

From talking shop to party government: procedural change in the New Zealand parliament, 1854-1894

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This article looks at parliamentary business in the nineteenth-century New Zealand parliament, making comparisons with the British and Australian state parliaments. Together with its companion article for the twentieth century, also to be published in this journal, it develops further the argument of a previous paper which examined the shifting balance between parliament and the executive in New Zealand and the rise to dominance of the executive in the nineteenth and early twentieth centuries.¹ The two articles document changes in procedure accompanying this shifting balance. The second article will look at the strengthening of control over business of the House in the twentieth century as governments sought to pass compact legislative programmes in their entirety, followed by more recent changes which were associated with a lessening of government control in some respects.

Today and for the last century almost all legislation introduced into parliament has originated from government and was virtually certain to pass into the statute book. In the middle decades of the nineteenth century the situation differed markedly. Private members' bills comprised about 40 per cent of all bills and a substantial proportion of bills — between one-third and a half — did not become law. There were also private and local bills to consider. Governments had to find time for their business alongside these other demands and could not expect that their legislation would necessarily go through.

Parliament's legislative activity grew as central government expanded. The provinces (which had their own legislating powers) were abolished in 1876. The central government took over land legislation from the provinces, organised immigration, built railways and roads, and established new government departments. As a result the number of bills introduced in the latter part of the

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century more than tripled compared to the 1850s, but the proportion actually passed remained a little over half of the total. Parliament in the nineteenth century, in other words, was not a legislative machine for the executive. It took some time before procedure allowed governments to dominate parliamentary business.

Westminster shaped New Zealand's parliamentary procedure.² Indeed the House of Commons and its Clerk Erskine May were consulted from time to time for advice on procedural matters.³ New Zealand followed Westminster in a variety of other ways as well — it adopted the name 'Bellamy's' for its refreshment rooms, the kinds of staff and method of appointment of parliamentary staff followed British practice, and ceremonial was closely modelled on Britain, although necessarily abbreviated and lacking its full panoply.

Some visitors from overseas found this colonial 'aping' of Westminster traditions laughable. 'The opening of Parliament takes place in the midst of archaic ceremonies, imitated from Westminster, which may pass muster in England, the home of tradition, but become frankly ridiculous in the Colonies' wrote André Siegfried at the turn of the twentieth century.⁴ He continued: 'What is noteworthy is the English influence which is everywhere conspicuous in matters of form, and the rather vulgarising influence of colonial life on the tone and spirit of the debates. The organisation, the procedure and the traditions of the Assembly all recall the House of Commons. The spirit may have changed, but the forms have remained entirely English.'

The New Zealand parliament also looked sideways across the Tasman to Australia. Its state parliaments created at much the same time wrestled with the same problems and likewise modelled themselves on Westminster.⁵ At times New Zealand specifically compared itself with its Australian cousins.

By the mid nineteenth century government business had gained an established place in Westminster. The democratising Reform Act of 1832 and the emergence of 'public opinion' had greatly increased popular interest in parliamentary politics.⁶ With the onset of the modern age of party politics and government the House of Commons became the machine whereby the newly enfranchised middle classes earnestly passed masses of reformist legislation. Business grew dramatically and debates lengthened considerably. Procedure in the House of Commons itself became a political issue. There was a desire to improve it by simplification and clear allocation of time.⁷

New Zealand's first parliamentarians were influenced by British 1830s reformism and its parliament took across these procedural measures. A few had indeed witnessed proceedings in the Commons.⁸ However they also carried across the characteristic eighteenth-century attitude of Westminster: protection of the rights of the backbench private member. This attitude flourished in the New Zealand parliament, in which parties were absent and in which governments were created out of the flux of factions led by prominent politicians.

As the New Zealand parliament began its work it came up against similar problems to those in Britain. Procedures had to be developed to deal with problematic legislation not of an obvious ‘public’ character. Ways of dealing with the hidden threat contained within the democratising thrust — concerted obstruction — had to be worked out. Methods of increasing efficiency so that the government could properly go about its necessary business needed consideration.

Settling in

The New Zealand parliament hastily adopted provisional standing orders for its first session in 1854. In doing so it established the principle of following the House of Commons.⁹ The orders were prefaced by a statement that ‘the rules, forms, and usages of the House of Commons’ would be a guide where otherwise not provided for.

This enabling order was kept subsequently despite the *Barton v Taylor* case of 1886 in New South Wales (and remained in the standing orders until as late as 1996).¹⁰ Relying on recent House of Commons standing orders, NSW Speaker Edmund Barton had in 1884 suspended A.G. Taylor, an obstructive and obstreperous member. Barton argued that parliament had a permissive provision (similar to that of New Zealand) carrying over Commons standing orders. However both the Supreme Court and Privy Council ruled in favour of Taylor, saying that the Speaker had exceeded his powers. Colonial legislatures had the right to make standing orders by their Constitution Acts, but they could not adopt standing orders of another legislature in the manner done.

Between 1854 and 1894 the number of standing orders concerning public business increased from 123 to 437, reflecting the increasingly detailed procedural rules.¹¹ Substantial revision and expansion of the standing orders to incorporate more elaborate prescription of Westminster-related ceremonial took place in 1865. In 1894 the standing orders were again substantially revised to counter obstruction.

The 1854 standing orders were immediately acknowledged as inadequate.¹² There were some gaps concerning procedure for the opening of parliament, election of a Speaker, a deputy for the Speaker, how the two Houses might work together in passing legislation, and dealing with electoral petitions. In 1856 these omissions were addressed (with the exception of election of a Speaker which came in 1865). Moreover, there was now explicit provision for questions to ministers and the House of Commons rules regarding ‘offensive and unbecoming’ words were adopted.

More significantly, in 1856 it was made more difficult to change the standing orders.¹³ Two-thirds of members had to be present and four sitting days’ notice given. This was a substantial barrier at a time of poor attendance in the chamber and

was described as a ‘sentinel ... guarding all the Mumbo-Jumbo ... before it’.¹⁴ As a result changes were commonly made through temporary sessional orders instead.

Speaker David Monro wanted to model parliament more closely on the Commons in its privileges, ceremony and procedure.¹⁵ Monro’s general principle was to follow the British example as closely as possible but he did concede the necessity to adapt procedure. During the 1863–4 recess he drafted new standing orders to incorporate more elaborate proceedings for the opening (and proroguing) of parliament, election of a Speaker, laying claim to the privileges of the House, and taking the oath. He explained that generally speaking the orders were copied (often verbatim) from the ‘manual’ used in the House of Commons prepared and published by Erskine May in 1854.¹⁶ Monro also looked to the Australian states for guidance. Substantially revised standing orders were issued in 1865.

Speaker Monro came unstuck, however, over his attempt to develop private bill standing orders based on the Commons. In Britain, private bills were particularly important for economic development and lengthy standing orders had been developed to handle this kind of legislation.¹⁷ Private acts regularly exceeded public acts in number throughout the eighteenth and nineteenth centuries. In the New Zealand parliament no systematic distinction was made at first between different categories of bills. There was minimal specification in the general standing orders of 1854 and 1856. When a handful of evidently private bills (fewer than in Australia) were introduced — concerning religious, charitable, education and personal matters — there was much uncertainty over them.¹⁸ Was the measure concerned only with a particular locality? Was it carried out for private or public benefit?

In the 1860s private bills were promoted for local infrastructure — provincial railways, waterworks and gas companies — and also for banks. In 1861 a set of 19 separate private bill standing orders was adopted. They defined private bills in a simple fashion, set out fees, and followed Westminster practice in requiring bills to be brought into parliament by petition through private bill agents. Concern, however, remained that private bill provisions were inadequate. Legislation passed in 1861 enabled the Speaker to produce new standing orders but this was not taken advantage of for some time.

In 1868 Speaker Monro distilled the lengthy House of Commons private bill standing orders into a set of 160 orders. This set was considered too complicated and costly for promoters.¹⁹ It became part of an ongoing feud between him and Premier William Fox. Fox did not want what he saw as stuffy, arcane and traditional elements of Westminster practice.²⁰ A select committee recommended a drastic reduction to 17 standing orders based on Australian State procedure.²¹ The fees were reduced and simplified. At the same time a substantial source of private bills was removed. The *Railways Act 1870* provided for the general government to take over railway construction²² but the Legislative Council refused to bring its own private bill standing orders into line with those of the House of Representatives.²³

New Speaker Francis Dillon Bell managed to negotiate compromise joint orders for the two Houses. The new standing orders, 81 in number, were adopted in 1872. This brought about a workable method of dealing with private bills.

Hard on the heels of this issue came that of 'local' bills. In the early years much legislation that would later be classified as 'local' was handled by the provincial legislatures. With the abolition of the provinces in 1876 parliament received more than a hundred 'local' bills — harbour board and other infrastructural measures and others concerning local bodies, educational and charitable bodies. The House descended into confusion.²⁴ In the end the bulk of the harbour board bills were eventually passed in versions promoted by private members instead of the government. Many similar bills flooded in over the next few years.

The knotty problem was passed on to the Legislative Council, probably because of its constitutional role and because Westminster tradition suggested that the upper House deal with private (and local) bills. In 1877 under Francis Dillon Bell's leadership the Legislative Council formed a committee to differentiate between local and personal bills.²⁵ In 1878 the Council formed a Local Bills Committee, and in early 1879 it gazetted the first local bill standing orders, five in number.²⁶

With Frederick Whitaker being appointed to the Legislative Council later in 1879 by the government of John Hall, a confrontation developed between Whitaker and Francis Dillon Bell. Whitaker was to take firm charge of the Council and was intent on reforming it. Bell's committee was criticised for its excessive power. Whitaker introduced new standing orders that defined local bills more simply and introduced new select committees to process the bills faster.²⁷ The offended Bell refused to serve on any such committee and was admonished formally by parliament.²⁸

From 1879 the three categories which applied thenceforth became established — public general, local and private bills. The House in 1880 agreed to general orders for both Houses and appointed its own Local Bills Committee, to which all local bills were referred for report.²⁹

There was little change in the standing orders during the 1880s. Parliament had settled into forms of procedure that suited it well, aside from the perennial obstruction that had by now become a real problem and at which we now look. This could not be effectively addressed by incremental extension of standing orders. It necessitated a more fundamental challenge to the prevailing culture and ethos of parliament and would come only when the powers of the government in the House were buttressed by the organisational weight of party. The ever-present sting in the tail of the standing orders themselves — preventing alteration unless two-thirds of the House was present — was enough to preserve the status quo for the time being.

Governments and their business

Traditionally the House of Commons conducted its business on the understanding that the rights of the minority in the House must be protected.³⁰ This went back to the role of parliament in the seventeenth century and its hostility to the power of the King. In the late eighteenth century it was articulated by Jeremy Bentham, who suggested there should be absolute freedom of speech, members should be able to speak as often as they wished and there should be no external means of accelerating business. Formal procedure should protect this right.

Such values shaped the nineteenth-century New Zealand parliament. Obstruction was to be tolerated, indeed it was a normal if frustrating element of getting business done. The saying had it that the government controlled the business of the House but the opposition determined how long it took to get the business through. An organised ‘filibustering’ exercise (more commonly described as ‘stonewalling’ at the time) required thorough knowledge of the standing orders and careful planning of shifts or relays of speakers. The government had to maintain a quorum. Instead of the opposition’s dictionaries and lists, government supporters would come equipped with rugs and pillows for the ordeal.

The simplest method of obstruction was to carry on talking for hours. The standing did not impose restrictions on the length of speeches, although members could only speak once on a question unless the matter was in committee of the Whole House. Many stonewalls as a result focused on proceedings in committee. Anthony Trollope, who visited New Zealand, believed that members took delight in delay and revelled in the tyranny of their position while holding the floor. The practice of allowing unrestricted debate as in the Commons had been carried to absurd lengths here. ‘A Speaker ... can hardly call the offender to order, but he might have the power of putting out the gas’, but in fact this could only happen at midnight on Saturday.³¹ Sittings could not carry through into Sunday.

Procedural methods of obstructing business were various — ‘counting out’ (creating a lack of quorum), motions for adjournment, and moving the ‘previous question’. Failure to keep a quorum was a real problem in the early years when there were considerable difficulties in attending parliament in Auckland. Walkouts took place. This could attain ridiculous proportions as in 1856 when both Wellington and Auckland provincial blocs in turn left en masse.³² In later years, engineering a count out of the House to obstruct business was not so easy as the number of members was much larger.

Moving the previous question and adjournment of the House were more durable issues. In the House of Commons members could move the previous question as a means of preventing a division in the form of a preliminary motion — that the question be now put — with those members seeking delay voting against the motion.³³ This device was introduced into the New Zealand parliament in 1865 and

was used from time to time to obstruct business.³⁴ In 1879, for example, it was used by the opposition to obstruct electoral reform.³⁵ However, members were confused about how it worked. In 1881, when it was used again, the government whip confessed that he and other members often went into the wrong lobby to vote!³⁶

Motions for adjournment prolonged debate. The 1854 standing order on the matter merely suggested that the House follow the Commons practice. This was tightened up in 1856 to limit discussion on adjournment motions and prevent repetitive and vexatious motions. At times the reasons were transparently frivolous. In 1877, arguing from the precedent of the Commons adjourning on Derby Day, the opposition attempted to adjourn the House so that members could watch a football match between Wellington and Dunedin!³⁷

In parliament's first sessions business proceeded in a relatively leisurely fashion and sitting hours were short. The House sat from noon on four days, Tuesday to Friday. government business had priority on Tuesdays and Fridays. On Wednesdays (by custom private members' days) it sat from 5 pm (The Commons sat from noon, with an additional sitting on Monday and customary priority given to government business on Mondays and Fridays.³⁸)

The House from 1854 did have a simple 'closure' provision available to it in the standing orders.³⁹ A member could move that the House divide immediately and thereby terminate debate. This was used on a several occasions of political importance before being discarded. In 1856, just before the fragile and shortlived William Fox ministry met its demise, the opposition used the device to get the House to adopt a resolution critical of the Fox government's financial policy.⁴⁰ In 1861 Fox's New Provinces amending legislation that year was rejected when debate was terminated and a division was lost. The House felt that sufficient debate had taken place.

In 1862 the device was the instrument of the defeat of a government. With opposition leader Edward Stafford hammering away at the Fox ministry, one of Stafford's supporters moved to take a division immediately.⁴¹ The vote on whether the question should be put was tied, Speaker Monro voted with Stafford and the Noes (technically for the status quo on the motion, following the Commons convention, although causing the defeat of the government), and Fox resigned. The device was discredited in 1863 when it was used to force a division on the fraught debate over the move of parliament to Wellington. Ex-Premier Stafford, who wanted parliament to stay in Auckland, was absolutely furious and he and supporters stormed out of the House.⁴² The Standing Orders Committee immediately agreed to remove them; this was done in Monro's revised orders of 1865.

From the late 1850s, as government business began to increase, governments began to put motions before the House to give them additional time — to postpone orders of the day, alter sitting hours and add new sitting days. In the latter part of sessions

the government began to take Mondays and Saturdays and extended priority for its business to other days.⁴³ In 1864 the standing orders were amended for the entire session so that government business had priority whenever needed.⁴⁴

There was also the pressure of executive government business. From 1866 Premiers obtained sessional orders to shift sittings into the afternoon for parts of the session to give ministers more time for their portfolio work.⁴⁵ However this meant that the House more frequently sat into the early hours of the morning. A later start was regularised in the standing orders from 1876 with sittings (including Wednesdays) commencing from 2.30 pm.⁴⁶ This paralleled the shift to 2 pm by the Commons in the late 1860s.

Reflecting these changes, in the late 1860s and early 1870s the average sitting time increased from around six to eight hours and the House began to sit after midnight more frequently.⁴⁷ Probably because of the long hours worked during the session of 1867 (an average of nine and a half) the House began to record its hours worked, including the number of hours after midnight.⁴⁸ As a result certain members wanted to bring closure back in and to restrict obstructionist motions. The abolition of the provincial legislatures in 1876 increased business in the General Assembly considerably.⁴⁹ The sessions of 1876 and 1877 were landmarks. The House sat for a longer period (85 and 97 sitting days respectively) and in 1876 sat after midnight far longer than before. Average sitting time jumped in 1876 to more than 10 hours per day. The extent of obstruction began to escalate.

Some restrictions were now placed on late sittings after earlier attempts in 1871 and 1872 to get the House to rise at midnight failed.⁵⁰ In 1876 the House agreed that there should be no new business after 12.30 am.⁵¹ Combined with the 2.30 pm start, this put additional pressure on governments. They began to take Mondays more systematically earlier in the session, if needed from 2.30 pm, otherwise in the evening from 7.30 pm.

In 1876 one of most notorious stonewalls took place, including an all-time record-breaking speech taking more than 24 hours to deliver, during which the Hansard staff expired.⁵² The stonewall continued for several days. The session closed very late and the government had to delay steamers taking members back to their electorates. William Rolleston regarded the session as ‘one of the weariest ever’.⁵³ Stafford complained: ‘A more unsatisfactory session from first to last I have never seen.’⁵⁴ The next session a desperate member sought to have speeches restricted to 20 minutes, but others thought this was absurd.⁵⁵ Parliament was naturally a talking shop — to restrict the length of speeches would allow ‘a tyrannical majority to coerce the minority’. The motion was easily defeated.

Both Westminster and Australian State parliaments experienced serious obstruction at this time and began to contemplate closure of debate. The New South Wales government had looked at it in 1868 and again in the early 1880s.⁵⁶ Such measures were incorporated into the standing orders in 1887 (following the determination in

Barton v Taylor in 1886 that implicit reliance upon Commons procedure was invalid). Organised obstruction featured in Victoria in 1875-6. This resulted in the sessional introduction of closure measures.⁵⁷ South Australia and the Legislative Council in the Cape of Good Hope had introduced closure by the 1880s.

At Westminster itself obstruction by Home Rule Irish members mounted from 1877.⁵⁸ In 1881 the Speaker of the House of Commons put the longstanding ferocious Irish obstruction to an end by introducing closure. Members were now able to put the question without further debate on the grounds of urgency.⁵⁹

1880s: representation versus stonewalling

During the 1880s obstruction reached a climax as the factional system began to break down. Organised political parties did not exist prior to 1890. Instead leaders assembled groups of supporters ('factions') around them to build a majority in the House of Representatives from their supporters and other less-attached members, based on provincial differences and the dispensation of public works. The disappearance of the old centralist/provincialist divide with the abolition of the provinces in 1876, together with the impact of the depression on public works, caused the factional system to disintegrate.

At the same time and for similar reasons executive government was increasingly disabled. While still sitting on average for only 55-60 days a year, parliament dealt with considerably more legislation following the abolition of the provinces. Notably, a lower proportion of government bills now found their way into the statute book. Private members still introduced a substantial number of bills but from this time did not have a great deal of success. While the average number of hours per sitting remained at about eight, a much higher proportion of sitting time was spent after midnight. Frequently in these years 15-20 percent of sitting time was in the early hours of the morning, with the worst sessions being 1881 and 1889. Keeping the House past midnight was now commonplace, occurring on up to three-quarters of sitting days annually.

In 1880 the House trialled adjournment of the House at 12.30 am by sessional order.⁶⁰ James Macandrew called the long hours 'cruelty to animals'. The House was showing a very bad example by 'passing Bills to enforce the eight-hour system, and then working themselves for some sixteen or eighteen hours a day.'⁶¹ Another member wanted to restrict speeches to half an hour and to restrict the aggregate number of pages per member per session to 30. The sessional order was rescinded when not enough progress was being made to business. John Hall took priority for government business on Wednesdays instead.

The centrepiece for the 1881 session was the Representation Bill. This altered the regional balance of electorates and gave rise to an epic stonewall of record length as various members felt their hold on electorates was threatened.⁶² With the bill in

Committee the stonewall began in earnest. Members spoke in relays, delivering speeches on flora and fauna, on bees and various hobbies. R.J. Seddon talked alphabetically in turn about the effect of the property qualification on individual electors in his electorate. He got to 'K' and announced in his stentorian Lancastrian working-class voice (lacking an aspirate 'H'): 'having finished K we'll now go to H _ _ L', rousing government members from their slumbers as the stonewallers roared with laughter. (This became a standing joke in the House.) Other tactics deployed were moving alternately and repeatedly that the chairman report progress and that he leave the chair. When a sharp earthquake struck Wellington and shook the chamber in the early hours of the morning, it jolted sleeping members awake and caused everyone to rush frantically for the doors.⁶³ The member speaking 'stood his ground till all but he had fled. Observing the Speaker tucking up his gown and making for a side entrance, he pointed to the walls of the trembling structure and shouted — not for the first time that day — "Sir, I beg to call your attention to the state of the House!"'⁶⁴

The despairing government feverishly prepared closure rules based on the Commons. Premier John Hall took proposals to the Standing Orders Committee but lost them in a division 5 votes to 4.⁶⁵ He then brought a motion to the House, arguing that change would not be required to the Standing Orders and relying upon the general statement in the standing orders that House of Commons procedure could be taken for guidance. This was foiled by the failure to give four days' notice. The Speaker had to rule the motion out. The 'sentinel' of a quorum of two-thirds and four sitting days' notice proved sufficient to stop the government.

In the end the Chairman of Committees put an end to the stonewall by refusing further motions to report progress or to leave the chair, a tactic the Speaker suggested affected 'parliamentary practice' rather than involving a change to the standing orders.⁶⁶ At this point one member moved in disorderly fashion that progress be reported to discuss the ruling and was reported to the Speaker. He was fined £20.

The Speaker took stock: 'the House must show itself to be master within its own house'; the stonewall was a shameful abuse of the rules 'to paralyse its powers, demoralize its members, and bring it into contempt.'⁶⁷ The *Lyttelton Times* newspaper called the move by the Chairman of Committees a 'desperate remedy' for a 'desperate disorder' — the stonewallers had 'forfeited the respect of all New Zealand'.⁶⁸ They were not prepared to accept the verdict of the majority, making parliament 'an instrument for coercing the majority'.

In the wake of this experience members sought ways of stopping such disruptive obstruction but little was achieved. In 1882 Premier John Hall closely monitored developments in the House of Commons and had information on closure in various parliaments tabled in the House, but he retired from the House in 1883.⁶⁹ The Standing Orders Committee rejected another bid to have the House adjourn at 12.30

am. but did recommend limiting the impact of the delaying tactics of motions for adjournment and reporting progress. The recommendations were not adopted.

Others continued to try to improve the efficiency of business. Some wanted the House to revert to an earlier sitting time to avoid such long hours, others to limit the length of speeches. During the 1883-1885 sessions James Macandrew, who had raised the issue several times before, proposed that the House begin its sittings in the morning.⁷⁰ In 1885 the Standing Orders Committee recommended a trial 10.30 am start but the House rejected this. Members feared this would only lengthen sittings and not allow adequate time for select committee work.

Major W.J. Steward in particular engaged in a futile quest to reform procedure not only to increase efficiency but also to promote private members' bills. In 1882 he had wanted the Standing Orders Committee to allow urgent motions and urgent bills and limit the length of speeches.⁷¹ In 1885 he complained of time-wasting in the House. A new member, having seen the House counted some seven times during a lengthy speech, came up with the bright idea that speeches should be terminated if the House was counted twice during the speech.⁷² This was hardly likely to be popular. Members could perversely prevent certain members from speaking by asking for counts of the House! Another member tried to limit speeches to 20 minutes. Premier Robert Stout, whose long and turgid speeches were notorious, gave voice to the much-vaunted freedom of speech in opposing such initiatives.

Premier Harry Atkinson's approach during the 1880s was to keep bills and particularly the estimates back as long as possible and then rush them through. He believed that the political machinations of allowing endless debate were futile and best ignored or steamrolled over.⁷³ In the latter half of the 1880s giving the government priority on other days and extending sittings to Mondays (and on occasion to Saturday) remained the best way of getting through business. However Premier Atkinson's 'Scarecrow ministry' of 1887-91 was very weak and became incapable of controlling the House in the face of decayed factionalism and the retrenching 'skinflints'. In 1887 various measures were mooted but were not taken up — reintroduction of the 1854-1865 closure measure; reporting of speeches limited to one hour; and restrictions on adjournment motions.⁷⁴ Atkinson's usual tricks did not work and he had to abandon bills. On occasion he was defeated when he tried to take Mondays for government business.⁷⁵ The session unusually ran up hard against Christmas that year.

Premier Atkinson vowed to sort out time wasting.⁷⁶ In 1888 he proposed radical changes including meeting from 10 am, finishing earlier in the evenings, giving government business priority on three days out of four, preventing obstructionist motions to report progress and to leave the chair, and introducing closure.⁷⁷ However the House would not allow the proposals to be debated.

In 1889 Atkinson and the revived opposition agreed to work together to facilitate an early close to the session, with the Representation bill taking priority.⁷⁸ But a ferocious stonewall was mounted against the bill as members feared for their seats. It lasted two weeks, with a record-breaking sitting of nearly 125 hours stretching over nine days.⁷⁹ Atkinson's government struggled on, taking Thursday evenings for government business as well.⁸⁰

The session of 1890 reflected the parlous situation. Many of the government's measures fell foul of the organised obstruction of the 'Liberal' Opposition, together with the skinflints intent on imposing further retrenchment upon the government.⁸¹ After exhausting debate the government gave up and agreed to an early dissolution of parliament if the obstruction stopped.⁸²

While a number of other parliaments had introduced closure, New Zealand's parliament seemed in a state of semi-paralysis. The situation was becoming intolerable.⁸³ The idealistic W.J. Steward and a number of supporters argued for a return to the eighteenth-century 'non-party' concept of parliament in which an 'elective executive' reflected the general will of the House with members voting as individuals. This was not realistic. Indeed the House would take the opposite direction — party lines would consolidate.

The Liberals and reform of the standing orders

The coming of the Liberals to power in 1891 heralded much change in the way that the House conducted its business. Premier John Ballance warned the Opposition that the government would not tolerate obstruction. He orchestrated a count-out of the House to make the point of who was now boss.⁸⁴ Poachers turned gamekeepers as two expert Liberal stonewallers of the 1880s, Richard John Seddon and Henry Fish helped get legislation through. In a sign of the shift, the new Speaker W.J. Steward ruled that government business could override private members' business without suspending standing orders; the reserved days for private members was merely customary.⁸⁵ While technically correct, members were greatly disconcerted at their traditional right being challenged in this way.

Steward, who had been active in attempting to improve the efficiency of business in the 1880s, immediately proposed many changes to modernise and streamline procedure and to deal with obstruction.⁸⁶ He wanted to deal with 'talking out' of business and resurrected his concerns over obstructionist adjournment motions. His proposals were presented to the House but were not acted upon.⁸⁷ Some wanted to truncate *Hansard* to deter lengthy speeches and long sittings.⁸⁸ Others wanted to legislate to get around the difficulty of changing the standing orders, and a draft bill of a single clause was prepared to this end, but Premier Ballance decided not to introduce it.⁸⁹

When R.J. Seddon became Premier in 1893 after the death of Ballance, party matters intruded much more noticeably and government control over business strengthened.⁹⁰ Seddon began to ‘drive’ the House in an unaccustomed manner.⁹¹ A large proportion of sitting days had to be adjourned. He exploited customary methods of taking over other days for government business and extending sittings into Mondays and sometimes Saturdays. He also began sittings in the mornings and suspended standing orders (in particular the order preventing new business after midnight) to accelerate progress at the end of the session.

On the last sitting day of the 1893 session Premier Seddon moved that the standing orders expire next session and put the House on notice that, as soon as parliament met again, he would move for the House to go into Committee to consider new standing orders.⁹² This was agreed to by the House in a division along party lines. The election late that year consolidated Seddon’s hold on power and increased his majority. The Governor’s Speech from the Throne opening parliament in 1894 itself highlighted the looming radical revision of the standing orders — ‘under the honoured name of “parliamentary privilege” has been masked in practice the discomfort, if not slavery, of a majority of your members. It is notorious that the license of prolix speech indulged in by a few’ has interfered with business, proclaimed Glasgow.⁹³ Seddon immediately tabled his new standing orders.⁹⁴

Premier Seddon was assisted by his large majority and the election of a new and inexperienced House.⁹⁵ The major areas of change to deal with obstruction were fourfold: limits on adjournment motions; closure; suspension of members; and limits on debate at stages of bills. After much discussion the changes were all agreed to, apart from time limits on speeches being substituted for closure.⁹⁶ Robert Stout argued that closure could effectively be achieved by using ‘putting the question’ in its obverse form — that the question be now put rather than not now put. Members were limited to half an hour except for the most important debates of the Address-in-Reply, Financial Statement, no confidence motion, Appropriation Bill, or in moving the second reading of a bill. In these cases one hour was allowed. Restrictions were put on members’ speeches while the House was in Committee, where it had been easy to obstruct proceedings. In Committee members could speak for ten minutes on each point and up to four times on each clause of a bill. New standing orders ruled out ‘continued irrelevance or tedious repetition’, prevented putting the ‘previous question’ while in Committee, forbade new business being introduced after 12 midnight, and disallowed dilatory adjournment motions. Local bills now got precedence on Thursdays only for the first six weeks. After that government business had priority.

The new orders included specific means of disciplining members. The House was able to suspend members for ‘disregarding the authority of the Chair’, ‘abusing the Rules of the House by persistently and wilfully obstructing the business of the House’, ‘disorderly conduct’, or ‘wilful breach of any Standing Order’. Suspension was in the first instance for a week, for two weeks for the second offence, and a month for further offences.

The new standing orders represented the first really substantial procedural changes to parliamentary business since 1865. They gave a much higher priority to government business, especially by limiting debating time. The ‘sentinel’ standing guard over the standing orders was weakened. Only a simple majority of the total membership of the House was required to make changes. This was not so difficult for a government to achieve in times of increasing party discipline.

Seddon had broken the back of the liberal culture of parliament as a talking shop in which freedom of debate was valued more highly than the efficient conduct of a government’s business. The new standing orders prompted incredulity in certain quarters as the old gentlemanly ethic seemed lost. The *Otago Daily Times* newspaper said: ‘Nothing seems to be left to a member’s proper sense of good manners: everything is set down in pitilessly didactic fashion’ that would be resented by schoolboys if applied in the classroom.⁹⁷

Parliament was set on a new course in which political parties would dominate the House, debates were the instrumental means to the end of government policy, and parliament’s business would be much more subordinated to the needs of government. This was part of the broader domination of parliament by the executive and much greater state intervention.

However at the turn of the twentieth century the New Zealand parliament was still in transition. Private members’ bills continued to claim a significant place, not much more than half of the increased number of government bills introduced would get into the statute book, and the long hours during intensive, compact sessions remained.

Into the twentieth century parliament would look less at procedural precedents in Britain and Australia as internally generated needs for procedural reform became more important. Escalating powers of government, war and depression, and later, societal pressures for electoral reform, would drive change. Sufficient time for government business remained a central issue. Concern over the accountability of government became salient in the latter part of the century. As the balance between parliament and the executive was again contested, and as electoral reform became pressing, procedural reform came back onto the agenda. These matters we leave for the second of these two articles. ▲

Endnotes

- ¹ John E. Martin, 'A shifting balance: parliament, the executive and the evolution of politics in New Zealand', *Australasian Parliamentary Review*, vol 21, no 2, 2006.
- ² David McGee, *Parliamentary Practice in New Zealand* (3rd edn), Wellington: Dunmore, 2005, p. 120.
- ³ Eminent Speaker O'Rorke acknowledged parliament's indebtedness to Erskine May over the years. *NZ Parliamentary Debates (NZPD)*, vol 54, 1886, p. 32. See *NZPD*, 1864, p. 61; *Appendices to the Journal of the House of Representatives (AJHR)*, 1886, I–10, p. 19.
- ⁴ André Siegfried, *Democracy in New Zealand*, (David Hamer intro.) Wellington: Victoria University Press, 1982, pp. 68, 73.
- ⁵ David Clune and Gareth Griffith, *Decision and Deliberation: The Parliament of New South Wales, 1856–2003*, Sydney: Federation Press, 2006, pp. 35–6, 38, 41–2, 54–5. G.N. Hawker, *The Parliament of New South Wales, 1856–1965*, Sydney: Government Printer, 1971, pp. 104–5. Raymond Wright, *A People's Counsel: A History of the Parliament of Victoria, 1856–1990*, Melbourne: Oxford University Press, 1992, pp. 14, 48–50.
- ⁶ Josef Redlich, *The Procedure of the House of Commons*, London: Archibald Constable, 1908 (3 vols), vol 1, pp. 119–25. Philip Salmon, 'The House of Commons, 1801–1911', p. 267, in Clyve Jones (ed.), *A Short History of Parliament*, Woodbridge, Suffolk: Boydell Press, 2009.
- ⁷ Redlich, *Procedure of the House of Commons*, vol 1, part II, chapter I. Salmon, 'The House of Commons', table 1, p. 254.
- ⁸ Sir John Hall witnessed Disraeli's attacks on Sir Robert Peel in the 1840s in the Commons. *Lyttelton Times*, 18 June 1886. Charles Rooking Carter (involved in the construction of the House of Commons) described listening to debates, *Life and Recollections of a Colonist*, vol 1, London: R. Madley, 1866, pp. 94–6. Edward Gibbon Wakefield had familiarity with the Commons, *NZPD*, 1854, p. 185.
- ⁹ In 1854 Erskine May brought the Commons' standing orders together. House of Commons, *Standing Orders*, 1854 (388).
- ¹⁰ Clune and Griffith, *Decision and Deliberation*, pp. 55, 63. *Evening Post*, 15, 16 March 1886.
- ¹¹ New sets of standing orders were printed in 1854, 1856, 1865, 1871, 1878, 1882, 1889 and 1894. They were supplemented by sets of private bill standing orders in 1861 (*NZ Gazette*, 1861, pp. 9–11), 1868 (*NZ Gazette*, 1868, pp. 1–15) and 1872 (*NZ Gazette*, 1872, pp. 561–6). This discussion is based on detailed scrutiny of the standing orders and on extensive use of the *Journals of the House of Representatives* to uncover practices of the House to get business through.
- ¹² Archives New Zealand, (Legislative Department) LE1, 1854/106.
- ¹³ LE1, 1854/106, 1856/31.
- ¹⁴ *NZPD*, vol 75, 1892, p. 209. *AJHR*, 1892, I–6, p. 1.
- ¹⁵ LE1, 1863/2. *Journal of the House of Representatives (JHR)*, 1863, pp. 110, 129–30. *NZPD*, 1863, p. 975. Rex Wright St Clair, *Thoroughly a Man of the World: A Biography of Sir David Monro*, Christchurch: Whitcombe and Tombs, 1971, pp. 190, 199.
- ¹⁶ Alexander Turnbull Library, *Standing Orders and Forms of Proceeding of the House of Representatives, Relating to Public Business*, 1865, printed by C. Elliott, Examiner Office, Nelson, attached circular, 20 May 1865. *JHR*, 1865, pp. 4, 8, 28, 103–4. This was the first compilation of Standing Orders for the Commons. Thomas Erskine May, *A Treatise on the Law, Privileges, Proceedings, and Usage of Parliament* (5th edition), London: Butterworth, 1863, p. 181.

- ¹⁷ William Holdsworth, *A History of English Law*, vol 11, London: Methuen, 1938, pp. 298–300, 613–16. Michael Rush, *The Role of the Member of Parliament Since 1868: From Gentlemen to Players*, Oxford: Oxford University Press, 2001, pp. 52–3. Redlich, *Procedure of the House of Commons*, vol 3, appendix, table 18. Frederick Clifford, *A History of Private Bill Legislation*, London: Butterworths, 1885, vol 1, appendix A, pp. 491–2.
- ¹⁸ For Australia, see Hawker, *Parliament of New South Wales*, p. 71. Clune and Griffith, *Decision and Deliberation*, pp. 41–2.
- ¹⁹ LE1, 1867/129. *Wellington Independent*, 12 July 1870. *NZPD*, vol 7, 1870, pp. 358–60. *JHR*, 1870, pp. 5, 60.
- ²⁰ *Southern Cross*, 15 September 1870.
- ²¹ LE1, 1870/16. *JHR*, 1870, pp. 110, 121–2, 143. *AJHR*, 1870, A–30. *NZPD*, vol 11, 1871, p. 672.
- ²² *NZPD*, vol 9, 1870, p. 534.
- ²³ *Journal of the Legislative Council (JLC)*, 1871, pp. 14, 16, 64, 82. *NZPD*, vol 10, 1871, pp. 83–4, 106. LE1, 1871/17.
- ²⁴ *NZPD*, vol 21, 1876, pp. 530–1, 640–6; vol 22, 1876, pp. 568–70, 630–1. *JHR*, 1876, pp. 221, 235.
- ²⁵ *NZPD*, vol 26, 1877, pp. 599–600; vol 27, 1877, pp. 247–8.
- ²⁶ *JLC*, 1877, no. 16.
- ²⁷ *NZPD*, vol 32, 1879, pp. 427–8; vol 33, 1879, pp. 48–54, 174–8, 184–5, 222–3, 338–40. *JLC*, 1879, session II, pp. 15, 23, 27. *JLC*, 1879, session II, p. 105. *NZPD*, vol 34, 1879, p. 602.
- ²⁸ *JLC*, 1879, session II, p. 41. Bell may have harboured a grudge over not being invited to join Whitaker’s ministry of 1863. Guy H. Scholefield (ed), *The Richmond–Atkinson Papers*, (2 vols), Wellington: Government Printer, 1960, vol 2, T.B. Gillies to C.W. Richmond, 9 November 1863, pp. 73–4. *Southern Cross*, 7 July 1866, suggests that Bell never forgot the ‘political slight’ of being left out.
- ²⁹ *NZPD*, vol 35, 1880, pp. 99–100, 231. *JHR*, 1880, pp. 25, 52, 58. *NZ Gazette*, 1880, p. 1477. *AJHR*, 1880, I–7.
- ³⁰ Redlich, *Procedure of the House of Commons*, vol 1, part I, chapter 4, part II, chapter 2, vol 3, part II, chapters 1, 2.
- ³¹ Anthony Trollope, *New Zealand*, London: Chapman and Hall, 1874, p. 121.
- ³² *New Zealander*, 13 August 1856. *NZPD*, 1856, p. 356.
- ³³ Thomas Erskine May, *A Treatise on the Law, Privileges, Proceedings and Usage of Parliament* (10th edition), London: William Clowes, 1893, pp. 268–70. Redlich, *Procedure of the House of Commons*, vol 2, p. 227.
- ³⁴ See Clune and Griffith, *Decision and Deliberation*, pp. 45–6 for New South Wales.
- ³⁵ *NZPD*, vol 32, 1879, p. 427.
- ³⁶ *NZPD*, vol 38, 1881, pp. 261–4.
- ³⁷ *NZPD*, vol 25, 1877, p. 10.
- ³⁸ Redlich, *Procedure of the House of Commons*, vol 1, pp. 75–9.
- ³⁹ *NZPD*, 1856, pp. 104–5; 1861, pp. 273–4. In 1861 new Speaker Monro tried to remove the provision but was a lone voice in the select committee. LE1, 1861/14.
- ⁴⁰ *NZPD*, 1856, pp. 104–5; 1861, pp. 273–4.
- ⁴¹ *NZPD*, 1862, pp. 467, 476.
- ⁴² *NZPD*, 1863, pp. 918, 921–2. Alexander Turnbull Library, qMS 1783–4, Sewell journal, 21 November 1863. LE1, 1863/2.

- ⁴³ *JHR*, 1858, p. 95; 1860, p. 156. LE1, 1861/14. *JHR*, 1865, p. 235; 1866, p. 174; 1867, pp. 196, 228; 1868, p. 196; 1869, pp. 137, 147, 164; 1870, pp. 179, 271; 1871, pp. 153, 244. *NZPD*, vol 6, 1869, pp. 572–6. See Clune and Griffith, *Decision and Deliberation*, p. 35 for similar moves in New South Wales.
- ⁴⁴ *JHR*, 1864, p. 22.
- ⁴⁵ *NZPD*, 1866, pp. 765, 767, 831, 975; vol 1 pt 1, 1867, p. 82; vol 2, 1868, pp. 5–6; vol 3, 1868, p. 161.
- ⁴⁶ *JHR*, 1876, p. 31.
- ⁴⁷ Stonewalling speeches became more prevalent at this time. Alfred Cox, *Recollections*, Christchurch: Whitcombe and Tombs, 1884, p. 129.
- ⁴⁸ *NZPD*, vol 1, pt 2, 1867, p. 1313, also pp. 974, 1214–15.
- ⁴⁹ House of Commons, *Accounts and Papers*, vol 74, 1881, C.2984, ‘Reports re the practice and regulations of legislative assemblies’, p. 14 (Clerk F.E. Campbell to Secretary of State for Colonies, 4 December 1880)
- ⁵⁰ *NZPD*, vol 10, 1871, pp. 55–6, 98–9, 107; vol 12, 1872, pp. 20–2.
- ⁵¹ *NZPD*, vol 20, 1876, pp. 219–22, 246–51. *JHR*, 1876, pp. 17, 31. LE1, 1876/13. 1878 SOs. In the House of Commons from 1873 opposed new business could not be introduced after 12.30 am. Redlich, *Procedure of the House of Commons*, vol 1, p. 109.
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- ⁵³ Stewart, *Rolleston*, p. 123.
- ⁵⁴ Edmund Bohan, *Edward Stafford*, Christchurch: Hazard Press, 1994, p. 363. Also *Evening Post*, 1 November 1876.
- ⁵⁵ *JHR*, 1877, p. 20. *NZPD*, vol 24, 1877, pp. 130–5.
- ⁵⁶ Hawker, *Parliament of New South Wales*, pp. 158–62. Clune and Griffith, *Decision and Deliberation*, pp. 45, 54–7, 62–3.
- ⁵⁷ Wright, *People’s Counsel*, pp. 82–3. House of Commons, *Accounts and Papers*, vol 74, 1881, C.2984 (reports re practice and regulations of legislative assemblies).
- ⁵⁸ Redlich, *Procedure of the House of Commons*, part II, chapter 2.
- ⁵⁹ Redlich, *Procedure of the House of Commons*, vol 1, part II, chapters 2, 3. House of Commons, *Accounts and Papers*, vol 74, 1881, 73 (business of the House, urgency); 441, Standing Orders of the House of Commons.
- ⁶⁰ *AJHR*, 1879, session II, 1–9; 1880, 1–7. *NZPD*, vol 35, 1880, pp. 281–4, vol 36, 1880, pp. 138–44, 471–3. *JHR*, 1879, session II, p. 185; 1880, pp. 40, 91–2. LE1, 1880/12.
- ⁶¹ *NZPD*, vol 35, 1880, p. 283; vol 36, 1880, p. 139.
- ⁶² Martin, *The House*, pp. 84–5. *Observer*, 3 September 1881. *NZ Herald*, 2, 3, 6 September 1881. Hall to F.D. Bell, 13 August 1881, Hall Papers, MS Papers 1784, vol 28. House of Representatives, Supplementary Order Paper no 35, 29 August 1881, new rules of House of Commons. *NZPD*, vol 40, 1881, pp. 137–9, 195–6, 232–45. *Lyttelton Times*, 27 August 1881. *Observer*, 3 September 1881. LE1, 1881/13, 31 August 1881.
- ⁶³ *Otago Daily Times*, 2 September 1881.
- ⁶⁴ Alexander Turnbull Library, Reeves Memoirs, MS Papers 0129, folder 32.
- ⁶⁵ LE1, 1881/13, 31 August 1881.
- ⁶⁶ *NZPD*, vol 40, 1881, p. 232.
- ⁶⁷ *NZPD*, vol 40, 1881, pp. 244–5.
- ⁶⁸ *Lyttelton Times*, editorial, 27 August 1881. *Otago Daily Times*, editorial, 5 September 1881, expressed similar sentiments.
- ⁶⁹ Alexander Turnbull Library, Hall Papers, MS Papers 1784, vol 8, Hall to Fox, 21 March 1882. *AJHR*, 1882, A–6. *NZPD*, vol 42, 1882, pp. 251–3. *JHR*, 1882, pp. 33, 55.

- ⁷⁰ *NZPD*, vol 44, 1883, pp. 54–5. LE1, 1883/13, 1884/14, 1885/12. *JLC*, session II, 1884, pp. 229–30; 1885, pp. 42–3, *NZPD*, vol 51, 1885, pp. 128–34, 165–6, 179–90. *NZPD*, vol 51, 1885, p. 188. *JHR*, 1885, pp. 39, 42–3, 46–7. For his earlier suggestions for a 10 am start, *NZPD*, vol 10, 1871, pp. 55–6, 98–9; vol 12, 1872, pp. 20–2.
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- ⁷² *NZPD*, vol 51, 1885, pp. 134–6. In 1886 Major Steward complained of the lack of action on the recommendations of the Standing Orders Committee, *NZPD*, vol 54, 1886, p. 88.
- ⁷³ Judith Bassett, *Sir Harry Atkinson, 1831–1892*, Auckland: Auckland University Press, 1975, pp. 118–19 (Hall to Bell, 10 September 1882).
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- ⁷⁵ *NZPD*, vol 58, 1887, pp. 381–7, 478; vol 59, 1887, pp. 537–8.
- ⁷⁶ *NZPD*, vol 59, 1887, pp. 123, 536, 604.
- ⁷⁷ House of Representatives, Supplementary Order Paper, no 1, 18 May 1888. *NZPD*, vol 60, 1888, pp. 202–3.
- ⁷⁸ *NZPD*, vol 64, 1889, pp. 128, 408.
- ⁷⁹ Martin, *The House*, p 101.
- ⁸⁰ *NZPD*, vol 65, 1889, pp. 297–8.
- ⁸¹ *NZPD*, vol 67, 1890, pp. 351–63.
- ⁸² *NZPD*, vol 69, 1890, pp. 73–85.
- ⁸³ *NZPD*, vol 69, 1890, pp. 35–56.
- ⁸⁴ *NZPD*, vol 70, 1891, pp. 106–7; vol 72, 1891, pp. 554–8, 632–43; vol 73, 1891, 398–9, 451–2; vol 75, 1892, pp. 208–10, 336; vol 78, 1892, p. 332; vol 83, 1894, p. 254.
- ⁸⁵ *NZPD*, vol 73, 1891, pp. 13–14. In 1894 the standing orders more clearly stated that Wednesday was a private members' day.
- ⁸⁶ LE1, 1891/13, 1892/17.
- ⁸⁷ *AJHR*, 1892, I–6.
- ⁸⁸ *NZPD*, vol 82, 1893, pp. 856–8; vol 83, 1894, pp. 416–18; vol 160, 1912, p.115. LE1, 1893/9, 1894/ 14. *AJHR*, 1893, I–10.
- ⁸⁹ LE1, 1892/17. *NZPD*, vol 7, 1892, pp. 207–8.
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- ⁹¹ *NZPD*, vol 80, 1893, pp. 282–3, 628–31; vol 90, 1895, p. 159; vol 91, 1895, p. 890; vol 95, 1896, pp. 1–4, 60.
- ⁹² *JHR*, 1893, pp. 403–4, 407. *NZPD*, vol 82, 1893, pp. 1025–8.
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- ⁹⁴ House of Representatives, Supplementary Order Paper no 1, 26 June 1894. LE1, 1894/15. *AJHR*, 1894, H–11.
- ⁹⁵ Tanner pointed out that changes tended to be made with a newly elected House, *NZPD*, vol 126, 1903, p. 139.
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- ⁹⁷ *Otago Daily Times*, 3 August 1894.