

**THE OPPOSITION IN A
PARLIAMENTARY SYSTEM**

**Gerald Schmitz
Political and Social Affairs Division**

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INTRODUCTION

A situation in which the activity of politics is devalued is inimical to parliamentary democracy. Parliament, after all, is fundamentally about debate – “rhetoric” in the classical Greek sense – and the transacting of the people’s business in public. It is also about the right to dissent in a civilized manner. Genuine political opposition is a necessary attribute of democracy, tolerance, and trust in the ability of citizens to resolve differences by peaceful means. The existence of an opposition, without which politics ceases and administration takes over, is indispensable to the functioning of parliamentary political systems. If these systems are perceived as not working well – as being “seriously overloaded,” to quote a distinguished Canadian Opposition Leader, the Hon. Robert Stanfield – it may be the rights of political oppositions which are immediately and most visibly at stake, but ultimately the threat is to democratic rights and freedoms generally. The following paper is an attempt to come to grips with the challenging nature of the opposition’s role in Parliament, specifically in the Canadian context.

GOVERNMENT AND OPPOSITION IN PARLIAMENTARY DEMOCRACIES

The division between government and opposition is as old as political democracy itself. In Aristotle’s Athenian polity the essence of self-government was that citizens were, in turn, both the rulers and the ruled. Government could alternate among different groups of citizens, and the minority could seek to persuade a majority of its point of view by peaceful (i.e., political) means. In an age of mass politics, direct citizen democracy has been replaced, with rare exceptions, by representative systems providing for periodic elections. In turn, these

electoral contests are usually dominated by a small number of political parties which select their own candidates and leaders. What has not changed, however, in our modern liberal-democratic society is the hallowed principle that government must rest on the consent of the governed – which means, *inter alia*, that the minority accepts the right of the majority to make decisions, provided that there is reciprocal respect for the minority's right to dissent from these decisions and to promote alternative policies. With the advent of representative and responsible parliamentary government, the distinction between “government” and “opposition” has become more formalized and routinized, but the underlying principles have not changed.

Of course it is not only in British-style Parliaments that this sort of ongoing legitimate contestation for decision-making power takes place. Every pluralistic democratic legislature contains both supporters and opponents of the executive. And, in all parts of the world, these legislatures are confronted with the problem of “executive dominance” in the face of modern demands for more and more government services.⁽¹⁾ The complaint is often heard that because of these pressures legislative politics is inefficient, ineffective, and in danger of becoming obsolete. Accordingly, we shall look at some of the countervailing power available to oppositions in legislatures which, through their heritage in the British Commonwealth, look to the “Westminster model” of parliamentary democracy for inspiration.

Although one speaks of a “model,” British parliamentary practice has evolved over centuries and still rests entirely on convention. The emergence of a set pattern of government and opposition is of comparatively recent origin. There was a time when the subjects thought fit for parliamentary debate were severely limited, when opposition to the government's handling of affairs of state could be considered to smack of treason, and hence to be dangerous. In the 16th and 17th centuries, the Member of Parliament who went beyond presenting private, local and special grievances or bills, to oppose the Crown, or even to debate such national issues as the right of succession, foreign policy and religion, risked imprisonment or worse. Of this period the historian Macaulay commented:

(1) See, for example, David Olson, *The Legislative Process: A Comparative Approach*, Harper & Row, New York, 1980, esp. ch. 1. The changing balance of forces in political society is also the subject of numerous articles in the international comparative politics journal *Government and Opposition*. Its Autumn 1988 issue contained an article by George Feaver, “Letter from Canada” which surveyed Canadian political developments since 1968.

... every man who then meddled with public affairs took his life in his hand... It was, we seriously believe, as safe to be a highwayman as to be a distinguished leader of the opposition...⁽²⁾

It was not until the 18th century that it came to be constitutionally accepted that an opposition could be “loyal” across the whole spectrum of public policy. Nevertheless, one cannot refer to the existence of an opposition in the modern sense; throughout most of the 18th century not only was there no disciplined, organized, and ongoing political formation dedicated to opposing the government, but also the very idea of “faction” or “party” was disreputable. Since the gradual formation of cohesive Whig and Tory party groups in the latter part of the 18th century, the term “the Opposition” has been applied chiefly to the party or parties whose elected members do not support the ministry of the day and who offer themselves to the voting public, not just as individual candidates, but as an organized and disciplined alternative government. The actual term “His Majesty’s Opposition” was coined during a British debate in 1826 and has been in use ever since.

With the development of cabinet government and the rise of political parties, responsible government has come to rely on electoral strategies in addition to strictly parliamentary ones. The governing party is “responsible” to the Commons chiefly in that it can be turned out of office and replaced by another party at the next election. The government must continue to enjoy the confidence of the House between elections, but, even in minority government situations, the real test of confidence is not in the daily balance of forces between government and opposition in the chamber but in the anticipated or threatened electoral contest among the major parties. As the distinguished Canadian parliamentarian Stanley Knowles put it:

... the opposition should so conduct itself in Parliament as to persuade the people of the country that it could be an improvement on the government of the day. No one will deny that our system works best when there is a change of government at reasonable intervals.⁽³⁾

The role of an opposition party, Mr. Knowles noted, is to check and prod, but ultimately to *replace* the government party. Bernard Crick has also described the British House

(2) Cited in Thomas Hockin, “The Role of the Loyal Opposition in Britain’s House of Commons: Three Historical Paradigms,” *Parliamentary Affairs*, Vol. 25, 1971-72, p. 54.

(3) Stanley Knowles, “The Role of the Opposition in Parliament,” Address to the Empire Club of Canada, 21 March 1957, Ontario Woodsworth Memorial Foundation, Toronto, 1957.

of Commons as the place where a “continuous election campaign ... is fought.”⁽⁴⁾ In Canada in this century, however, Mr. Knowles’ criterion of “reasonable intervals” has often been more the exception than the rule. This has led a number of observers to point out the potential dangers to parliamentary processes of long periods where one party controls the executive. Because electoral standing is a necessary but not a sufficient condition of government legitimacy, one must guard against devaluing the ongoing test of legitimacy which takes place through the intermediary of the legislature and the legislative opposition.

It is crucial to maintain the distinction between parliamentary, representative democracy and the sort of direct, plebiscitary appeal to “the people” which history shows can be made compatible with the most technocratic and authoritarian forms of government. A vigorous opposition in Parliament can be the chief bulwark against the temptation to *force majeure* and bureaucratic empire. “The people” speak through the “loyal opposition” as well as the government, through back-benchers as well as Cabinet ministers. There is simply no substitute for the “checks and balances” which are brought into play in the representative and watchdog functions performed by ordinary Members of Parliament.⁽⁵⁾ Just as members of the upper house are expected to use it as a chamber of “sober second thought” as well as a guarantor of minority rights and sectional interests, so, too, members of the opposition in the lower house are called upon to act as a brake on government haste, to ensure that all legislation receives the “due process” of parliamentary deliberation, and to see that diverse and opposing points of view have a chance to be aired and defended.

THE OPPOSITION’S ROLE IN CANADA

By the *British North America Act* of 1867 Canada inherited a constitution “similar in principle to that of the United Kingdom.” Responsible cabinet government and the doctrine of the supremacy of Parliament were thereby entrenched in the Canadian political system. The role of the opposition in a parliamentary federation such as Canada’s is obviously different from that of congressional representatives in a pluralist federation like the United States, where legislators exercise considerably more independence and need not take their cue from the executive branch.

(4) Bernard Crick, *The Reform of Parliament*, Weidenfeld and Nicolson, London, 1954, p. 95.

(5) Empirical research strongly supports the view that legislatures are more responsive to the public than other branches of government. The role of legislators cannot be usurped by government functionaries. See, for example, Lee Sigleman and William Vanderbok, “Legislators, Bureaucrats and Canadian Democracy: The Long and the Short of it,” *Canadian Journal of Political Science*, Vol. 10, 1977, p. 615-23.

Opposition to government proposals in Congress is expressed through a fluid, often bipartisan coalition. In Canada the parliamentary opposition is much more structured, and has a more formal status. But it also has to contend with a disciplined government party which may control the legislature for long periods of time.

Of course the party system as we know it is here to stay. We cannot go back to Sir John A. Macdonald's day when parties included a number of "loose fish" and when the government could be defeated by shifting coalitions of Members in the Commons without resigning. Today the division between "government" and "opposition," as noted, is highly structured and runs almost exclusively along party lines.⁽⁶⁾ This does not mean, however, that everything is a *fait accompli* once the party lines are decided at election time. (Interestingly, the term "His (or Her) Majesty's Opposition" has been in use in Canada longer than the title "Prime Minister," an indication of the assured constitutional standing of the former.) The role of the leader of the Opposition and of the opposition parties is to be as vigilant and diligent as the members of the government on the other side of the House. This is how two of Canada's greatest parliamentarians have described the importance of the legislative opposition:

I submit, therefore, that you do not have full political democracy, let alone the economic as well as political democracy for which my party stands, unless you include along with the ingredients that are taken for granted, such as universal suffrage, the secret ballot and majority rule, a full and unquestioned recognition of the rights and functions of the opposition to the government of the day. Only in this way can you protect the rights of minorities; only in this way can you make sure that the force of public opinion will be brought to bear on the legislative process, and we are indeed fortunate in Canada to have inherited from the United Kingdom a parliamentary system of government, the genius of which is the responsibility of the government to a parliament in which the rights of those who support the government and likewise the rights of those who oppose it are clearly recognized.

- Stanley Knowles, "The Role of the Opposition in Parliament," Address to the Empire Club of Canada, Toronto, 21 March 1957.

(6) Cf. Eugene Forsey, "Government Defeats in the Canadian House of Commons, 1867-73," *Canadian Journal of Economics and Political Science*, XXIX:3, August 1963, p. 364-67; and Thomas Hockin, "Flexible and Structured Parliamentarianism: From 1848 to Contemporary Party Government," *Journal of Canadian Studies*, 14:2, Summer 1979.

If Parliament is to be preserved as a living institution His Majesty's Loyal Opposition must fearlessly perform its functions. When it properly discharges them the preservation of our freedom is assured. The reading of history proves that freedom always dies when criticism ends. It upholds and maintains the rights of minorities against majorities. It must be vigilant against oppression and unjust invasions by the Cabinet of the rights of the people. It should supervise all expenditures and prevent over-expenditure by exposing to the light of public opinion wasteful expenditures or worse. It finds fault; it suggests amendments; it asks questions and elicits information; it arouses, educates and molds public opinion by voice and vote. It must scrutinize every action by the government and in doing so prevents the short-cuts through democratic procedure that governments like to make.

- Hon. John G. Diefenbaker, "The Role of the Opposition in Parliament," Address to the Empire Club of Canada, Toronto, 27 October 1949.

The Hon. Lester B. Pearson, Mr. Diefenbaker's successor as Prime Minister, and frequent victim of the latter's parliamentary skills, was moved to add a few choice words of his own about the adversarial nature of the House of Commons:

In national politics during the years when I was in the government, I watched the Opposition perform their duty vigorously and industriously, with courage and determination. They rightly insisted on their right to oppose, attack and criticize, to engage in that cut and thrust of debate, so often and so strongly recommended by those concerned with the vigour and health of Parliament and the health of democracy. I cannot forbear to add, however, that the application of this procedure has, in the past, been occasionally resented by those who are cut and thrust at.⁽⁷⁾

When one reads the above it is hard to conceive of the history of parliamentary control of the executive as a straightforward one of ossification and "decline," to cite what has become a common lament. One factor which may account for the prevalence of this pessimistic interpretation is that, overshadowed by the Cabinet's immediate responsibility for "affairs of state," the work of backbenchers and opposition members does not always receive the credit it deserves. Yet as J.R. Mallory remarked a few years ago: "... it would not be an exaggeration to

(7) "The Role of the Opposition," Address to the Canadian Club of Ottawa, 27 January 1959.

say that practically every significant measure of reform in the last forty years has been introduced in parliament by a private member, usually, but not invariably from the opposition.”⁽⁸⁾ At times it has been the opposition which has led, especially on social issues, and the government which has eventually followed. It would, therefore, be an exaggeration to claim that congressional systems are necessarily much more vigorous and aggressive in a legislative sense than our own.

Nor should we underrate the virtues of Parliament as a forum for debate. As Ralph Heintzman has pointed out:

One of the most attractive features of Parliament, for example, is a powerful symbolic resonance. In addition to its practical value, the daily confrontation of government and “loyal” opposition in the House of Commons symbolizes the inner dialogue, the continual sequence of question and answer, which distinguishes the truly civilized mind and is reflected in the social and public life of a civil community. Just as a genuinely sound mind does not suppress either of its two fundamental impulses but listens instead to both, and tries unceasingly to achieve a synthesis in which their opposition will be reconciled, so too the good society recognizes that opposing tendencies are not each other’s enemies but each other’s partners instead, and their indispensable complement. They are linked by an educational contract which is at once the condition and the sign of civilization.⁽⁹⁾

Unfortunately, as everyone knows, this ideal of civility does not always obtain in parliamentary practice. When debate degenerates into sterile reflex antagonism the process itself becomes discredited. Part of the problem comes about when frustration arises because the demands made on Parliament do not permit it to exercise its representation and surveillance functions properly. Backbench MPs cannot expect to have a major influence on legislation. But all MPs have the right to articulate the interests of their constituents, to scrutinize the actions of the government, and, if in opposition, to present alternative policies to the public. All of this requires time on the parliamentary agenda – time which the government usually thinks would be better spent proceeding with its legislative program.

(8) Cited in Allan Kornberg and William Mishler, *Influence in Parliament: Canada*, Duke University Press, Durham, N.C., 1976, p. 56.

(9) Ralph Heintzman, “The Educational Contract,” editorial introduction to the *Journal of Canadian Studies*, special issue on “Responsible Government Reconsidered,” Vol. 14, No. 2, Summer 1979, p. 143.

Not only is time “one of the most important commodities in parliamentary politics,”⁽¹⁰⁾ there is also the presumption that: “The House of Commons is the ordinary scene of the battle. It is the great public stage at the centre of the national amphitheatre.”⁽¹¹⁾ Accordingly, opposition parties and individual MPs compete fiercely for time on this stage. The opposition has certainly lost some of its prerogatives in this regard: for example, “the right to talk out government bills (closure, 1913), to filibuster (a limit on individual debate, 1927), to extend indefinitely major debates (1955), and to appeal the rulings of the Speaker (1965).”⁽¹²⁾ The length of speeches has been considerably shortened and in 1969 closure was used to pass a complicated Standing Order (75 A, B and C) setting out the procedure to be followed to impose “time allocation” on debate, either unilaterally or with the consent of one or more opposition parties. Nonetheless, the opposition still has numerous opportunities to confront the government: in the daily Question Period, in the eight days of debate following the Speech from the Throne and in the six days following the Budget and the 25 “opposition days” scattered throughout each session. The opposition, moreover, has benefited a great deal from the increased allowances for secretarial and research staff granted to each Member and to each party caucus,⁽¹³⁾ as well as from expanded facilities such as those of the Library of Parliament. Lacking the resources of government, opposition members have a vital stake in the continued improvement of services to parliamentarians.

The question remains how the opposition can make best use of the parliamentary time available to it. For example, the evidence suggests that control remains weak over the public purse. MPs are expected to oversee the government’s spending plans through the scrutiny of departmental estimates which are referred to the appropriate standing committees around the start of each fiscal year. But, even with the current expanded and reformed committee system,

(10) C.E.S. Franks, “Procedural Reform in the Legislative Process,” in William A.W. Neilson and James C. MacPherson, eds., *The Legislative Process in Canada*, Institute for Research on Public Policy and Faculty of Law, University of Victoria, 1978 p. 250.

(11) John Stewart, *The Canadian House of Commons*, cited by Geoffrey Stevens in *ibid.*, p. 230.

(12) Robert Jackson and Michael Atkinson, *The Canadian Legislative System*, 2nd rev. ed., Macmillan, Toronto, 1980, p. 117.

(13) The official opposition and its leader have added standing, such as priority in some debates and in Question Period, as well as the use of an official residence. For a party caucus to be recognized, it must have a minimum of 12 members, although this requirement may be relaxed if there are special circumstances.

changes are very rarely attempted to the government's supply bills and expenditure plans.⁽¹⁴⁾ A variety of proposals have been suggested to involve MPs in a more meaningful way in the polity and expenditure management process, since by itself the Public Accounts Committee is able to exercise only a post-audit function. Most of these proposals involve increasing the power and independence of parliamentary committees. But, as Thomas Hockin has noted, there is bound to be some ambivalence on both sides of the House about such reforms:

Neither the Government nor the Opposition has a vested interest in asserting its patrimony over all of the results of the committee system... Some Opposition MPs wonder if the role of the Opposition in committees does not sometimes become too collegial, in that Government and Opposition MPs may simply end up doing little more than tidying up a minister's bill. Not surprisingly, therefore, some Opposition MPs feel not enough partisan advantage is gained from all this work.⁽¹⁵⁾

There is at least an implicit conflict between the notion of MPs as legislators acting in concert with a common purpose, and their expected partisan roles based on adversarial representation. As Hockin points out, however, the genius of the parliamentary process is that adversary politics is not simply negative, but can itself be an important part of the shaping of government policy. Indeed, without good opposition, policy consensus would be a meaningless formality. Parliament could not do its work without the techniques of advocacy, contestation and persuasion pursued by the party caucuses and by individual members. Concludes Hockin:

To choose adversary propaganda politics instead of collegial coalescent politics may not be without effect on policy in the long run.

In fact, it can be suggested further that Opposition parties pursue at least four fundamental representational, yet partisan, roles in their activity in the House of Commons. Regardless of the nature of the party, all Opposition parties use the Canadian House as a public forum first to check on the Government's integrity. They are in constant pursuit of evidence not only of Government misspending of

(14) See Harold D. Clarke, *et al.*, eds., *Parliament, Policy and Representation*, Part II, esp. Paul Thomas, "Parliament and the Purse Strings," p. 160-181.

(15) Hockin, "Adversary Politics and Some Functions of the Canadian House of Commons," in O. Kruhlak *et al.*, eds., *The Canadian Political Process* (1979), p. 370. See also C.E.S. Franks, "The Dilemma of the Standing Committees of the Canadian House of Commons," *Canadian Journal of Political Science*, Vol. 4, 1977, p. 461-476

funds but of wider examples of dishonesty and arbitrary behaviour. Second, the Opposition prods the Government to act on behalf of certain interests, opinions and needs in society. Third, the opposition probes for information and although it seldom has success in eliciting hard information from the Government during the oral question period, it can be remarkably effective (if it works at it) in eliciting such information in written questions and in committees. Fourth, the opposition attempts to re-interpret the Government's interpretation... These functions of the Opposition parties, when combined with surreptitious efforts by backbench Government MPs to influence the cabinet, help one to understand more comprehensively the general role of the House of Commons in the political and policy process in Canada.⁽¹⁶⁾

That having been said, even if these parliamentary mandates were to become more clearly appreciated by the Canadian public, opposition parties would still face some formidable challenges. In particular, when major decisions take place without passing through parliamentary channels, the opposition is placed at a distinct disadvantage in terms of its ability to scrutinize and influence government actions. Increased resort to extra-parliamentary means to resolve the country's problems (e.g., federal-provincial conferences, interest group consultations, etc.) leads inevitably as well to a greater prominence for extra-parliamentary forms of opposition. To be fully credible as an institution, Parliament must be able to demonstrate an active presence across the full range of national public policy concerns. Obviously, in this regard, one should not look automatically to government, preoccupied as it is with the business of state, for leadership in strengthening legislative surveillance. The burden of making Parliament more effective falls, above all, on the shoulders of the opposition and Members of Parliament in their individual capacities.

**OPPOSITION RIGHTS AND RESPONSIBILITIES:
THE CASE OF THE 32ND PARLIAMENT, 1980-1984**

The first session of the first Parliament of the 1980s set a number of seemingly unenviable precedents which tested the stamina of both the government and the opposition. The session was the longest on record (approximately 400 sitting days), not least because of several episodes in which the opposition, as a last resort, employed tactics in order to block the normal

(16) "Adversary Politics and Some Functions of the Canadian House of Commons," p. 377-78.

course of parliamentary business. Yet in the end, the session gave birth to a new Canadian constitution as well as many major pieces of legislation. From the point of view of the future role of the opposition, it is important to assess how Parliament acquitted itself under the strain of these extraordinary circumstances.

Parliamentary reform rose to the top of the agenda in Canada in the late 1960s, largely as a result of the frustrating experience with successive minority governments and the exceedingly long and acrimonious debate over the adoption of a national flag.⁽¹⁷⁾ However, the reform process itself became so vexed that eventually the government imposed a series of changes over the strenuous objections of the opposition, to streamline the rules of debate. Then as later, some critics questioned the use of reform, since, after all, “the function of Parliament as a whole is to ventilate, not to legislate.”⁽¹⁸⁾ Still, most interested observers continued to believe strongly that Parliament had to be more than just a place for fruitless “ventilation.” In the wake of the bitter debates of the 1980-82 session, a special Commons committee was established with a mandate to review the standing orders and procedures of the House and to suggest further reforms.

During 1982 and 1983 the Lefebvre committee produced a series of innovative reports. One of the most notable early recommendations to be accepted was the automatic referral of reports from government departments and agencies to the relevant Commons standing committees, and the requirement for a substantive government response to committee reports. Sweeping proposals in later reports to increase the scrutiny of expenditures made little headway. But in a number of other areas — election of the Speaker, broadening the composition of the Board of Internal Economy, the use of legislative committees whose Chair would be drawn from a panel of Members chosen by the Speaker from both sides of the House — the work of the special committee in enhancing the role of Private Members of all parties was not in vain as these reforms were revived and adopted during the 33rd Parliament.

How much these institutional changes benefited the opposition is open to question, since some of them, such as shortening the length of speeches, were designed to make

(17) For an early discussion of the problem see Pauline Jewitt, “The Reform of Parliament,” *Journal of Canadian Studies*, Vol. 1, No. 3, November 1966, p. 11-15; also Trevor Lloyd, “The Reform of Parliamentary Proceedings,” in Abraham Rotstein, ed., *The Prospect of Change: Proposals for Canada’s Future*, McGraw-Hill, Toronto, 1965.

(18) J.A. Lovink, “Who Wants Parliamentary Reform?” *Queen’s University*, Vol. 79, 1972, p. 510.

the work of Parliament more efficient and expeditious. Nor did the changes address the continued rigid operation of party discipline, which put the onus of holding the government to account squarely on the ingenuity and procedural arsenal of the opposition parties and their parliamentary leadership.⁽¹⁹⁾ As Van Loon and Whittington have observed:

In a majority government situation, the basic strengths and weaknesses of the opposition parties in parliament are determined primarily by the procedures of the House of Commons. Since they are never going to be able to outvote the government on any policy proposal, the opposition parties must content themselves with using subtler techniques to attempt to influence policy.⁽²⁰⁾

Two major confrontational incidents drawn from the first session of the 32nd Parliament showed the lengths to which a determined opposition could go, although some might dispute the “subtlety” of the strategies employed. In the first incident, the opposition successfully prevented the government from moving time allocation on debate on third reading of its constitutional resolution. By raising a steady stream of points of order and questions of privilege, House business was interrupted (with two agreed-upon exceptions) from 26 March 1981 until 8 April when the Government House Leader tabled a complex special motion. This represented a compromise which both guaranteed the government an eventual conclusion to the debate and conceded the opposition’s point that the conclusion should be delayed until after the Supreme Court had ruled on the constitutionality of the resolution before the House. In the second incident, the opposition balked at a multi-purpose omnibus bill (C-94, the Energy Security Act) introduced by the government as part of its controversial National Energy Program. By refusing to answer the bells summoning Members to a recorded vote on a related adjournment motion, the official opposition held up House proceedings while the division bells rang from 4:20 p.m., 2 March 1982 until 2:28 p.m., 17 March. The logjam was broken by an all-party agreement to split the bill into eight separate Acts, all of which were subsequently passed with limited debate.

In the above case, the opposition achieved a partial victory in its stand against the omnibus nature of a major bill. It is rather more difficult to say how much was gained in terms

(19) The pattern of formalized partisan jockeying in terms of government and opposition holds equally true for provincial legislatures. Cf. the conclusions in Frederick Fletcher and Arthur Goddard, “Government and Opposition: Structural Influences on Provincial Legislatures,” *Legislative Studies Quarterly*, Vol. III, No. 4, November 1978, p. 647-69.

(20) Richard Van Loon and Michael Whittington, *The Canadian Political System: Environment, Structure and Process*, 3rd ed., McGraw-Hill Ryerson, Toronto, 1981, p. 62.

of public comprehension and scrutiny of the complex energy legislation by the attention accorded the sensational bellringing episode. There was some opposition disappointment that the media coverage did not extend very far into the substance of the legislation.⁽²¹⁾ This might have been less of a problem had the issues at stake been simple and clear cut. In the final analysis, the opposition had at least made its point and asserted its rights, while at the same time the government achieved most if not all of its objectives.

The balance between compromise and obstruction, co-option and reflex opposition, is often in the eye of the beholder. In the bitterly contested 1980-82 session referred to above, the government risked opposition wrath by invoking the guillotine rule (75C) a total of eight times. Several special orders incorporating time allocation were also passed with respect to constitutional and energy matters after repeated head-on collisions had exhausted both sides of the House. As the rules were stretched, anger and mistrust were the inevitable by-products; but once time pressures came into play and public opinion was mobilized, both government and opposition relented. Ultimately, a good deal was accomplished. The constitutional resolution was improved, however arduously, at each stage in the journey toward patriation of the Constitution. Many key pieces of legislation were passed after substantial amendment. Some committees were very active and a number of special parliamentary task forces produced highly regarded reports. In short, the 32nd Parliament was far more productive than public cynicism or confusion might suggest.

NEXT STEPS: OPPOSITION DURING THE 33RD PARLIAMENT 1984-88

Although the election of September 1984 left the opposition caucuses smaller and weaker than in the previous Parliament, one of the first initiatives of the Mulroney government was to set up a special committee on House of Commons reform, with the avowed intention of giving more clout to backbench MPs. The McGrath committee tabled its first report in December 1984 and continued its work until tabling a major final report in June 1985. As a result of the committee's recommendations, changes to the Standing Orders were made on a

(21) Given the selective reporting of House activities, and particularly committee proceedings, opposition critics may be inclined to agree with a remark of Oscar Wilde on returning from the première of one of his plays: "... the play was a success but the audience was a failure." (Quoted in Hockin, "Adversary Politics and Some Functions of the Canadian House of Commons," (Kruhlak) (1979), p. 372.)

provisional basis in June 1985 and February 1986. In June 1987 the entire reform package, with slight additions and modifications, was made permanent.⁽²²⁾

Among the rule changes of potential benefit to opposition members (and as well in some cases to independent-minded government backbenchers) were: election of the Speaker by secret ballot of all Members, provision for three opposition representatives on the Board of Internal Economy; establishment of ad hoc legislative committees chaired by members of a panel chosen by the Speaker from Private Members on both sides of the House; increased committee scrutiny of delegated legislation with the possibility of disallowance; committee review of Governor in Council appointments (with, however, no power of rejection); provision for the Leader of the Opposition to extend by an additional ten sitting days the time available to one standing committee for studying the estimates; new procedures for Private Members' business to allow "that at any time in the projected order of business there can be up to six motions and bills which are designated by a new Standing Committee on Private Members' Business to be 'votable'"⁽²³⁾; more autonomy for 25 established standing committees, with the power to initiate their own investigation and study references, along with increased staff support and larger budgets allocated by a liaison committee of all chairs, subject to the approval of the Board of Internal Economy.

The McGrath Committee also recommended a significant relaxation of party discipline so that only very rarely would House votes be regarded explicitly as matters of "confidence," whose defeat would bring down the government. However, entrenched attitudes and habits have proved hard to break. The 33rd Parliament was not noticeably less partisan or adversarial than the one which preceded it, to the chagrin of those impatient for further reform.⁽²⁴⁾ Moreover, some of the new rules, such as the provision for standing committee review of Cabinet appointments, were not used to much effect. Above all, because of the number of committees, both standing and legislative, new and old, opposition resources were

(22) For a complete review of these changes see Library of Parliamentary Research Branch Current Issue Review #82-15E, *House of Commons Procedure: Its Reform*; also Charles Robert, "Changing the Rules of the Game in the Canadian House of Commons," *The Table*, Vol. LV, 1987, p. 128-37.

(23) Nora Lever, "What's Happened under the New Rules?" *Canadian Parliamentary Review*, Autumn 1988, p. 14. In the last House, one "votable" bill proposed by an opposition member, Lynn McDonald, - Bill C-204, the *Non-smoker's Health Act* – received Royal Assent on 28 June 1988.

(24) See David Kilgour, "Party Discipline and Canadian Democracy," *Canadian Parliamentary Review*, Autumn 1988, p. 10-11.

often stretched to the limit. The larger opposition caucuses in the 34th parliament should at least solve that problem.

In contrast to the numerical weakness of the official opposition in the House of Commons, members of its caucus held a strong majority in the Senate. The renewed activism of senators in opposition provoked several protracted confrontations with the government, notably over bills on borrowing authority, pharmaceutical patents, refugee determination and, finally, implementation of the Canada-U.S. Free Trade Agreement. The government several times threatened action to take away the Senate's power to defeat bills. However, the Senate had some success in obtaining amendments to several important bills, and by agreeing to stand its ground on passage of the free trade bill, it allowed the opposition parties in the last election to campaign against the trade agreement as not yet being a *fait accompli*. Meanwhile, the proposal for Senate reform had been largely taken out of the partisan arena of the Commons by being tied to the fate of the Meech lake Constitutional Accord.

CONCLUSION

To sum up, developments during the last two Parliaments have had a mixed impact on the fortunes of political oppositions in Canada. The major overhaul of House of Commons rules, begun in 1982 and completed in 1987, and the renewed activism of the Senate after 1984, have provided new opportunities for opposition members to contribute to the policy process, at least at the margins. The presence of television cameras in the Commons and the possible expansion of electronic coverage to committee hearings are also innovations which offer advantages to a skilled opposition. At the same time, some of the procedural reforms, such as the streamlining of debates and the taking of votes, primarily aid the government by making it harder for opposition parties to sustain the use of dilatory or obstructionist tactics. Moreover, the opposition must be careful that in resorting to time-wasting devices and theatrical outbursts in Question Period it is not creating an unfavourable impression of Parliament among the general public.

The two parliamentary oppositions in Ottawa must also consider their role in relation to other extra-parliamentary circumstances and forms of political opposition. Our electoral system frequently results in sharp regional imbalances in the parties' caucus representation, in a high electoral casualty rate for caucus dissidents and independents, and in the

exclusion of a growing number of minor or so-called “fringe” parties from parliamentary life. A significant number of Canadians probably feel that their views are not adequately represented in the ranks of either the government or the opposition. At the same time, non-party protest and lobby groups have become increasingly active at all stages of the political process. In constitutional matters, the major oppositional roles now tend to be played by provincial governments and legislatures. The opposition caucuses, therefore, cannot just fix their confrontational gaze on the government benches; they must also look over their shoulders at other under-represented or competing groups, with at times louder voices, in the arena of national politics.

As a recent text observes:

... many of the difficulties encountered by the opposition in formulating effective criticism of government policy have less to do with House of Commons procedures or research facilities than with more fundamental problems which also afflict parliamentary oppositions in the other western democracies. One is that the official Opposition in Parliament often has difficulty in making itself heard above the “hubbub” coming from other political actors. Major interest groups and private research institutes frequently offer articulate and well-publicized criticisms of government policy, and, in a federal context such as Canada, “there is little doubt that the clashes between the provinces and the federal government ... detract attention from the federal parliamentary opposition on some of the most important issues in Canadian politics.”

Sometimes, too, it may be difficult for the opposition parties to offer clearcut alternatives to government policy. Some issues do not lend themselves to a confrontational style of politics, since they cut across party lines and strain party cohesion on both sides of the House. This is especially true of moral issues such as abortion, capital punishment or nuclear weapons. On other social and economic policy issues, the development of an ideological consensus supportive of the mixed-economy and the welfare state in most western societies has tended to preclude the presentation of radical policy alternatives by a “loyal”⁽²⁵⁾ opposition.

Parliament exists not only to transact the business of state, but to provide a forum in which all legitimate points of view can be expressed. The government has a right and duty to govern. The opposition’s right and duty, if it believes the public interest is at stake, is to oppose the government’s policies and actions by every legitimate parliamentary means. In so doing,

(25) Robert Jackson, Doreen Jackson and Nicolas Baxter-Moore, *Politics in Canada: Culture, Institutions, Behaviour and Public Policy*, Prentice-Hall Canada, Scarborough, 1986, p. 332.

oppositions try to convince the electorate that they should change places with the government. Because of this continuous contest, parliamentary democracy is always a more or less trying affair, but politics, not mere administration, is what representative, alternative government is all about.

The debate about the respective roles of governments and oppositions is not a new one. Today, however, the development of state institutions, and the expanding horizon of state activities tend to contrast unfavourably with the relative “underdevelopment” of legislative controls over the executive branch. This has directed attention to the factors impinging on the effective operation of “checks and balances” in democratic political systems, and, in turn, to numerous proposals for legislative reform.⁽²⁶⁾ In parliamentary systems there is a fundamental constitutional principle of responsible government at stake. And in the Canadian case, the tradition of one-party government, combined with the frequent weakness of legislative oppositions, poses added dangers.⁽²⁷⁾

Under these circumstances, preserving and enhancing the role of the opposition becomes critical to the democratic legitimacy of the system as a whole. With rare exceptions, government backbenchers cannot hold the Cabinet and civil service to account. It is the opposition which is chiefly responsible for keeping government on its toes, and for fearlessly asserting the rights of the legislature *vis-à-vis* the executive. By performing these duties the opposition is really doing everyone a favour because, as John Stewart has noted: “slipping things through the house may seem smart in the short run. In the long run it works to discredit both the government and parliament.”⁽²⁸⁾ However much the classical model of Parliaments may be said to have waned in favour of a Parliament based on administrative convenience,⁽²⁹⁾ the best guarantee of good government is still the vigilance of an effective parliamentary opposition.

(26) See, for example, Robert Dahl, “Patterns of Opposition,” in Dahl, ed., *Political Oppositions in Western Democracies*, Yale University Press, New Haven, 1966; *The Role of the Legislature in Western Democracies*, American Enterprise Institute for Public Policy Research, Washington, 1981; Thomas d’Aquino *et al.*, *Parliamentary Democracy in Canada: Issues for Reform*, Business Council on National Issues, Ottawa, 1983, especially p. 32-6 on “The Role of the Opposition: Tactics, Information and Accountability.”

(27) The disjunction between the pattern of executive growth and the powers of the legislature has been especially common in provincial political systems. Alberta has a long history of weak legislative oppositions. Currently there are no opposition members in the New Brunswick legislature.

(28) John Stewart, “Strengthening the Commons,” *Journal of Canadian Studies*, special issue on “Responsible Government Reconsidered,” Summer 1979, p. 47.

(29) Often cited are the desire of modern governments for functional “efficiency,” their reluctance to divulge information, and the tendency towards the use of executive orders and regulatory powers whenever possible.