S.O. 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 (S.O. 261).
32. JD, November 2, 2004, CAS-74 p. 1 (Russell Copeman)/*RDPP* (Com. Vol.), no. 124/2.
33. JD, February 12, 2002, CAT-33 p. 2 (Yvon Vallières)/*RDPP* (Com. Vol.), no. 125/1.
34. 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. Thus, 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 the makeup of the committees (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 (S.O. 126). Failing consensus on the allocation of chairships, the parliamentary groups select which committees they wish to be chaired by one of their members in the following order: 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 (S.O. 128).

> **Special Chairship and Vice-Chairship Allocation During the 38th and 39th Legislatures**
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> During the 38th Legislature, committee chairships were allocated as follows: five to the group forming the Government, two to the Official Opposition and two to the Second Opposition Group (T.S.O. 126, 38th Leg.). The vice-chairships were allocated as follows: four to the Government, four to the Official Opposition and two to the Second Opposition Group, with the Committee on Institutions being allowed two Vice-Chairs (T.S.O. 126.1 and 134, 38th Leg.). Every Vice-Chair is from a different parliamentary group than the Chair of the same committee and, in the case of the Committee on Institutions, the second Vice-Chair is chosen from the Second Opposition Group (T.S.O. 126.1 and 137, 38th Leg.). ■

Once the distribution has been decided, each committee elects a Chair and a Vice-Chair from among its members to hold office for two years (S.O. 134); these officers must be elected by a majority of the members present from each parliamentary group (S.O. 135). Furthermore, even though the Chair and the 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.[35] The President of the Assembly presides over the election of each committee Chair.[36] The committee Chair then presides over the election of the Vice-Chair, who must be chosen from a different parliamentary group (S.O. 137).

35. JD, November 14, 1984, pp. 768–769 (Richard Guay)/*RDPP*, no. 135/1.
36. When the President is absent or unable to act, or at the President's request, a Vice-President may take over his or her parliamentary duties (ANA, s. 20; S.O. 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.

The Chair organizes and directs committee proceedings. Like the other members, the Chair takes part in committee deliberations and is entitled to vote (S.O. 138). In fact, the Chair is obliged to vote[37] but, unlike the President of the Assembly, he or she does not have a casting vote.[38] The Chair must preside over committee proceedings with competence and impartiality but may nevertheless take part in deliberations and express an opinion on the matter under discussion. The Standing Orders do not limit this right[39] but rather allow the Chair to formulate preliminary remarks,[40] move motions, propose amendments to a bill[41] and, under Standing Order 213, address a question to a Member who has just finished speaking.[42]

Although not obliged to observe 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 role of the Chair of the Assembly to intervene in these matters,[43] it is the committee Chair's duty to establish a line of conduct to follow in order to avoid having his or her neutrality or conduct called into question. Nevertheless, a Member who considers that the committee Chair is not properly exercising the functions of office may question the Chair's conduct by means of a want of confidence motion to be debated and voted on by the Assembly.[44] However, by moving such a motion, the Member also exposes his or her own conduct to reproach if the accusations prove to be unfounded.[45]

37. JD, December 9, 2004, CFP-72 p. 4 (Raymond Bernier)/*RDPP* (Com. Vol.), no. 138/1; JD, November 15, 2005, pp. 10164–10165 (Michel Bissonnet)/*RDPP*, no. 138/1.
38. JD, May 9, 1985, pp. CI-499–500 (Marcel Gagnon)/*RDPP* (Com. Vol.), no. 138/2.
39. JD, December 9, 2004, CFP-72 p. 4 (Raymond Bernier)/*RDPP* (Com. Vol.), no. 138/6.
40. Ibid.
41. JD, December 2, 1988, pp. CBA-1472–1473 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 138/3.
42. 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.
43. 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 of the Assembly 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.
44. Ibid.
45. JD, December 9, 2004, CFP-72 p. 4 (Raymond Bernier)/*RDPP*, no. 138/6.

When exercising the duties of office, a committee Chair has the same powers as the Chair of the Assembly.[46] The Chair calls to order, suspends and adjourns committee proceedings (S.O. 2) and is the only person who may decide to suspend proceedings, since the Standing Orders do not provide for a motion to that effect.[47] The Chair may also suspend proceedings during a vote in order to verify a point of order.[48]

The committee Chair also 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 words.[49] The Chair may also refuse to call upon a Member to speak for the remainder of a sitting if that Member fails to heed two consecutive calls to order.[50] The Chair enforces the Standing Orders by calling attention to breaches of order (S.O. 38) and ruling on points of order raised (S.O. 39)[51] but, as is the case for the Chair of the Assembly, may not interpret the law as concerns non-procedural matters or decide questions of law.[52] The Chair is also prohibited from intervening on questions of conflict of interest.[53] The Chair's decisions may not be discussed by committee members (S.O. 41) nor may an appeal from such decisions be brought before the President of the Assembly.[54]

The Chair has full authority to organize committee work since the President of the Assembly has no supervisory power or right of intervention

46. JD, December 19, 1973, pp. 704–708 (Jean-Noël Lavoie)/*RDPP*, no. 2/3.
47. JD, February 20, 1986, pp. CBA-303–305 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 44/2.
48. JD, February 21, 1985, pp. CET-1147–1148 (Roland Dussault)/*RDPP* (Com. Vol.), no. 44/1.
49. JD, April 25, 1994, p. CAPA-51 (Paul-André Forget)/*RDPP* (Com. Vol.), no. 35(7)/2.
50. On December 5, 1984, after three consecutive calls to order, the Chair of the Committee on Education ruled that a Member of 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)).
51. As is the case for the Chair 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).
52. 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.
53. 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).
54. 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.

in such matters.[55] Committee Chair Louise Harel was thus within her rights to rule that committee powers include the power to adjourn proceedings in special circumstances such as the absence of a minister, in order to ensure the proper conduct of committee work.[56] The conduct of the Chair may only be called into question using the same procedure applicable to Members of Parliament.[57]

When the committee Chair is unable to act, or at his or her request, the Vice-Chair may act as substitute. When both the Chair and the Vice-Chair are unable to act, the clerk informs the committee, which takes the appropriate measures (S.O. 141). The committee may appoint one of its members to replace the Chair (R.C.P. 6).[58]

For each committee, the President of the Assembly appoints a public servant to act as clerk (S.O. 142). Selected from among the staff of the Committee Secretariat, the clerk works under the authority of the committee Chair[59] and the administrative supervision of the Director of the Committee Secretariat (R.C.P. 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 (R.C.P. 7.1).

At the Chair's request, a committee may strike a steering committee consisting of the Chair, the Vice-Chair and the clerk. The steering committee sees to committee administration and makes the decisions needed between meetings for the smooth conduct of committee proceedings (R.C.P. 4).[60]

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55. JD, December 6, 1995, pp. 5472–5473 (Roger Bertrand)/*RDPP*, no. 2/9; JD, November 5, 1996, pp. 2916–2917 (Jean-Pierre Charbonneau).
56. JD, August 28, 1984, p. CET-273 (Louise Harel)/*RDPP* (Com. Vol.), no. 138/1.
57. 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".
58. A committee Chair who wishes to be replaced during a meeting must first ask the Vice-Chair to act as 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).
59. JD, November 29, 1995, CC-10 pp. 19–23 (David Payne)/*RDPP* (Com. Vol.), no. 138/5.
60. Although there is no obligation in this respect, each committee has established a steering committee. There are numerous advantages to doing so; for instance, delegating organizational questions to a steering committee lightens the standing committee's workload during deliberative meetings, and a steering committee can make decisions more rapidly, by telephone or otherwise. On the other hand, when organizational matters are delegated to a steering committee, there is less incentive to consult the entire membership on them.

Special Steering Committee Makeup During the 38th Legislature

During the 38th Legislature, to ensure that every parliamentary group was represented, each committee's steering committee was composed of four members: the Chair, two Vice-Chairs and the clerk, in the case of the Committee on Institutions, and the Chair, the Vice-Chair, a committee member from another parliamentary group, designated by a majority of the committee members of each parliamentary group, and the clerk, in the case of the other committees (R.C.P., T.R. 4, 38th Leg.). ■

A temporary Chair may preside over committee debates if the committee Chair requests it 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. In contrast with the committee Chair, the temporary Chair does not take part in deliberations and is entitled to vote only if he or she is a member of the committee (S.O. 139).

Under an agreement between the House leaders, a specific number of temporary Chair positions are reserved for each parliamentary group and any independent Members. If an independent Member acting as temporary Chair joins a parliamentary group, the Member must give up his or her temporary chairship.[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 may carry out three types of mandates: mandates received by order of reference from the Assembly, which make up the greater part of their work; mandates arising from self-initiated orders; and mandates conferred under an Act. Certain committees also carry out special mandates set out in the Standing Orders.

Orders of Reference

The mandates committees receive 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.

61. In the latter case, the motion of referral must contain the 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 bodies 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.

The consideration of bills represents a major part of committee work. The procedure followed varies somewhat depending on whether public or private bills are being examined. After a public bill has been passed in principle, the Government House Leader moves without notice that it be referred to the appropriate committee for clause-by-clause consideration (S.O. 243). Private bills are referred to committee for detailed consideration and the consultation of interested parties immediately after they are introduced, on a motion moved without notice by the Government House Leader and decided without debate (S.O. 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 persons or organizations that wish to make their views known in a general consultation. The same procedure may be followed for special consultations. Such a motion may not be debated unless it overrides a rule relating to special consultations, in which case it may be debated immediately, during Routine Proceedings, for up to one hour (S.O. 235).[64]

At times it may be advisable 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 detailed 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, 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. Unlike a motion made under Standing Order 235, it requires prior notice on the Order Paper.[68] If the motion is made by the Government

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, Section 14.3.1.2, "Referral for Consultation".
67. In fact, these orders of reference are usually carried out by means of general or special consultations. Some examples of matters for which consultations may be held in committee are draft bills, bills and government policies.
68. JD, May 23, 2001, p. 1421 (Jean-Pierre Charbonneau)/*RDPP*, no. 235/2.

House Leader, it may not 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 (S.O. 146).

Self-Initiated Orders

In addition to acting on orders from the Assembly, committees may initiate orders on their own. This power arises from the parliamentary reform of 1984 and is a logical application of that reform, which was designed mainly to grant the committees more independence. Such orders are initiated on a motion of a committee member, carried by a majority of the members from each parliamentary group (S.O. 149).

Standing Order 120 sets out four situations in which committees may initiate the examination of a matter within their areas of competence. First, a committee may decide to examine draft regulations and regulations (S.O. 120(1)). The committee may not adopt the sections of a regulation but, if it wishes to propose amendments to the Government, it may formulate observations, conclusions or recommendations in a deliberative meeting (S.O. 176).[69] Second, a committee may take up an oversight mandate, of which there are two types (S.O. 120(2)): each year, a sectorial committee must examine the policy directions, activities and management of at least one public body subject to its oversight (S.O. 294),[70] and, at least once every four years, it must, within its areas of competence, hear the ministers who believe they should be heard and the deputy ministers and chief executive officers subject to the *Public Administration Act* (S.O. 293.1). The sectorial committees have shared this responsibility with the Committee on Public Administration since the 2009 parliamentary reform. However, this mandate is not completely new to them since they had similar responsibilities 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. Even though the first two types of mandate stem from a legal obligation, they are nonetheless considered mandates initiated in committee, since 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 members from each parliamentary group. If the committee fails to reach a decision, the Committee on the National

69. JD, March 11, 2010, CAT-28 p. 1 (Marie Malavoy)/*RDPP* (Com. Vol.), no. 120/1.
70. 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*, L.Q., c. F-3.1.1, or whose capital forms part of the domain of the State.

Assembly decides in its place (S.O. 293.1 and 294).[71] Third, since the 2009 parliamentary reform, a committee may choose to examine a petition tabled in the Assembly (S.O. 120(2.1)). This type of mandate will be discussed in Chapter 20. Last, each sectorial committee may elect to investigate any other matter of public interest within its areas of competence.

When a committee initiates an order, it has complete freedom to decide in a deliberative meeting how to organize its work. It may retain the services of a researcher or an expert to assist its members and may decide to consult various organizations and persons to obtain their views or benefit from their expertise on the matter under consideration.

Statutory Orders

Certain matters referred to committee arise from a Québec statute, such as the examination of annual, periodic and other reports, the examination of the implementation and administration of Acts, the study of draft regulations and regulations, the holding of general and special consultations, and the study of advisory opinions and investigation reports. Various legislative provisions specify the committee to which a matter is to be referred, while others assign a specific mandate to the committee within whose areas of competence the matter falls. In certain cases, the Committee on the National Assembly is responsible for designating which committee is to carry out a mandate.[72]

Depending on the legislative provision, some mandates can only be exercised under an order of the Assembly.[73] This means that, despite the legal obligation to carry out a mandate, a motion adopted by the Assembly is required to officially refer the matter to committee. In most cases, however, the law allows the committee to undertake the mandate on its own initiative. In a decision rendered in 1996,[74] the President of the Assembly described such mandates as practically self-initiated since, although the committees have a legal obligation to carry them out, 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, for the committee Chair and members are solely responsible for carrying it out.

71. As yet, the Committee on the National Assembly has never used this power, despite the failure of certain committees to comply with this requirement.
72. See note 10.
73. *Election Act*, L.Q., c. E-3.3, s. 544; *An Act respecting health services and social services,* L.Q., c. S-4.2, ss. 392 and 530.80.
74. JD, November 5, 1996, pp. 2916–2917 (Jean-Pierre Charbonneau)/*RDPP*, no. 120/1.

Special Mandates Under the Standing Orders

In addition to the mandates conferred under Standing Orders 119 and 120, the Committee on Public Finance must devote at least one sitting per fiscal quarter to examining the budgetary policy of the Government and the state of public finances (S.O. 292). It must also devote 10 hours to the debate on the budget speech (S.O. 272 and 275), which is recognized as a quarterly sitting under Standing Order 292. For its part, the Committee on Institutions is responsible for hearing the Chief Electoral Officer and the Public Protector every year (S.O. 294.1).

Lastly, under Standing Order 295, an opposition Member may interpellate a minister on any matter of general interest for which the minister is responsible. The interpellation is held during a sitting of the appropriate committee on Friday morning the following week (S.O. 298). However, no interpellation may be held during extended hours of meeting or while the Assembly stands adjourned for more than five days (S.O. 299).[75]

18.1.3.5 Subcommittees

Since the reform of 1984, a committee may strike a subcommittee composed of committee members to carry out a mandate it has received or decided to take on. To do this, a motion by a committee member must be carried by a majority of the members from each parliamentary group (S.O. 150). A committee may not refer to a subcommittee a mandate that is different from the one originally received from the Assembly.[76]

The committee both determines the membership of a subcommittee and appoints the Chair on a motion carried by a majority of the members from each parliamentary group (R.C.P. 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, after which it reports to the Assembly (S.O. 151).

Except as otherwise provided, the rules applicable to committees also apply to subcommittees, which have the same powers (S.O. 152). Although there are certain advantages to forming a subcommittee to carry out an order of reference from the Assembly, the committees hesitate to do so;[77] half of

75. See Chapter 19, Section 19.3, "Interpellation".
76. JD, June 6, 1985, pp. CBA-865–867 (Claude Lachance)/*RDPP* (Com. Vol.), no. 150/1.
77. The following are some of the main advantages of forming a subcommittee:
    – it enhances Member participation and commitment;

the 20 orders referred to subcommittees to date were referred during the first two years after the 1984 reform.[78]

18.1.4 Joint Committees

Two or more committees or subcommittees may make a joint request to the Committee on the National Assembly to establish a joint committee or subcommittee to examine a matter. The committees decide in a deliberative meeting on the feasibility of doing so (S.O. 153). The co-Chairs of a joint committee or subcommittee are appointed by the Committee on the National Assembly (R.C.P. 10).

The joint committee format lends a certain flexibility to the sectorial specialization of the committees by allowing Members to take part in the work of other committees, yet only one joint committee has been established since 1984.[79] A more common means to the same end is the temporary replacement of members or the participation of non-members, as provided for in the Standing Orders.

18.1.5 Select Committees

In addition to the standing committees, the Assembly may strike select committees (S.O. 178), an attractive option when it wishes to entrust certain specific Members with the examination of a particular matter that does not

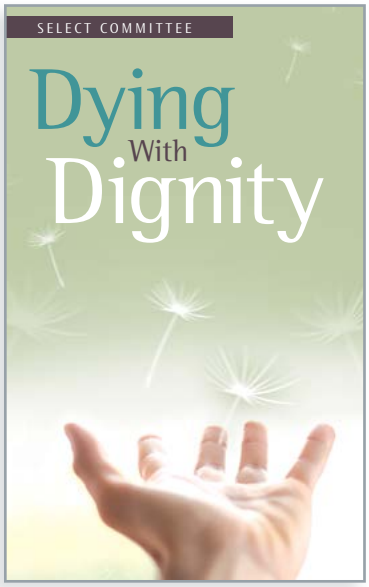
– it enables each committee member to play a role; since the committee determines subcommittee membership, those who are selected often have a marked interest in the matter under consideration, which allows the subcommittee to work efficiently; and
– it allows time for more committee-initiated orders without compromising other committee mandates.

78. Of the 20 mandates carried out by a subcommittee, 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 department or has facilitated the simultaneous consideration of two bills. See *La réforme parlementaire 10 ans après. Les impacts de la réforme de 1984 sur les commissions parlementaires*, 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 struck a subcommittee to travel to northern Québec to hold deliberative meetings and meet various stakeholders as part of the committee's self-initiated study on climate warming and other environmental issues in the region.

79. The Joint Committee on Social Affairs and Education and Manpower was established to circumvent the problem created by the overlapping mandates of the Committee on Social Affairs and the Committee on Education and Manpower in order to study 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.

necessarily fall within the areas of competence of any of the standing committees.[80] The Assembly passes a motion to define the orders of reference of each select committee and appoint its members. It may also order the committee to report by a certain deadline and may appoint the committee Chair and Vice-Chair. Unless the Assembly decides otherwise, the rules pertaining to the standing committees also apply to select committees.

A select committee ceases to exist once it has tabled its report in the Assembly. If the session is prorogued 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, an Act 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 parliamentary committees. The fact that a select committee is created under an Act can also hold symbolic significance, highlighting the importance of the committee's mandate.

For example, the *Act respecting the Process for Determining the Political and Constitutional Future of Québec*, passed in 1991,[81] provided

80. Since 1984, five 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 adopted on March 8, 2005 had retroactive effect to February 28, 2005, the date on which the committee began proceedings (VP, March 8, 2005, pp. 1272–1275). On June 1, 2005, the Assembly struck a select committee to study a draft bill to replace the *Election Act* presented on December 15, 2004 (VP, June 1, 2005, pp. 1597–1601). On December 4, 2009, on a motion presented 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).

81. L.Q. 1991, c. 34.

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.[82] Even when rules of procedure applicable to a select committee are defined in an Act, the committee Chair may interpret them, since the Chair of the Assembly and committee Chairs have exclusive power in that respect.[83]

While a select committee established under Standing Order 178 may only be composed of Members of the National Assembly (ANA, s. 10),[84] an Act 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 govern those of the parliamentary committees. That 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 following the failure of the Meech Lake Accord.[85] It was after the Commission's report was tabled on March 27, 1991 that the Assembly created 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.

82. 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 Chair, 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 from the Official Opposition (two of whom were not entitled to vote), appointed by the Leader of the Official Opposition, and the leader of the other opposition party or a Member of that party appointed by the leader. The Act provided specifically that the rules applicable to standing parliamentary committees were applicable to the select committees, except when otherwise provided (*Act respecting the Process for Determining the Political and Constitutional Future of Québec*, s. 28).

83. See Chapter 3, "Parliamentary Privilege", and Chapter 4, "The Office of President".

84. The select committee established to examine the draft bill to replace the *Election Act* was assisted in its mandate by a citizens advisory committee composed of twelve registered voters, six women and six men (VP, June 1, 2005, pp. 1597–1601).

85. The Commission was composed of the two Chairs appointed on a joint proposal by the Premier and the Leader of the Official Opposition; 16 Members of the National Assembly, including nine from the government party, six from the Official Opposition and one from the other opposition party; and 15 other persons appointed on a proposal by the Premier after consultation with the Leader of the Official Opposition, including three Members from the House of Commons representing a political riding in the province of Québec (*An Act to establish the Commission on the Political and Constitutional Future of Québec*, L.Q. 1990, c. 34, s. 5). 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."

In contrast to a select committee established on a motion by the Assembly in accordance with Standing Order 178, a select committee created by an Act is not automatically dissolved by the prorogation of the Assembly.

18.2 COMMITTEE PROCEEDINGS AND PROCEDURES

18.2.1 Committee Meetings

18.2.1.1 Schedule and Place

During ordinary hours of meeting, the committees may meet five days a week according to the following schedule (S.O. 143):

1. Mondays from 2 to 6 p.m.;
2. Tuesdays from 10 a.m. to 9:30 p.m., suspending their proceedings from 12 noon to 1:30 p.m. and from 6 to 7:30 p.m.;
3. Wednesdays and Thursdays from 9:30 a.m. to 6 p.m., suspending their proceedings from 1 to 3 p.m.; and
4. Fridays from 9:30 a.m. to 12:30 p.m.

During extended hours of meeting, the committees meet according to the following schedule (S.O. 143.1):

1. Mondays from 2 to 6 p.m.;
2. Tuesdays from 10 a.m. to 9:30 p.m., suspending their proceedings from 12 noon to 1:30 p.m. and from 6 to 7:30 p.m.;
3. Wednesdays and Thursdays from 9:30 a.m. to 10:30 p.m., suspending their proceedings from 1 to 3 p.m. and from 6 to 7:30 p.m.; and
4. Fridays from 9:30 a.m. to 1 p.m.

Outside of those sessional periods, the committees meet according to the following schedule (S.O. 143.2):

1. Mondays from 2 to 6 p.m.;
2. Tuesdays, Wednesdays and Thursdays from 9:30 a.m. to 6 p.m., suspending their proceedings from 12:30 to 2 p.m.; and
3. Fridays from 9:30 a.m. to 12:30 p.m.

By unanimous consent of the members, a committee may agree to continue sitting past the scheduled suspension or adjournment time or to meet for a deliberative meeting before the scheduled time to begin proceedings (S.O. 144).

Committees meet in the Parliament Building or other buildings of the Assembly. With the permission of the Committee on the National Assembly, they may also meet outside the precinct of the National Assembly (S.O. 116(3)). To do so, they must address a written request to the Committee on the National Assembly setting out the reasons for meeting elsewhere and

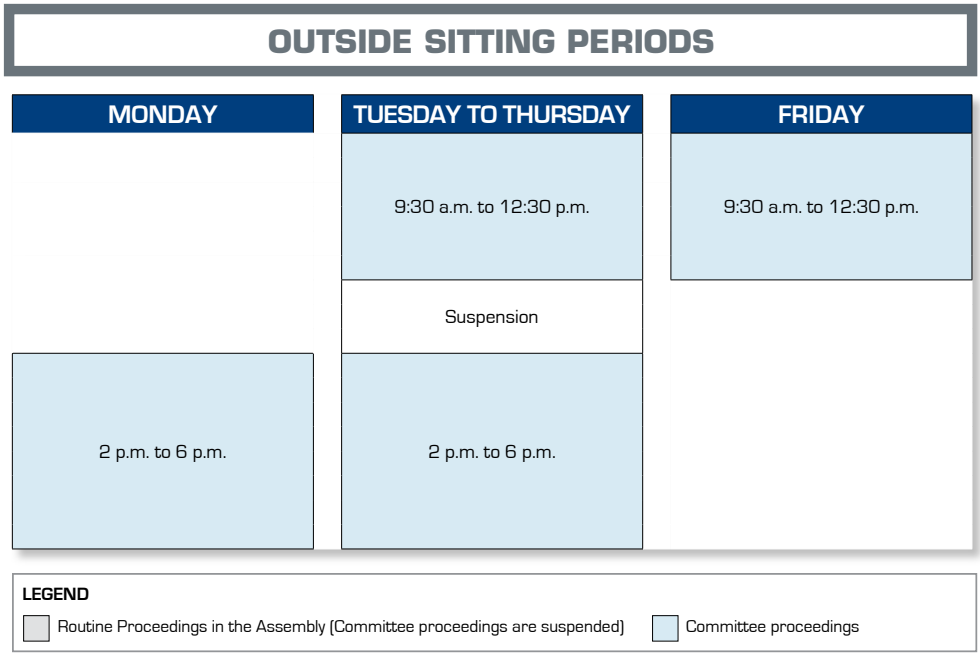
Committee Schedule

ORDINARY HOURS

MONDAY	TUESDAY	WEDNESDAY AND THURSDAY	FRIDAY
	10 a.m. to 12 noon	9:30 a.m. to 11 a.m.	9:30 a.m. to 12:30 p.m.
	Suspension	11 a.m. to 1 p.m.	
	1:30 p.m. to 3 p.m.	Suspension	
2 p.m. to 6 p.m.	3 p.m. to 6 p.m.	3 p.m. to 6 p.m.	
	Suspension		
	7:30 p.m. to 9:30 p.m.		

EXTENDED HOURS

MONDAY	TUESDAY	WEDNESDAY AND THURSDAY	FRIDAY
	10 a.m. to 12 noon	9:30 a.m. to 11 a.m.	9:30 a.m. to 11 a.m.
	Suspension	11 a.m. to 1 p.m.	11 a.m. to 1 p.m.
	1:30 p.m. to 3 p.m.	Suspension	
2 p.m. to 6 p.m.	3 p.m. to 6 p.m.	3 p.m. to 6 p.m.	
	Suspension	Suspension	
	7:30 p.m. to 9:30 p.m.	7:30 p.m. to 10:30 p.m.	



an estimate of the costs involved. If the Committee on the National Assembly 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 allocation to cover the extra amount. When it has completed its proceedings, the committee or its steering committee must submit a report on its activities and expenses to the Committee on the National Assembly (R.C.P. 1).

Parliamentary committee holding hearings outside the precinct of the National Assembly

18.2.1.2 Number of Committees Authorized to Meet

The parliamentary reform of 2009 raised from three to four the number of committees allowed to meet concurrently when the Assembly is sitting. Before that time, the consent of the Assembly was often requested to allow four committees to meet while the Assembly was sitting. In other cases, the Assembly could decide, on a motion without notice by the Government House Leader, to adjourn proceedings earlier in order to allow a fourth committee to meet. Now four committees may meet concurrently during Orders of the Day. During Routine Proceedings, however, they may only meet if they are doing so outside the precinct of the National Assembly. When the Assembly is not sitting, five committees may meet concurrently (S.O. 145).

18.2.1.3 Public Meetings, In Camera Meetings and Deliberative Meetings

All committee meetings, except deliberative meetings, are public (S.O. 159). However, a committee may decide to meet in camera on a motion carried by a majority of the members from each parliamentary group (S.O. 160). Depending on the terms of the motion, the decision may apply to only part of a 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 adopted unanimously by the members (S.O. 160, 2nd par.).[86] A motion allowing total or partial disclosure must be accompanied by the written consent of the concerned parties. The terms of the motion and of the consent are public (R.C.P. 13).

The committee clerk takes part in the meetings held in camera (R.C.P. 12) and prepares the minutes of the proceedings (S.O. 161). The minutes must record the date and time of the meeting and contain the mandate and a list of the members present or replaced, but must not include any information obtained in camera.

Since the Standing Orders do not specify the circumstances in which an in camera meeting is justified, it is entirely up to each committee to decide whether or not to hold one. It has even been recognized that an in camera meeting could be held to hear a body on a matter before the courts without

86. 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.

breaking the *sub judice* rule.[87] This rule, set out in paragraph 3 of Standing Order 35, prohibits any 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 may be prejudicial to any person or party.[88]

Under Standing Order 35(2), a Member who has the floor may not refer to the in camera proceedings of a committee before the committee 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 the authorities, publishing or disclosing the in camera deliberations of a committee, or committee reports before they are made available to the other Members, constitutes a breach of privilege or a 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.[89]

In that respect, as explained in Chapter 3, section 55 of the *Act respecting the National Assembly* lists acts or omissions that may be considered breaches of the privileges of the Assembly. Under section 55(1), 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 adopted, becomes an order of the committee, a Member or other person[90] 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*.

A distinction must be made between a deliberative meeting and an in camera meeting. The main purpose of a deliberative meeting is to organize committee work, and even though it is conducted behind closed doors, it is not considered to be in camera because its deliberations are not secret. Moreover,

87. JD, March 17, 1992, pp. CAE-7904–7906 (Jean Garon)/*RDPP* (Com. Vol.), no. 35(3)/3.
88. See Chapter 11, "Order and Decorum".
89. May, *Treatise*, 23rd ed., p. 142. On the same subject, the Australian *House of Representatives Practice* states 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" (Harris, *House of Representatives Practice*, 5th ed., p. 736).
90. In addition to the committee members and the clerk, the persons who may attend in camera meetings are specified in a motion adopted 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).

the Members' staff used to be allowed to attend deliberative meetings in order to follow committee proceedings.[91] However, in a report tabled in the Assembly in June 2000 and favourably received by a vast 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 staff in order to foster the Members' autonomy as parliamentarians and legislators. For this reason, persons other than committee members and staff who wish to attend a deliberative meeting must first obtain the committee's consent.[92]

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 examine briefs and requests to be heard without a written brief, and decide on whether certain bodies should be heard during public hearings and on the length of each hearing (S.O. 167). The same procedure is followed when the committee decides to hold special consultations (S.O. 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 draw up the observations, conclusions and recommendations it intends to submit (S.O. 176). Deliberative meetings are also the forum for decisions on the possibility of establishing a joint committee or subcommittee (S.O. 153). Committees also decide in deliberative meetings on the advisability of taking up a self-initiated order (S.O. 149) or striking a subcommittee (S.O. 150).

The committee Chair convenes deliberative meetings and determines their agenda. Given the importance for committee members to be informed of the topics to be discussed at the meetings, no topic not included on the agenda may be raised.[93]

Under Standing Order 161, the deliberations of committees meeting in public under an order referred to them by the National Assembly, under a statute or under the Standing Orders are recorded in the *Journal des débats*.[94] Committee proceedings not held in public are not recorded in the *Journal des débats*. However, with the assent of a majority of its members, a committee may request that its proceedings be recorded (S.O. 161 and R.C.P. 14). The President of the National Assembly rules on each request (R.C.P. 14).

91. Minutes, August 29, 1985, CI pp. 3–4 (Marcel Gagnon).
92. Minutes, September 11, 2003, CFP p. 4 (Alain Paquet)/*RDPP* (Com. Vol.), no. 159/3.
93. Minutes, December 12, 2007, CAS p. 6 (Geoffrey Kelley)/*RDPP* (Com. Vol.), no. 148/1.
94. Under the terms of this Standing Order, the proceedings of committees acting on a self-initiated order are not recorded in the *Journal des débats* but, in practice, all public committee meetings are. Three of the four committee rooms are equipped for televising proceedings.

The reports of committees that held only deliberative meetings on a certain matter are laid before the Committee on the National Assembly and annexed to the report that Committee tables in the National Assembly. Other reports are tabled in the Assembly as soon as proceedings on a matter are concluded (S.O. 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 upon 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. If the Assembly is sitting, the Government House Leader informs it that the committee has been convened, during the part of Routine Proceedings set aside for notices concerning committee proceedings. This verbal notice stands in lieu of an official notice of meeting (S.O. 85 and 147).[95]

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.[96] A copy of the notice is sent to the President of the Assembly and the House leaders and whips of the parliamentary groups. If the Assembly is sitting, the President informs it of any notice of proceedings initiated by the committee, during the part of Routine Proceedings set aside for that purpose (S.O. 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 the committee Chair from meeting.

18.2.1.5 Quorum

Quorum in committee is one third of the members, and in subcommittee, a majority of the members (S.O. 156). The Chair is included in the quorum, but a temporary Chair is included only if he or she is a member of the committee.

Quorum is necessary to open a meeting and 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 (S.O. 156).

95. See Chapter 9, Section 9.2.10, "Notices of Proceedings in Committees".
96. Since the spring of 2001, it has become common practice to send notices of meeting by email.

The absence of quorum may not be raised in advance and only a member present may call attention to it.[97] Even if there are no Official Opposition representatives present at a meeting, the committee may begin proceedings as long as there is quorum.[98] 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 the Member who introduced the bill is absent.[99]

18.2.1.6 Replacing a Committee Member

Committee members are automatically entitled to participate in debates, question witnesses, move motions and vote. Each committee member may be replaced by another Member of the National Assembly during consideration of a particular matter (S.O. 130) or for the duration of a meeting on a matter referred to the committee by the Assembly (S.O. 131). The Whip of a parliamentary group or the Whip's representative notifies the committee clerk of any temporary substitutions (R.C.P. 2). The clerk then informs the committee of the substitutions as soon as its first meeting is called to order (R.C.P. 2). The clerk must also, at the beginning of each meeting, announce any substitutions for the duration of the meeting of which the clerk has been notified by the Whip of a parliamentary group (R.C.P. 3). As is the case for the other committee members, an independent Member may be replaced without committee consent. Moreover, the provisions of the Rules for the Conduct of Proceedings requiring the Whip to notify the clerk of any substitutions do not apply.[100]

No substitutions are allowed during a deliberative meeting held to discuss whether or not a committee should initiate an order. Only permanent committee members may attend such a meeting,[101] although temporary substitutions under Standing Order 130 are allowed once the committee has decided to initiate an order. Substitutions for a meeting under Standing Order 131 may take place only while a committee is carrying out an order of reference from the Assembly. Since no substitutions are allowed for only part of a meeting, a member who has been replaced loses the right to take the floor for the duration.[102]

97. JD, December 5, 1990, pp. CBA-1853–1854 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 156/3.
98. JD, June 12, 1985, pp. CBA-1121–1122 (Claude Lachance)/*RDPP* (Com. Vol.), no. 156/1.
99. JD, June 16, 1986, p. CAE-985 (Jean-Guy St-Roch)/*RDPP* (Com. Vol.), no. 156/2.
100. JD, June 6, 1985, pp. CBA-843–849 (Claude Lachance)/*RDPP* (Com. Vol.), no. 131/1.
101. Minutes, August 29, 1985, CI p. 2 (Marcel Gagnon)/*RDPP* (Com. Vol.), no. 131/2.
102. 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

A Member who is on one committee may replace a member of another committee,[103] but may not replace another member of the same committee. Consequently, a Member who gave up his or her place during a meeting on the detailed consideration of a bill may not take another committee member's place during a subsequent meeting in order to speak to a section for which the Member's substitute used up all his or her allotted speaking time.[104]

Lastly, the Government Whip is not a member of the Conseil exécutif, even though he or she attends its meetings. As a result, there is nothing to prevent the Government Whip from replacing a committee member and voting.[105]

18.2.1.7 Participation of Non-Members

Under Standing Order 132, Members who are not on any committee may still take part in committee work but are not entitled to vote. Members already sitting on a committee may only take part in the work of another committee with the latter's permission, but they may neither vote nor move motions. Such permission, which may only be obtained with the unanimous consent of the committee members,[106] is not required when a committee is examining the budget estimates. A committee Chair ruled in 2000, however, that Standing Order 132 does not apply to ministers.[107]

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committee carries out two different orders in the same day, substitutions are allowed at the beginning of each "meeting".

103. JD, June 10, 1999, CAT-13 pp. 62–63 (Hélène Robert)/*RDPP* (Com. Vol.), no. 132/3.
104. JD, November 16, 1995, CE-18 p. 8 (Joseph Facal)/*RDPP* (Com. Vol.), no. 131/4.
105. JD, December 10, 1997, CE-53 p. 1 (Jeanne Blackburn)/*RDPP* (Com. Vol.), no. 132/2. One may conclude from this decision that a minister would not be entitled to replace a permanent member of a committee pursuant to Standing Orders 130 and 131. However, there is not yet any direct jurisprudence on the question.
106. Geoffrion 1941, S.O. 296; JD, February 2, 1993, p. CBA-1009 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 169/3.
107. JD, March 16, 2000, CC-26 p. 1 (Matthias Rioux)/*RDPP* (Com. Vol.), no. 132/4. In his decision, the committee Chair stated that [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 only allow a minister to sit on a committee 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 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.[108] Likewise, independent Members 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 (S.O. 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.[109] Moreover, a committee may not, even by unanimous consent, allow a Member to join it for the duration of a mandate or a meeting. Only the National Assembly and the Committee on the National Assembly are empowered to change the composition of a committee in order to allow another Member to sit on it and vote.[110]

18.2.2 General Rules of Procedure for Committees

18.2.2.1 Application

Aside from the provisions relating to the name, membership and areas of competence of committees, the body of rules governing parliamentary committees in the Standing Orders is limited. This is mainly because, except for inconsistent provisions, the rules relating to the Assembly apply in committee (S.O. 154). Standing Orders 66 to 69, concerning breaches of privilege, are examples of provisions that do not apply, since such breaches may only be raised in the Assembly.[111] The same is true for Standing Order 71, concerning

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 . . . only applies to ordinary committee members and not to Cabinet members."

108. JD, March 2, 1993, p. CBA-1871 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 133/1.

109. JD, June 10, 1999, CAT-13 pp. 62–63 (Hélène Robert)/*RDPP* (Com. Vol.), no. 132/3. This decision is justified in particular as follows: [TRANSLATION] "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. Simply put, Standing Order 115 is intended to ensure that the Members holding the main parliamentary responsibilities sit on the Committee on the National Assembly."

110. JD, December 10, 1997, CE-53 p. 1 (Jeanne Blackburn)/*RDPP* (Com. Vol.), no. 132/2; JD, November 25, 2009, Minutes, CFP (steering committee), Schedule V (Alain Paquet)/*RDPP* (Com. Vol.), no. 121/2.

111. JD, February 18, 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.

personal explanations, since the substance of such explanations must be set out in a notice sent to the President one hour before Routine Proceedings.

On several occasions, committee Chairs have been called on 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.[112] It was also decided that Standing Order 73, under which a Member may explain a matter that concerns an absent colleague, applies only in the Assembly; however, Standing Order 212, which allows a Member to give a brief explanation of a speech he or she made, applies in committee.[113] Therefore, a Member who considers that his or her 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.[114] The explanation must be given immediately after the speech giving rise to it,[115] without interrupting the person who has the floor.[116]

The same is true for Standing Order 213, under which a Member may request permission to question another Member who has just finished speaking.[117] It has been ruled that a Member who wishes to take advantage of Standing Order 213 must inform the Chair of his or her intention to ask a question immediately after the speech giving rise to it[118] and that the Member is entitled to ask only one question.[119] Requests under Standing Order 213 and points of order are not considered to be speeches.[120] Nor may the Standing Order be used by a Member to answer a question addressed to that Member during a speech.[121]

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, that order

112. A computer may thus be used in committee meetings as long as such 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).
113. JD, June 12, 1986, pp. CAPA-532–536 (Jacques Tremblay)/*RDPP* (Com. Vol.), no. 212/1.
114. JD, December 10, 2004, CFP-73 p. 59 (Alain Paquet)/*RDPP* (Com. Vol.), no. 212/2.
115. Ibid.
116. JD, June 3, 2009, CAS-29 p. 55 (Geoffrey Kelley)/*RDPP* (Com. Vol.), no. 212/3.
117. JD, January 17, 1995, CI-8 pp. 26–27 (Sylvain Simard)/*RDPP* (Com. Vol.), no. 213/1.
118. JD, June 15, 2004, CTE-26 p. 52 (Bernard Brodeur)/*RDPP* (Com. Vol.), no. 213/4.
119. JD, June 11, 2004, CTE-24 p. 13 (Bernard Brodeur)/*RDPP* (Com. Vol.), no. 213/3.
120. JD, June 10, 2004, CTE-23 p. 58 (Bernard Brodeur)/*RDPP* (Com. Vol.), no. 213/2.
121. JD, October 28, 2004, CTE-33 p. 21 (Tony Tomassi)/*RDPP* (Com. Vol.), no. 213/5.

determines what is pertinent.[122] Since relevance is difficult to define, the rule must be interpreted not only in favour of the Member,[123] but also in favour of the persons invited to attend committee deliberations,[124] provided the subject under discussion relates to the committee's order of reference.[125] This rule may be applied differently depending on the context in which the words are spoken[126] and it must be interpreted more broadly during the examination of budget estimates than during the clause-by-clause consideration of a bill.[127]

On another point, a committee Chair once ruled during examination of the 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 (S.O. 81).[128] Similarly, during the detailed consideration of a bill,[129] a committee Chair ruled that a minister could refuse to answer a question (S.O. 82).[130] It is not the Chair's role to evaluate the quality of a question or of the answer given.[131]

Standing Order 35, concerning unparliamentary language and words that are inadmissible in debate, also applies to committee proceedings. Consequently, a committee Chair determined that paragraph 7, governing violent, abusive and insulting language, must be strictly interpreted, even when a Member wishes to quote a journalist.[132] The same applies to paragraph 5,[133] which states that the Member who is speaking may only criticize the conduct of another Member by means of a motion calling that conduct into question, and paragraph 6, which prohibits a Member from imputing improprer motives to another Member.[134]

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122. JD, September 9, 2003, CAS-9 p. 47 (Russell Copeman)/*RDPP* (Com. Vol.), no. 211/8.
123. Ibid; JD, February 13, 1986, pp. CBA-122–125 and 128–129 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 211/1.
124. Ibid.
125. JD, April 10, 1990, pp. CAS-2203–2205 (Jean A. Joly)/*RDPP* (Com. Vol.), no. 211/7.
126. JD, June 20, 2007, CAT-12 p. 48 (Charlotte L'Écuyer)/*RDPP* (Com. Vol.), no. 211/10.
127. JD, May 27, 2005, CAS-134 pp. 5–6 (Russell Copeman)/*RDPP* (Com. Vol.), no. 211/9.
128. JD, May 7, 1998, CTE-24 p. 11 (Claude Lachance)/*RDPP* (Com. Vol.), no. 282/1.
129. JD, June 1, 2006, CFP-16 p. 2 (Sam Hamad).
130. JD, December 17, 2001, CAT-30 p. 32 (Jean-François Simard)/*RDPP* (Com. Vol.), no. 82/1.
131. JD, April 24, 2002, CAPA-10 p. 17 (Léandre Dion)/*RDPP* (Com. Vol.), no. 81/1.
132. 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).
133. JD, June 1, 2006, CFP-16 p. 36 (Sam Hamad)/*RDPP* (Com. Vol.), no. 35(5)/1.
134. 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

Committee Chairs have also intervened to ensure compliance with the *sub judice* rule, under which no one may refer to a matter before a court of law if the reference may be prejudicial to a person's or a party's interests (S.O. 35(3)). As in the Assembly, prejudice is assumed and the *sub judice* rule is strictly applied 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.[135] However, questions concerning the actions and decisions of the Ministère de la Justice following the report of a commission of inquiry were admissible insofar as they did not directly concern the matter that could be examined in appeal.[136] In another case, the same Chair ruled that, even though there was a possible connection between a penal matter and a committee-initiated order 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.[137]

The *sub judice* rule is less strictly applied in civil and quasi-judicial matters. In parliamentary jurisprudence, a coroner's inquiry is considered to be a matter before a quasi-judicial body. That is why, in the course of an interpellation, the Chair of the Assembly reminded the Members to be careful not to refer to the matter at the heart of the inquiry.[138] Similarly, a committee Chair ruled that the investigations of the Auditor General are subject to Standing Order 35(3) because the Auditor General has the powers of a public

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.

135. JD, May 2, 2000, CI-68 p. 13 (Roger Bertrand)/*RDPP* (Com. Vol.), no. 35(3)/5.

136. Ibid.

137. 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 while the other pleaded not guilty. While the matter was before the courts, a Member of the Official Opposition moved a motion during a deliberative meeting proposing that the committee undertake a mandate 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 decision 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 that conclusion, the Chair declared the motion out of order because it contained a recital of grounds. Following the decision, the Member of the Official Opposition moved another motion, which was also rejected after being discussed in committee.

138. JD, November 22, 2000, pp. 8076–8077 (Claude Pinard)/*RDPP*, no. 295/2.

inquiry commissioner. Although the committee is allowed to discuss the subject in question, it must not prejudice the investigation.[139]

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, but it does not prohibit the naming of the plaintiffs or prosecutors involved, since that information is available at the court office.[140] 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.[141]

In another vein, a committee Chair has recognized ministerial responsibility as being applicable to the committee context, 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 for another minister.[142]

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, applies in committee.[143] The minister must comply, unless he or she considers that doing so would be contrary to the public interest. Although no decision 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 require a minister to table a document, prepared by the minister's department, that could be considered personal notes.[144] Similarly, a minister cannot be required to table a document to which he or she simply refers without quoting it directly.[145]

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139. JD, May 10, 2006, CFP-11 p. 24 (Sam Hamad)/*RDPP* (Com. Vol.), no. 35(3)/6.
140. 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.
141. 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, Section 11.2.2.1, "Words Inadmissible in Debate".
142. JD, February 12, 2002, CAT-33 p. 2 (Yvon Vallières)/*RDPP* (Com. Vol.), no. 125/1.
143. Standing Order 214 applies only to ministers. A parliamentary assistant who quotes from a document is not required to table that document (JD, December 3, 2004, CFP-68 p. 15 (Alain Paquet)/*RDPP* (Com. Vol.), no. 214/3).
144. JD, January 27, 1987, pp. CBA-1605–1607 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 214/1.
145. JD, April 25, 1995, CE-7 pp. 37–38 (Joseph Facal)/*RDPP* (Com. Vol.), no. 214/2.

A motion to adjourn debate, provided for in Standing Order 100, is replaced in committee by a motion to adjourn proceedings.[146] Standing Order 165 provides that a committee member may move the adjournment of proceedings. Such a motion may only be moved once during a meeting, unless it is moved by the Chair or a minister who is a committee member,[147] and it 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.[148] If the vote has not taken place by the time the meeting ends, the motion lapses.[149]A Member may not raise a point of order in order to take the floor and present a motion to adjourn proceedings.[150]

18.2.2.2 Tabling Documents

Under Standing Order 162, which governs the tabling of documents in parliamentary committee, documents may only be tabled with the permission of the Chair. In contrast to what happens in the Assembly, 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.[151] Similarly, the Chair may allow a document to be tabled despite the objection of one or more committee members.[152] The Chair's authority in this area also allows the tabling of briefs by bodies that were not heard within the framework of a consultation.[153]

146. A motion to adjourn allows the Assembly to interrupt the debate in progress and move on to examine another matter. That 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 their work.
147. Since ministers are not members of the committee that studies the budget estimates, they may not speak to the motion to adjourn (JD, June 1, 1987, pp. CAS-1696–1698 (Guy Bélanger)/*RDPP* (Com. Vol.), no. 165/1).
148. Since an independent Member is not a member of a parliamentary group, he or she may not speak to the motion even if he or she moved it (JD, December 14, 1992, pp. CET-1228–1229 (Jean Audet)/*RDPP* (Com. Vol.), no. 165/2).
149. JD, June 7, 1996, CI-27 pp. 69–70 (Roger Paquin)/*RDPP* (Com. Vol.), no. 165/3.
150. JD, November 6, 1996, CI-45 pp. 24–26 (Marcel Landry)/*RDPP* (Com. Vol.), no. 165/4.
151. 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 prudence with regard to the information.
152. JD, October 10, 1984, p. CI-137 (Jean-Claude Rivest)/*RDPP* (Com. Vol.), no. 162/4.
153. JD, September 22, 1986, p. CET-564 (Jean-Pierre Charbonneau)/*RDPP* (Com. Vol.), no. 162/5.

In a decision rendered in 1995, the Chair of the Assembly recognized that, since documents must be tabled in order for certain mandates to be carried out, it is important to allow each committee Chair to fully exercise the power to accept those documents under Standing Order 162. Therefore, even though the tabling of audiovisual documents is not allowed in the Assembly for the time being because of conservation and broadcasting difficulties,[154] it is up to each committee Chair to determine if it is desirable or necessary to table audiovisual documents to assist the members in carrying out a mandate.[155] Even though the Chair may accept or refuse a document, however, he or she may not allow the tabling of a petition since, under Standing Orders 62 to 64, petitions must be presented by a Member in the Assembly during the stage of Routine Proceedings reserved for tabling petitions.[156]

The fact that a committee Chair has refused the tabling of a document does not prevent a Member from again requesting to table the document if new circumstances warrant it. However, such a request must not constitute an appeal of the previous decision.[157]

Committee Chairs have set certain criteria for the tabling of documents, authenticity being a major one. Consequently, a committee Chair will refuse to allow a document to be tabled if the minimum amount of information necessary to establish its authenticity is not provided beforehand.[158] For instance, a Chair will reject letters that do not bear at least a signature, name or addressee.[159] Another criterion that must be considered according to the jurisprudence is the confidentiality of a document.[160]

154. JD, June 17, 1996, pp. 2325–2326 (Jean-Pierre-Charbonneau)/*RDPP*, no. 59/4. Since October 2007, an electronic copy of every annual report and strategic plan of a government department, a body or an Officer of the National Assembly is tabled in the Assembly in addition to a hard copy of each, the latter still being the only official version (JD, October 23, 2007, p. 1577 (Michel Bissonet)/*RDPP*, no. 59/6).

155. JD, May 25, 1995, pp. 3001–3002 (Roger Bertrand)/*RDPP*, no. 59/3.

156. JD, March 9, 2010, CI-48 pp. 1–2 (Claude Bachand)/*RDPP* (Com. Vol.), no. 162/8.

157. 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, since a week had gone by since the first request and since the document had circulated among the parliamentarians and been discussed in the media, the situation had sufficiently changed to allow the Chair to consider the request as a new one.

158. 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).

159. JD, October 9, 1990, pp. CBA-1174–1177 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 162/6.

160. JD, October 10, 1984, pp. CAPA-87–89 (Yvon Vallières)/*RDPP* (Com. Vol.), no. 162/1.

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 Chair 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.[161] Nevertheless, a committee Chair did once remind the committee of the importance of exercising prudence when tabling a confidential document.[162]

The sole purpose of tabling a document is to conserve it in the committee archives.[163] 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, the Chair may refuse to allow a document that is 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.[164]

18.2.2.3 The Decision-Making Process

The decision-making process in committee is essentially the same as that in the Assembly.[165] Decisions are made following a motion by one of the members (S.O. 185). Motions in committee do not require prior notice (S.O. 158) and may be either substantive or formal (S.O. 187). Every motion other than motions whose terms do not vary must be in writing (S.O. 190) and must be legible, although not necessarily typed.[166] A motion must not contain grounds or arguments (S.O. 191). Motions with a financial impact, such as those

161. On that subject, the Chair of the Assembly has ruled that, in the absence of rules of parliamentary procedure dealing directly with the right to privacy, the Chair is not authorized to question whether certain words spoken or documents tabled could infringe Québec law. However, the Chair 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).
162. JD, October 10, 1984, pp. CAPA-87–89 (Yvon Vallières)/*RDPP* (Com. Vol.), no. 162/1.
163. JD, October 10, 1984, pp. CI-123–133 (Jean-Claude Rivest)/*RDPP* (Com. Vol.), no. 162/3.
164. JD, December 5, 2006, CFP-39 p. 37 (Sam Hamad)/*RDPP* (Com. Vol.), no. 162/7.
165. See Chapter 12, "The Decision-Making Process".
166. JD, December 8, 1993, p. CAE-5656 (Madeleine Bélanger)/*RDPP* (Com. Vol.), no. 190/1.

resulting in the commitment of public funds[167] or the imposition of a charge on taxpayers,[168] may only be moved by a minister, unless they express a general idea, an opinion or a wish.[169]

A committee Chair must reject any motion that does not comply with the Standing Orders but may correct its form to make it admissible (S.O. 193).[170] A motion may be debated if the Chair considers it in order. Each Member has the same speaking time as in the Assembly, that is, 10 minutes for a formal motion and 20 minutes for any other matter. However, the mover of a motion, the Premier and the leaders of the other parliamentary groups, or their representatives,[171] may each speak for up to one hour to a substantive motion and 30 minutes to a formal motion (S.O. 209). There is no right of reply in committee (S.O. 217).

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167. To determine whether a motion commits public funds, jurisprudence has produced four criteria: (1) Is it enforceable? (2) Is there a direct impact on expenditures? (3) Is it expressed in general terms? (4) Does it contain specific dollar amounts? (JD, December 6, 1984, pp. CE-491–494 (Luc Tremblay)/*RDPP* (Com. Vol.), no. 192/2; JD, December 8, 1993, p. CAE-5683 (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 been clarifying 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 budget appropriations (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 with sums taken out of the Consolidated Revenue Fund constitutes a commitment of public funds even if the expenditure is not expressed as a specific dollar amount (JD, May 27, 2010, CI-75 pp. 1–2 (Claude Bachand)/*RDPP* (Com. Vol.), no. 192/11). In contrast, a reduction in expenditures may not be considered a measure to commit public funds nor may cancelling a reduction in expenditures. 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).
168. A committee Chair declared in order a motion by a Member to increase the general tariff for extrajudicial costs a lawyer may charge for acts performed to carry out certain judgments. In the Chair's opinion, the purpose of the motion was not to impose a charge on taxpayers but rather to set a tariff for a professional order (JD, June 20, 1995, pp. CI-52–53 (Sylvain Simard)/*RDPP* (Com. Vol.), no. 192/6).
169. See Chapter 14, Section 14.1.2, "The Crown's Financial Initiative".
170. During the detailed examination of a bill, a committee Chair declared in order a motion to hold general consultations on the bill before beginning the clause-by-clause consideration. He corrected the form of the motion, however, by replacing "general consultations" by "special consultations", as provided for in Standing Order 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.
171. The representative of the leader of an opposition parliamentary 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).

Specific speaking times are set out in the Standing Orders for different committee mandates, including general and special consultations (S.O. 169 and 173), the clause-by-clause consideration of a bill (S.O. 245, 246 and 270), the examination of the budget estimates (S.O. 284 and 209), the examination of financial commitments (R.C.P. 30) and interpellations (S.O. 300–302).

With the unanimous consent of its members, a committee may decide to override the rules pertaining to the allocation of speaking time (S.O. 155). This makes it impossible to set the members' speaking time for the duration of a mandate by means of a motion on the organization of proceedings adopted by a simple majority of the members. It also means that, without the consent of its members, a committee may not be bound by a prior agreement between the parliamentary groups, or between a minister and the Opposition, on the allocation of speaking time.[172] The committee Chair gives the floor to the Member requesting it, alternating between the parliamentary groups.[173]

Despite the rule stating that a Member may only speak once to a question (S.O. 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.[174] In contrast to the Assembly, the time that elapses when a point of order is raised in committee is not deducted from a Member's speaking time.[175]

The rules of the Assembly concerning amendments and subamendments apply in committee. Thus, unless there are provisions to the contrary, any substantive motion may be amended (S.O. 196), and subamendments may be proposed to any amendment (S.O. 200).[176] If no amendment is moved to a motion, any Member who has the floor may move the previous question and that Member's motion may not be amended (S.O. 202). The Chair may reject the motion out of hand if of the opinion that debate on the original motion

172. 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, "Unanimous Consent and the Motion to Introduce an Exceptional Procedure".

173. JD, December 10, 2004, CFP-73 p. 56 (Alain Paquet)/*RDPP* (Com. Vol.), no. 33/2.

174. This is the case, for instance, during the clause-by-clause consideration of a bill (S.O. 245), the examination of budget estimates (S.O. 284), general consultations (S.O. 169) and special consultations (S.O. 173).

175. JD, June 10, 2004, CTE-23 p. 37 (Bernard Brodeur)/*RDPP* (Com. Vol.), no. 209/3.

176. Since a subamendment amends an amendment, it must refer to the amendment under discussion. However, under Standing Order 193, the committee Chair has the latitude to correct the form of a subamendment directly amending the motion or the section concerned by the amendment in order to make it admissible (JD, November 4, 2004, CTE-35 p. 21 (Tony Tomassi)/*RDPP* (Com. Vol.), no. 193/2).

has not been unduly prolonged or that an immediate vote would infringe on Members' rights (S.O. 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 each member has had the opportunity to speak.[177] 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.[178]

Unless otherwise provided, decisions in committee are made by a majority vote of the members. A committee votes by a show of hands or, if a member so requests, by a recorded division (S.O. 157). As is the case in the Assembly, the Members need not raise their hand during a show of hands: the Members in favour say "adopted" and those against say "rejected" or "on division". If half or more of the Members say "on division", the motion is considered rejected.[179]

In contrast to what happens in the Assembly Chamber, the division bells are not rung before a recorded division in committee. After the Chair reads the motion, the clerk conducts a roll call of the members. Without rising, the members vote in favour or against the motion or indicate their decision to abstain. Members who are absent when the question is put are not entitled to vote (R.C.P. 11).[180] The clerk communicates the result of the vote to the Chair, who announces it to the committee.

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 report in the Assembly (S.O. 174) at the time set aside for that purpose during Routine Proceedings (S.O. 53(3)(b)). Committee reports are laid before the Committee on the National Assembly, however, when they pertain to one or more deliberative meetings on a given matter and are not followed by a public or an in camera meeting (S.O. 174).

A committee report comprises the minutes of the proceedings for each meeting (S.O. 161) and any observations, conclusions or recommendations the committee wishes to submit to the Assembly (S.O. 177). However, a committee report on a bill comprises the minutes of committee proceedings

177. JD, March 13, 1985, p. CET-1333 (Richard Guay)/*RDPP* (Com. Vol.), no. 202/1.
178. JD, June 11, 1986, pp. CE-542–544 (Michel Bissonnet)/*RDPP* (Com. Vol.), no. 202/2.
179. JD, December 11, 2007, CET-16 pp. 37–38 (Catherine Morissette)/*RDPP* (Com. Vol.), no. 157/2.
180. 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).

and the text of the bill as adopted (S.O. 248). A Member who would like the committee to hold a deliberative meeting may request it to do so as soon as the committee has concluded its proceedings. The committee Chair must grant the request[181] and convene the committee. The committee has three clear days to agree on the observations, conclusions and recommendations it wishes to submit (S.O. 176). The time limit used to be one clear day, but that did not leave committees enough time to meet and draft their report, so the 2009 reform extended the time limit to three clear days. However, if the order of reference is to examine a bill, the one-day limit still applies[182] so as not to delay the subsequent steps in the legislative process.

A committee report containing observations, conclusions and recommendations

For the purposes of Standing Order 176, a clear day means a day on which committees are allowed to sit. 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 may not be postponed longer than allowed under Standing Order 176.[183] However, weeks set aside for riding work are not counted in the time limit since committees cannot meet during those periods (S.O. 19.1).

Although no ruling has been made on the subject, the rule of one clear day set out in Standing Order 176 only applies when the Assembly is sitting. It goes without saying that the rule must be complied with at such times 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.

181. JD, February 11, 2003, CFP-100 pp. 64–65 (Jean-Guy Paré)/*RDPP* (Com. Vol.), no. 176/1.
182. Although Standing Order 176 applies to consultations on a bill under Standing Order 146 or 235, it does not apply to the detailed consideration of a bill. Standing Order 176 is not consistent with Standing Order 248, which states that a committee report comprises the minutes of committee proceedings and the text of the bill it adopted.
183. Minutes, May 29, 2006, CTE, p. 3 (Claude Pinard)/*RDPP* (Com. Vol.), no. 176/2.

A committee may also decide to make an interim report to the Assembly (S.O. 175). One motion to that effect may be moved per sitting. The motion must be intended not 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.[184]

A committee report that does not issue from a deliberative meeting or pertain to a bill or to financial commitments, but contains recommendations, is taken into consideration within 15 days after it is tabled in the Assembly, subject to Standing Order 97 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 (S.O. 94). The Government House Leader designates which report is to be discussed and a limited debate follows. Amendments are not in order and the debate does not give rise to a decision by the Assembly (S.O. 95).

Every committee report becomes public once tabled in the Assembly (R.C.P. 16). While certain experts in parliamentary law are of the opinion that disclosing the contents of a committee report on public meetings before it is tabled constitutes a contempt of Parliament,[185] the Chair of the Assembly has never had to rule on the question. As previously noted, however, disclosure of a committee's in camera deliberations could be considered a contempt of Parliament.

184. JD, November 8, 1988, pp. CE-1297–1299 (Marcel Parent)/*RDPP* (Com. Vol.), no. 175/1. In this case, the motion was presented during the detailed examination of a bill in order to "inform interested groups of the amendments proposed by the Minister". The 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 detailed examination of a bill. Indeed, Standing Order 175 seems inconsistent with Standing Order 248, under which the report of a committee that has completed the detailed examination of a bill comprises the minutes of committee proceedings and the text of the bill as adopted. In all, three interim reports have been tabled before the Assembly by a standing committee: on June 14, 2005, the Committee on Culture tabled an interim report containing its observations during a self-initiated order on cultural diversity (VP, June 14, 2005, p. 1700); on February 20, 2007, the Committee on Public Finance tabled an interim report containing observations, conclusions and recommendations during a self-initiated order on the protection of investors (VP, February 20, 2007, p. 811); and on June 8, 2010, the Committee on Public Finance tabled an interim report on a self-initiated order on the indexation of the pension plans of the public and parapublic sectors (VP, June 8, 2010, p. 1437).

185. May, *Treatise*, 23rd ed., p. 142.

The Chair has ruled, however, that publishing a document on the outcome of committee proceedings after the committee has tabled its report does not at first glance constitute a contempt of Parliament. According to the Chair, 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. A committee's public proceedings are part of the public domain, which means that the Government, the Opposition and any citizen are free to express their opinions or observations on those proceedings.[186]

Committee reports are occasionally disclosed in 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 has even adopted a motion allowing a committee to publish its report on a self-initiated order before tabling it in the Assembly.[187]

186. JD, May 13, 1993, pp. 6373–6374 (Jean-Pierre Saintonge)/*RDPP*, no. 67/29.

187. On December 20, 1996, the Assembly adopted a motion authorizing the Committee on Culture to publish its report on issues relating to the development of the information highway. Despite the authorization, the report was not made public until after the resumption of parliamentary proceedings in March 1997.

19

Committee Mandates

Chapter 18 examined committee structure and organization, as well as the general procedure 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 consideration of bills undoubtedly occupies the most time. However, committee mandates have become more diversified over the years. Parliamentary oversight is gaining in importance, as are public consultations, which allow various groups, organizations and individuals to present their points of view to the Members on a matter being examined in committee. This chapter will examine the main committee mandates, beginning with the detailed consideration of bills.

19.1 DETAILED 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 theoretical 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 detailed consideration (S.O. 243). The minister or Member who introduced the bill is automatically entitled to sit on the committee to which the bill is referred (S.O. 125).

The competence of a standing parliamentary committee to which the detailed 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.[1] Any question as to the competence of the committee 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.[2] The fact that a question 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.[3]

The procedure for the detailed consideration of a bill is the same for standing committees and for committees of the whole.[4] According to custom, the procedure involves three separate stages: preliminary remarks, preliminary motions and the 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 time set out in Standing Order 209 applies. Each Member thus has 20 minutes to make preliminary remarks, also called "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 minister or Member sponsoring a bill is

1. JD, June 6, 1986, pp. CBA-1001–1003 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 118/1; JD, April 24, 1990, pp. CET-1451–1452 (Guy Bélanger)/*RDPP* (Com. Vol.), no. 244/15.
2. JD, June 10, 1992, pp. 2119–2122 and 2165–2172 (Jean-Pierre Saintonge)/*RDPP*, no. 243/1.
3. 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).
4. JD, December 14, 1992, pp. 4753–4756 (Michel Bissonnet)/*RDPP*, no. 244/4. See also Chapter 17, "Committees of the Whole".
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.

the first to take the floor but there is no time allotted to that Member to reply to the preliminary remarks made by other Members.[7]

Preliminary remarks should not be confused with the 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 the bill if its principle was adopted without debate in the Assembly. However, if the Assembly has debated the principle of the bill, no further discussion is allowed at the beginning of the detailed consideration. This does not prevent committee members from making preliminary remarks on the 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]

19.1.1.2 Preliminary Motions

Preliminary motions, like preliminary remarks, are not expressly provided for in the Standing Orders, subject to the second paragraph of Standing Order 244, under which special consultations may be held before clause-by-clause consideration of the bill begins. In a way, this stage is an invention of jurisprudence, allowing committee members, after the preliminary remarks stage, to move motions proposing ways for the committee to carry out its mandate.

Once a preliminary motion has been made, it is not possible to go back to the earlier stage without the unanimous consent of the members, unless a motion to withdraw is adopted under Standing Order 195.[10] On the other hand, a preliminary motion made during the preliminary remarks stage is out of order, for the Chair is required to respect the 20 minutes' speaking time allotted to each Member wishing to make preliminary remarks.[11] However, since these are two separate stages, a Member who has used up all his or her speaking time during preliminary remarks may nevertheless move a preliminary motion once the committee has begun the preliminary motions stage.[12]

7. JD, December 10, 1992, pp. CAE-2121–2122 (Madeleine Bélanger)/*RDPP* (Com. Vol.), no. 244/19.
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 2, 1986, pp. CET-1149–1156 (Jean-Pierre Charbonneau)/*RDPP* (Com. Vol.), no. 244/9.
11. JD, December 10, 1992, pp. 4575–4579 (Maurice Richard)/*RDPP*, no. 244/2.
12. JD, December 8, 1986, pp. CET-1539–1546 (Madeleine Bélanger)/*RDPP* (Com. Vol.), no. 244/10.

Preliminary motions have to do with the functional, technical and practical organization of committee proceedings and are meant to help the committee carry out its order of reference from the Assembly. It is at this stage that Members may propose, under the second paragraph of Standing Order 244, that the committee hold special consultations on a bill before beginning the clause-by-clause consideration.[13]

Since the spirit and intent of a preliminary motion is to propose the best way to help a committee carry out its mandate, only motions that deal with the organization of proceedings and that are directly related to the committee's order of reference are admissible.[14] For that reason, motions proposing that the committee hear a minister on a bill may be judged admissible.[15] Similarly, a motion requesting a minister who had introduced a bill to make a copy of the draft regulations on the administration of the bill available to the Members has been deemed to be in keeping with the spirit of preliminary motions since it helped further the committee's mandate.[16]

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 (S.O. 150). A motion requesting documents that could help a committee carry out its mandate may also be in order.[17] However, a committee must adhere to the order of reference from the Assembly directing it to carry out the detailed examination of a bill, and any motion contradicting or straying

13. At the preliminary motions stage, the committee may decide to hear an organization it already heard during special consultations held in compliance with an order of 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 even if that organization is part of a group of organizations that the committee refused to hear a few minutes earlier (JD, December 12, 1986, pp. CAS-951–952 (Guy Bélanger)/*RDPP* (Com. Vol.), no. 244/12).
14. JD, January 17, 1995, CI-8 p. 30 (Sylvain Simard)/*RDPP* (Com. Vol.), no. 244/21.
15. In such a case, the motion is moved in accordance with Standing Order 244, since Standing Order 164 is only a procedural provision. Under Standing Order 164, 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)).
16. JD, December 14, 1992, pp. 4750–4751 (Michel Bissonnet)/*RDPP*, no. 244/3.
17. JD, June 8, 2006, CTE-20 pp. 36–37 (Charlotte L'Écuyer)/*RDPP* (Com. Vol.), no. 244/37.

from that mandate is out of order,[18] as is a preliminary motion proposing to examine the bill by subject rather than clause by clause in sequential order.[19] Given that preliminary motions pertain to the functional organization of committee proceedings, they are considered formal motions, which may not be amended.[20]

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 the motion, the Premier and the leaders of the other parliamentary groups, or their representatives, each have 30 minutes' speaking time. The other committee members may speak for 10 minutes each. If a motion is moved by an opposition Member, that Member has 30 minutes' speaking time as mover of the motion, which is distinct from the time granted to the representative of the leader of the Member's parliamentary group,[21] who may also speak for 30 minutes.[22] The minister may take the floor for 10 minutes, but if speaking as the representative of the Premier, he or she may speak for 30 minutes.[23] In contrast to the rules for clause-by-clause consideration, the minister is not allotted five minutes to reply to each question or comment.[24] Under Standing Order 209, each Member may speak only once to a given question and may not divide his or her allotted time on a preliminary motion into shorter segments,[25] unlike the practice during clause-by-clause consideration (S.O. 245).

The Standing Orders do not set a limit on the number of preliminary motions that may be presented. It is not uncommon to see a great number of preliminary motions when a bill is contested by opposition Members. This means of hindering committee proceedings—through systematic obstruction or filibustering—is an integral part of parliamentary practice.

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18. 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.
19. JD, May 15, 2008, CFP-41 pp. 3–4 (Alain Paquet)/*RDPP* (Com. Vol.), no. 244/40. See Section 19.1.1.3, "Clause-by-Clause Consideration".
20. JD, December 14, 2005, CTE-61 p. 28 (Tony Tomassi)/*RDPP* (Com. Vol.), no. 196/3.
21. JD, December 13, 2001, CAT-28 p. 59 (Danielle Doyer)/*RDPP* (Com. Vol.), no. 244/32.
22. The representative of the leader of an opposition parliamentary group 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).
23. This is often the case at the preliminary motion stage, since the minister is not granted any specific speaking time. However, there is no obligation in this respect, 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).
24. JD, June 9, 1986, p. CBA-1053 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 246/2.
25. JD, June 8, 2004, CTE-21 p. 19 (Bernard Brodeur)/*RDPP* (Com. Vol.), no. 209/1.

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, when a member considers that there have been enough preliminary motions, he or she 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 Chair considers that, in the circumstances, the opposition has had sufficient opportunity to submit preliminary motions.

Since the Standing Orders are silent regarding how many preliminary motions may be moved, it is up to the committee Chair to decide whether a motion to move on to the clause-by-clause consideration of the bill is in order.[26] 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 move on to the consideration of section 1 is in order; (3) the admissibility of such a motion is not based on a merely 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 that effect have often been ruled as intended not to end debate but rather to proceed with another stage in the detailed consideration of the bill, namely, clause-by-clause consideration.[27]

Despite these precedents, there are no exact criteria for determining when a motion proposing to proceed with consideration of section 1 of the bill can be declared in order. For instance, such a motion has been ruled in order although only one preliminary motion had been debated, because the committee Chair took into account the fact that the motion proposed to hear an organization that had already been heard by the committee the week before during special consultations on the bill, held in accordance with an order of the Assembly.[28] On the other hand, a committee Chair declared such a motion out of order in another case because the Chair considered that it had been moved rather prematurely, during the third meeting devoted to the detailed examination of a bill, after six preliminary motions had been moved and debated.[29] However, the same Chair ruled a similar motion in order during

26. JD, December 8, 2000, CC-52 pp. 32–33 (William Cusano)/*RDPP* (Com. Vol.), no. 244/31.
27. 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.
28. JD, December 8, 1997, CAT-24 pp. 29–30 (Camille Laurin)/*RDPP* (Com. Vol.), no. 244/26.
29. 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;

the fourth committee meeting to examine another bill, after six preliminary motions had been presented.[30] In another case, a similar motion was ruled in order during the third meeting on the detailed consideration of a bill, after seven preliminary motions had been moved and rejected.[31] The adoption of a motion to proceed with consideration of section 1 of a bill concludes the preliminary motions stage.[32] The committee then begins clause-by-clause consideration of the bill.

19.1.1.3 Clause-by-Clause Consideration

Once the preliminary motions stage is completed, the committee examines each section of a bill in detail (S.O. 244). According to doctrine, a bill must be studied in the following order: clauses as printed, postponed clauses, new clauses, schedules as printed,[33] new schedules, preamble, if any, and title.[34]

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 this last case, the motion was declared out of order although 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 presented (JD, December 9, 1992, pp. CAE-2091–2093 (Madeleine Bélanger)). In another case, the Chair, after taking into account the fact that the Opposition had had the opportunity to present several motions, declared the motion in order after three meetings (JD, June 11, 1986, pp. CE-504–509 (Robert Thérien)/*RDPP* (Com. Vol.), no. 244/6). Another committee Chair came to the same conclusion in the following two decisions, after four motions had been presented and the committee was in its third (JD, May 16, 1995, CTE-21 pp. 13–16 (Denise Carrier-Perreault)) or fourth meeting (JD, December 14, 1999, CAT-30 p. 16 (Hélène Robert)).

30. JD, November 4, 2003, CAS-15 p. 7 (Russell Copeman)/*RDPP* (Com. Vol.), no. 244/33.
31. JD, June 11, 2004, CTE-24 pp. 21–22 (Bernard Brodeur)/*RDPP* (Com. Vol.), no. 244/36.
32. JD, December 7, 1993, p. CAE-5634 (Madeleine Bélanger)/*RDPP* (Com. Vol.), no. 244/20.
33. According to a directive from the Chair, the content of a schedule includes anything that, due to its format or technical character, 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 consideration of schedules was normally carried out after the committee had 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 or not to adopt section 1 of the bill before examining the bill set out in the schedule and enacted by section 1, which could have caused the committee to reach contradictory decisions. In that 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).
34. Geoffrion 1941, S.O. 564; JD, June 4, 1999, p. 2258 (Michel Bissonnet)/*RDPP*, no. 244/6; Beauchesne, p. 205.

However, committees usually study the new clauses at the same time as the clauses as printed.

The text of a bill is examined following the numerical order of the sections, that is, starting with section 1, followed by section 2 and so on until the end of the bill.[35] This procedure may only be modified with the unanimous consent of the committee members. A preliminary motion proposing to study the bill by subject is thus out of order.[36] Nevertheless, as long as a committee has not fully examined a section or a paragraph, consideration or discussion of it may be deferred unless it is an essential provision and the other sections and paragraphs to be studied are incidental.[37] In practice, when proceedings are conducted in a spirit of co-operation, committee members may agree by unanimous consent and without further formality to defer consideration of one or more sections. However, if the working atmosphere is not propitious to such consent, a committee member may move a motion to defer consideration of the section under discussion.[38] The motion is debated, with the same speaking times as for a formal motion. If the motion is adopted, consideration of the section in question is deferred and the committee may examine the following section of the bill.[39]

During the clause-by-clause consideration stage, motions to hold special consultations are out of order. Such motions must be moved during the preliminary motions stage, that is, before examination of the first section of a bill has begun.[40]

According to committee custom, the minister reads each section of the bill but cannot be compelled to do so.[41] Since the current Standing Orders are silent on the matter, previous Standing Orders may be consulted.[42] The

35. Geoffrion 1941, S.O. 564(1), note 1 (French only); Beauchesne, p. 205. If, after the Assembly has been prorogued, a bill is reinstated on the Order Paper in the next session at the detailed consideration stage, in accordance with Standing Order 48, consideration of the bill resumes at the exact point at which it was interrupted at prorogation (JD, April 12, 2001, CTE-2 p. 4 (Claude Lachance)/*RDPP* (Com. Vol.), no. 48/1).
36. JD, May 15, 2008, CFP-41 pp. 3–4 (Alain Paquet)/*RDPP* (Com. Vol.), no. 244/40.
37. Geoffrion 1941, S.O. 344 and 566, note 15 (French only).
38. JD, May 15, 2008, CFP-41 pp. 3–4 (Alain Paquet)/*RDPP* (Com. Vol.), no. 244/40. According to this ruling, while it is possible to present a motion to defer consideration of a section during clause-by-clause consideration of the bill, it is not possible to present such a motion with respect to the entire bill during the preliminary motion stage.
39. JD, June 13, 2000, CAT-48 p. 17 (Yvon Vallières)/*RDPP* (Com. Vol.), no. 244/30.
40. 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.
41. JD, December 17, 2007, CET-20 p. 43 (Catherine Morissette)/*RDPP* (Com. Vol.), no. 244/39.
42. Ibid.

Geoffrion Standing Orders, in force from 1941 to 1972, provide that the Chair reads only the number of each section unless a Member requests the Chair to read the entire section.[43]

Every committee member has the right to propose amendments to the section under consideration.[44] Under Standing Order 197, each amendment must concern the same subject as the section being considered and may not be contrary to its principle.[45] If there is doubt as to the principle of a section, the mover of the motion must be given the benefit of the doubt.[46] Furthermore, the amendment may only remove, add or replace words. Consequently, a Member may not present an amendment intended to strike out a section; to achieve that end, the Member need only vote against the section.[47]

Committee clerk taking note of an amendment adopted during the clause-by-clause consideration of a bill

43. Geoffrion 1941, S.O. 564.
44. An amendment may only be presented if the section concerned 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 presenting a different amendment later, when the section concerned is examined (JD, December 2, 2003, CFP-23 p. 38 (Alain Paquet)/*RDPP* (Com. Vol.), no. 198/2).
45. JD, June 12, 2008, CE-16 p. 14 (Pierre Arcand)/*RDPP* (Com. Vol.), no. 197/20.
46. JD, June 13, 1986, p. CBA-1131 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 197/6.
47. 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 its withdrawal (JD, June 4, 1986, pp. CAPA-256–258 and 264 (Jacques Tremblay)/*RDPP* (Com. Vol.), no. 197/4).

Each amendment must comply with the general admissibility criteria for amendments arising from the jurisprudence.[48] For instance, an amendment may not deny, diverge from or contradict the main motion or, in this case, the section being amended, nor may it distort it.[49] Likewise, in keeping with the principle of the financial initiative of the Crown, only a minister may present an amendment intended to commit public funds, impose a charge on taxpayers, remit a debt due to the State or alienate state property (S.O. 192).[50]

In addition to the above-mentioned criteria, each amendment must meet the admissibility criteria for the 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.[51] 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.[52] Similarly, amendments must not exceed the scope of a bill[53] or add a new principle to it.[54] They may not amount to the rejection of a bill[55] or reverse its principle as previously adopted by the Assembly.[56] The explanatory notes, although indicative of the content of a bill, do not on their own suffice to identify its principle or principles.[57] To determine whether an element constitutes the principle of a bill, the committee must examine whether it is essential or simply procedural, and not just whether it is mentioned in the explanatory notes.[58]

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48. See Chapter 12, "The Decision-Making Process".
49. 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.
50. See Chapter 18, Section 18.2.2.3, "The Decision-Making Process".
51. 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.
52. JD, March 13, 1990, pp. CE-736–737 (Claire-Hélène Hovington)/*RDPP* (Com. Vol.), no. 197/8.
53. JD, December 13, 1990, pp. CBA-2301–2302 (Jean Audet)/*RDPP* (Com. Vol.), no. 244/17. Although the jurisprudence recognizes the possibility of broadening the scope of the main motion, a motion to amend that far exceeds the scope of the bill is out of order (JD, May 30, 2008, CAS-51 pp. 1–2 (Geoffrey Kelley)/*RDPP* (Com. Vol.), no. 197/17).
54. 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.
55. Geoffrion 1941, S.O. 562, note 1 (French only); Beauchesne, p. 207.
56. Geoffrion 1941, S.O. 566; JD, May 18, 1988, pp. CC-299–301 (Claude Trudel)/*RDPP* (Com. Vol.), no. 197/7.
57. JD, May 29, 2008, CAS-50 p. 30 (Geoffrey Kelley)/*RDPP* (Com. Vol.), no. 197/16.
58. JD, June 3, 1993, p. CE-2738 (Maurice Richard)/*RDPP* (Com. Vol.), no. 197/13.

No amendment may be made to correct technical errors in a statute not being examined by the committee.[59] Amendments to add consequential provisions are in order, however.[60] Moreover, when a bill being considered in committee is incomplete—for instance, when a printing error has slipped in and there are sections missing—an amendment is the only way to remedy the situation.[61] An amendment may propose to divide a section or paragraph, or to join a number of sections or paragraphs into one.[62]

An amendment that reverses or diverges from the provisions of the bill already adopted by the committee or that reverses a decision the committee has made about a previous amendment is out of order,[63] as is an amendment that is substantially the same as or is based on another one already rejected by the committee,[64] unless, in the second case, it contains new facts.[65] However, a proposed amendment that is identical in every respect to one proposed when another section was under consideration is in order, since its purpose is to amend a section that is substantively different from the previous one.[66] On the other hand, an amendment to insert a new section that would contradict a section of the bill not yet examined by the committee is out of order,[67] as

59. JD, April 14, 1987, pp. CET-3001–3007 (Lawrence Cannon)/*RDPP* (Com. Vol.), no. 244/14.
60. Ibid.
61. On December 16, 1999, during the detailed 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.
62. Geoffrion 1941, S.O. 333(2).
63. Beauchesne, 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).
64. Beauchesne, 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 under which the objective was to be achieved without an "increase in electricity rates paid by individuals". In this case, the Chair was of the opinion that the proposed amendment 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 Quebecers" (JD, June 1, 2006, CFP-16 p. 29 (Sam Hamad)/*RDPP* (Com. Vol.), no. 185/5).
65. JD, February 18, 1986, pp. CBA-181–187 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 185/2. Thus, an amendment that begins in terms similar to those of a previous amendment but that has a different purpose is in order (JD, June 12, 2000, CI-86 p. 30 (Roger Bertrand)/*RDPP* (Com. Vol.), no. 244/29).
66. 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.
67. JD, June 3, 1986, pp. CC-710–712 and 720–721 (Claude Trudel)/*RDPP* (Com. Vol.), no. 197/3.

is an amendment that makes a section unintelligible, that is frivolous,[68] vague or trifling,[69] or that is presented in a spirit of mockery.[70]

As with any other motion,[71] a motion in amendment 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 subsequently realizes that it is irregular, the Chair must inform the committee and withdraw it.[72]

Subamendments may be proposed to an amendment and each subamendment must be disposed of before another is moved (S.O. 200). The Member moving an amendment may not, however, propose a subamendment to it.[73] The admissibility criteria for a subamendment are the same as for an amendment: it may not deny, distort[74] or contradict the principle of the amendment. However, in accordance with the jurisprudence, a subamendment must be related to the amendment it is intended to amend[75] and not to the main motion, and it may not broaden the scope of the amendment since its purpose is simply to amend it.[76] Nor may it be intended to replace the entire text of the amending motion under consideration.[77]

Each committee member has 20 minutes to speak to each new section, paragraph[78] and subparagraph of a bill, to each amendment and subamendment and to each section that is being amended or inserted in an existing statute. The time may be used all at once or in two or more different turns (S.O. 245). When a committee takes up a new section comprising several paragraphs or subparagraphs, the Members must normally state at the outset if they intend to proceed one paragraph or subparagraph at a time; if not, the section is examined as a whole.[79] Since consideration of a section that does

68. Geoffrion 1941, S.O. 566, note 4 (French only).
69. Beauchesne, p. 207. However, according to Beauchesne, an amendment may not be declared inadmissible solely because it is formulated in vague terms (Beauchesne, p. 175).
70. JD, December 15, 1997, CAS-101 p. 21 (Rosaire Bertrand)/*RDPP* (Com. Vol.), no. 244/27.
71. JD, June 3, 1999, pp. 2164–2165 (Raymond Brouillet)/*RDPP*, no. 193/7.
72. JD, June 13, 1988, pp. CAS-1377–1387 (Guy Bélanger)/*RDPP* (Com. Vol.), no. 198/1.
73. JD, September 13, 1990, pp. CAE-2752–2754 (Madeleine Bélanger)/*RDPP* (Com. Vol.), no. 200/3.
74. JD, December 2, 2003, CFP-23 p. 45 (Alain Paquet)/*RDPP* (Com. Vol.), no. 200/4.
75. JD, March 22, 2006, CAS-2 p. 14 (Russell Copeman)/*RDPP* (Com. Vol.), no. 200/5.
76. 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.
77. JD, December 6, 2010, CFP-108 p. 7 (Luc Ferland)/*RDPP* (Com. Vol.), no. 200/6.
78. 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).
79. JD, June 13, 2001, CTE-18 pp. 19–20 (Claude Lachance)/*RDPP* (Com. Vol.), no. 245/4.

not amend an existing statute entitles a Member to speak to each paragraph and subparagraph for 20 minutes, the committee Chair must be informed of the Member's intention in this regard in order to manage the committee's time. In certain cases, a Member may prefer that all the sections of a bill be examined in the same way, one paragraph or subparagraph at a time. If so, the Member may state his or her intention at the preliminary remarks stage. The sections (other than those amending an existing statute) are then examined in the manner requested by the Member without the Member being required to reiterate the request for each section examined.[80]

When a section proposes to amend a section of an existing statute or add a section, each section may be addressed for 20 minutes, but not each paragraph and subparagraph. The following are examples: if a section proposes to amend a section of an existing statute by amending it and adding a new section, each member has 20 minutes to speak to the introductory paragraph, 20 minutes to speak to the provision amending the section and 20 minutes to speak to the proposed new section;[81] 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;[82] if a section of a bill proposes to add 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;[83] if an amendment is proposed to any of those sections, the speaking time granted is also 20 minutes, even if the amendment comprises more than one paragraph.[84] Furthermore, if an amendment proposes to add two or more sections to an existing statute, each section to be added or amended constitutes a separate amendment and 20 minutes of speaking time is allotted for each section.[85] In addition, although Standing Order 245 does not specify the speaking time allotted for schedules, 20 minutes is granted for each paragraph since a schedule is considered to be part of a bill.[86]

80. JD, December 11, 2007, CET-16 p. 3 (Catherine Morissette)/*RDPP* (Com. Vol.), no. 245/8.
81. 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).
82. 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.
83. JD, December 2, 2003, CFP-23 pp. 6–9 (Alain Paquet)/*RDPP* (Com. Vol.), no. 245/6.
84. JD, December 2, 2003, CFP-23 p. 42 (Alain Paquet)/*RDPP* (Com. Vol.), no. 245/7.
85. JD, November 18, 2003, CAS-20 pp. 6–7 (Russell Copeman)/*RDPP* (Com. Vol.), no. 245/5.
86. JD, March 23, 1987, pp. CBA-2048–2053 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 245/1.

In addition to the regular time allotted to each member under Standing Order 245, the sponsor of the bill may speak for up to five minutes after any other member has spoken (S.O. 246). Although the minister sponsoring the bill is under no obligation to use the time, he or she generally takes the opportunity to give explanations or answer questions. It has been ruled that a minister is not obliged to answer a question and that a point of order may not be raised because an answer is thought to be unsatisfactory. It is up to the member asking the question to persist.[87] A committee Chair has ruled that ministers may use their speaking time as they see fit and it is not the Chair's role to intervene in such matters.[88] Only a minister may use the speaking time allotted to a minister under Standing Order 246,[89] since that time may not be transferred to the minister's parliamentary assistant.[90] Under Standing Order 245, an assistant who wishes to speak must use his or her own speaking time.[91]

With the committee's consent, a minister may ask a public servant to give explanations or answer a Member's question.[92] However, consent must be requested each time the minister wants a public servant to take the floor, unless it is clear that the consent is valid for the entire meeting.[93]

Although committee members are entitled to propose amendments as long as the committee has not made a final decision on a section or motion, a member may only submit an amendment if he or she is still entitled to speak to the motion. A member may also propose a subamendment if he or she is entitled to speak to the amendment being examined, even if the member is no longer entitled to speak to the original motion.[94]

Amendments adopted during clause-by-clause consideration may result in a change in the title of the bill. For that reason, while the order in which the sections are examined may be modified, the title of a bill may only be considered and adopted after the examination of the sections has been completed.[95] Any preamble is studied after the sections but before the title.[96] A motion proposing to add a preamble to a bill that does not have one is out

87. JD, December 17, 2001, CAT-30 p. 32 (Jean-François Simard)/*RDPP* (Com. Vol.), no. 82/1.
88. JD, November 2, 2004, CTE-34 pp. 6–7 (Charlotte L'Écuyer)/*RDPP* (Com. Vol.), no. 246/6.
89. JD, June 16, 1986, pp. CAS-426–427 (Guy Bélanger)/*RDPP* (Com. Vol.), no. 246/3.
90. JD, February 18, 1986, pp. CBA-219–221 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 246/1.
91. Ibid.
92. JD, December 19, 2000, CC-55 p. 2 (Matthias Rioux)/*RDPP* (Com. Vol.), no. 246/5.
93. JD, November 22, 2000, CAT-60 p. 14 (Yvon Vallières)/*RDPP* (Com. Vol.), no. 246/4.
94. JD, June 3, 1986, pp. CC-718–720 (Claude Trudel)/*RDPP* (Com. Vol.), no. 196/2.
95. JD, June 11, 1986, pp. CE-519–524 (Robert Thérien)/*RDPP* (Com. Vol.), no. 244/7.
96. JD, December 9, 1986, pp. CAPA-1022–1024 (Maurice Richard)/*RDPP* (Com. Vol.), no. 244/11.

of order.[97] This is even more true of an amendment proposing to add a preamble to a statute without one.[98] Amendments to the preamble or the title of a bill are only in order if they arise from the amendments made to the rest of the bill. Substantive changes to a preamble are thus out of order, unless they appear necessary to accurately reflect the amended text of the bill or for the sake of uniformity.[99]

The detailed consideration of a bill concludes with the adoption of its 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.[100] Committees used to pass a motion at the end of their proceedings to adopt the actual text of the bill but this practice was abandoned after the Chair of the Committee of the Whole ruled that it was unnecessary.[101]

Traditionally, the detailed 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.[102]

Once a bill has been fully examined, the committee tables its report, comprised of the minutes of the proceedings and the text of the bill as adopted by the committee (S.O. 248, 1st par.).

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 may hear interested parties and examine the bill clause by clause (S.O. 267). The order of reference specifies whether a

97. Ibid.
98. JD, June 5, 2009, CAS-30 p. 24 (Geoffrey Kelley)/*RDPP* (Com. Vol.), no. 244/41.
99. JD, June 17, 1991, pp. CI-1712–1718 (Claude Dauphin)/*RDPP* (Com. Vol.), no. 197/11.
100. Geoffrion 1941, S.O. 539: "It shall be the duty of the law clerk to revise public bills and cause the same to be printed." This role of the Law Clerk is currently exercised by the Legislative Translation and Publishing Directorate.
101. JD, June 4, 1999, p. 2258 (Michel Bissonnet)/*RDPP*, no. 244/6. Under this ruling, the committee adopts the constituting elements of the bill but is not required to adopt the bill. It is up to the Assembly to decide, at the adoption stage of the legislative process, whether or not the bill should be adopted.
102. 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.

minister is to sit on the committee (S.O. 124). The Member who introduced the bill is automatically entitled to sit as a participating member of the committee throughout the proceedings (S.O. 125).

The Law Clerk must keep a register of the name, address and occupation of the applicant for a private bill and of the parties with an interest in the bill who 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 (R.C.P. 39). On behalf of the director of the Committee Secretariat, the clerk of the committee concerned convenes the parties at least seven days before the bill is to be considered in committee (R.C.P. 40). If the parties are convened less than seven days in advance, the clerk must ask the interested parties if they are willing to waive the advance notice under Rule 40 for the conduct of proceedings.[103] Under Standing Order 267, the committee hears the promoter of the bill and the parties who have informed the Law Clerk in advance of their interest in speaking to the bill under Rule 39 for the conduct of proceedings.[104]

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.[105] 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 that is therefore not an "interested party" within the meaning of Standing Order 267.[106]

The applicant and other interested parties are generally heard during the same meeting as that devoted to the clause-by-clause consideration of the bill. Committee members are first invited to make preliminary remarks, beginning with the Member who sponsored the bill,[107] who may introduce the applicant, the applicant's counsel, if any,[108] and the other interested parties, before giving

103. JD, February 26, 1992, p. CAE-7635 (Jean Garon)/*RDPP* (Com. Vol.), no. 267/3.
104. JD, May 27, 1992, pp. CAE-702–705 (Madeleine Bélanger)/*RDPP* (Com. Vol.), no. 267/4.
105. JD, May 28, 1992, pp. CAE-737–739 and 768–769 (Madeleine Bélanger)/*RDPP* (Com. Vol.), no. 267/5.
106. JD, May 27, 1992, pp. CAE-702–705 (Madeleine Bélanger)/*RDPP* (Com. Vol.), no. 267/4.
107. The resignation of a Member who presents a private Member's bill does not alter the mandate of the committee, which is to hold special consultations and carry out the clause-by-clause consideration of a 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).
108. Applicants are almost always accompanied by counsel, although they are not required to do so.

a concise explanation of the bill's contents. The other committee members then make their preliminary remarks.

The committee then proceeds with the public hearings. It first hears the applicant and the applicant's counsel. The applicant begins by presenting an outline of the bill, and counsel gives any legal explanations. After that, 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, it is up to the committee to make that decision (S.O. 171), unless the time was specified in a motion previously adopted by the Assembly.

After the public hearings, the committee begins the clause-by-clause consideration of the bill, which is done in the same way as for a public bill, except that the preamble is considered first unless the committee decides to delay its adoption.[109] In the case of a private bill on a municipal matter, the preamble is traditionally considered last. Once the preamble has been adopted, the committee members examine each section and any schedules in the same way as for a public bill.[110]

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 (S.O. 245). The Member introducing the bill is also allowed five minutes to reply after each other committee member has spoken (S.O. 246). If interested parties wish to speak to any of the sections, they may do so with the committee's permission.

The promoter of a private bill, whose rights will be affected by its adoption, may suggest amendments to the committee, but only a member of that committee may propose a motion in amendment. The committee members then vote for or against the amendments and the sections of the bill. However, it is not their role to propose that a section be withdrawn, since the bill belongs to the promoter, who retains the right to withdraw or abandon all or part of it.[111]

Once the detailed consideration of a bill has been concluded, the committee reports to the Assembly. The report is put to a vote immediately, without debate (S.O. 267).

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109. Geoffrion 1941, S.O. 630. Since private bills do not require explanatory notes, they each contain a preamble setting out the facts that justify their adoption (S.O. 266).

110. Geoffrion 1941, S.O. 630, note 1 (French only).

111. JD, May 29, 1986, pp. CBA-905–906 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 267/1.

19.2 EXAMINATION OF THE ESTIMATES

Immediately after interim supply has been adopted by the Assembly, the main estimates, except those for the Assembly, are sent to the standing committees for examination on a motion without notice that is moved by the Government House Leader and may not be debated (S.O. 281, 2nd par.).[112] Under Standing Order 282, the committees examine the estimates within their areas of competence determined by Standing Order 118.

Examination of the estimates begins, at the earliest, 15 days after they are tabled in the Assembly, and lasts for 10 consecutive meetings, from Monday to Friday, during committee meeting hours and according to the schedule for extended hours of meeting. During this period, the Assembly only conducts Routine Proceedings (S.O. 282). Consideration of the main estimates in committee may take up to 200 hours, while the time allowed for considering the estimates for a particular government department is 20 hours (S.O. 283). If 200 hours have not elapsed after 10 sittings, the committees may conclude their deliberations in the following days, under the same rules (S.O. 286).

The procedure for considering the estimates is specified in an agreement reached between the House leaders of the parliamentary groups in a conference convened by the President (S.O. 285). The agreement sets out the schedule and calendar of committee meetings, which minister and opposition critics will participate and how much time is to be spent on the examination of the estimates for each department. The time limit may not be exceeded even with the unanimous consent of the committee members. The committee may change the order of business and allow proceedings to continue past the time prescribed 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.[113] If changes need to be made to the terms of the agreement, the President of the Assembly and the House leaders must make them in accordance with Standing Order 285. A committee Chair is not empowered to redistribute time periods not used by a committee due to the 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.[114]

Before the committees begin to examine the estimates, an outline of the terms of the agreement is tabled in the Assembly. Occasionally, the presence of a minister who is not a Member of the Assembly is required under the

112. See Chapter 15, "The Budget Process".
113. JD, May 27, 1987, pp. CE-1924–1926 (Marcel Parent)/*RDPP* (Com. Vol.), no. 285/1.
114. JD, April 25, 2001, CET-4 p. 1 (Robert Kieffer)/*RDPP* (Com. Vol.), no. 285/2.

agreement. In such a case, according to a committee Chair decision, the minister may still defend his or her department's estimates in committee since, during the 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.[115] A non-elected minister may therefore speak in the context of a parliamentary oversight mandate such as the examination of estimates.[116] Under 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.

It is customary to begin committee proceedings on the estimates with preliminary remarks by the minister defending the estimates for his or her department. The Chair then gives the floor to the representative of each opposition parliamentary group in turn, who also makes preliminary remarks. Since there is no provision in the Standing Orders that governs the content and duration of preliminary remarks, unless it is specified otherwise in an agreement under Standing Order 285, they are to be governed by Standing Order 209, which sets out the general rules with respect to speaking time. The Standing Order states that, except as otherwise provided, the time limit for matters other than a formal motion, which include preliminary remarks, is 20 minutes. However, committee members usually agree to limit the time allotted for preliminary remarks in order to proceed more rapidly with the examination of the estimates. As is the case for the detailed examination of a bill, committee members may also present preliminary motions on the organization and planning of committee proceedings.[117]

The committee then proceeds with a discussion on the estimates between the minister and the committee members. The estimates for each department are divided into programs which are subdivided into program elements. The Standing Orders provide that each member may speak to each element for a total of 20 minutes (S.O. 209) and may speak more than once to each element (S.O. 284). The minister may speak as often as he or she wishes (S.O. 287) but for only 20 minutes at a time (S.O. 209). This method has never actually

115. Under section 11 of the *Executive Power Act*, L.Q., 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.

116. JD, May 8, 2001, CAT-7 pp. 8–9 (Danielle Doyer)/*RDPP* (Com. Vol.), no. 287/4.

117. JD, April 9, 1991, pp. CC-1309–1312 (Réjean Doyon)/*RDPP* (Com. Vol.), no. 284/7.

been followed in practice, since committees agree rather to conduct a general discussion on the estimates, with the total time distributed among the parliamentary groups in 20-minute blocks which include ministers' responses.

However, when there are more than two parliamentary groups, the provisions of the Standing Orders are difficult to implement. For example, during the 38th Legislature, the President of the Assembly ruled, for two reasons, that it was up to the President to specify how the time would be distributed among the parliamentary groups. The first reason arises from Standing Order 285, which specifies that the President convenes a meeting of the House leaders in order to specify the procedure for examining the estimates and confers certain prerogatives on the President in that respect. The second reason arises from the fact that the President must protect the rights of all the Members at all times and allow them to fully participate in deliberations.[118] Consequently, the President chose to distribute speaking time in proportion to the number of seats held by each parliamentary group in the National Assembly.[119]

118. JD, June 8, 2007, pp. 1187–1188 and 1200 (Michel Bissonnet)/*RDPP*, no. 285/1.

119. Ibid. For the purposes of the examination of the estimates for fiscal 2007–2008, the Government 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 if the time had been calculated strictly on the basis of the number of seats held by each parliamentary group in the Assembly. It was thus 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%. Under the agreement, 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 to speak. Debates lasting two to six hours would be preceded by 10 minutes of preliminary remarks per parliamentary group, or 20 minutes in the case of the estimates for the Conseil exécutif. For debates of over six hours, each parliamentary group would have 15 minutes for preliminary remarks. Interventions, including ministers' responses, were to be limited to 20 minutes per Member, following the rule of alternation, beginning with the Official Opposition. This procedure would apply unless the members of a committee agreed on another one. The same procedure was followed during the examination of the estimates for fiscal 2008–2009.
However, during the 1st Session of the 39th Legislature, speaking time for the year 2010–2011 was distributed under an agreement between the House leaders, in accordance with Standing Order 285: 50% to the group forming the Government, 38% to the Official Opposition, 7% to the Second Opposition Group, 2% to the independent Member from Québec solidaire and 1.5% to each of the two Members who had left the ranks of the Second Opposition Group to sit as independent Members. During the examination of the estimates of a department in committee, these two Members requested permission to combine their speaking time for use by only one of them, and to concentrate all the time allotted to them for the estimates in a few specific committees. The committee Chair denied their requests, being of the opinion that the individual limits for speaking time must be observed and that it was not the Chair's role to manage speaking time in other committees (JD, April 30, 2010, CFP-63 pp. 5–6 (Alain Paquet)/*RDPP* (Com. Vol.), no. 285/3). A few days later, in another committee, one of those independent Members requested the right to transfer his speaking time to the other independent Member. The

It is difficult to strictly apply the rule of alternation during examination of the estimates in committee, given that there is no adversarial debate.[120] Responsibility for giving the floor to a Member thus rests entirely with the Chair, who must ensure that speaking time is distributed fairly,[121] and that each Member has an opportunity to voice an opinion, since all members have equal rights in this regard and no parliamentary group may be given an unfair advantage over another.[122] Moreover, 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 and Official Opposition Members with respect to the allocation of speaking time.[123]

Since Standing Order 287 places no limit on the number of times a minister who is defending departmental estimates may speak, the Chair is required to give the minister the floor whenever he or she wishes to respond to another Member. However, the minister may not vote or move motions, since he or she is not a member of the committee.

Examining estimates in committee can 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,[124] and the discussion must concern an administrative or technical matter.[125] Similarly, a Member may only question a public servant directly with the prior consent of the minister and the committee.[126] As a result, a public servant may not be subpoenaed to appear before a committee to answer questions on the estimates.[127]

Members of the National Assembly are authorized to ask ministers for any information that may be of help in studying the estimates. However, although there are provisions in the Standing Orders that relate to the

Chair refused on the grounds that a Member may not transfer his or her speaking time to another Member without committee consent (JD, May 3, 2010, CSSS-40 p. 11 (Pascal Bérubé)/*RDPP* (Com. Vol.), no. 285/4).

120. JD, April 12, 1984, pp. CBA-67–68 (Claude Lachance)/*RDPP* (Com. Vol.), no. 284/1.
121. Ibid.; JD, April 25, 1989, pp. CBA-2621–2622 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 284/4.
122. JD, April 25, 1989, pp. CBA-2613–2614 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 284/3.
123. 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.
124. JD, April 22, 1986, p. CE-54 (Marcel Parent)/*RDPP* (Com. Vol.), no. 287/2.
125. JD, April 12, 1984, pp. CBA-117–119 (Daniel Johnson)/*RDPP* (Com. Vol.), no. 287/1.
126. JD, April 20, 1993, pp. CET-2635–2636 (Jean-Claude Gobé)/*RDPP* (Com. Vol.), no. 287/3.
127. JD, April 17, 2002, CAT-39 pp. 9–10 (Yvon Vallières)/*RDPP* (Com. Vol.), no. 287/5.

examination of financial commitments, there is no rule that requires government departments to provide committees with information that could be used in considering the estimates.[128] 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.[129]

During the examination of a 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.[130] In accordance with the jurisprudence, the rule of relevance is less strictly applied during consideration of the estimates than during clause-by-clause consideration of a bill. This means that a Member may broach all the activities of a department in his or her comments, as long as the Member does so in reference to a particular element of a program.[131]

When the time allotted to examine a particular program has expired, the Chair puts the question even if a particular Member's speaking time has not elapsed.[132] The committee may also decide to vote on all of a department's programs if the time allotted for examining the estimates for that department has expired.[133] The committee may then approve, negative or reduce the estimates (S.O. 288), but it may never increase them.[134]

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128. Each 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 takes place 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 may 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).
129. Ibid.; JD, April 24, 2002, CAPA-10 p. 17 (Léandre Dion)/*RDPP* (Com. Vol.), no. 81/1.
130. JD, May 29, 1990, pp. CAE-1258–1260 (Madeleine Bélanger)/*RDPP* (Com. Vol.), no. 284/6.
131. JD, April 16, 1986, p. CBA-533 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 211/2.
132. JD, April 25, 1989, pp. CBA-2613–2614 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 284/3.
133. According to a long-standing practice, the committee votes on the estimates of a 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, Section 15.1.2.5, "Consideration of Supplementary Estimates".
134. Geoffrion 1941, S.O. 382.

When the time allotted to examine the estimates has expired or when all the estimates have been carried in committee, the committee reports are all tabled together (S.O. 288) by the President, contrary to other committee reports.

19.3 INTERPELLATION

Any opposition Member may interpellate a minister on any matter of current or general interest under the minister's responsibility (S.O. 295). One parliamentary committee sitting a week 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 (S.O. 299).[135]

A notice published in the Order Paper of the Assembly not later than the last sitting of the week states the subject matter of the interpellation and the minister concerned (S.O. 296). If two or more such notices appear in the Order Paper, the President of the Assembly determines which one is to be called, taking into account the order in which the notices were given, their distribution among the parliamentary groups and the presence of independent Members.[136] 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 (S.O. 297). The subject matter determines which committee holds the interpellation,[137] which takes place the following week, on Friday morning from 10 a.m. to noon (S.O. 298). The debate is held in the National Assembly Chamber and is televised.

135. 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).

136. At the beginning of the 38th Legislature, the presence of two opposition groups led the President of the Assembly to allocate the interpellations for the duration of that legislature, in the same proportion as Wednesday motions, since both are parliamentary measures provided for the benefit of opposition Members and there are about the same number of each. As a result, interpellations were distributed by cycles of ten, with six, including the first, being allocated to the Official Opposition and four to the Second Opposition Group (JD, October 18, 2007, pp. 1549–1550 (Michel Bissonnet)/*RDPP*, no. 97.2/2).

137. At the beginning of a legislature, the fact that the committees have not yet been constituted 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 constituted (JD, May 17, 2007, p. 239 (Marc Picard)/*RDPP*, no. 295/4).

A parliamentary committee holding an interpellation in the National Assembly Chamber

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 the loss of one question period per week. Since the Friday morning interpellation, originally called "question with debate", replaced the Friday morning question period, it is quite similar to Question Period.[138]

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 minister.[139] The constitutional principle of ministerial responsibility, set out in Standing Order 189, entitles any minister to act on behalf of another minister. Therefore, even if an interpellation notice is directed toward a particular minister, it is up to the Government, not the committee Chair, to designate which minister will speak to the matter.[140] Likewise, the President of the National Assembly is not responsible for determining which minister is concerned by an interpellation, since that matter is within the purview of the executive branch.[141]

During the sitting, the Member who gave the interpellation notice speaks first, followed by the minister to whom the interpellation is addressed. They may each speak for up to 10 minutes (S.O. 300). Government Members

138. JD, November 6, 1984, pp. 473–475 (Richard Guay)/*RDPP*, no. 295/1.
139. Ibid.
140. JD, May 31, 1996, CAS-21, p. 10 (Claude Lachance)/*RDPP* (Com. Vol.), no. 295/1.
141. JD, November 6, 1984, pp. 473–475 (Richard Guay)/*RDPP*, no. 295/1.

then alternate with opposition Members in taking the floor.[142] Speaking time is limited to five minutes each, with the minister being allowed to comment after each opposition Member speaks (S.O. 301). Unused speaking time lapses and may not be deferred.[143] It has been ruled that if an independent Member is also a member of the committee, he or she may speak for five minutes, unless the independent Member requested the interpellation,[144] in which case more time will probably be granted. Twenty minutes before the committee is to rise, the Chair grants the minister 10 minutes of speaking time and the Member who gave the notice of interpellation has 10 minutes in which to reply (S.O. 302).

Lack of quorum may not be raised during an interpellation, nor may there be any motions, reports or votes (S.O. 303), not even a motion to adjourn proceedings.[145]

19.4 ACCOUNTABILITY MANDATES

Accountability mandates arise from the National Assembly's powers of oversight with respect to any action by the Government or its departments or bodies. In addition to verifying financial commitments, discussed later in this chapter, there are two types of accountability mandates: the accountability of departments and bodies under the *Public Administration Act*;[146] and the examination of the policy directions, activities and management of public bodies, commonly called an "oversight mandate".

142. During the 38th Legislature, the presence of three parliamentary groups made Standing Order 301 difficult to apply, since it prescribes alternation between majority Members and opposition Members with respect to speaking time. For this reason, the speaking order during an interpellation was established by a directive from the President of the Assembly with the unanimous consent of the Assembly to derogate from Standing Order 301. Under the directive, the 10-minute limit under Standing Order 300 for the Member who requested the interpellation and then for the minister is followed by five 15-minute sequences carried out as follows: five minutes for a Member of the same parliamentary group as the interpellator; five minutes for the minister; and five minutes for a government Member. However, 25 minutes before the end of the interpellation, the committee Chair interrupts the person speaking in order to allow a Member from the opposition group other than that of the interpellator to speak for five minutes, following which the minister is granted 10 minutes to conclude and the interpellator is granted 10 minutes to reply, in accordance with Standing Order 302 (JD, October 25, 2007, p. 1679 (Michel Bissonnet)/*RDPP*, no. 301/1).
143. JD, March 23, 1984, p. CET-8 (Pierre Fortier)/*RDPP* (Com. Vol.), no. 301/1.
144. JD, November 7, 2003, CAS-17 pp. 1–2 (Lucie Charlebois)/*RDPP* (Com. Vol.), no. 301/2.
145. JD, May 9, 1997, CAS-83 p. 4 (Rosaire Bertrand)/*RDPP* (Com. Vol.), no. 303/1.
146. L.Q., c. A-6.01.

19.4.1 Accountability of 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*,[147] was originally exercised exclusively by the Committee on Public Administration. Since its creation in 1997, it had been the only committee responsible for hearing all the deputy ministers and chief executive officers annually on their administrative management. However, due to the number of bodies concerned (around 120, compared to 70 under the old Act), the Committee fell far short of fulfilling this requirement and was only able to hear a few chief executive officers per year. Consequently, since September 2009, it has only been necessary to hear them every four years, and the Committee on Public Administration is no longer the only committee entrusted with this responsibility.

Under Standing Order 293.1, each sectorial committee must hear the ministers who wish to be heard and the deputy ministers or chief executive officers within its areas 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 (S.O. 293.1, 2nd par.); in such a case, the mandate replaces the oversight mandate required under Standing Order 294.

The departments and public bodies to be heard are selected in accordance with Standing Order 149, on a motion carried by a majority of the members from each parliamentary group. Failing agreement, the Committee on the National Assembly decides in their place (S.O. 293.1, 3rd par.). The Committee on Public Administration has full competence 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 (S.O. 117.6(3)).[148]

147. L.Q., c. I-4.1 (repealed by L.Q. 2000, c. 8, s. 153).

148. On this matter, it has been 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.),

If it chooses to hear a department or a public body whose management has not been reported (S.O. 117.6(3.1)), it must notify the competent sectorial committee. That committee has 10 days to let the Committee on Public Administration know whether or not 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 (R.C.P. 8.1). A deputy minister or a chief executive officer is only required to answer questions relating to his or her administrative management. Only ministers may speak to the political orientations of programs.[149]

19.4.2 Oversight of Public Bodies

Each sectorial committee must examine annually the policy directions, activities and management of one public body under its jurisdiction.[150] As is the case for accountability mandates, the public body to be heard is selected in accordance with Standing Order 149, on a motion carried by a majority of the members from each parliamentary group. Failing agreement, the Committee on the National Assembly decides which body is to be heard (S.O. 294). Even though committees are required under the Standing Orders to take up such a mandate, the mandate is nevertheless initiated in committee. Each committee therefore has full discretion to organize its proceedings and to hold consultations, whether general or special.

As seen in Section 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 its policy directions and activities as well as its management. The mandate is thus considered a mandate 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. In such a case, the committee must take into consideration the status and independence of the chief executive officer and his or her responsibilities with respect to the body's political and practical decisions.[151]

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 administration had been the subject of a report by the Auditor General.

149. JD, October 8, 1997, CPA-13, p. 15 (Jacques Chagnon)/*RDPP* (Com. Vol.), no. 117.6(3)/1.

150. 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*, L.Q., c. F-3.1.1, or whose capital forms part of the domain of the State.

151. JD, October 30, 1984, pp. CC-1–2 (Richard French)/*RDPP* (Com. Vol.), no. 294/1.

19.5 CONSULTATIONS

Consultations are an increasingly common means by which committees carry out certain aspects of their orders of reference and self-initiated orders. Consultations in committee are an excellent way for members to lay the groundwork for a mandate by exploring the real needs of the persons and organizations affected by the matter under consideration. Consultations may be special or general.

When a committee holds special consultations, it invites persons or organizations possessing specific experience in the matter under consideration (S.O. 170) to express their opinions. When a committee holds general consultations, the Committee Secretariat publishes a notice in the *Gazette officielle du Québec* and in the newspapers, inviting any person or organization who so wishes to submit a brief on the matter being examined by the committee (S.O. 166).

Consultations may take place following an order of the Assembly or the committee. A committee may also decide to hold consultations within the framework of any mandate it takes up on its own initiative, except the examination of financial commitments.[152] Moreover, as already mentioned, it may decide to hold special consultations before proceeding with the clause-by-clause consideration of a bill (S.O. 244).

The Assembly may also order a committee to hold consultations on a bill (S.O. 235) or any other matter (S.O. 146). In the case of special consultations ordered by the Assembly, the names of the persons and organizations that are to receive invitations, as well as the other terms of the order are often specified in the reference, and the committee must comply. It may not add any persons or organizations to the list included in the Assembly order.[153]

152. An 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 (S.O. 64.6), but it may not hold a general consultation.

153. 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 only carried 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 sitting that corresponded to the schedule set out in the motion.

Notice in Newspapers

General consultation

On the Draft Bill to enact the new Code of Civil Procedure

The Committee on Institutions will hold public hearings on this Draft Bill.

ASSEMBLÉE NATIONALE
QUÉBEC
A place for every citizen

HOW TO PARTICIPATE

- Organizations: written brief
- Individuals: written brief or presentation without a brief

It is also possible to comment on line with regard to this Draft Bill. For further information, visit the Assembly's website or contact the Committee clerk.

WHEN	Hearings begin January 17, 2012.
WHERE	In the Parliament Building, Québec City
DEADLINE	Briefs and requests to be heard without a brief must be received no later than **November 18, 2011.**
	The Committee decides which persons and organizations it will hear.

assnat.qc.ca

Ms. Catherine Grétas
Clerk of the Committee
1035, rue des Parlementaires,
Québec QC G1A 1A3

Telephone : 418-643-2722
Fax : 418-643-0248

Email : **ci@assnat.qc.ca**
Toll-free number :
1-866-337-8837

Express your opinion!
COMMITTEE ON INSTITUTIONS

Notice of a general consultation published in a newspaper

In the case of general consultations, 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 time allowed for submitting briefs, which must be at least 30 days.[154] Briefs may be submitted on paper or electronically (S.O. 166).

The committee examines the briefs received during a deliberative meeting and, if necessary, selects the persons and organizations it will hear during public hearings. Usually committees welcome any person or public body 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 the Assembly, the committee may decide whether or not to hold consultations (S.O. 167).

If the committee decides to proceed with public hearings, general consultations are governed by the same rules as special consultations. After

154. 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).

choosing 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 any discussion (S.O. 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 (S.O. 168 and 172). The invitation for general consultations must be sent at least seven days in advance (S.O. 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 (S.O. 164).

Unless otherwise provided in the Assembly order, public hearings begin with preliminary remarks, each Member being entitled to speak for up to 20 minutes (S.O. 209). With the unanimous consent of its members, a committee may override the rules pertaining to the allocation of speaking time (S.O. 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 assigned to the matter under discussion will be allowed to make preliminary remarks. The 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.[155] 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.

Under the Standing Orders, during public hearings, the Chair divides the time the committee devotes to hear each person or organization between government Members and opposition Members. Subject to the principle of alternation, Members may speak as often as they wish but never for more than 10 minutes at a time (S.O. 169 and 173).[156] Speaking time allocated to independent Members is counted as part of the time reserved for opposition

155. JD, March 7, 1989, pp. CBA-2439–2441 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 169/1.

156. Under the terms of a decision rendered in 1986 during special consultations, this speaking time did not include a witness's answer (JD, March 26, 1986, p. CET-74 (Jean-Pierre Charbonneau)). However, the committees considered the decision 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 decision, adding 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 in his or her allotted time 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.

Members, since the Chair must divide the speaking time between government Members and opposition Members as a group.[157] 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.[158] During the 39th Legislature, since the Government had a majority in the Assembly and in committee, the time granted for hearing a person or organization during a consultation was distributed equally between government Members and opposition Members, the latter in proportion to their representation on the committee.[159]

Since the purpose of consultations is to hear various views on a given subject, most of those who participate in the process do so by committee invitation. If a person turns down an invitation or fails to attend a hearing after accepting an invitation, he or she may be subpoenaed. Under section 51 of the *Act respecting the National Assembly*,[160] the Assembly or a committee may subpoena or compel any person to appear before it to answer questions or present evidence the Assembly or a committee considers necessary for its proceedings, inquiries or deliberations.[161]

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, there is nothing to prevent a Member from requesting that all the witnesses participating in a consultation be sworn in.[162] In general, however, an oath is rarely required.

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157. JD, February 2, 1993, p. CBA-1009 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 169/3.
158. JD, October 17, 2007, CTE-6 p. 1 (Lawrence S. Bergman)/*RDPP* (Com. Vol.), no. 173/2.
159. Minutes, June 1, 2011, CAT pp. 2–3 (Marie Malavoy)/*RDPP* (Com. Vol.), no. 267/7.
160. L.Q., c. A-23.1.
161. 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 the 11 witnesses, including three ministers and two Members. On October 30, 1997, the Committee on Culture adopted 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, as part of a mandate it initiated 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 adopted a motion to subpoena 14 members of the board of directors of La Financière agricole. The Committee also required one of the directors, via the subpoena, to produce certain documents.
162. JD, October 10, 1984, p. CAPA-33 (Yvon Vallières)/*RDPP* (Com. Vol.), no. 170/1.

During consultations held by order of the Assembly, witnesses and Members must limit their comments to the subject of the mandate.[163] The committee, for its part, is bound to carry out the order received from the Assembly. However, even if the consultations concern a specific document, references to other documents are permitted if relevant.[164] 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.[165] Charts may also be used in committee for instructional purposes.[166]

Changes were made to the Standing Orders during the parliamentary reform of 2009 in order to promote and facilitate public participation in general consultations. Thus, anyone who wants to 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 (S.O. 166(2)). If the committee decides to hold public hearings, it chooses 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 the 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 discussion with the committee members, and when the presentations will be made (S.O. 167(2)). The persons the committee decides to hear are convened at least seven days ahead of time (S.O. 168).

19.6 MANDATES SPECIFIC TO CERTAIN COMMITTEES

In addition to the mandates mentioned above, the following specific mandates set out in the Standing Orders also 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 picks up 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.

163. JD, April 10, 1990, pp. CAS-2203–2205 (Jean A. Joly)/*RDPP* (Com. Vol.), no. 211/7.
164. JD, February 22, 2000, CAS-25 pp. 5–6 (Yves Beaumier)/*RDPP* (Com. Vol.), no. 166/1.
165. JD, September 9, 2003, CAS-9 p. 47 (Russell Copeman)/*RDPP* (Com. Vol.), no. 211/8.
166. JD, February 22, 1988, p. CAS-3008 (Guy Bélanger)/*RDPP* (Com. Vol.), no. 167/1.

19.6.1 Examination of Financial Commitments

The examination of financial commitments was first 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 (S.O. 117.6(1)).[167]

The Committee on Public Administration 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 (R.C.P. 17). These expenditures are taken out of the budget adopted annually by the National Assembly.

The purpose of the mandate is to ensure ongoing parliamentary oversight by the National Assembly of how the departments and public bodies are using the appropriations granted them. The Committee on Public Administration examines the larger expenditures to make sure they are appropriate and in compliance with government rules and standards respecting the awarding of contracts and subsidies, and that public funds are allocated equitably.

There are several 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 administration where the public interest is at stake; and expenditures relating to the appointment, remuneration, interchange and pensioning of public servants and government employees (R.C.P. 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 (R.C.P. 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

167. This is a unique mandate for the Committee on Public Administration, since no other parliamentary committee on public accounts in Canada has this responsibility.

financial commitments on the fifteenth day of each month (R.C.P. 22).[168] The Committee may then, during a deliberative meeting, select on its own initiative the financial commitments it wishes to examine in depth at a meeting held for that purpose in the presence of a minister. It may, for instance, decide to investigate the financial commitments for a specific month or government department. The financial commitments the Committee chooses not to examine in depth are deemed to have been examined (R.C.P. 20). The Committee may also determine the manner in which it will proceed, such as the number of sittings it will devote to the examination and the order in which the commitments are to be examined, as well as 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 wishes 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 members from each parliamentary group (R.C.P. 21).

Formerly, when the Committee wished to investigate the financial commitments of a department or 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 commitments were declared verified as and when the monthly lists were examined.

In order to improve efficiency, the Committee on Public Administration completely overhauled its procedure and tools in March 2004. It now holds deliberative meetings approximately once a month to examine the financial

168. In practice, the Committee is given specific information concerning the Government's financial commitments by means of monthly lists provided by the departments and bodies through the Secretariat of the Conseil du trésor. The whole process is governed by Secretariat Directive no. 4-80 concerning certain commitments of $25,000 or more and the rules governing payments made out of the Consolidated Revenue Fund. The commitments are presented by budget program and mainly relate 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 dispensations 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 constitute as many open orders as necessary. Subsidies are categorized as "subject to standards" or "other". A subsidy "subject to standards", in contrast to other subsidies, must meet specific technical criteria that leave the departments and bodies little room to manoeuvre.

commitments submitted the previous month. After each monthly meeting, it sends any requests it may have for additional information, in writing, to the department concerned. The Committee may still hear ministers during the process, but this is only necessary when the information provided does not serve the purpose or when the situation warrants it, for instance, if there are a great many questions.[169] After the deliberative meeting, the clerk follows up on committee requests for information or documentation from the departments, setting a reasonable time limit for the submission of the information requested and forwarding it to the committee members before the next meeting devoted to the examination of financial commitments. If the answers are satisfactory, the commitments are considered verified at the next meeting.

During the 39th Legislature, the Committee on Public Administration again improved the efficiency of its financial commitment examination procedure. Committee members now receive the lists of financial commitments at least two weeks before the deliberative meeting. The committee clerk compiles the members' questions and comments in a document that is distributed to the members at the beginning of the deliberative meeting, and the Committee examines only the financial commitments that gave rise to such questions or comments.

When the Committee on Public Administration wishes to examine financial commitments in greater depth in the presence of a minister, it must notify the minister not less than 15 days before the meeting, although the minister may waive this notification, which is prescribed under Standing Order 164 (R.C.P. 24). A minister who is unable to attend a meeting to examine financial commitments may ask another minister who is a member of the Conseil du trésor to replace him or her (R.C.P. 25).[170]

Under the Rules for the Conduct of Proceedings, during a meeting to examine financial commitments, each committee member may speak as often as he or she wishes, for a total of 20 minutes, to each commitment called by the Chair (R.C.P. 30). Responses from the minister are not included in this speaking time.[171] The rule regarding relevance is broadly interpreted in favour

169. 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. No hearings were held during the 38th Legislature.

170. This has never occurred; the Committee on Public Administration prefers to reach an agreement with the minister regarding his or her availability.

171. JD, November 1, 1988, pp. CBA-1160–1161 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 293/1.

of the Members, provided there is at least some connection to the commitment under examination.[172] Preliminary remarks are not allowed, however, unless provided for on the agenda of the meeting or unless the agenda is modified by a majority of the members from each parliamentary group.[173]

A minister who is unable to answer a given question during a sitting has 15 days to send a reply to the committee clerk, who forwards copies to all the members of the Committee and to the research services of the parliamentary groups (R.C.P. 26).[174] 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 do so (R.C.P. 27). A committee member may also ask a minister to provide additional information or documents relating to a financial commitment examined at an earlier meeting (R.C.P. 28).

No discussion is necessary in order for financial commitments to be deemed examined. Based on a 1988 decision, just as commitments not selected for discussion during a deliberative meeting are considered to have been examined, commitments that were on a meeting agenda but that the Committee was not able to examine are also considered to have been examined, unless a motion to defer consideration is adopted.[175] Such a motion, which must be adopted by a majority of the members from each parliamentary group, allows the committee to defer to a later meeting consideration of the financial commitments it has not finished examining (R.C.P. 29).

The Chair of the Committee on Public Administration then tables the committee report in the Assembly.[176] The report must contain the minutes of both the deliberative meetings and the meetings held to examine financial commitments, as well as any conclusions the committee drew and any observations or recommendations it made (R.C.P. 31).[177] The report is not debated in the Assembly even if it contains recommendations (S.O. 94).

172. JD, October 1, 1986, pp. CBA-1237–1238 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 211/5.
173. JD, November 3, 1988, pp. CBA-1206–1207 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 293/3.
174. JD, February 25, 1992, pp. CI-2277–2278 (Claude Dauphin)/*RDPP* (Com. Vol.), no. 293/4.
175. JD, November 3, 1988, pp. CBA-1206–1207 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 293/2.
176. A report on committee proceedings during the examination of financial commitments is tabled twice a year, usually in June and December.
177. Since its creation in 1997, the Commission on Public Administration has only once exercised this right, when it formulated 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 debate on the budget speech is suspended in the Assembly once all Members wishing to speak to the subject have been heard or 13½ hours have elapsed since the Minister of Finance began the speech. Debate is resumed in the Committee on Public Finance not later than the next meeting. The Minister of Finance sits on the Committee during proceedings on the budget speech (S.O. 275).

Debate in committee may not exceed 10 hours (S.O. 272) and comprises two stages, namely, preliminary remarks and the debate itself.[178] According to the jurisprudence, the Minister of Finance, the Official Opposition critic and the Second Opposition Group critic, if any, may each speak for up to 20 minutes at the preliminary remarks stage.[179] Traditionally, the Official Opposition finance critic then opens the debate.[180]

In 1986, the Chair of the Committee on the Budget and Administration allocated speaking time during the debate stage in accordance with a decision rendered on May 23, 1984 by the Committee on the National Assembly. 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. Insofar as possible, the rule of alternation was observed.[181] The same procedure was followed during subsequent legislatures, with speaking time being allocated equally to government Members and those in opposition.[182]

During the 38th Legislature, however, three parliamentary groups were represented, 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

178. JD, June 1, 1993, pp. CBA-2657–2658 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 275/3.
179. 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.
180. JD, June 1, 1993, pp. CBA-2657–2658 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 275/3.
181. 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 rule 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.
182. JD, June 1, 1993, pp. CBA-2657–2658 (Jean-Guy Lemieux)/*RDPP* (Com. Vol.), no. 275/3.

wished for a total of 10 minutes each, on a rotating basis. The Minister 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.[183]

At the beginning of the 39th Legislature, there were only two parliamentary groups in the Assembly, and the group forming the Government had a majority. Speaking time was equally divided between government Members and opposition Members, with the Official Opposition and the independent Member obtaining speaking time in proportion to their representation on the Committee. Thus, the Official Opposition, with four Members sitting on the Committee, was granted four fifths of the opposition time, while the independent Member was granted one fifth.[184] The following year, after the Second Opposition Group was recognized, the time was allocated as follows: 50 percent to the group forming the Government and 50 percent to the opposition Members in proportion to their representation on the Committee, with the Official Opposition Members being granted four fifths of the opposition time and the Second Opposition Group Member, one fifth. 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. Speaking time was granted in 20-minute blocks, including questions and answers.[185]

During the debate, comments by committee members may be general and deal with any subject; they need not be questions addressed to the Minister.[186] In contrast to the debate on the budget speech 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.[187]

Once the debate in the Committee on Public Finance has been concluded, the Chair reports to the Assembly at the next Routine Proceedings (S.O. 276).

183. JD, May 30, 2007, CFP-2, p. 1 (Alain Paquet)/*RDPP* (Com. Vol.), no. 275/4. After deducting the time used for preliminary remarks, the nine remaining hours were distributed as follows: the Government, 3 hours and 28 minutes; the Official Opposition, 2 hours and 57 minutes; and the Second Opposition Group, 2 hours and 35 minutes.
184. JD, April 1, 2009, CFP-4 p. 5 (Alain Paquet)/*RDPP* (Com. Vol.), no. 275/5.
185. JD, April 14, 2010, CFP-56 p. 1 (Alain Paquet)/*RDPP* (Com. Vol.), no. 275/6.
186. JD, June 5, 1984, p. CBA-207 (Claude Lachance)/*RDPP* (Com. Vol.), no. 275/1.
187. 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 the resumption of the debate on the budget speech.

19.6.3 Hearing Officers of the National Assembly

Officers of the National Assembly are appointed to public office by the National Assembly, a procedure which 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 Lobbyists Commissioner, the Chief Electoral Officer, the Public Protector, the Auditor General and the Ethics Commissioner. They are appointed on a motion by the Premier, which must be supported by two thirds of the Members of the National Assembly.[188] 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.[189]

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 (S.O. 116(3.1)) before being appointed. The decision to hold such a hearing is made by the Committee's steering committee (R.C.P. 4.1), and the purpose is to enable the Members to ask the candidates questions before their appointment.

Under the Standing Orders, three of the officers of the National Assembly—the Auditor General, the Chief Electoral Officer and the Public Protector—must be heard by a parliamentary committee every year. From 1984 to 1997, the Committee on the National Assembly was responsible for hearing these officers or delegating this responsibility to another standing committee. Since 1997, the responsibility has been shared by the Committee on Public Administration and the Committee on Institutions. Moreover, section 45 of the *Lobbying Transparency and Ethics Act* provides for the examination of the report of the Lobbyists Commissioner in committee.

Three of the officers of the National Assembly—the Chief Electoral Officer, the Public Protector and the Auditor General—are also 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 officers of public bodies at least once every four years on their

188. *Election Act*, L.Q., c. E-3.3, s. 478; *Public Protector Act*, L.Q., c. P-32, s. 1; *Lobbying Transparency and Ethics Act*, L.Q., c. T-11.011, s. 33; *Auditor General Act*, L.Q., c. V-5.01, s. 7. In addition to these officers, the members of the Commission d'accès à l'information, the Commission de la fonction publique, the Commission des droits de la personne et des droits de la jeunesse and the Commission de la représentation électorale 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, Section 12.3.4, "Required Majority").

189. *Code of ethics and conduct of the Members of the National Assembly*, L.Q., c. C-23.1, s. 62.

administrative management. Moreover, the Committee on Public Administration hears the Auditor General every year on his or her annual management report.[190]

19.6.3.1 The Auditor General

The Auditor General, who is appointed for a 10-year term, performs audits to support Parliament in its oversight of the management of the funds and other public property the Assembly entrusts to the Government and its bodies and enterprises. The Auditor General reports to the Assembly on the outcome of those audits at various times throughout the year, generally in the spring and fall. The reports take the form of volumes or special reports.

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. The Committee on Public Administration is responsible for hearing the Auditor General every year on that report (S.O. 117.6(2)). The Committee on the National Assembly first entrusted the mandate to hear the Auditor General on his or her annual report to the Committee on the Budget and Administration in 1987. After that committee was dissolved in April 1997, a committee with a horizontal role—the Committee on Public Administration—was charged with hearing the Auditor General annually on his or her activity report, which at the time was included in the last chapter of the annual report. Since the fiscal year 2002–2003, the Auditor General has tabled the annual management report separately and the Committee has used the 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 also calls on the Auditor General to testify during

190. 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 Act, the Chief Electoral Officer, the Public Protector and the Auditor General are subject to section 29 of the *Public Administration Act* (*Election Act*, s. 488.2; *Public Protector Act*, s. 35.1; *Auditor General Act*, s. 67). The Committee on Public Administration therefore heard the Public Protector in 2010 with respect to his 2008–2009 annual management report, and also examined the 2007–2008 annual management report of the Chief Electoral Officer in a deliberative meeting in 2009.

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 (S.O. 117.6(3)).

19.6.3.2 The Public Protector

The Public Protector is appointed for a five-year renewable term to help people or groups who believe a department or body of the Québec government has made an error or treated them unfairly, and acts to prevent such incidents. The Public Protector also acts on behalf of people who consider 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 charged with hearing the Public Protector annually (S.O. 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.[191] 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 (S.O. 117.6(3)).

19.6.3.3 The Chief Electoral Officer

The Chief Electoral Officer is appointed for a seven-year renewable term and is responsible for overseeing general elections, by-elections, municipal elections, school board elections and referendums in Québec, and for maintaining and updating the permanent voters lists and monitoring political party funding and electoral spending. The Chief Electoral Officer also informs electors of their electoral rights, has

191. Since 1984, the Committee on Institutions has examined the policy directions, activities and management of the Public Protector twice, in 1990 and 1991. The 1991–1992, 1993–1994 to 1996–1997 and 2000–2001 annual reports were also examined by the Committee in a public hearing. Lastly, the Committee also heard the Public Protector on September 20, 2010 with respect to her 2008–2009 annual report and two special reports.

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.

Under section 542 of the *Election Act*, the Chief Electoral Officer and the Commission de la représentation électorale must submit an annual activity report to the Assembly on or before September 30, including a financial report for the preceding fiscal year. The annual management report must be included in the report (*Election Act*, s. 488.2). The Chief Electoral Officer's report must be submitted to the Committee on the National Assembly for consideration when it recommends a verification of 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.[192] The Committee on Institutions is responsible for hearing the Chief Electoral Officer annually (S.O. 294.1), and it 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.

19.6.3.4 The Lobbyists Commissioner

The Lobbyists Commissioner monitors and controls the lobbying of public office holders such as ministers and Members and their personnel. This task entails investigations and inspections with respect to contraventions of the *Lobbying Transparency and Ethics Act*[193] and the *Code of conduct for lobbyists*[194] drawn up by the Lobbyists Commissioner.[195] The Lobbyists Commissioner is appointed for a five-year renewable term.[196]

192. The Committee on Institutions examined the budget estimates of the Chief Electoral Officer for the fiscal years 1990–1991, 1991–1992, 1992–1993 and 1993–1994.
193. *Lobbying Transparency and Ethics Act*, s. 39.
194. R.Q., c. T-11.011, r. 2.
195. 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*.
196. *Lobbying Transparency and Ethics Act*, s. 34.

Under section 45 of the 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.[197]

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*,[198] adopted on December 3, 2010. The Commissioner provides advisory opinions to Members, with recommendations, if appropriate, on questions concerning their obligations under the Code, particularly in relation to incompatible offices and conflicts of interest, as well as gifts and benefits. He or she may publish guidelines for Members regarding the application of the Code, and organize activities to inform Members and the general public about his or her role.

The Ethics Commissioner conducts inquiries on his or her own initiative or at the request of a Member to determine whether a Member or a minister has violated the Code in any way, and reports on his or her findings to the National Assembly. The Commissioner is appointed for a five-year renewable term.

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.[199] The committee report is then laid before the

197. Actually, the Committee on Public Finance 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 fully carry out its mandate and table its report. In addition, under section 68 of the *Lobbying Transparency and Ethics Act*, the Committee examined the five-year report tabled by the Minister of Justice on October 23, 2007 on the implementation of the Act. It held four days of public hearings on May 1 and May 6–8, 2008 on the 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, those mandates could not be fully carried out or the reports tabled.

198. *Code of ethics and conduct of the Members of the National Assembly*, s. 3.

199. Ibid., s. 102.

National Assembly, and is voted on at the next sitting, during Deferred Divisions. No debate or amendments to the report are admissible.[200] Any sanction recommended in the report is applicable on the adoption of the report by a two-thirds vote of the Members of the National Assembly.[201]

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. The report is submitted to the President of the Assembly, who tables it within 15 days or, if the Assembly is not sitting, within 15 days of resumption. The competent committee subsequently examines the report.[202]

200. Ibid., s. 103.
201. Ibid., s. 104.
202. Ibid., s. 114.

20

Citizen Relations

In 2009, after an in-depth self-assessment, the National Assembly went ahead with a reform of the rules governing its parliamentary proceedings. One of the key objectives of this parliamentary reform was to render the National Assembly more accessible to the public. New advances in communication technology coupled with the growing expectations of people with respect to their participation in public affairs meant that new measures had to be put in place to integrate modern technologies into the work of the National Assembly. Changes were thus made to the rules governing petitions and other types of citizen intervention—including several to do with parliamentary committees. This chapter will examine in detail the rules that apply to exercising democratic rights in the parliamentary context and the obligations that accompany those rights.[1]

1. Since the 2009 parliamentary reform, members of the public may also express their intention to participate in a consultation in committee, without submitting a brief. For the rules governing this type of intervention, see Chapter 19, Section 19.5, "Consultations".

20.1 THE RIGHT TO PETITION

The right to petition is a well-established right in our society. In fact, the right of every person to petition the National Assembly is set out in the *Charter of Human Rights and Freedoms*.[2] Nevertheless, until recently, there was no official procedure in place to follow up on petitions that were presented to the Assembly. However, on September 14, 2009, as part of the parliamentary reform, a rule was adopted stating that all petitions submitted to the Assembly must receive a written answer from the Government. If the Government does not provide an answer within a given time period, a minister must provide an oral answer to the Assembly. Further, the committee whose areas of competence cover the subject matter of the petition may decide to examine it and hear the petitioners at a public hearing.

20.1.1 Starting a Petition

Any person or association of persons may petition the National Assembly through one of its Members to redress a grievance lying within the competence of the State (S.O. 62). The petition must state the facts on which it is based and the intervention sought. It must state why the intervention of the Assembly is sought in clear, concise, accurate and temperate terms. Petitions may be submitted either on paper or in electronic form (S.O. 63, 1st par.) and may identify the group to which the petitioners belong (S.O. 63.1).

20.1.1.1 Starting a Paper Petition

A paper petition must comply with certain rules. It must be a handwritten or typewritten original, presented on letter- or legal-size paper. The President will automatically refuse any petition that is not written on paper of the usual size (R.C.P. 42(3)). The petition must contain the original signatures of all the petitioners and the name of the group to which they belong, where applicable (S.O. 63, 2nd par. and S.O. 63.1). The intervention sought must be repeated on every sheet of paper bearing signatures and comply with the general rules applicable to the content of a petition.

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.

2. L.Q., c. C-12, s. 21.

20.1.1.2 Starting an Electronic Petition

To be considered valid, an electronic petition must be initiated and signed on the Assembly's website (S.O. 63, 2nd par.). The President will reject any petition that does not meet this condition (R.C.P. 42(4)). This rule ensures signatories that the wording of the petition they sign is identical to the wording that will be presented to the Assembly.

The originator of the petition may ask his or her Member of the National Assembly or any other Member to present the petition. Once a Member has agreed to present the petition, he or she must give the Secretary General notice of the intent to present an electronic petition. In addition to the text of the petition, the notice must also state the period of time during which

the petition may be signed,[3] which may vary from one week to three months.[4] No other electronic petition with the same object may be initiated during that period (R.C.P. 44).[5]

The President must rule on whether the petition is in order and compliant within seven days of receipt of the notice by the Secretary General (R.C.P. 45). If the ruling is favourable, the petition is posted on the Assembly's website and made available for signatures. The number of signatures appears on the website in real time, but the site does not provide any details about the signatories. The Member must present the petition during one of the three sitting days following the end of the period allowed in the notice for gathering signatures (R.C.P. 46).[6]

Unless the Assembly is dissolved, the provisions concerning petitions apply when a session is prorogued, despite Standing Order 47 (S.O. 64.12).

20.1.2 Admissibility of a Petition

The President automatically refuses any petition that does not meet certain basic criteria related to its content and form. A non-compliant petition may be presented, however, if the unanimous agreement of the Assembly is obtained.

20.1.2.1 Non-Compliant Petitions for Which the Approval of the Assembly May Not Be Requested

The President must refuse ipso facto the presentation of any petition that is deemed out of order on one of the following grounds:

(1) The petition exceeds 250 words (S.O. 63.1; R.C.P. 42(1)): this is the codification of a ruling by the Chair made in 2005. With a view to ensuring the smooth functioning of the Assembly and its committees, the ruling states that a petition, including the statement of facts and the intervention sought, must not exceed 250 words;[7]

3. The notice must also include information concerning the person or association of persons who initiated the petition: first and last name of the person (or of the person in charge of the association); name of the association (where applicable); complete postal address; telephone number and email address.
4. This period may be modified as long as it is not shorter than one week or longer than three months.
5. If there is more than one request to initiate a petition with the same object on the Assembly's website, the date and hour of reception will determine which request takes precedence.
6. According to 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.
7. JD, November 23, 2005, pp. 10389–10390 (Michel Bissonnet)/*RDPP*, no. 63.1/2.

(2) The petition contravenes the provisions of Standing Order 35 (R.C.P. 42(2)): the President must reject, in particular, any petition containing violent, abusive or insulting language, imputing improper motives to a Member, or impugning the conduct of a Member. The same is true for a petition that does not comply with the *sub judice* rule. According to this rule, a matter that is before a court of law or a quasi-judicial body, or that is the subject of an inquiry may not be referred to if the reference could be prejudicial to the interests of any person or party (S.O. 35(3));[8]

(3) The petition is not printed on paper of the usual size (R.C.P. 42(3)): to be considered in order, petitions must be printed on letter- or legal-size paper; or

(4) The petition was submitted in electronic form, but was not initiated and signed on the Assembly's website (S.O. 63, 2nd par.; R.C.P. 42(4)): this condition is essential to ensure the authenticity of the petition.

In such cases, the President will not allow the Member to seek consent to present the petition during Routine Proceedings nor allow consent to be sought to present the petition indirectly at another stage of proceedings.[9] Moreover, when the President realizes that a petition has been presented that should not have been, the Member concerned is advised that the petition in question will be considered as not having been presented and will not undergo the usual follow-up or receive a response from the Government.

20.1.2.2 Non-Compliant Petitions That May Be Presented If the Assembly's Unanimous Consent Is Obtained

The President must refuse any petition that does not meet the admissibility criteria set out in the Standing Orders or the Rules for the Conduct of Proceedings of the National Assembly. However, by leave of the President, a Member may seek the unanimous consent of the Assembly to present a petition previously deemed non-compliant on one of the following grounds:

(1) It did not seek to redress a present grievance that lies within the competence of the State (R.C.P. 43(1)): the Standing Orders allow any person or association of persons to petition the Assembly through

8. A President previously refused a petition on the grounds that it made reference to facts contained in a contract that was the subject of court proceedings to establish its confidentiality (JD, April 18, 1991, pp. 7403–7407 (Jean-Pierre Saintonge)/*RDPP*, no. 62/5). In the same manner, a petition referring to a class action suit was refused; however, it was specified that it could be tabled once the suit was no longer before the courts (JD, March 18, 1993, pp. 5456–5457 (Jean-Pierre Saintonge)/*RDPP*, no. 62/6).

9. JD, September 17, 2009, pp. 2993–2994 (Yvon Vallières)/*RDPP*, no. 62/9.

one of its Members for the redress of such a grievance (S.O. 62). On the other hand, the President could allow a Member to seek the consent of the House to present a petition that does not seek to redress a grievance or that seeks to redress a grievance that is not directly within the competence of the State;

(2) It was submitted on paper but was not a handwritten or typewritten original (R.C.P. 43(2)): under Standing Order 63, a petition submitted on paper must be the original. This means that the President may refuse a photocopy of a petition.[10] However, it has become common practice to allow the presentation of petitions with photocopied or faxed pages of signatures, provided all the Members of the Assembly agree;

(3) It was submitted on paper but did not contain the signatures of all the petitioners (R.C.P. 43(3)): under Standing Order 63, a paper petition must contain the signatures of all petitioners—otherwise it is deemed non-compliant. However, sometimes one person signs on behalf of other petitioners, or petitioners' names are included without their signatures. Generally, in such cases, the President allows the petition to be presented, provided all the Members of the Assembly agree; or

(4) The redress sought did not appear on every page of a paper petition that bears signatures (R.C.P. 43(4)): normally, the wording of the petition must appear on every page bearing signatures to reassure petitioners that their signatures won't be used for another purpose.

While the 2009 parliamentary reform introduced rules making the form and content of petitions more flexible, many of the paper petitions brought to the attention of the Assembly are still non-compliant because they don't contain the signatures of all the petitioners, part of the petition is not an original, or no redress of a grievance is sought. The President always has the right to refuse non-compliant petitions, but generally allows them to be presented, provided the Assembly gives its consent, since a great many citizens signed in good faith. Members rarely refuse their consent.

20.1.3 Presenting a Petition

Members presenting paper petitions must hand them in to the Secretary General not later than one hour before Routine Proceedings. For electronic petitions, the lodging of a notice is sufficient (S.O. 64, 1st par.). Petitions must

10. JD, April 11, 1984, p. 5748 (Richard Guay)/*RDPP*, no. 63/1.

be presented in the period set aside for that purpose during Routine Proceedings. A maximum of 15 minutes is allotted to that end (S.O. 64, 2nd par.).[11]

If a petition is deemed non-compliant, the Member must obtain the unanimous consent of the Assembly before it may be presented (R.C.P. 43, 2nd par.). Once this consent is obtained, the procedure for presenting the petition is the same as for compliant petitions, and the Member reads what is referred to in the Standing Orders as an "abstract of petition". This abstract, which is tabled in the Assembly and certified true to the petition by the Member, identifies any parties promoting the petition, states the number of signatures and outlines the material allegations and the redress sought (S.O. 64, 3rd par.).

Members have the right to refuse to act as an intermediary for a group of petitioners.[12] A Member who accepts to present a petition does not have to agree with its objective.[13] Except for the President, any Member, including a minister, may present a petition to the Assembly.[14] However, as the objective of a petition is often to ask the Government to remedy a situation, a minister may prefer that a Member who does not sit on the Executive Council present it. The President does not question these decisions.[15] It is actually very rare for ministers to table petitions in the Assembly.

Sometimes a Member presents the abstract of a petition in the name of another Member who is not able to do so.[16] However, a Member may not, on the request of a group of citizens, present the abstract of a paper petition on behalf of another Member, while the original of the petition is still in the hands of the latter.[17] To be in compliance with the Standing Orders, a Member

11. On June 10, 2010, 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 S.O. 64 to allow five more petitions to be presented (VP, June 10, 2010, pp. 1465–1466).
12. JD, December 14, 1984, p. 1835 (Richard Guay)/*RDPP*, no. 62/3.
13. JD, December 17, 1984, p. 1899 (Richard Guay)/*RDPP*, no. 62/4.
14. JD, March 25, 1999, pp. 852–853 (Jean-Pierre Charbonneau)/*RDPP*, no. 62/1; JD, June 15, 1982, pp. 4840–4842 (Claude Vaillancourt)/*RDPP*, no. 62/7.
15. JD, March 25, 1999, pp. 852–853 (Jean-Pierre Charbonneau)/*RDPP*, no. 62/7.
16. 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 a substitution in certain cases, such as statements by Members (S.O. 54.2) and motions that have been published in the *Order Paper and Notices* (S.O. 189). The same logic applied in those Standing Orders is applied to the presentation of petitions.
17. JD, November 13, 1997, p. 8443 (Jean-Pierre Charbonneau)/*RDPP*, no. 63/3.

must lodge the original of the petition with the Secretary General, who keeps the paper original or the file containing a petition in electronic form for seven days after it has been presented, after which time it is returned to the Member (S.O. 64.1).

Immediately after a petition is presented, the Secretary General gives a copy of it to the House leaders, the independent Members and the competent committee. If the petition was started by an individual following a motion in the House explicitly condemning that individual for words spoken or an act committed as a private citizen, a copy of the document tabled is forwarded to the Committee on the National Assembly (S.O. 64.2).

20.1.4 Acceptance of a Petition by the Competent Committee

Once a petition has been presented, the committee to which it is referred has 15 days in which to hold a deliberative meeting, at the request of one of its members, to decide if it will examine the petition (S.O. 64.3, 1st par.).[18] The 15 days do not run when the Assembly stands prorogued or during weeks allotted for riding work. Nor do they run during periods when the Assembly meets for extended hours or during the examination of the estimates in committee (S.O. 64.7).

A committee may decide to examine several petitions at the same deliberative meeting if more than one request to hold such a meeting to discuss a petition has been received (S.O. 64.3, 2nd par.). If the committee agrees to examine more than one petition, it can choose to group together those on the same subject (S.O. 64.4, 2nd par.).

Like any order the committee initiates itself (S.O. 120(2.1)), the decision to examine a petition is made in accordance with Standing Order 149 (S.O. 64.4, 1st par.), that is to say, on a motion by one of its members adopted by a majority of the members from each parliamentary group. If a committee decides not to examine a petition, or if, on the expiry of the 15-day time limit set out under Standing Order 64.3, it has not agreed to examine a petition, the committee clerk informs the Secretary General, who then immediately notifies the Government House Leader (S.O. 64.5). On the other hand, if a committee decides to examine a petition, it may choose to hear the petition's originator or the originator's representatives, and any other person or organization. The clerk of the committee must convene everyone at least seven days

18. When calculating this time limit, the day the petition is presented is included in the 15 days. By analogy with section 52 of the *Interpretation Act*, L.Q., c. I-16, if the time limit expires on a Saturday or a Sunday, days on which the committees do not sit, the committee may meet on the following Monday (S.O. 181).

before they are scheduled to be heard (S.O. 64.6, 1st par.). As with all committee-initiated orders, it is up to the committee to determine how the order will be carried out (choice of participants, duration of hearings, etc.).

The committee must submit its report not later than 30 days after its decision to examine a petition (S.O. 64.6, 2nd par.). The committee report comprises the minutes of its proceedings and, where applicable, its observations, conclusions and recommendations (S.O. 177). Committee reports are not debated in the House (S.O. 64.6, 3rd par.), even if they contain recommendations. Once the report is tabled in the Assembly, the Secretary General immediately forwards a copy of it along with a notice to the Government House Leader (S.O. 64.6).

20.1.5 The Government's Answer to a Petition

The Government must answer every petition in writing not later than 30 days after the Secretary General forwards to the Government House Leader the notice referred to in Standing Order 64.5, if the competent committee decided not to examine the petition, or the notice referred to in Standing Order 64.6, if the committee decided to examine the petition and has tabled its report.[19] If on the expiry of the time limit, the Assembly is not sitting, the answer is tabled not later than the third sitting after the resumption of proceedings (S.O. 64.8).

The Chair has ruled that, regardless of the person to whom a petition is addressed, the Government must provide an answer if the redress requested lies within the competence of the State and the petition satisfies the other criteria of admissibility. Therefore, a petition does not have to include the name of the person to whom it is addressed; if it does, the abstract read by the Member may also give that information, although there is no obligation to do so under the Standing Orders. This does not bind the Government in its choice of the minister who will answer the petition,[20] but the answer must be signed by a minister, not a public servant.[21]

19. The day the notice is forwarded by the Secretary General is included in the 30 days. If this time limit expires on a day the Assembly is not sitting (Friday to Monday during a period of ordinary hours of meeting and Saturday to Monday during a period of extended hours of meeting), the written answer may be tabled at the sitting following the expiry of the time limit, that is, on the Tuesday.
20. JD, December 18, 2001, p. 4732 (Jean-Pierre Charbonneau)/*RDPP*, no. 63.1/1.
21. JD, March 19, 2002, p. 4987 (Louise Harel)/*RDPP*, no. 64.8/1.

The answer is tabled at the time set aside for presenting papers during Routine Proceedings.[22] The Secretary General forwards a copy of the answer to the Member who presented the petition (S.O. 64.8). If there is no answer from the Government, the petition is placed on the *Order Paper and Notices* for the sitting following the expiry of the time limit, with mention of the presentation date and the subject of the petition (S.O. 64.9). A minister must communicate to the Assembly the Government's answer to the petition no later than the second sitting after the petition appears on the *Order Paper and Notices* (S.O. 64.10, 1st par.), during the stage of Routine Proceedings set aside for oral answers to petitions, that is, immediately following the presentation of petitions (S.O. 53(3.1) and 64.10, 1st par.). The Secretary General informs the Member who presented the petition of the Government's oral answer (S.O. 64.10, 3rd par.).

If there is more than one petition concerning the same subject, the Government may opt to give a single oral answer to them all (S.O. 64.10, 2nd par.). As is the case for answers given by a minister (S.O. 81), the opinion that the answer to a petition is unsatisfactory cannot be raised as a point of order (S.O. 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 (S.O. 64.12). In other words, the Government is still required to answer a petition following the prorogation of the Assembly, but not following its dissolution.

20.2 USE OF NEW 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 communication technologies are providing new ways to enhance and increase citizen participation in parliamentary proceedings.

22. 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). Even though this possibility is not specifically set out in S.O. 64.8 on written answers to petitions, it falls within the logic of S.O. 64.10 on oral answers to petitions, which allows the Government to give a single answer to several petitions on the same subject. A copy of the written answer is forwarded to each Member who presented a petition on the same subject.

20.2.1 Video Conferencing

Hearing a witness via video conferencing

Video conferencing was first used 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. Even though the *Standing Orders and Other Rules of Procedure of the National Assembly* did not then cover the use of video conferencing, committees used the technology now and again to make it easier to obtain the testimony of certain organizations or experts during consultations. Video conferencing has proven to be an effective tool that allows persons who cannot come to the Parliament Building in Québec City to nevertheless be heard in committee at public hearings.

After a number of successful experiments with video conferencing between 2004 and 2009,[23] it was decided that new measures to allow committees to use the technology should be introduced as part of the 2009 parliamentary reform. As a result, witnesses can now ask to be heard by video conference, notably 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 (R.C.P. 16.2). Any costs related to the use by a witness of video conferencing equipment outside the precincts of the Assembly must be assumed by the witness. However, any costs incurred due to the delay, prolongation, postponement or cancellation of a hearing must be assumed by the committee (R.C.P. 16.3).

20.2.2 Online Consultations

To enable broader 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

23. In addition to a hearing of the Committee on Social Affairs held on September 8, 2004, ten other hearings made use of video conferencing for consultations between 2004 and 2009.

paper. All documents and responses to the questionnaires are forwarded to the committee members to further their reflection on the subject.

The first experience with online consultation was carried out during the summer of 2000 when the Committee on Institutions held consultations for a committee-initiated order on the impact of a Free Trade Area of the Americas. Along with 14 other online consultations carried out between 2002 and 2008, it generated over 7,400 responses from the public. Online consultation was initially reserved for committee-initiated orders, but was then successfully used in pilot projects involving orders of reference from the Assembly. For example, the consultation held by the Committee on Social Affairs on a health services document entitled *Guaranteeing Access: Meeting the Challenges of Equity, Efficiency and Quality* and another consultation held by the Select Committee on the *Election Act* generated, respectively, 3,572 and 1,921 responses from the public.

Online consultations have been used since 2000 and the practice was codified in the Standing Orders as part of the 2009 parliamentary reform. Under the new rules, committees may decide to hold online consultations pursuant to any committee-initiated order. Further, when mandating a committee to hold general consultations, the Assembly may also order it to hold online consultations (S.O. 173.1).

20.2.3 Online Comments

Since March 16, 2010, the public has 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 public consultation. This was the last measure of the 2009 parliamentary reform to be implemented. A member of the public need only complete the online form available on the National Assembly's website or print out the form and mail it to the Parliamentary Proceedings Directorate. Members thus have access to comments from the public, which makes them more aware of public concerns.

20.3 RIGHTS AND OBLIGATIONS OF WITNESSES APPEARING BEFORE A COMMITTEE

As explained in Chapter 3, legislative assemblies have the power to investigate, to summon witnesses and to order the production of documents. This means that legislative assemblies and parliamentary committees may require individuals to appear before them.

This privilege is codified in section 51 of the *Act respecting the National Assembly*,[24] according to which the Assembly or a committee may summon and compel any person to appear before it to answer questions or produce papers or other items it deems necessary for its acts, inquiries or proceedings. The Assembly has not exercised this power for a long time, since the framework of legislative proceedings does not lend itself to hearing witnesses.[25] Parliamentary committees, however, are called on regularly to gather testimony from persons or organizations, whether during consultations or when calling upon a deputy minister or the chief executive officer of a public body to account for their management. Witnesses usually receive an invitation to appear before a committee, with which there is no obligation to comply.[26] The vast majority of individuals invited agree to appear to present a brief or express an opinion on a given topic. However, occasionally, for various reasons, a committee may have to summon a person to appear before it.

To do so, the committee must first adopt a motion, approved by the majority of its members, for the person to appear before it. Such a motion then becomes an order of the committee. The committee clerk must then serve a summons on the person concerned, specifying the date, time and location of the hearing and listing any documents the person must produce or bring to the hearing. When someone receives an order to appear before a committee, that person must obey or risk being charged with contempt of Parliament.

In 2011, the Chair of the Assembly ruled on a point of privilege raised by a Member of the Official Opposition against the chairman of the board of directors of a public body. In the notice given to the Chair in accordance with Standing Order 69, the Member alleged that the chairman of the board had acted in contempt of Parliament by failing to appear before a parliamentary committee on the date specified in the summons delivered to him. The Chair ruled that the fact that the chairman had not appeared before the committee, despite the obligation to do so, constituted without question, at

24. L.Q., c. A-23.1.
25. On October 30, 1922, the National Assembly summoned John H. Roberts, a journalist with *The Axe* newspaper, to appear before it on the following November 2. It was felt that Mr. Roberts had insinuated, in an article printed in his paper on October 27, that two Members of the Assembly were involved in the murder of Ms. Blanche Garneau and, for that reason, the authorities were taking their time to elucidate the crime. Following his testimony, Mr. Roberts was condemned to one year in prison.
26. JD, December 3, 2004, p. 6274 (Diane Leblanc)/*RDPP*, no. 170/1.

first glance, a violation of paragraph 1 of section 55 of the *Act respecting the National Assembly*. The Chair pointed out that:

> Everyone has an obligation to co-operate fully with a parliamentary committee carrying out a mandate. Like the judicial branch of the State, the legislative branch—the Parliament—also has the right to respect for the efficient exercise of its role, and an order to appear before the Assembly is not less serious than an order to appear before a court. That is why Parliament is endowed, like courts of law, with the power to compel witnesses to attend, and to punish contempt.[27]

Some individuals may hesitate to testify before a committee due to the nature of the subject being examined or the information they may have to disclose. In that case, a committee may decide to meet in camera, but no motion to that effect will be carried unless a majority of members from each parliamentary group vote in favour of it. If the meeting is held in camera, any evidence heard, papers received or deliberations held must remain confidential. The information may only be disclosed to the extent and on the conditions determined by the interested parties and a unanimous decision of the members of the committee (S.O. 160).

27. JD, October 4, 2011, pp. 2745–2746 (Jacques Chagnon)/*RDPP*, no. 67/61. On August 8, 2011, the Committee on Agriculture, Fisheries, Energy and Natural Resources summoned eight members of the board of directors of La Financière agricole du Québec to appear on August 22, 2011 as part of its mandate under Standing Order 294 to examine public bodies subject to its power of surveillance. Only one board member appeared before the Committee. That very day, the Committee carried a motion ordering all 14 board members to appear, leaving it up to its steering committee to determine when they would do so. In the following days, the steering committee decided to order 7 of the 14 board members to appear on September 12 and the other 7 to appear on September 19. Following this, the chairman of the board informed the Committee that he would be out of the country on the hearing date specified in the summons and asked if he could appear a few days earlier. After discussion, the steering committee decided the hearing date would remain September 19. All board members summoned to appear on September 19 were present on that date, except the chairman. On September 27, a Member of the Official Opposition sent the President a notice of a breach of privilege or contempt alleging that the chairman had acted in violation of paragraph 1 of section 55 of the *Act respecting the National Assembly*, according to which non-compliance with an order of the Assembly, a committee or a subcommittee constitutes a breach of parliamentary privilege. The President ruled that even though the chairman of the board did not seem to have intentionally shirked his obligation to appear before the Committee, the point of privilege was in order. The President added that the ruling would serve as a warning to anyone choosing to disobey an order to appear before a parliamentary committee. See also Chapter 3, Section 3.3.2.6, "Refusing to Comply With an Order of the Assembly, a Committee or a Subcommittee".

Witness being sworn in before a parliamentary committee

Regardless of whether or not they are actually summoned by the committee, anyone appearing as a witness before a committee may be sworn in.[28] In fact, under section 52 of the *Act respecting the National Assembly,* the Chair of the Assembly, a Member of the Assembly, or a member of a parliamentary committee or subcommittee may require a person appearing as a witness to take an oath.[29]

Witnesses who want to be protected against possible prosecution before the courts may also request to be sworn in. Even though the Assembly believes that all witnesses should benefit from immunity, according to a ruling of the Superior Court of Québec,[30] only witnesses who have taken an oath acquire the immunity granted under section 53 of the *Act respecting the National Assembly*. In accordance with this provision, testimony given before the Assembly or a committee or subcommittee cannot be held against the person in a court of law, unless the person is being prosecuted for perjury. Given that no court has had to rule on this matter as yet, it is prudent to have all witnesses take an oath to ensure they have immunity. Witnesses who want to hire a lawyer for the hearing may seek the authorization of the committee. Even though not a recognized right in the rules of procedure, authorization is generally obtained without difficulty.

All witnesses have the same rights and obligations, regardless of whether they agree to appear voluntarily or are summoned to appear at committee proceedings.[31] However, individuals who are summoned to appear under section 51 of the *Act respecting the National Assembly* may be required 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.[32] All witnesses who appear before a parliamentary committee may be questioned by any committee member. In February 1989, Justice Albert Mayrand presented a report to then President Pierre Lorrain specifying that all Members of the

28. Any Member may request that a witness take the oath (JD, October 10, 1984, p. CAPA-33 (Yvon Vallières)/*RDPP* (Com. Vol.), no. 170/1).
29. The oath may be found in Schedule II of the *Act respecting the National Assembly*. See Chapter 3, Section 3.2.8, "Power to Administer Oaths".
30. See note 115 of Chapter 3.
31. Lee and Wagman, *The Power of Parliamentary Houses*, p. 53.
32. JD, May 19, 2009, CFP-17 p. 61 (Alain Paquet)/*RDPP* (Com. Vol.), no. 170/5.

National Assembly 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.[33] To that end, parliamentarians enjoy great freedom when it comes to the questions they can ask a witness since there are no clear-cut rules governing the interrogation. It is important to distinguish between questioning in a parliamentary committee and questioning in a court of law. In contrast to what would be the case in a court of law, Members in committee are not subject to the hearsay rule, the prohibition against suggestive questioning or the rules of natural justice. Also, witnesses may not object on their own initiative to questions addressed to them; these objections are reserved for Members taking part in committee proceedings. A lawyer is not allowed to answer on behalf of a witness.

Jurisprudence recognizes that the *sub judice* rule applies to persons who testify before a committee in the same way it applies to Members.[34] Under this rule, codified in Standing Order 35(3), criminal or penal cases before a court of law may not be discussed. A civil suit may, however, be referred to in a general manner, as long as the reference is not prejudicial to the interests of any person or party. 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 informed of the issues to be able to make an informed decision.[35]

This being said and despite a continual increase in 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 Chair 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.[36]

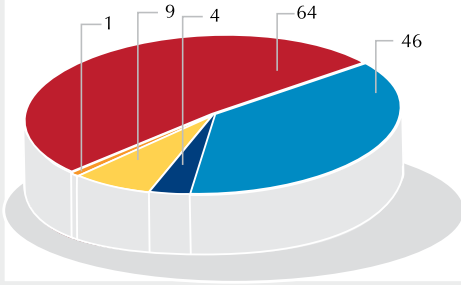
33. Mayrand, *Les témoins devant les commissions*, p. 53.
34. JD, March 17, 1992, pp. CAE-7904–7906 (Jean Garon)/*RDPP* (Com. Vol.), no. 35(3)/3.
35. JD, June 2, 2011, CAT-9 pp. 1–2 (Marie Malavoy)/*RDPP* (Com. Vol.), no. 35(3)/7.
36. JD, November 13, 1997, pp. 8433–8435 (Jean-Pierre Charbonneau)/*RDPP*, no. 66/2; JD, June 10, 1998, pp. 11815–11817 (Jean-Pierre Charbonneau)/*RDPP*, no. 67/38.

APPENDIX I

Composition of the National Assembly

COMPOSITION OF THE NATIONAL ASSEMBLY OVER THE COURSE OF THE 39TH LEGISLATURE

President's ruling following the arrival of several independent Members – September 20, 2011

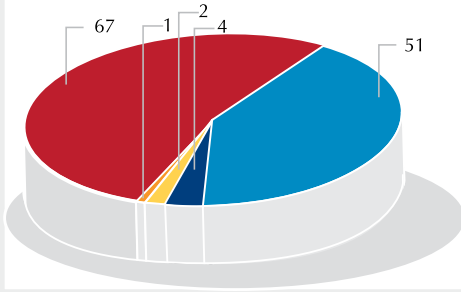


PARLIAMENTARY GROUPS
- Government – Quebec Liberal Party (64)
- Official Opposition – Parti québécois (46)
- Second Opposition Group – Action démocratique du Québec (4)

INDEPENDENT MEMBERS
- Québec solidaire (1)
- Others (9)

Note: 1 vacant seat

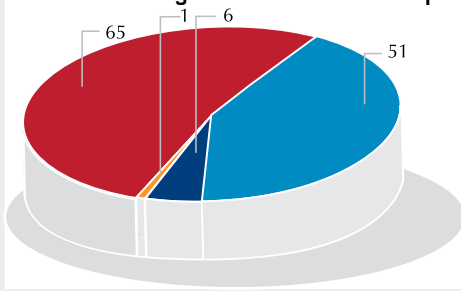
Change of allegiance of two Members from the Second Opposition Group who decided to sit as independent Members – November 6, 2009



PARLIAMENTARY GROUPS
- Government – Quebec Liberal Party (67)
- Official Opposition – Parti québécois (51)
- Second Opposition Group – Action démocratique du Québec (4)

INDEPENDENT MEMBERS
- Québec solidaire (1)
- Others (2)

Recognition of the ADQ as a parliamentary group – April 21, 2009

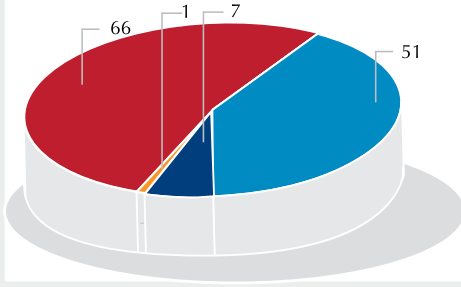


PARLIAMENTARY GROUPS
- Government – Quebec Liberal Party (65)
- Official Opposition – Parti québécois (51)
- Second Opposition Group – Action démocratique du Québec (6)

INDEPENDENT MEMBERS
- Québec solidaire (1)

Note: 2 vacant seats

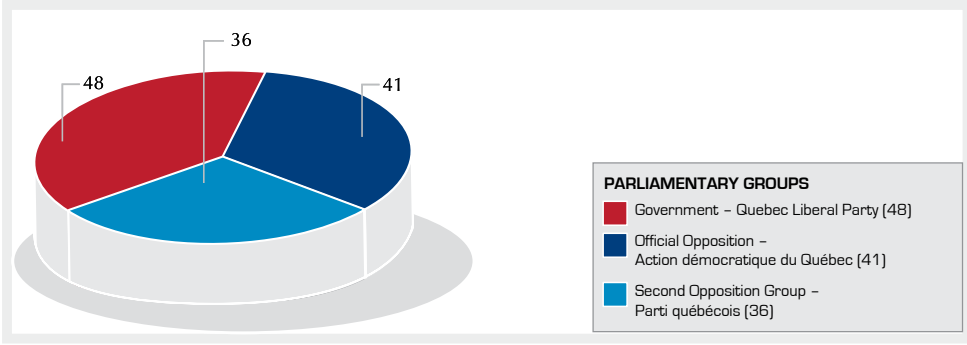
Opening of the 1st Session of the 39th Legislature – January 13, 2009



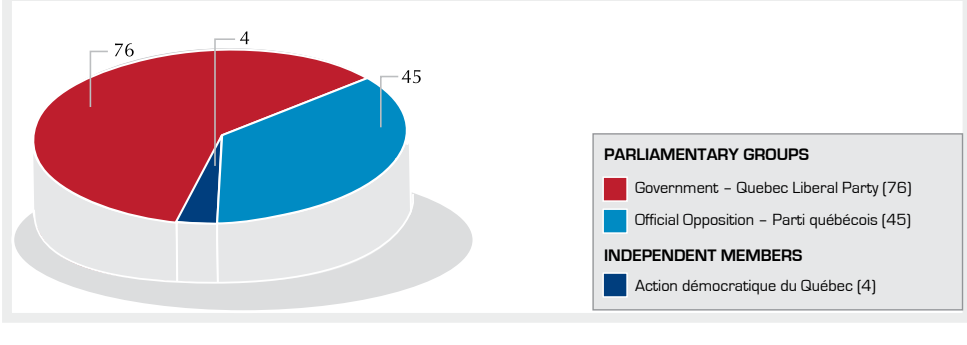
PARLIAMENTARY GROUPS
- Government – Quebec Liberal Party (66)
- Official Opposition – Parti québécois (51)

INDEPENDENT MEMBERS
- Action démocratique du Québec (7)
- Québec solidaire (1)

COMPOSITION OF THE NATIONAL ASSEMBLY AT THE OPENING OF THE 1ST SESSION OF THE 38TH LEGISLATURE



COMPOSITION OF THE NATIONAL ASSEMBLY AT THE OPENING OF THE 1ST SESSION OF THE 37TH LEGISLATURE



APPENDIX II

Allocation of Measures and Speaking Time

MAIN QUESTIONS DURING QUESTION PERIOD

RANK	39TH LEGISLATURE	
	SEPT. 20, 2011 *	NOV. 6, 2009 * *
1	Official Opposition	Official Opposition
2	Official Opposition	Official Opposition
3	Official Opposition	Official Opposition
4	Second Opposition Group **or** Official Opposition	Second Opposition Group **or** Official Opposition
5	Official Opposition	Official Opposition
6	Independent Member (Mercier) **or** Government Member **or** Official Opposition	Independent Member **or** Government Member **or** Official Opposition
7	Independent Member (others)	Official Opposition
8	Official Opposition	Official Opposition
9	Official Opposition	Official Opposition
10	Official Opposition	Official Opposition

	*** President's ruling following the arrival of several independent Members**	*** * Change of allegiance of two Members from the Second Opposition Group who decided to sit as independent Members**
Second Opposition Group	6 questions per 8 sittings	5 questions per 7 sittings
Independent Member(s)	9 questions per 8 sittings	1 question each per 7 sittings
Government Member(s)	1 question per 3 sittings	1 question per 3 sittings
Official Opposition	All other questions	All other questions
NB	Independent Members other than the Member for Mercier exercise their rights on the basis of a random draw.	The Second Opposition Group and one independent Member could both ask a question at only 1 sitting out of 7.

MAIN QUESTIONS DURING QUESTION PERIOD

	39TH LEGISLATURE	
RANK	APRIL 21, 2009 *	JAN. 13, 2009 * *
1	Official Opposition	Official Opposition
2	Official Opposition	Official Opposition
3	Official Opposition	Official Opposition
4	Second Opposition Group	Independent Member
5	Official Opposition	Official Opposition
6	Independent Member **or** Government Member **or** Official Opposition	Government Member **or** Official Opposition
7	Official Opposition	Official Opposition
8	Official Opposition	Official Opposition
9	Official Opposition	Official Opposition
10	Official Opposition	Official Opposition

	* Recognition of the ADQ as a parliamentary group	* * Opening of the 1st Session of the 39th Legislature
Second Opposition Group	1 question per sitting	N/A
Independent Member(s)	1 question per 7 sittings	1 question per sitting from an independent Member The 8 Members had to agree on who would ask the question.
Government Member(s)	1 question per 3 sittings	2 questions per 4 sittings
Official Opposition	All other questions	All other questions
NB	An independent Member and a government Member could not ask a question at the same sitting.	

MAIN QUESTIONS DURING QUESTION PERIOD

RANK	38TH LEGISLATURE	37TH LEGISLATURE
1	Official Opposition	Official Opposition
2	Official Opposition	Official Opposition
3	Second Opposition Group	Official Opposition
4	Second Opposition Group	Independent Member **or** Official Opposition
5	Official Opposition	Official Opposition **or** Government Member
6	Official Opposition	Official Opposition **or** Government Member
7	Second Opposition Group **or** Government Member	Official Opposition
8	Official Opposition **or** Government Member	Official Opposition
9	Second Opposition Group	Official Opposition
10	Official Opposition	Official Opposition

Government Member(s)	1 question per 3 sittings The question was asked on an alternating basis: – the 7th question, instead of a question by the Second Opposition Group; or – the 8th question, instead of a question by the Official Opposition.	2 questions per 3 sittings The question asked was – the 5th if the 4th question was not allocated to an independent Member; or – the 6th if the 4th question was so allocated.
Independent Member(s)	N/A	While there were 4 or 5 independent Members: – 2 questions per 5 sittings. While there were 6 independent Members: – 2 questions per 4 sittings.
NB	As of the 11th question, the opposition groups each asked a question in turn.	The Official Opposition was entitled to all other questions.

BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION (Wednesday Motions)

	39TH LEGISLATURE	
RANK	SEPT. 20, 2011 *	NOV. 6, 2009 * *
1	Official Opposition	Official Opposition
2	Official Opposition	Official Opposition
3	Official Opposition	Official Opposition
4	Second Opposition Group	Second Opposition Group **or** Official Opposition
5	Official Opposition	Official Opposition
6	Official Opposition	Second Opposition Group **or** Official Opposition
7	Official Opposition	Official Opposition
8	Independent Member	Official Opposition **or** Independent Member (others)
9	Official Opposition	Official Opposition
10	Official Opposition	Official Opposition
11	Official Opposition	Official Opposition
12	Independent Member	Official Opposition
13	Official Opposition	Official Opposition
14	Official Opposition	Official Opposition
15	Official Opposition	Official Opposition

	*** President's ruling following the arrival of several independent Members**	*** * Change of allegiance of two Members from the Second Opposition Group who decided to sit as independent Members**
Second Opposition Group	1 motion per cycle of 15	1 motion per cycle of 15, alternating between the 4th and the 6th
Independent Member(s)	2 motions per cycle of 15	Member for Mercier: – 1 motion per parliamentary year, but never in the same sessional period as an interpellation Other independent Members: – 1 motion, for all independents, per two cycles of 15
Official Opposition	All other motions, including the first of every sessional period	All other motions, including the first of every sessional period
NB	Independent Members other than the Member for Mercier exercise their rights on the basis of a random draw.	The motion allocated to the Member for Mercier was not counted in the cycle and could not be preceded or followed by a motion by the Second Opposition Group.

BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION (Wednesday Motions)

	39TH LEGISLATURE	
RANK	APRIL 21, 2009*	JAN. 13, 2009**
1	Official Opposition	Official Opposition
2	Official Opposition	
3	Official Opposition	
4	Second Opposition Group	
5	Official Opposition	
6	Official Opposition	
7	Official Opposition	
8	Official Opposition	
9	Official Opposition	
10	Official Opposition	

	* Recognition of the ADQ as a parliamentary group	** Opening of the 1st Session of the 39th Legislature
Second Opposition Group	1 motion per cycle of 10	N/A
Independent Member(s)	1 motion per parliamentary year, but never in the same sessional period as an interpellation	Entitled as a group to 1 motion per parliamentary year
Official Opposition	All other motions, including the first of every sessional period	All other motions, including the first of every sessional period
NB	A motion allocated to an independent Member was not counted in the cycle and could not be preceded or followed by a motion by the Second Opposition Group.	

BUSINESS STANDING IN THE NAME OF MEMBERS IN OPPOSITION (Wednesday Motions)

RANK	38TH LEGISLATURE	37TH LEGISLATURE
1	Official Opposition	Official Opposition
2	Second Opposition Group	
3	Official Opposition	
4	Second Opposition Group	
5	Official Opposition	
6	Official Opposition	
7	Second Opposition Group	
8	Official Opposition	
9	Second Opposition Group	
10	Official Opposition	

Second Opposition Group	4 motions per cycle of 10	N/A
Independent Member(s)	N/A	Entitled as a group to 1 motion or 1 interpellation per sessional period, in alternation
Official Opposition	6 motions per cycle of 10, including the first of every sessional period	All other motions
NB	The first motion of a cycle is allocated to the Official Opposition. The two opposition groups then alternate, except in the case of the 5th and 6th motions, which are allocated to the Official Opposition.	

INTERPELLATIONS

RANK	39TH LEGISLATURE	
	SEPT. 20, 2011 *	NOV. 6, 2009 * *
1	Official Opposition	Official Opposition
2	Official Opposition	Official Opposition
3	Official Opposition	Official Opposition
4	Second Opposition Group	Second Opposition Group **or** Official Opposition
5	Official Opposition	Official Opposition
6	Official Opposition	Second Opposition Group **or** Official Opposition
7	Official Opposition	Official Opposition
8	Independent Member	Official Opposition **or** Independent Member (others)
9	Official Opposition	Official Opposition
10	Official Opposition	Official Opposition
11	Official Opposition	Official Opposition
12	Independent Member	Official Opposition
13	Official Opposition	Official Opposition
14	Official Opposition	Official Opposition
15	Official Opposition	Official Opposition

	*** President's ruling following the arrival of several independent Members**	*** * Change of allegiance of two Members from the Second Opposition Group who decided to sit as independent Members**
Second Opposition Group	1 interpellation per cycle of 15	1 interpellation per cycle of 15, alternating between the 4th and the 6th
Independent Member(s)	2 interpellations per cycle of 15	Member for Mercier: – 1 interpellation per parliamentary year, but never in the same sessional period as a Wednesday motion Other independent Members: – entitled as a group to 1 interpellation per two cycles of 15
Official Opposition	All other interpellations, including the first of every sessional period	All other interpellations, including the first of every sessional period
NB	Independent Members other than the Member for Mercier exercise their rights on the basis of a random draw.	The interpellation allocated to the Member for Mercier was not counted in the cycle and could not be preceded or followed by an interpellation by the Second Opposition Group.

INTERPELLATIONS

RANK	39TH LEGISLATURE	
	APRIL 21, 2009 *	JAN. 13, 2009 * *
1	Official Opposition	Official Opposition
2	Official Opposition	
3	Official Opposition	
4	Second Opposition Group	
5	Official Opposition	
6	Official Opposition	
7	Official Opposition	
8	Official Opposition	
9	Official Opposition	
10	Official Opposition	

	* Recognition of the ADQ as a parliamentary group	* * Opening of the 1st Session of the 39th Legislature
Second Opposition Group	1 interpellation per cycle of 10	N/A
Independent Member(s)	1 interpellation per parliamentary year, but never in the same sessional period as a Wednesday motion	Entitled as a group to 1 interpellation per parliamentary year
Official Opposition	All other interpellations, including the first of every sessional period	All other interpellations, including the first of every sessional period
NB	An interpellation allocated to an independent Member was not counted in the cycle and could not be preceded or followed by an interpellation by the Second Opposition Group.	

INTERPELLATIONS

RANK	38TH LEGISLATURE	37TH LEGISLATURE
1	Official Opposition	Official Opposition
2	Second Opposition Group	
3	Official Opposition	
4	Second Opposition Group	
5	Official Opposition	
6	Official Opposition	
7	Second Opposition Group	
8	Official Opposition	
9	Second Opposition Group	
10	Official Opposition	

Second Opposition Group	4 interpellations per cycle of 10	N/A
Independent Member(s)	N/A	Entitled as a group to 1 Wednesday motion or 1 interpellation per sessional period, in alternation
Official Opposition	6 interpellations per cycle of 10, including the first of every sessional period	All other interpellations
NB	The first interpellation of a cycle was allocated to the Official Opposition. The following went to the two opposition groups in turn, except the 5th and 6th, which went to the Official Opposition.	

STATEMENTS BY MEMBERS

RANK	39TH LEGISLATURE		
	SEPT. 20, 2011 *	NOV. 6, 2009 * *	APRIL 21, 2009 * * *
1	Government	Government	Government
2	Official Opposition	Official Opposition	Official Opposition
3	Government	Government	Government
4	Official Opposition	Official Opposition	Official Opposition
5	Second Opposition Group **or** Independent Member	Second Opposition Group **or** Independent Member (others)	Second Opposition Group
6	Government **or** Independent Member	Government **or** Independent Member (Mercier)	Government **or** Independent Member
7	Official Opposition **or** Independent Member	Official Opposition **or** Independent Member (Mercier)	Official Opposition **or** Independent Member
8	Government	Government	Government
9	Official Opposition **or** Independent Member	Official Opposition	Official Opposition
10	Government	Government	Government

	*** President's ruling following the arrival of several independent Members**	*** * Change of allegiance of two Members from the Second Opposition Group who decided to sit as independent Members**	*** * * Adoption of the 2009 parliamentary reform**
Second Opposition Group	4 statements per 6-sitting cycle	4 statements per 6-sitting cycle	1 statement per sitting
Independent Member(s)	Entitled as a group to 5 statements per 6-sitting cycle – the 5th during the 2nd and 5th sittings of a cycle – the 6th or 7th during the 1st sitting of a cycle, instead of a statement by the Government or the Official Opposition, in alternation, and – the 9th during the 3rd and 4th sittings of a cycle, instead of the Official Opposition statement	Member for Mercier: – 1 statement per 6 sittings, alternating between the 6th and 7th, instead of a statement by the Government or the Official Opposition Other independent Members: – each entitled to 1 statement per 6 sittings when the Second Opposition Group had no statements to make	1 statement per 6 sittings, alternating between the 6th and 7th, instead of a statement by the Government or the Official Opposition
NB	An independent Member cannot make more than one statement per two 6-sitting cycles. Independent Members other than the Member for Mercier exercise their rights on the basis of a random draw.		

Statements by Members were introduced by the parliamentary reform of April 21, 2009.

DEBATES UPON ADJOURNMENT

39TH LEGISLATURE

President's ruling following the arrival of several independent Members – September 20, 2011

	SITTING 1	SITTING 2	SITTING 3
Official Opposition	8 debates		
Second Opposition Group	1 debate		

Second Opposition Group	1 debate per 3 sittings
Government Member(s)	1 debate per 7 sittings
Independent Member(s)	1 debate each per sessional period If applicable, in place of a debate raised by the Official Opposition
Official Opposition	All other debates
NB	Government Members cannot raise a debate during the same sitting as the Second Opposition Group. Two independent Members cannot each raise a debate during the same sitting. An independent Member cannot raise a debate during the same sitting as a Member from the Second Opposition Group.

Change of allegiance of two Members from the Second Opposition Group who decided to sit as independent Members – November 6, 2009

	SITTING 1	SITTING 2	SITTING 3
Official Opposition	8 debates		
Second Opposition Group	1 debate		

Second Opposition Group	1 debate per 3 sittings
Government Member(s)	1 debate per 7 sittings
Independent Member(s)	1 debate each per sessional period If applicable, in place of a debate raised by the Official Opposition
Official Opposition	All other debates
NB	Government Members could not raise a debate during the same sitting as the Second Opposition Group. Two independent Members could not each raise a debate during the same sitting. An independent Member could not raise a debate during the same sitting as a Member from the Second Opposition Group.

DEBATES UPON ADJOURNMENT

39TH LEGISLATURE

Recognition of the ADQ as a parliamentary group – April 21, 2009

	SITTING 1	SITTING 2
Official Opposition	5 debates	
Second Opposition Group	1 debate	

Second Opposition Group	1 debate per 2 sittings
Government Member(s)	1 debate per 7 sittings
Independent Member(s)	1 debate per sessional period
Official Opposition	All other debates

Opening of the 1st Session of the 39th Legislature – January 13, 2009

	SITTING 1	SITTING 2	SITTING 3
Official Opposition	8 debates		
Independent Member(s)	1 debate		

Independent Member(s)	Entitled as a group to the 3rd debate in 1 out of 3 sittings
Government Member(s)	The 3rd debate in 1 out of 7 sittings

DEBATES UPON ADJOURNMENT

38TH LEGISLATURE

	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	Second Opposition Group	Official Opposition

Government Members	Government Members were entitled to raise one debate per 9 sittings during which debates could be raised, instead of the Official Opposition or the Second Opposition Group, in alternation.
NB	The Official Opposition could raise 5 debates, and the Second Opposition Group 4, per 3 sittings during which debates could be raised.

37TH LEGISLATURE

Since only one debate upon adjournment was raised by an independent Member during the 37th Legislature, the Chair did not rule formally on debate allocation.

SPEAKING TIME

39TH LEGISLATURE

		Opening Speech Debate	Budget Speech Debate
		24:00:00	13:30:00
President's ruling following the arrival of several independent Members – September 20, 2011	Government	10:29:36	05:46:39
	Official Opposition	10:29:36	05:46:39
	Second Opposition Group	01:40:48	00:56:42
	Independent Member(s) QS (1) Others (9)	01:20:00	01:00:00

Independent Members have 10 minutes after the beginning of a limited debate to inform the Chair of their wish to speak during the debate.
The Chair divides the time envelope allocated to the independent Members as a group among those who indicated their wish to speak.
Any speaking time not used by the Second Opposition Group and the independent Members is divided equally between the parliamentary group forming the Government and that forming the Official Opposition.

Change of allegiance of two Members from the Second Opposition Group who decided to sit as independent Members – November 6, 2009	Government	10:39:36	05:54:30
	Official Opposition	10:29:36	05:54:30
	Second Opposition Group	01:40:48	00:56:42
	Independent Member(s) QS (1) Others (2)	00:20:00 00:40:00	00:20:00 00:24:18

A time envelope was allocated to the independent Member for Mercier (it varied according to the type of debate).
7% of the total time was allocated to the Second Opposition Group.
3% 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.

Recognition of the ADQ as a parliamentary group – April 21, 2009	Government	10:38:00	05:54:30
	Official Opposition	10:38:00	05:54:30
	Second Opposition Group	02:24:00	01:21:00
	Independent Member(s) QS (1)	00:20:00	00:20:00

A time envelope was allocated to the independent Member (it varied according to the type of debate).
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.

Opening of the 1st Session of the 39th Legislature – January 13, 2009	Government	11:03:30	06:06:00
	Official Opposition	11:03:30	06:16:00
	Independent Member(s) ADQ (7) QS (1)	01:33:00 00:20:00	00:53:00 00:15:00

SPEAKING TIME

39TH LEGISLATURE

		Limited Debates			
		05:00:00	02:00:00		01:00:00
			Without reply (02:00:00)	With reply (01:50:00)	
President's ruling following the arrival of several independent Members – September 20, 2011	Government	02:09:30	00:50:48	00:46:09	00:25:24
	Official Opposition	02:09:30	00:50:48	00:46:09	00:25:24
	Second Opposition Group	00:21:00	00:08:24	00:07:42	00:04:12
	Independent Member(s) QS (1) Others (9)	00:20:00	00:10:00	00:10:00	00:05:00

Independent Members have 10 minutes after the beginning of a limited debate to inform the Chair of their wish to speak during the debate.
The Chair divides 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, an independent Member is entitled to a maximum of 5 minutes.
Any speaking time not used by the Second Opposition Group and the independent Members is divided equally between the parliamentary group forming the Government and that forming the Official Opposition.

Change of allegiance of the two Members from the second Opposition Group who decided to sit as independent Members – November 6, 2009	Government	02:12:30	00:51:30	00:47:00	00:26:00
	Official Opposition	02:12:30	00:51:30	00:47:00	00:26:00
	Second Opposition Group	00:21:00	00:08:24	00:07:42	00:04:12
	Independent Member(s) QS (1) Others (2)	00:05:00 00:09:00	00:05:00 00:03:36	00:05:00 00:03:18	00:02:00 00:01:48

A time envelope was allocated to the independent Member for Mercier (it varied according to the type of debate).
7% of the total time was allocated to the Second Opposition Group.
3% 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.

Recognition of the ADQ as a parliamentary group – April 21, 2009	Government	02:12:30	00:51:30	00:46:30	00:26:00
	Official Opposition	02:12:30	00:51:30	00:46:30	00:26:00
	Second Opposition Group	00:30:00	00:12:00	00:12:00	00:06:00
	Independent Member(s) QS (1)	00:05:00	00:05:00	00:05:00	00:02:00

A time envelope was allocated to the independent Member (it varied according to the type of debate).
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.

Opening of the 1st Session of the 39th Legislature – January 13, 2009	Government	–	N/A	00:49:00	N/A
	Official Opposition	–	N/A	00:49:00	N/A
	Independent Member(s) ADQ (7) QS (1)	–	N/A	00:12:00	N/A

SPEAKING TIME

38TH LEGISLATURE

	Opening Speech Debate	Budget Speech Debate
	24:00:00	13:30:00
Government	09:18:00	05:08:00
Official Opposition	08:14:00	04:51:00
Second Opposition Group	06:28:00	03:31:00

The parliamentary groups were allocated a time envelope proportional to their respective percentage of seats in the Assembly.

37TH LEGISLATURE

	Opening Speech Debate	Budget Speech Debate
	24:00:00	13:30:00
Government	11:30:00	06:15:50
Official Opposition	11:30:00	06:15:50
Independent Member(s) ADQ (4-5)	01:00:00	00:50:00

SPEAKING TIME

38TH LEGISLATURE

	Limited Debates			
	05:00:00	02:00:00		01:00:00
		Without reply (02:00:00)	With reply (01:50:00)	
Government	–	00:46:05	00:42:14	00:23:02
Official Opposition	–	00:39:22	00:36:05	00:19:41
Second Opposition Group	–	00:34:34	00:31:41	00:17:17

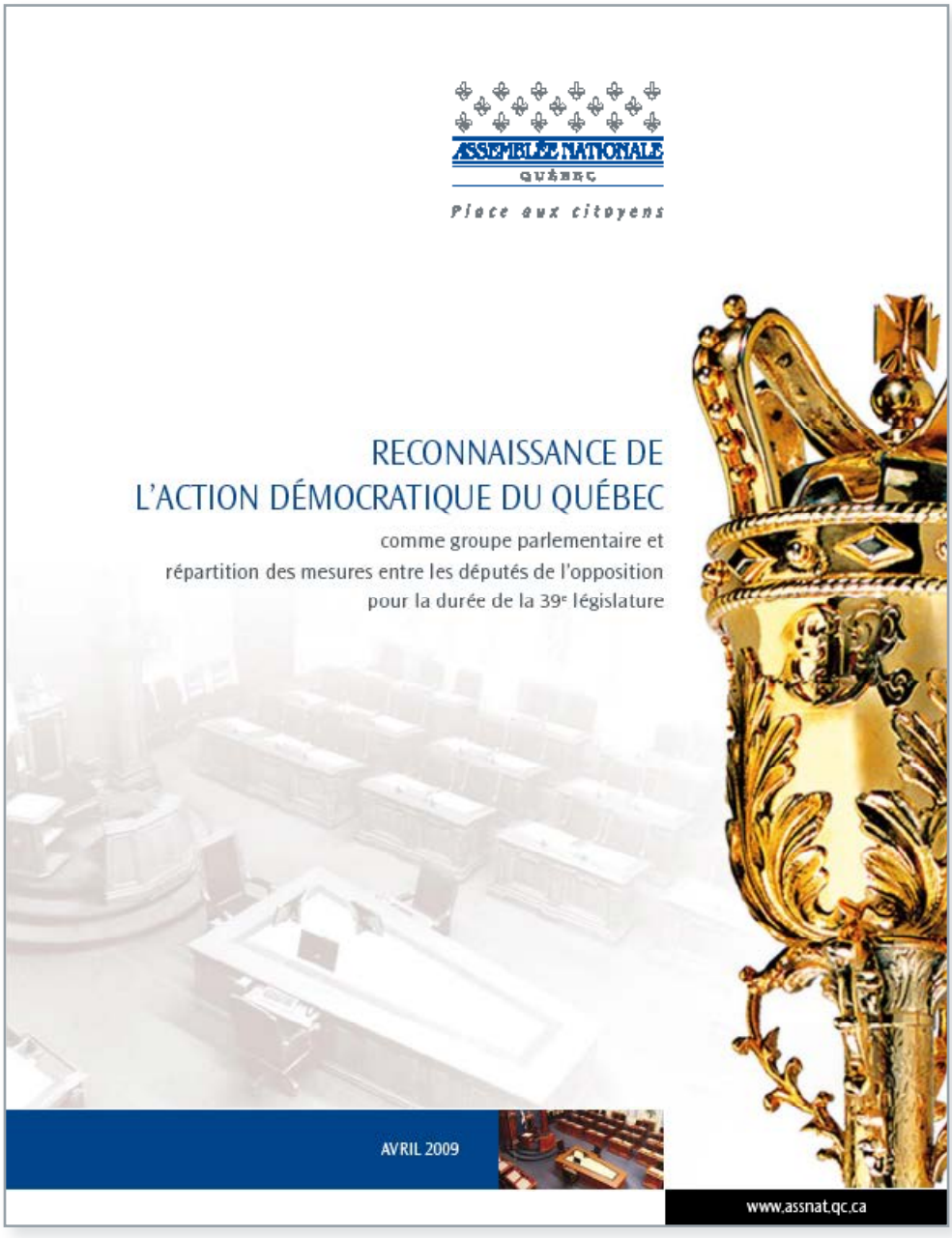
The parliamentary groups were allocated a time envelope proportional to their respective percentage of seats in the Assembly.

37TH LEGISLATURE

	Limited Debates			
	05:00:00	02:00:00		01:00:00
		Without reply (02:00:00)	With reply (01:50:00)	
Government	–	00:55:00	00:50:00	00:25:00
Official Opposition	–	00:55:00	00:50:00	00:25:00
Independent Member(s) ADQ (4–5)	–	00:10:00	00:10:00	00:10:00

APPENDIX III

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


ASSEMBLÉE NATIONALE
QUÉBEC
Place aux citoyens
RECONNAISSANCE DE
L'ACTION DÉMOCRATIQUE DU QUÉBEC
comme groupe parlementaire et
répartition des mesures entre les députés de l'opposition
pour la durée de la 39e législature
AVRIL 2009
www.assnat.qc.ca

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

In the most recent general election, held on December 8, 2008, the ADQ returned seven Members to the Assembly and obtained 16.4% of the popular vote. On the basis of these results the Members in question do not constitute a parliamentary group as defined in Standing Order 13, which provides that:

> 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, except the President, shall sit as independent Members.

At present the six Members from the ADQ represent 4.8% of the Members of the Assembly and 10.3% of the Members sitting in opposition.

The parliamentary groups began discussions on parliamentary reform during the 38th Legislature. This reform had four objectives, namely: to promote autonomy and initiative on the part of the Members; to increase the efficacy of the Members' work; to reaffirm the democratic equilibrium within the framework of the parliamentary proceedings; and to bring the Assembly closer to the citizenry.

Since the opening of the 39th Legislature these discussions have intensified among the representatives of the political parties present in the Assembly, and an agreement has been reached to amend a number of the Assembly's rules of procedure. It has also been agreed, however, to continue to reflect on the criteria for recognizing a political party as a parliamentary group. Nonetheless, a special arrangement has been made for the Members from the ADQ for the duration of the 39th Legislature. Accordingly, the latter will be recognized as the Second Parliamentary Group in Opposition as provided in the present document.

Criteria for Recognizing the Members from the ADQ as a Parliamentary Group – Every political party that has returned not fewer than five Members to the Assembly and received not less than eleven percent of the popular vote in the most recent general election shall form a parliamentary group.

Recognized Parliamentary Offices – Any parliamentary group that has returned not fewer than five Members to the Assembly and received not less than eleven percent of the popular vote shall be entitled to a Leader and a House Leader who shall enjoy all the rights appertaining to these offices under the *Standing Orders of the National*

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

Assembly, 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*. When a parliamentary group has returned not fewer than ten Members to the Assembly and received not less than sixteen percent of the popular vote, it shall also be entitled to a Whip. Finally, when a parliamentary group has returned not fewer than twenty Members to the Assembly, it shall be entitled, in addition to the aforementioned offices, to a Deputy House Leader, a Caucus Chairman, and a Fourth Vice-President of the Assembly.

Rights Conferred by the Standing Orders on Groups in Opposition Other Than the Official Opposition – The *Standing Orders of the National Assembly* already provide a variety of particular entitlements to speak and speaking times for parliamentary groups in opposition other than the Official Opposition. The Standing Orders also grant certain rights to the House Leaders of such groups as well as various rights in committees. The Members from the Second Group in Opposition may exercise these rights insofar as they are compatible with the measures set forth in the present document (see **SCHEDULE 1**).

Allocation of Measures for Parliamentary Surveillance – The various measures for parliamentary surveillance shall be allocated as follows:

> ***Business Standing in the Name of Members in Opposition (Wednesday motions)*** – The Second Parliamentary Group in Opposition shall be entitled to move one Wednesday motion out of every cycle of ten such motions. This motion shall be moved in the fourth place, unless it would thereby become the first such motion during any sessional period, in which case the motion allotted to the Second Group in Opposition shall be debated in the fifth place. Independent Members shall be entitled to move one motion in the course of every parliamentary year, but never during the same sessional period as an interpellation. This motion, which shall not be included in the cycle of ten motions, may be neither preceded nor followed by a motion moved by a Member from the Second Group in Opposition. The Official Opposition shall be entitled to all other Wednesday motions, including the first in every sessional period.
>
> ***Interpellations*** – The Second Parliamentary Group in Opposition shall be entitled to request one interpellation in every cycle of ten interpellations, in the fourth place, unless it would thereby become the first interpellation in any sessional period, in which case the next following interpellation shall be allotted to the Second Group in Opposition. This interpellation may be neither preceded nor followed by an interpellation requested by an independent Member.

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

Independent Members shall be entitled to hold one interpellation during the course of each parliamentary year, but never during the same sessional period as a Wednesday motion. The Official Opposition shall be entitled to all other interpellations, including the first during each sessional period.

Debates Upon Adjournment – The Second Group in Opposition shall be entitled to raise one such debate out of the six in every two sittings at which such debates may be held. Government Members shall be entitled to raise one debate in every seven sittings at which such debates may be held, independent Members shall be entitled to raise one such debate during each sessional period, and the Official Opposition shall be entitled to all other such debates. The rights recognized above may be exercised insofar as the Chair shall have received more than three requests for such debates per sitting.

Want of Confidence Motions – Members sitting in opposition may move seven want of confidence motions during any session. In each cycle of two sessions the Second Group in Opposition shall be entitled to move two such motions, and independent Members shall be entitled to one. The eleven other want of confidence motions shall be reserved for the Official Opposition.

Statements by Members – Members may make up to ten statements at each sitting and, in so doing, they may speak for up to one minute each. Members from the Parliamentary Group Forming the Government shall be entitled to five statements at each sitting, Members from the Official Opposition shall be entitled to four, and the Second Group in Opposition shall be entitled to one. Independent Members shall be entitled to one statement at every six sittings, which shall replace a statement by the Government or the Official Opposition, in alternation (see **SCHEDULE 2**).

Oral Question Period – The period for oral questions and answers may last for up to forty-five minutes; the average length of the exchanges is thirty-seven minutes. The framework for question period shall therefore be as follows:

Main Questions – Government Members shall be entitled to ask one question during every three sittings in the sixth place, Members from the Second Group in Opposition shall be entitled to ask one question per sitting in the fourth place, and independent Members shall be entitled to ask one question during every seven sittings in the sixth place. However, a Government Member and an independent Member may not both ask a question during the same sitting. The Official Opposition shall be entitled to all other main questions.

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

Supplementary Questions – The Leader of the Official Opposition shall be entitled to ask three supplementary questions after her first main question; other Members shall be entitled to ask two supplementary questions after any main question. A supplementary question may not be transformed into a main question. Further, such question may be asked only by a Member having the same political affiliation as the Member who asked the main question, and it may contain a preamble.

Length of Questions – Main questions by the Leader of the Official Opposition and the Leader of the Second Group in Opposition may last for up to one minute thirty seconds; all other main questions may last for up to one minute. Supplementary questions may last for up to thirty seconds.

Length of Answers – Answers by the Premier to main questions may last for up to one minute forty-five seconds; those by ministers may last for up to one minute fifteen seconds. Answers to supplementary questions may last for up to forty-five seconds.

Allocation of Speaking Time During Limited Debates – When a limited debate is held, the President must allocate speaking time among the parliamentary groups and, in so doing, have regard to the presence of independent Members. The parties represented at the National Assembly have agreed upon the allocation of speaking time for the various limited debates (see **SCHEDULE 3**). However, the allocation of time for the debate on a Wednesday motion or a want of confidence motion moved by a Member from the Second Group in Opposition or by an independent Member shall be determined on a future date.

Allocation of Speaking Time During Interpellations – The parties represented at the National Assembly have agreed upon the allocation of time during an interpellation on the basis of the model used during the 38th Legislature (see **SCHEDULE 4**). However, a different allocation is envisaged for the eventuality in which a committee might include an independent Member, as does the Committee on Social Affairs (see **SCHEDULE 5**). Furthermore, the allocation of time for an interpellation requested by a Member from the Second Group in Opposition or by an independent Member remains to be determined.

Allocation of Committee Chairmanships and Vice-Chairmanships – The steering committee of the Committee on Public Administration shall include among its members a second vice-chairman issuing from the Second Group in Opposition. Furthermore, subparagraph (7) of Standing Order 128 shall not apply during the current legislature.

SCHEDULE 1

RIGHTS CONFERRED BY THE STANDING ORDERS OF THE NATIONAL ASSEMBLY ON A GROUP IN OPPOSITION OTHER THAN THE OFFICIAL OPPOSITION

1. Specific Speaking Times and Rights

SPECIFIC SPEAKING TIMES		
Opening speech debate		
Party leader or representative	1 h	S.O. 50
	Speech having precedence	S.O. 87(1)
Budget speech debate		
Finance critic	10 min	S.O. 271
Party leader or representative	1 h	Precedent 38th Legislature
	Speech having precedence	S.O. 87(1)
Substantive motion		
Party leader or representative	1 h	S.O. 209
Formal motion		
Party leader or representative	30 min	S.O. 209
Passage in principle of a public bill		
Party leader or representative	1 h	S.O. 209 and 239
Passage in principle of a private bill		
Party leader	30 min	S.O. 269
Consideration of a committee report on a public bill		
Party leader or representative	30 min	S.O. 209 and 253
Passage of a public bill		
Party leader or representative	1 h	S.O. 256
Passage of a private bill		
Party leader	30 min	S.O. 269

1. Specific Speaking Times and Rights (cont.)

SPECIFIC SPEAKING RIGHTS		
Statement by a minister		
Party leader or representative	5 min	S.O. 56
Motion to meet on a Monday		
Group representative	5 min	S.O. 21
Motion to meet in secret		
Group representative	10 min	S.O. 29
Motion to adjourn the debate		
Group representative	10 min	S.O. 101
Motion to adjourn the Assembly		
Group representative	10 min	S.O. 106
Motion to report to the Assembly		
Group representative	10 min	S.O. 114
Motion to withdraw a motion		
Group representative	10 min	S.O. 195
Previous question		
Group representative	10 min	S.O. 204
Motion to refer a bill to a committee of the whole, at the passage stage, in order to consider amendments		
Group representative	10 min	S.O. 257
Motion to appoint a select committee to consider a bill falling under the competence of two or more committees		
Group representative	10 min	S.O. 261
Preliminary remarks during the consideration of supplementary estimates in Committee of the Whole		
Group representative	20 min	S.O. 290

2. Rights of a Parliamentary Group House Leader

2.1 IN COMMITTEE

- To sit as a
  - Member of the Committee on the National Assembly (CAN) (S.O. 115)
  - Member of the Subcommittee on Parliamentary Reform (S.O. 117)
  - Member of the CAN steering committee (RCP 4.1)

2.2 IN THE ASSEMBLY

- To participate in various House leaders' meetings to
  - organize limited debates (S.O. 210)
  - determine how the consideration of the estimates is to be carried out (S.O. 285)
  - determine how amendments to a bill are to be put to a vote at the committee report consideration stage (S.O. 253)
  - agree on when a committee report on a bill is to be tabled in the Assembly, at the Government House Leader's request (S.O. 249)

3. Rights in Committee

- Decisions made on a majority vote of the Members from each parliamentary group:
  - election of the Chair and Vice-Chair of a standing committee (S.O. 135)
  - motion to consider a matter on the committee's initiative (S.O. 149)
  - appointment of a subcommittee (S.O. 150)
  - motion to meet in camera (S.O. 160)
  - choice of a public body for the purposes of a parliamentary oversight mandate (S.O. 294)
  - motion to determine how the examination of financial commitments is to be organized (RCP 21)
- Speaking times reserved for the representative of a parliamentary group:
  - motion to adjourn proceedings: 10 min (S.O. 165)
  - motion for arrangement of business: 30 min (S.O. 209)

SCHEDULE 2

STATEMENTS BY MEMBERS

Order of Statements at a Sitting

Rank	Order of Statements
1st	QLP
2nd	PQ
3rd	QLP
4th	PQ
5th	ADQ
6th	QLP or QS
7th	PQ or QS
8th	QLP
9th	PQ
10th	QLP

Potential Number of Statements by Members Over a 12-Sitting Cycle

	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	**Total**
QLP	5	5	5	5	5	4	5	5	5	5	5	5	59
PQ	4	4	4	4	4	4	4	4	4	4	4	3	47
ADQ	1	1	1	1	1	1	1	1	1	1	1	1	12
QS						1						1	2

SCHEDULE 3

3 PARLIAMENTARY GROUPS AND 1 INDEPENDENT MEMBER

		Representation of parties in the Assembly		Allocation 10% to 3rd group 50% of remainder to each of other 2 groups
Opening speech debate				**24:00:00**
	QLP	66 53.2%		10:38:00 44.3%
	PQ	51 41.1%		10:38:00 44.3%
	ADQ	6 4.8%		**2:24:00** **10.0%**
	QS	1 0.8%		0:20:00 1.4%
Budget speech debate				**13:30:00**
	QLP	66 53.2%		5:54:30 43.8%
	PQ	51 41.1%		5:54:30 43.8%
	ADQ	6 4.8%		**1:21:00** **10.0%**
	QS	1 0.8%		0:20:00 2.5%
Limited debate without reply (5 h)				**5:00:00**
	QLP	66 53.2%		2:12:30 44.2%
	PQ	51 41.1%		2:12:30 44.2%
	ADQ	6 4.8%		**0:30:00** **10.0%**
	QS	1 0.8%		0:05:00 1.7

ALLOCATION: Speaking time is allocated as follows:

1) a time envelope is given to the independent Member (it varies according to the type of debate);

2) a time envelope of 10% of the total time is given to the 3rd parliamentary group;

3) the time remaining is divided equally between the parliamentary group forming the Government and that forming the Official Opposition.

3 PARLIAMENTARY GROUPS AND 1 INDEPENDENT MEMBER

		Representation of parties in the Assembly	Allocation 10% to 3rd group 50% of remainder to each of other 2 groups
Limited debate without reply (2 h)			**2:00:00**
	QLP	66 53.2%	0:51:30 42.9%
	PQ	51 41.1%	0:51:30 42.9%
	ADQ	6 4.8%	**0:12:00** **10.0%**
	QS	1 0.8%	0:05:00 4.2%
Limited debate with reply (1 h 50 min)			**1:50:00**
	QLP	66 53.2%	0:47:00 42.7%
	PQ	51 41.1%	0:47:00 42.7%
	ADQ	6 4.8%	**0:11:00** **10.0%**
	QS	1 0.8%	0:05:00 4.5%
Limited debate without reply (1 h)			**1:00:00**
	QLP	66 53.2%	0:26:00 43.3%
	PQ	51 41.1%	0:26:00 43.3%
	ADQ	6 4.8%	**0:06:00** **10.0%**
	QS	1 0.8%	0:02:00 3.3%

ALLOCATION: Speaking time is allocated as follows:

1) a time envelope is given to the independent Member (it varies according to the type of debate);

2) a time envelope of 10% of the total time is given to the 3rd parliamentary group;

3) the time remaining is divided equally between the parliamentary group forming the Government and that forming the Official Opposition.

SCHEDULE 4

ALLOCATION OF SPEAKING TIME DURING INTERPELLATIONS

INTERPELLATION REQUESTED BY THE OFFICIAL OPPOSITION (PQ)

10:00 a.m. Opening (20 minutes)		
Opening statements	Author of interpellation* Minister	**10:00 a.m.** **10:10 a.m.**
10:20 a.m. Debate (80 minutes)		
1st round	Official Opposition Member Minister Government Member	**10:20 a.m.** **10:25 a.m.** **10:30 a.m.**
2nd round	Official Opposition Member Minister Government Member	**10:35 a.m.** **10:40 a.m.** **10:45 a.m.**
3rd round	Official Opposition Member Minister Government Member	**10:50 a.m.** **10:55 a.m.** **11:00 a.m.**
4th round	Official Opposition Member Minister Government Member	**11:05 a.m.** **11:10 a.m.** **11:15 a.m.**
5th round	Official Opposition Member Minister Government Member	**11:20 a.m.** **11:25 a.m.** **11:30 a.m.**
11:35 a.m. (25 minutes before end of interpellation) Second Opposition Group Member (ADQ) has the floor (5 minutes)		
"Protected" speaking time of the Member from the other opposition group	Second Opposition Group Member	**11:35 a.m.**
11:40 a.m. (20 minutes before end of interpellation) Conclusions (20 minutes)		
Conclusions	Minister Author of interpellation	**11:40 a.m.** **11:50 a.m.**

* Speaking time allocation further to an agreement between the parliamentary groups during the 38th Legislature (JD, October 25, 2007, p. 1679 (Michel Bissonnet)/*RDPP*, no. 301/1).

ALLOCATION OF THE SIX SPEAKING TURNS:

PQ	**5**
ADQ	**1**
QS	**N/A**

SCHEDULE 5

ALLOCATION OF SPEAKING TIME DURING INTERPELLATIONS AT SITTINGS OF THE COMMITTEE ON SOCIAL AFFAIRS

INTERPELLATION REQUESTED BY THE OFFICIAL OPPOSITION (PQ)

10:00 a.m. Opening (20 minutes)		
Opening statements	Author of interpellation Minister	**10:00 a.m.** **10:10 a.m.**
10:20 a.m. Debate (80 minutes)		
1st round	Official Opposition Member Minister Government Member	**10:20 a.m.** **10:25 a.m.** **10:30 a.m.**
2nd round	Official Opposition Member Minister Government Member	**10:35 a.m.** **10:40 a.m.** **10:45 a.m.**
3rd round	Official Opposition Member Minister Government Member	**10:50 a.m.** **10:55 a.m.** **11:00 a.m.**
4th round	Independent Member (QS) Minister Government Member	**11:05 a.m.** **11:10 a.m.** **11:15 a.m.**
5th round	Official Opposition Member Minister Government Member	**11:20 a.m.** **11:25 a.m.** **11:30 a.m.**
11:35 a.m. (25 minutes before end of interpellation) Second Opposition Group Member (ADQ) has the floor (5 minutes)		
"Protected" speaking time of the Member from the other opposition group	Second Opposition Group Member	**11:35 a.m.**
11:40 a.m. (20 minutes before end of interpellation) Conclusions (20 minutes)		
Conclusions	Minister Author of interpellation	**11:40 a.m.** **11:50 a.m.**

ALLOCATION OF THE SIX SPEAKING TURNS:

PQ	**4**
ADQ	**1**
QS	**1**

APPENDIX IV

Random Draw Procedure for the Allocation of Measures Among Independent Members

GENERAL

Three separate random draws are held to determine the allocation of

(1) questions during Question Period;

(2) Wednesday motions and interpellations (a single draw for both types of measure); and

(3) statements by Members.

If the independent Members express the need, a random draw may also be held to allocate motions without notice.

The Member for Mercier is excluded from all random draws.

VALID PERIOD

A random draw to allocate questions may be valid for one cycle only or for more than one cycle.

A random draw to allocate statements by Members is valid for a minimum of two cycles. Before the draw, the Member for Mercier informs the President of the sittings at which he wishes to avail himself of his rights.

In both cases, the draw must be held before the beginning of a new cycle for which no allocation has yet been determined.

The allocation of Wednesday motions and interpellations is decided by a joint draw that is valid for a single cycle. As their names are drawn, the independent Members choose from the available time slots for either type of measure. Before the draw, the Member for Mercier must inform the President of the sitting at which he wishes to avail himself of his rights.

The cycles continue to run even when a sessional period or session ends and a new one begins.

PROCEDURE

Place and Participants

The random draws are conducted in the flag room in the presence of the President or a Vice-President of the Assembly, the Secretary General or his appointed representative, and the independent Members who choose to participate. The Members may also appoint representatives to attend the draw in their place.

Notice

Meetings to hold random draws are convened by the Chair as often as determined by the Chair. An independent Member who chooses not to attend or to appoint a representative is deemed to have relinquished his or her rights and is excluded from the draw.

Ballots

Ballots are prepared by the Parliamentary Proceedings Directorate for each independent Member. The ballots for the independent Members taking part in the draw are put in a box after the Secretary General or his representative has made sure it is empty. The ballots for Members who are neither present nor represented are destroyed.

Draw and Planning Chart

The President, or the Vice-President replacing him, draws the first ballot from the box and calls out the name on the ballot. The independent Member whose name is called chooses a time slot from those shown as available on a specially designed chart. The Secretary General or his representative writes the Member's name in the chosen time slot. The process is repeated until all the independent Members taking part in the draw have chosen a time slot in the cycle.[1]

Notice of Results

Once all the draws have been held, the Parliamentary Proceedings Directorate sends all the Members who took part a letter confirming the sittings at which they can exercise their rights and reminding them of the time limits they must comply with.

Trade

After the draws, two independent Members may agree to trade time slots but only if the time slots were allocated by the same draw. The President must be informed of all trades agreed upon.

1. Given the limited number of Wednesday motions and interpellations available for independent Members, there may be fewer time slots available for those measures than Members taking part in or represented at a draw. If such is the case, the draw ends when all the Wednesday motions and interpellations for a given cycle have been allocated. At the following draw for the same measures, a special priority draw is held first for those Members whose names were not drawn the last time.

APPENDIX V

Motion to Suspend Rules of Procedure

On April 21, 2009, the motion to suspend rules of procedure was replaced by the motion to introduce an exceptional procedure.[1] The following is a summary of the jurisprudence relating to the now defunct procedural device.

HOW MOVED

Despite Standing Order 17, under which the Government House Leader can be replaced by a deputy House leader or a minister in the House, a motion to suspend rules of procedure must be proposed by the Government House Leader or a minister (1985 S.O. 182).[2] As a general rule, prior notice of this type of motion must be given on the Order Paper (S.O. 188). No notice is required, however, if the reason claimed for suspending rules of procedure is the urgency of the situation (1985 S.O. 183).

Due to its nature and exceptional character, a motion to suspend rules of procedure to bring a matter requiring urgent consideration before the House may be proposed, without notice, either at the stage of Routine Proceedings set aside for motions without notice[3] or during Orders of the Day. It is up to the mover of the motion,[4] not the Chair, to decide when such a motion should be proposed, as explained in the following ruling:

> [TRANSLATION] Owing to its nature and exceptional character, which may be compared to that of the closure motion provided for in Standing Orders 250 and 251, a motion to suspend a rule of procedure . . . must be allowed at any time the House Leader considers appropriate during a sitting . . .

1. Until they were replaced in 2009, Standing Orders 182, 183 and 184 on the motion to suspend rules of procedure read as follows:
"**182**. Suspension of certain rules – The Government House leader or a minister may move the suspension of any rule of procedure envisaged in the second and third paragraphs of Standing Order 179. Such motion shall state the reason for which the suspension of the rule is sought and, where appropriate, any other rule or rules that are to apply in its stead. This motion may be discussed in a limited debate, but it may be neither amended nor divided. **183**. Urgency – A motion to suspend some rule of procedure may be moved without notice if the reason claimed is the urgency of the situation. **184**. Bill to be distributed – If the object of the motion is to allow the consideration of some bill, such bill shall be distributed when the motion is made."
2. By establishing a power that can be exercised by the Government House Leader or a minister, this Standing Order provides to a certain extent for a replacement procedure that appears to exclude the application of Standing Order 17 and therefore the possibility that a deputy House leader who is not a minister could move a motion to suspend rules of procedure in the place of the House Leader.
3. JD, May 14, 1996, p. 1046 (Jean-Pierre Charbonneau).
4. JD, December 14, 2004, pp. 6731–6733 (Michel Bissonnet).

> That a motion to suspend a rule may be moved at any time to discuss a matter requiring urgent consideration is quite understandable. Otherwise, should an unforeseen event having disastrous consequences occur after Orders of the Day have been dealt with, in the evening, for example, the House would be prevented from examining the matter immediately and identifying appropriate corrective measures, and would be required to wait until Routine Proceedings at the next sitting to address an obviously urgent matter. Instead, an urgent situation may be invoked at any time during a sitting of the Assembly.[5]

Once such a motion has been moved, the Chair must decide whether it is in order, that is, whether it meets the procedural requirements set out in the Standing Orders[6] in light of various formal criteria based on precedents.[7] The Chair is not empowered to rule on the timeliness of the motion or on its substance.[8]

If the motion is declared in order, it is the subject of a limited two-hour debate (1985 S.O. 182 and 210). If the motion is still under debate when it is time to adjourn the sitting, jurisprudence requires that it be entered on the Order Paper under "Government Motions"[9] in Orders of the Day.

A motion to suspend rules of procedure may not be amended or divided (S.O. 182). Once passed, the motion becomes an order of the Assembly that must be carried out in the manner specified in the order.

RULES SUSPENDED

A motion to suspend rules of procedure may apply to any rule to which paragraphs 2 and 3 of Standing Order 179 refer, that is, any rule set out in the Standing Orders, the Rules for the Conduct of Proceedings or the orders of the Assembly, but not to a rule established by law. It stands to reason that a motion, which is an act of the Assembly, cannot amend a law, which is an

5. JD, December 19, 1988, pp. 4324–4332 (Pierre Lorrain)/*RDPP*, no. 84/7.
6. JD, December 19, 2000, pp. 8933–8934 (Jean-Pierre Charbonneau).
7. JD, March 21, 2005, pp. 7242–7244 (Michel Bissonnet)/*RDPP*, no. 279/4.
8. JD, December 14, 2004, pp. 6731–6733 (Michel Bissonnet).
9. JD, December 16, 2003, pp. 2698–2699 (Michel Bissonnet)/*RDPP*, no. 51/1.

act of Parliament, since Parliament is the sum of the Assembly and the Lieutenant-Governor together. To set aside a rule of procedure established by law would require a legislative amendment.

As most of the Assembly's rules of procedure derive from the Standing Orders, the Rules for the Conduct of Proceedings and the orders of the Assembly, a motion to suspend rules could set aside the bulk of the rules governing its proceedings. Since no boundaries have been set to this procedural tool, its reach is potentially limitless.

On several occasions the Chair has had to confirm the extraordinary scope of a motion to suspend rules of procedure. For example, although the privilege of freedom of speech is both the most widely accepted and most fundamental right of a Member within the Assembly precincts, the Chair has ruled that a motion to suspend rules of procedure could be used to set aside the rules relating to speaking times set out in Standing Order 209.[10] According to the Chair, the privilege of freedom of speech is circumscribed by the rules of parliamentary debate to which the Members unanimously agreed when they adopted the Standing Orders. As the motion to suspend rules of procedure is provided for in the Standing Orders, it cannot be equated with an abuse or a breach of the rights and privileges of the Assembly or of its Members,[11] regardless of the time specified in the motion for each debate.[12]

The Chair has also ruled that Standing Order 69, allowing a Member to speak to a breach of privilege immediately after the breach occurs, could be suspended. The Chair acknowledged that inherent parliamentary privileges cannot be suspended, given their constitutional status, but still found that nothing prevents the temporary suspension of the rules of procedure under which those privileges can be asserted.[13] On another occasion, the Chair ruled that a motion to suspend rules of procedure could not be found out of order on the grounds that it would suspend the Standing Orders pertaining to the right to petition. Although the right to petition is provided for in the *Charter*

10. JD, December 20, 1996, pp. 5056–5057 (Jean-Pierre Charbonneau); JD, December 18, 1997, pp. 9691–9693 (Jean-Pierre Charbonneau); JD, December 19, 2000, pp. 8933–8934 (Jean-Pierre Charbonneau).
11. JD, December 15, 2003, pp. 2667–2669 (Michel Bissonnet)/*RDPP*, no. 180/2.
12. The capacity to limit debate through a motion to suspend rules of procedure is not subject to any limitation. The Chair cannot therefore rule on the time that should be allocated for the consideration of a bill (JD, December 15, 2005, pp. 11073–11074 (Michel Bissonnet)).
13. JD, March 21, 2005, pp. 7242–7244 (Michel Bissonnet). In this instance, only the right to raise a point of privilege immediately after a breach occurred was suspended, so that a Member could still raise a point of privilege by notifying the President in writing, as provided for in the second paragraph of Standing Order 69.

of Human Rights and Freedoms,[14] the procedural framework governing its exercise is laid out in the Standing Orders. As the motion to suspend rules of procedure concerned the procedural aspect only, it did not affect the Charter right.[15]

The Chair has also decided that Standing Orders 71 to 73 relating to personal explanations by a Member could be suspended even if they provide for what is an important right for Members in carrying out their parliamentary duties.[16] For the same reasons, the Chair has confirmed that Standing Orders 249 to 251 concerning closure motions[17] and Standing Order 220 relating to the possibility for five Members to request a vote by recorded division,[18] as well as Standing Order 228 on the possibility for Members to require that the *Votes and Proceedings* for the sitting record their dissent or their abstention or that a motion was not adopted unanimously,[19] can be suspended. A motion to suspend rules of procedure can suspend any Standing Order, including Standing Order 197, which sets out the criteria for the admissibility of a motion.[20] In this respect, the Chair has established that it does not need to rule on the right to suspend a given Standing Order, since the rules governing the suspension of rules of procedure do not make any distinction between the rules,[21] and the Government House Leader could move the suspension of any rules he or she chose.[22] The Chair has also ruled in order a motion to suspend rules

14. L.Q., c. C-12.
15. JD, December 15, 2003, pp. 2667–2669 (Michel Bissonnet).
16. JD, December 17, 1992, pp. 4892–4903 (Jean-Pierre Saintonge); JD, June 18, 1996, p. 2443 (Raymond Brouillet).
17. JD, December 17, 1992, pp. 4892–4903 (Jean-Pierre Saintonge).
18. JD, June 18, 1996, p. 2443 (Raymond Brouillet).
19. JD, March 21, 2005, p. 7426 (Michel Bissonnet); JD, December 15, 2005, pp. 11073–11074 (Michel Bissonnet). In this case, the Chair acknowledged that, even if Standing Order 228 were suspended, the Chair could nevertheless declare in the *Votes and Proceedings* that a motion had been carried on division, given the general power it has under Standing Order 2 to declare the sense of the Assembly.
20. JD, December 14, 2004, pp. 6731–6733 (Michel Bissonnet). The Chair has also acknowledged that part of the first paragraph of Standing Order 244, under which an amendment to a bill must be relevant to its subject matter and consistent with its nature and purpose, could be suspended, as well as Standing Order 221, under which the Chair must read a motion out loud before it is put to the vote (JD, December 15, 2003, pp. 2667–2669 (Michel Bissonnet)).
21. JD, December 15, 2003, pp. 2667–2669 (Michel Bissonnet).
22. JD, December 14, 2004, pp. 6731–6733 (Michel Bissonnet). In this instance, the House Leader of the Official Opposition argued, among other things, that suspending the Standing Orders on the clause-by-clause consideration of a bill would prevent the parliamentarians from carrying out an in-depth examination of the bills targeted by the motion. The Chair rejected the argument, stating that those Standing Orders could also be suspended.

of procedure that themselves suspended the entire process set out in the Standing Orders for examining the estimates.[23]

Although a motion to suspend rules of procedure may set aside rules that are crucial to ensuring a balance of power during parliamentary proceedings, the Chair has noted that the motion, whatever its scope, does not constitute a breach of the rights and privileges of the Assembly and its Members, since the Assembly itself unanimously adopted the provisions under which such a motion may be moved.[24]

CONTENT OF THE MOTION

The motion must give the grounds for the suspension, the rule suspended and, if necessary, the rule that will apply. Parliamentary jurisprudence has established that a motion to suspend rules comprises two elements: the suspension of the rules as such and the replacement of the suspended rules (1985 S.O. 182). The second element complements the first, which is essential; otherwise, a new rule might come into conflict with an existing one.[25]

This principle is not absolute, however, since there may be no incompatibility between the new rules and those set out in the Standing Orders.[26] Similarly, the purpose of a motion may be to afford another possibility, over and above what a rule set out in the Standing Orders provides for, rather than to suspend the rule.[27] For example, the Chair has ruled that, while Standing Orders 249 to 251 on closure motions could be suspended, such a suspension was not absolutely necessary in order to put an end to proceedings in committee by means of a motion to suspend rules of procedure. A closure motion is moved at the discretion of the Government House Leader, who has other means of ending committee proceedings, such as a motion to suspend rules of procedure. Here were two different ways of proceeding that were not mutually[28] incompatible.

23. JD, March 21, 2005, p. 7426 (Michel Bissonnet).
24. JD, March 12, 1998, p. 9885 (Jean-Pierre Charbonneau).
25. JD, February 3, 1995, p. 1350 (Roger Bertrand).
26. JD, March 30, 2001, pp. 526–527 (Jean-Pierre Charbonneau).
27. JD, December 18, 1997, pp. 9691–9693 (Jean-Pierre Charbonneau). In this particular case, the Opposition House Leader maintained that paragraphs 2 and 3 of Standing Order 53 should have been suspended because the motion provided that a bill could be introduced and a committee report tabled at other times than the stages of Routine Proceedings set aside for those purposes. However, it was decided that the purpose of the motion was not to suspend the possibility of introducing a bill and tabling a committee report during Routine Proceedings, but rather to allow those actions at other times as well.
28. JD, December 12, 2006, pp. 3861–3862 and 3865–3866 (Michel Bissonnet).

As well, Standing Order 182 (1985 S.O.) does not require that every Standing Order suspended under a motion be replaced.[29] Including more Standing Orders than necessary in a motion to suspend is not grounds for ruling it out of order provided that the relevant Standing Orders are suspended and replaced, if necessary, by other rules.[30] The Chair has ruled out of order a motion to suspend rules of procedure on the grounds that the new rules proposed in the motion were not sufficiently explicit, given that a motion to suspend rules regulates and limits the Members' right to express themselves.[31]

NOTION OF URGENCY AND ROLE OF THE PRESIDENT

Most motions to suspend rules of procedure are moved in the Assembly in order to deal with an urgent matter, since that makes it possible to move them without notice (1985 S.O. 183). There is ample jurisprudence establishing that it is not up to the President to determine whether the urgency claimed is real or not. Only the Assembly may decide, by a vote at the end of the limited debate on the motion, whether it is indeed urgent to suspend certain rules of procedure.[32] The mover of the motion is not required to prove that the situation is urgent: the urgency need only be raised in the motion[33] or when the

29. JD, June 18, 1996, p. 2443 (Raymond Brouillet); JD, June 12, 2006, pp. 2433–2434 (Michel Bissonnet).
30. JD, June 16, 1999, pp. 2675–2677 (Jean-Pierre Charbonneau)/*RDPP*, no. 182/15. In the case in point, the Opposition maintained that including more Standing Orders than necessary in the motion made it invalid. The Chair ruled that there were no grounds for declaring the motion invalid, since the inclusion of more rules than necessary did not affect the consideration of the bills covered by the motion. According to the Chair, a motion is invalid when it is clear that it will not be possible to carry it out. See also JD, December 19, 2000, pp. 8933–8934 (Jean-Pierre Charbonneau); JD, December 15, 2005, pp. 11073–11074 (Michel Bissonnet).
31. JD, June 16, 1999, pp. 2675–2677 (Jean-Pierre Charbonneau)/*RDPP*, no. 182/15.
32. 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).
33. JD, June 16, 1993, pp. 7812–7813 (Michel Bissonnet); JD, June 18, 1998, pp. 12112–12113 (Claude Pinard).

motion is presented;[34] nor does the motion have to state any reasons for suspending rules of procedure when urgency is invoked.[35]

Unlike requests for an urgent debate (S.O. 90)[36] and motions for putting the question immediately (S.O. 203), for which the Standing Orders grant the Chair certain powers of intervention and judgment, the Chair has no discretionary powers in the case of a motion to suspend rules, and is limited to checking the formal aspects of the motion.[37] In that respect, the Chair must, in particular, check whether the suspended Standing Orders coincide with the new rules of procedure.[38]

34. JD, May 14, 1996, p. 1046 (Jean-Pierre Charbonneau); JD, June 16, 1993, pp. 7812–7813 (Michel Bissonnet).
35. JD, December 19, 1988, pp. 4333–4344 (Pierre Lorrain).
36. JD, June 18, 1987, pp. 8681–8688 (Pierre Lorrain).
37. JD, June 16, 1993, pp. 7812–7813 (Michel Bissonnet).
38. JD, March 21, 1997, p. 5460 (Jean-Pierre Charbonneau).

APPENDIX A

An Act respecting the National Assembly [L.Q., 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 has a term of not more than five years, beginning from the receipt by the Secretary General after the 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).

Only the Lieutenant-Governor may dissolve the Assembly before the expiry of five years.

1982, c. 62, s. 6; 1984, c. 51, s. 527.

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.

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.

DIVISION IV
THE PRESIDENT OF THE ASSEMBLY

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

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.

1982, c. 62, s. 87; 1999, c. 3, 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.

1982, c. 62, s. 88; 1999, c. 3, 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.

1982, c. 62, s. 97; 1999, c. 3, s. 4.

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;

(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.

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.

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.

108.1. *(This section ceased 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

124.1. The Leader of the Official Opposition, a Member to whom paragraph 6 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 and the Chief Official Opposition Whip in the National Assembly, 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.

1983, c. 55, s. 136.

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.

DIVISION V
LIBRARY OF THE NATIONAL ASSEMBLY

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. (Repealed).

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, government agencies and government enterprises 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.

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. (Repealed).

1982, c. 62, s. 140; 1989, c. 22, s. 7.

141. (Repealed).

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 of the Members of the National Assembly [excerpts] [L.Q., 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:

PRELIMINARY TITLE
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.

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 or a government enterprise 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.

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 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.

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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 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.

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), including an extraordinary recourse, may be exercised 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 a motion, annul by a summary proceeding any decision rendered or order or injunction issued contrary to the first paragraph.

2010, c. 30, s. 86.

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.

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, 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

…

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.

…

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

The Standing Orders of the National Assembly

TITLE I
THE ASSEMBLY

CHAPTER I
GENERAL PROVISIONS

SECTION 1
THE PRESIDENT

§ 1. – OFFICE

1. 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.

2. Powers – In addition to such powers as may be invested in the President by statute, it shall be his office to:

(1) call to order, suspend, and adjourn the meetings of the Assembly;

(2) preserve order and decorum, for which purpose he shall exercise all the necessary powers;

(3) enforce the Standing Orders;

(4) propose every motion from the Chair, put the question thereon, and declare the sense of the Assembly;

(5) convene and preside over conferences with the House leaders of the parliamentary groups;

(6) organize the limited debates;

(7) choose the place in which the Assembly shall meet when it cannot meet in the Parliament Building;

(8) exercise such other powers as he may require to perform his duties and to protect the privileges of the Assembly and its Members.

3. 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.

4. 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.

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 1.30 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 9.30 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

21. Extended hours of meeting – In periods when the Assembly may meet during extended hours it shall meet as follows:

(1) On Tuesdays from 1.30 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 9.30 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 9.30 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 9.30 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

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.

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

§ 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)

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.

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 and 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.

SECTION 9
COMMITTEES OF THE WHOLE

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

SECTION 1.1
COMMITTEE ON PUBLIC ADMINISTRATION

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)

SECTION 5
CONVENING OF MEMBERS AND HOURS OF MEETING

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 1.30 o'clock p.m. and from 6.00 o'clock until 7.30 o'clock p.m.;

(3) on Wednesdays and Thursdays from 9.30 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

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 1.30 o'clock p.m. and from 6.00 o'clock until 7.30 o'clock p.m.;

(3) on Wednesdays and Thursdays from 9.30 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 9.30 o'clock a.m. until 1.00 o'clock p.m.

1998.10.21; 2009.04.21

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 general consultations, 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.

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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.

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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.

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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.

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.

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

SECTION 7
EXCEPTIONAL LEGISLATIVE PROCEDURE

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.

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.

2009.04.21

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.

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

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 of 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

(See S.O. 244)

SECTION 2
VIDEOCONFERENCING

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;

(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.

CHAPTER IV
PETITIONS

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.)

SECTION 2
ELECTRONIC PETITIONS

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.)

APPENDIX E

Temporary Amendments to the Standing Orders and the Rules for the Conduct of Proceedings in the National Assembly, concerning quorum and parliamentary committees (in force for the duration of the 38th Legislature)

Amendments to the Standing Orders

36.1. Want of quorum – A Member may call attention to the want of a quorum only if no fewer than six Members from his parliamentary group are then present in the House.

When one or more committees are meeting, this number shall be reduced to three.

117.1. Members – The Committee on Public Administration shall consist of:

(1) twelve permanent members, who shall be apportioned as follows:
   (a) five Members from the parliamentary group forming the Government;
   (b) four Members from the Official Opposition; and
   (c) three Members from the Second Opposition Group, one of whom shall not be entitled to vote.

(2) twelve temporary members, who shall be apportioned as follows:
   (a) five Members from the parliamentary group forming the Government;
   (b) four Members from the Official Opposition; and
   (c) three Members from the Second Opposition Group.

(See R.C.P. 3.1)

117.4. Participation of independent Members – Any independent Member may take part in the proceedings of this committee; but he may not vote or move any motion.

117.8. Quorum – The quorum of this committee shall be four permanent members, including its chairman.

The quorum of any subcommittee thereof shall be a majority of its permanent members, including its chairman.

121. Members – Every committee shall consist of twelve Members, who shall be appointed for two years and be apportioned as follows:

(1) five Members from the parliamentary group forming the Government;
(2) four Members from the Official Opposition; and
(3) three Members from the Second Opposition Group, one of whom shall not be entitled to vote.

122. Repealed.

126. Allocation of chairmanships – Five committees shall be chaired by Members from the parliamentary group forming the Government, two shall be chaired by Members from the Official Opposition, and two shall be chaired by Members from the Second Opposition Group.

126.1. Allocation of vice-chairmanships – The vice-chairmanships of the several committees shall be apportioned among the parliamentary groups in the following manner:

(1) four Members from the parliamentary group forming the Government;

(2) four Members from the Official Opposition; and

(3) two Members from the Second Opposition Group.

The vice-chairman of a committee shall not belong to the same parliamentary group as its chairman.

127. Selection of chairmen and committee members – Within fifteen days after the opening of the first session of a Legislature, and from time to time thereafter as the necessity may arise, the Committee on the National Assembly shall meet to allocate the committee chairmanships and vice-chairmanships among the parliamentary groups. 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 this meeting to the Assembly; a Vice-President shall thereupon move concurrence in this report, and the Assembly shall decide the question forthwith.

128. Repealed.

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.

Provided that the Committee on Institutions shall elect a second vice-chairman from among the members of the Second Group in Opposition.

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.

137. Election of vice-chairmen – The chairman of each committee shall preside at the election of one or more vice-chairmen, as the case may be.

The members of a committee who belong to the same parliamentary group as its chairman and, in the Committee on Institutions, those who belong to the same parliamentary group as the vice-chairman envisaged in the second paragraph of Standing Order 134, 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 have the right to vote, except as otherwise provided in Standing Order 121(3).

140. Vacancies – Whenever the office of chairman of any committee becomes vacant, a 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, a 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, or both vice-chairmen, as the case may be, are absent or unable to act, the clerk shall so inform the committee, which shall take the appropriate measures.

(See R.C.P. 6)

156. Quorum – The quorum of any committee shall be four 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 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.

Amendments to the Rules for the Conduct of Proceedings

3.1 Members entitled to vote – The whip of the Second Opposition Group, or his representative, shall, whenever necessary, identify those Members who shall be entitled to vote.

(See S.O. 117.1 and 121)

4. Steering committees – A committee shall, at the request of its chairman, establish a steering committee. Whenever a committee comprises two vice-chairmen, the steering committee thereof shall consist of its chairman, of its two vice-chairmen, and of its clerk.

Whenever a committee comprises but one vice-chairman, the steering committee thereof shall consist of its chairman; of its vice-chairman; of some member of the committee who shall have been chosen by a majority of the members of each parliamentary group, and who belongs neither to the same parliamentary group as its chairman nor to that of its vice-chairman; and of its clerk.

The steering committee shall prepare and submit to the standing committee a plan of the latter's proceedings. The steering committee shall also, between meetings of the standing committee, take any decisions it may deem necessary.

6. Substitutions for chairman – Whenever the chairman and the vice-chairman, or both vice-chairmen, as the case may be, are absent or unable to act, a member of the committee may substitute for the chairman.

(See S.O. 141)

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Parliamentary Procedure in Québec is a must-read reference book for anyone interested in the foundations of parliamentary procedure and how that procedure is applied during proceedings of the National Assembly.