

Where the Work Gets Done? Functions of Ontario Legislative Committees: A Content Analysis

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I would like to dedicate this paper to my mother, who dedicated her Master's thesis to me, and to my sister.

Introduction

There are few mechanisms in the Ontario Legislative Assembly upon which more hope has been placed and which are as poorly understood as its legislative committees.

Parliamentarians who despair about the state of debates in the legislative Chamber will, in the same breath, speak about the power of committees to neutralize partisan gamesmanship and efficiently accomplish legislative work¹. Graham White, preeminent scholar of Ontario's committees, echoed this sentiment when he said that the "real work of the Legislature" happens in committees (1989). Nonetheless, committees are studied little and unevenly conceptualized.

In order to elucidate the purpose(s) of legislative committees, the author conducted a content analysis of Ontario's Hansard to answer the research question: what is the role of legislative committees with respect to the development of public policy in Ontario? To answer this question, the author reviewed a sample of Hansard documents from three parliamentary sessions in Ontario (1990-1995, which had a New Democratic Party, hereafter "NDP," government; 1995-2003, which had a Progressive Conservative, hereafter "PC" government; and 2003-2007, which had a Liberal government). The author categorized each instance of the word "committee" in the sample based on the function of committees referred to in that instance.

By focusing on Ontario, this paper will contribute to the literature on legislative committees in an under-examined jurisdiction. Compared to the volume of literature that exists

¹ E.g.: "It's my pleasure to stand up and talk about G82, although, as already mentioned, the debate has been extensive and it would be great if it could go to committee...I'd like to work on a committee. People tell me that's where the work gets done, so I'd like to get to work" (Fife, 2012). Also: "One of my children said to me that when they watch question period they really think of it as the Young and the Restless, one of the soap operas of the day. I tell them the important debates happen in committee where you often find a lot of co-operation, where people put forward their ideas, usually in a thoughtful way" (Caplan, 1991).

about U.S. congressional committees, the number of studies about Canadian legislative committees is relatively small (Gaines et al., 2019). The proportion of this literature devoted to provincial legislative committees is even smaller, despite the wealth of documentation that provincial committee clerks publish about committee operations². Some have posited that the proximity of Canada to the U.S.A. and to that country's powerful (Berry and Fowler, 2018; Campbell and Davidson, 1998; Lees, 1979; Strøm, 1998) congressional committees is part of the reason that Canada suffers from confusion about the role of its own committees (Gaines et al., 2019; Milliken, 1999). Given that the U.S.A.'s committees operate in a presidential checks-and-balances system of government, whereas Canada's operate in a parliamentary system of responsible government, it is not hard to understand this confusion. The tools Canadian committees have at their disposal are different from those available to American committees. Further, there is little agreement about the purpose of legislative committees, and therefore disagreement about how to measure their effectiveness. In other words: without understanding what committees do, it is impossible to understand how good they are at doing it. Finally, Canadian committees are forced to contend with Canada's unique political environment, namely an unusually strong executive branch among democratic states. Therefore, much of the theory about committee functioning in the international literature is ill-suited to exploring the work of Canadian committees.

Part of the purpose of this paper will be to highlight the contextual differences between jurisdictions that affect the function of legislative committees. There are a few reasons that Ontario is a particularly interesting case in the Canadian context. There has long been scholarly

² The *Canadian Parliamentary Review*, the journal of the Canadian Region of the Commonwealth Parliamentary Association, publishes quarterly updates about parliamentary developments from every province and territory.

agreement that Canada has an exceptionally powerful prime minister and executive branch³ when compared to other parliamentary democratic countries (Franks, 1987; O'Malley, 2007; Rush, 1979; Savoie, 1999; Siaroff, 2003). All Canadian committees must contend with strong executive branches, but Ontario may face the stiffest fight in this respect. There is some evidence that Ontario has experienced the most pronounced executive consolidation of power of any Canadian jurisdiction since 1970 (Thomas and Lewis, 2018). Ontario's committees are also busier than those in other Canadian jurisdictions, and therefore represent the most significant strain on members' resources and time (Malloy, 2004). Despite this, Ontario's committees were considered some of the most effective in all of Canada in the late 20th century (Raney, 2017). The turn of the 21st century in Ontario, then, may be a critical case (Mertens and Wilson, 2017). If Ontario's committees were able to act effectively despite an exceptionally powerful executive branch during this time period, then the case of Ontario committees in the 1990s-2000s may hold lessons that could be valuable to other Canadian jurisdictions.

Historical Background and Overview of Ontario Legislative Committees

The Legislature of Upper Canada met for the first time in 1792, pursuant to the *Constitutional Act, 1791* (Legislative Assembly of Ontario, "Timeline"). In some ways, Ontario's legislative committee system precedes Canada's, since Canada inherited its parliamentary committees from the Province of Canada (composed of Upper Canada, later Ontario, and Lower Canada) with the *Union Act, 1840* (ibid.). Following the example set by Lower Canada, Upper Canada established 12 standing committees in 1836, though they were then disbanded by the

³ While the term "executive branch" is an 'Americanism' and does not strictly apply to the Canadian parliamentary context, it is commonly used in Canada to refer to ministers appointed by the Crown and will be used in that sense throughout this paper.

Executive Council for a period (Bosc and Gagnon, 2017). This hesitancy by the Executive Council to allow legislators the ability to participate directly in parliamentary affairs illustrates a tension between the executive and legislative branches that has not abated. Under a system of responsible government, established in Ontario in 1848 under Premier Robert Baldwin, there is theoretically no need for checks on government because government is ultimately accountable to the legislature (Legislative Assembly of Ontario, “Timeline”; Mallory, 1963). Nonetheless, committees continue to exist in Ontario in much the same way as they did prior to Confederation.

There are currently nine standing committees in Ontario. Each standing committee is composed of a small group of Members of Provincial Parliament (hereafter “MPPs”), with representation from each official political party recognized by the Legislature. As members of the executive branch of government, Cabinet ministers do not sit on legislative committees. Of the nine committees, three are policy field committees, three committees scrutinize spending (the Standing Committee on Finance and Economic Affairs, known sometimes by its phonetic initialism “SCFEA,” the Standing Committee on Estimates, and the Public Accounts Committee), and three committees pertain to the Legislature, regulations, and government appointments, respectively. The policy field committees examine legislation. Examining legislation is the most common function of Ontario’s standing committees according to one study analyzing committee work in 1993-1994. This study found that the examination of public bills took up 61.7% of committee work (Bouliane et al., 1996). Sometimes, the Legislature strikes select committees, which are temporary committees that aim to study a specific issue and then dissolve after issuing a final report (Archives of Ontario, 2012).

All legislative committees operate according to the Standing Orders, which are adopted by the House and contain the rules of procedure that govern both the activities of the legislative chamber and of committees (Decker, “Standing Orders of the Legislative Assembly of Ontario”).

Literature Review

The most fundamental question that can be asked about legislative committees in any context is: what is their purpose? There are a range of theoretical perspectives which have arisen in response to this question. Depending on how an international comparative study defines the purpose of a committee, the effectiveness of Canada’s committees may rank higher or lower than other countries’. As Brian J. Gaines et al. have explained, the prevalence of U.S. congressional committees in the literature has led to a focus in committee literature on theories which are useful to the study of those types of committees (2019). These theories include informational, delegation-based, and partisan theories (Russel et al., 2013; Strøm, 1998). While they may be generative in the context of congressional committees, these theories are difficult to apply in the context of parliamentary systems. In Audrey Andre et al.’s study of committees in countries with coalition-style governments, the authors use the principal-agent theory to create nine indices of committee effectiveness (2016). Canada’s committees rate as one of the most ineffective among the 31 countries examined (ibid.). When studies like this one evaluate committees using models that define ‘effectiveness’ largely as the ability to acquire government information and change government policy, Canadian committees often rate as nearly or completely ineffective (Andre et al., 2016; Russel et al., 2013).

The second major theoretical perspective regarding the effectiveness of legislative committees defines 'effectiveness' in reference to historic conceptions of the functions of committees in the U.K. In 1955, K.C. Wheare outlined six types of committees by function. He proposed that each type of committee's effectiveness should be assessed in relation to its ability to carry out its function (Wheare, 1955). This model has been influential in the Canadian context, since many of Canada's committees serve similar functions to those outlined by Wheare. In the Wheare model, Canadian committees may be judged more or less effective in relation to their function, but are rarely found to be completely irrelevant. Scholars working with such an understanding of committees include Peter Milliken, a former Canadian MP and Speaker. Milliken acknowledges a variety of functions of Canadian parliamentary committees, including influencing the government's action (i.e. Wheare's "committees to advise"), handling bills and estimates (i.e. Wheare's "committees to scrutinize and legislate"), and investigating matters on behalf of the House (i.e. Wheare's "committees to inquire") (1999).

The third major model in the literature regarding how to theorize legislative committee effectiveness was developed in the Canadian context. Some Canadian scholars have emphasized the value of committees as advocates, drawing on Wheare's conception of committees to scrutinize and legislate (1955). They define the effectiveness of the committee and even of the legislature in general in relation to its ability to keep the attention of the media or the public on an issue (Pross, 1985). Jonathan Malloy goes so far as to say that committees should not be expected to change government legislation or action, but rather that their effectiveness is entirely related to their ability to facilitate public and media scrutiny of an issue (2004). One of Milliken's four criteria of committee effectiveness relates to a committee's ability to put

information in the public domain (1999). In their study of a U.K. parliamentary committee, Duncan Russel et al. note that, more than the committee's ability to persuade government, its ability to put information in the public domain is particularly valuable (2013). Proponents of all three of the models outlined above recommend ways in which the committee system could be improved. The difference between the 'megaphone' model and the other two theories is that the former's recommendations for improvement involve amplifying committees' *existing* ability to bring public attention to an issue, rather than judging committees to be irrelevant in relation to a theorized function that certain committees may have never even attempted to perform.

Finally, some hold that another important function of legislative committees is to relieve pressures on parliamentary time (Mallory, 1963; Milliken, 1999). From this perspective, committees that take on responsibilities that would otherwise take up time in the legislative Chamber are acting effectively, regardless of the outcome of their activities.

Depending on a study's understanding of the purpose of a legislative committee, its understanding of the committee's shortcomings will differ. That said, there are some common issues authors take with the structure and operation of committees in the Canadian context. Drawing on the second theory of committee effectiveness, which largely comprises literature about British parliamentary committees, many authors have criticized the lack of specialization of legislative committees in the U.K. They assert that part of the ineffectiveness of committees can be attributed to the non-specific scope of topics that the committee examines (Franks, 1978; Johnson, 1966; Norton, 1998; Wheare, 1955). Most of the calls for committee specialization in the U.K. occurred before 1979 when the U.K. reformed its committees to make them more specialized. By contrast, Canada's committees have been specialized by policy area for a long

time (Milliken, 1999), and this concern about specialization has not appeared as often in the Canadian literature. J. R. Mallory has even advocated for committees in Canada that are less specialized, arguing that there has been an unnecessary proliferation of highly specialized committees in Canada's Parliament (1963).

A similar but related concern that has been raised in the Canadian context has to do with the size of parliamentary committees. Canadian parliamentary committees have previously had as many as 30 Members of Parliament (hereafter "MPs") per committee, prompting concerns about the size of committees (Franks, 1978), and also about the number of committees themselves (Milliken, 1999). C. E. S. Franks notes, however, that smaller committees will not become less partisan simply as a result of being smaller, and that smaller groups are just as likely to waste time and engage in partisan games as a larger group (1987).

Many authors in both the British and Canadian contexts suggest that legislative committees would be more effective if committee members were to develop subject-matter expertise relating to their committee (Franks, 1987; Johnson, 1966; Mallory, 1963; Norton, 1998; Palmer, 1970; Wheare, 1955). Based on the results of its study conducting exit interviews with MPs, Michael Morden et al. recommend that members be allowed longer tenures on committees, to enable them to develop subject-matter expertise (2018). These recommendations are echoed by John M. Reid, who writes about his experiences as a former backbench MP serving on various committees (1978). Therefore, member expertise as a recommendation to improve committee effectiveness can be found in both British and Canadian committee literature, in the writings both of professional observers of legislatures and of those with lived experience as members of committees.

Many suggest that the root cause of the ineffectiveness of Canadian legislative committee members is the extent to which the executive branch and/or the caucus has control over committee membership. In Canada, members are often moved from committee to committee based on the priorities of the caucus (Morden et al., 2018). Committee memberships may be given or withheld as incentives and punishments to members based on their adherence to party directions (ibid.). This dynamic has its roots in the British constitutional system upon which Canada's legislatures are modelled. The British system does not absolutely separate the executive and legislative branches (Palmer, 1970). This tension between the executive and legislative branches also has roots in Canada's system of responsible government, which does not promote the sharing of power between the executive and legislative branches (Mallory, 1963). By imposing government priorities onto committees via control over committee membership and internal pressure on committee members, the caucus and/or executive branch weakens legislative power, including legislative power as expressed by committees.

The strength of executive versus legislative power has been borne out in comparative research. For example, Alan Siaroff's comparative study finds executive dominance to be very high in Canada when compared to other "advanced industrial democracies" (2013). Paul E. J. Thomas and J. P. Lewis' quantitative study of the number of executive positions in Canadian legislatures finds that the proportion of legislators in the governing party with executive or quasi-executive positions has grown in nearly all Canadian legislatures since 1970 (2018). R. Paul Wilson interviewed backbench MPs who participated in the Ministers' Caucus Advisory Committees (MCACs) under Prime Minister Stephen Harper's government (2015). He found that backbench MPs felt less motivated to attempt to alter government policy as members of

legislative committees because they had had the opportunity to voice their opinions about policy decisions as members of internal MCACs (Wilson, 2015). These studies illustrate the tug-of-war between the executive and legislative branches, where power gained by the executive branch is taken from the legislative. Ultimately, this power dynamic originated with the British parliamentary system, which has also struggled with the weakening of legislative mechanisms like committees as a result of the consolidation of executive power (Baines, 1989; Walkland, 1979).

Other studies draw more direct correlations between executive control and weak legislative committees. Morden et al. found that caucus control over committees makes for shortened committee tenures, members with less expertise, and less powerful and experienced committee chairs (2018). Thomas D'Aquino et al. suggest that committee members feel pressure from whips and Cabinet ministers to make certain decisions in committee (1983). In his survey of Canadian MPs, Michael Rush ranks the level of partisanship in committees according to members, and finds that committees are perceived to be most partisan when dealing with proposed amendments to legislation (1979).

Recommendations regarding how to reform legislative committees in order to lessen executive and/or caucus control are varied. Morden et al. and Milliken suggest that committee chairs should be selected by committee members via a blind vote, like the Speaker of the House (2018; 1999). D'Aquino et al. and Milliken recommend that committee chairs should receive additional compensation, similar to a parliamentary secretary (1983; 1999). Finally, Andre et al. note the importance of legislative staff in improving the effectiveness of committees (2016), and

Malloy advocates for legislatures to invest further resources into non-partisan staff support of committees (2004).

Research Methods

The author used a content analysis methodology to examine MPPs' views about the functions of legislative committees in Ontario with respect to the public policy development process. In order to understand parliamentarians' views, the author undertook a document review of Ontario Legislative Assembly's Hansard (hereafter referred to as "Hansard"). The author searched for instances of the term "committee" in Hansard from 1990 to 2007. This period encompasses three governments of three different political stripes. Hansard is a transcript of all proceedings that take place in the legislative Chamber and in committees. Hansard transcripts of proceedings in the Chamber beginning in 1975 are available to access online at hansardindex.ontla.on.ca.

The words "committee" or "committees" appear at least once in the transcript for 1293 dates from 1990 to 2007. A random sample of 224 of these dates was generated using a random sequence generator. All 1293 dates were arranged chronologically and if the order in which a date appeared corresponded to a number in the sequence, it was included in the sample. Within the sample of 224 dates, each instance of the word "committee" or "committees" was coded descriptively, for a confidence level of 90% and a margin of error of 5%. This document review was limited to Hansard transcripts of Chamber proceedings because the word "committee" is used neutrally many times during legislative committee proceedings, and it is more likely that an

MPP will be commenting on the purpose of committee in the legislative Chamber than in committee proceedings.

The author manually coded each instance of the word “committee” in a Word document. The codes categorized the use of the word based on the function attributed to legislative committees by the speaker in that instance of the word’s use. If there was no purpose of committee discernible in that instance, the code described any other context associated with the use of the word in that instance. For example, the code “consultation - hearing from the public” might be attributed to an instance of the word in which the member was speaking about the importance of touring Ontario with a committee in order to hear comments from rural communities. In some instances, the word “committee” appeared in Hansard as a note, not spoken by any person, or was used completely neutrally for procedural reasons, most commonly by the Speaker. In these instances, the instance of the word was coded “neutral.” If the word “committee” was used to refer to a type of committee other than a committee of the Ontario Legislative Assembly, then the code “not legislative” was used. After the first round of coding, the author completed a second round of coding to combine the codes into 29 categories.

The codes used were informed somewhat by the literature, but not entirely. As much as possible, the author tried to determine the speakers’ own understandings of the purpose of committees, and coded that instance of the word “committee” accordingly. Codes were assigned irrespective of the speaker’s valuation of the idea. For example, the code “legislative time” was used to describe any mention of the word “committee” referencing the speed with which the bill moved through the legislative process. This was true whether the member was urging the bill to be referred to committee with haste, or lamenting that referral to committee would slow down

the process. The number of times each code occurred in each parliamentary session was then tallied. This data was then analyzed to determine the prevalence of certain ideas amongst MPPs about the purpose(s) and function(s) of Ontario committees.

Findings

The document review of a sample of 224 dates in Hansard between 1990 and 2007 on which the word “committee” appeared at least once resulted in 8891 instances of the word. When all instances of the word committee coded “not legislative” or “neutral” were removed from the total, 5641 instances of the word were left. 2583 instances of the word appeared between 1990 and 1995, during an NDP government; 1367 instances of the word appeared between 1995 and 2003, during a PC government; and 1691 instances of the word appeared between 2003 and 2007, during a Liberal government.

The 5641 remaining instances of the word committee were coded and then categorized into 29 different categories. They were then converted into percentages, based on the frequency with which they appeared during the parliamentary session (1990-1995, 1995-2003, or 2003-2007) in which they appeared. Figure 1 is a bar graph showing the frequency with which each category appeared during each parliamentary session. These findings are grouped below based on average frequency across all three parliamentary sessions, in the following groups: 1) less than 1% frequency, 2) 1%-4%, 3) 4%-10%, 4) greater than 10%. Table 1 below shows the percent frequency with which each category appeared in each parliamentary session.

Table 1: Frequency of Committee Categories by Parliamentary Session

Category	1990-1995 (% frequency)	1995-2003 (% frequency)	2003-2007 (% frequency)	Average (% frequency)

Advising the House	2.00	2.19	3.19	2.46
Audit	0.258	0.585	2.78	1.21
Altering legislation/motions	17.7	12.4	20.1	16.7
Government appointments	0.309	1.02	5.38	2.24
Committee scope and procedure	8.19	12.9	2.19	7.76
Committee resources	1.60	2.85	1.24	1.90
Committee size	0	1.24	0	0.413
Debate	10.3	6.58	6.74	7.87
Democracy	0.155	0.146	0.177	0.159
Establishing new committee	0	2.63	1.06	1.23
Legislative time	11.8	11.6	14.8	12.7
Member expertise	1.03	1.90	1.01	1.31
Member independence	0	0	0.414	0.138
Consultation	24.9	27.2	28.1	26.7
Obtain government information	8.71	5.49	4.61	6.27
Oversight of public bodies	0	0.293	0.414	0.236
Investigation	2.22	3.22	0.946	2.13
Megaphone	5.67	3.44	3.25	4.12

Committee membership	3.55	5.27	4.14	4.32
Non-partisan	3.40	1.68	1.95	2.34
Partisan	5.00	2.56	2.37	3.31
Report	2.68	1.32	2.07	2.02
Representing constituency	0.309	0.146	0.296	0.250
Scrutiny of legislation	3.14	4.54	5.91	4.53
Study	3.14	4.61	2.60	3.43
Supporting in principle	0.0515	0.219	0.591	0.287
Thanking committee members	0.876	1.46	1.12	1.15
Unclear	0	0.219	0.710	0.310
Misc.	1.75	3.15	0.828	1.91

Less than 1%

Seven of the 29 categories appeared with less than 1% frequency. These categories were: committee size, democracy, MPP independence, oversight of government bodies, representing people/constituents, supporting a bill in principle, and unclear.

The size of committees was not mentioned in the sample during the NDP or Liberal governments, and appeared with 1.24% frequency during the PC government. This category refers to concerns about the number of MPPs sitting on a committee, whether the concern be that the number is too small or too great. Democracy as it related to committees was mentioned only twice or three times during each of the three governments, with an average frequency of 0.159%.

Figure 1

Categories of Ontario Legislative Committees (1990-2007)

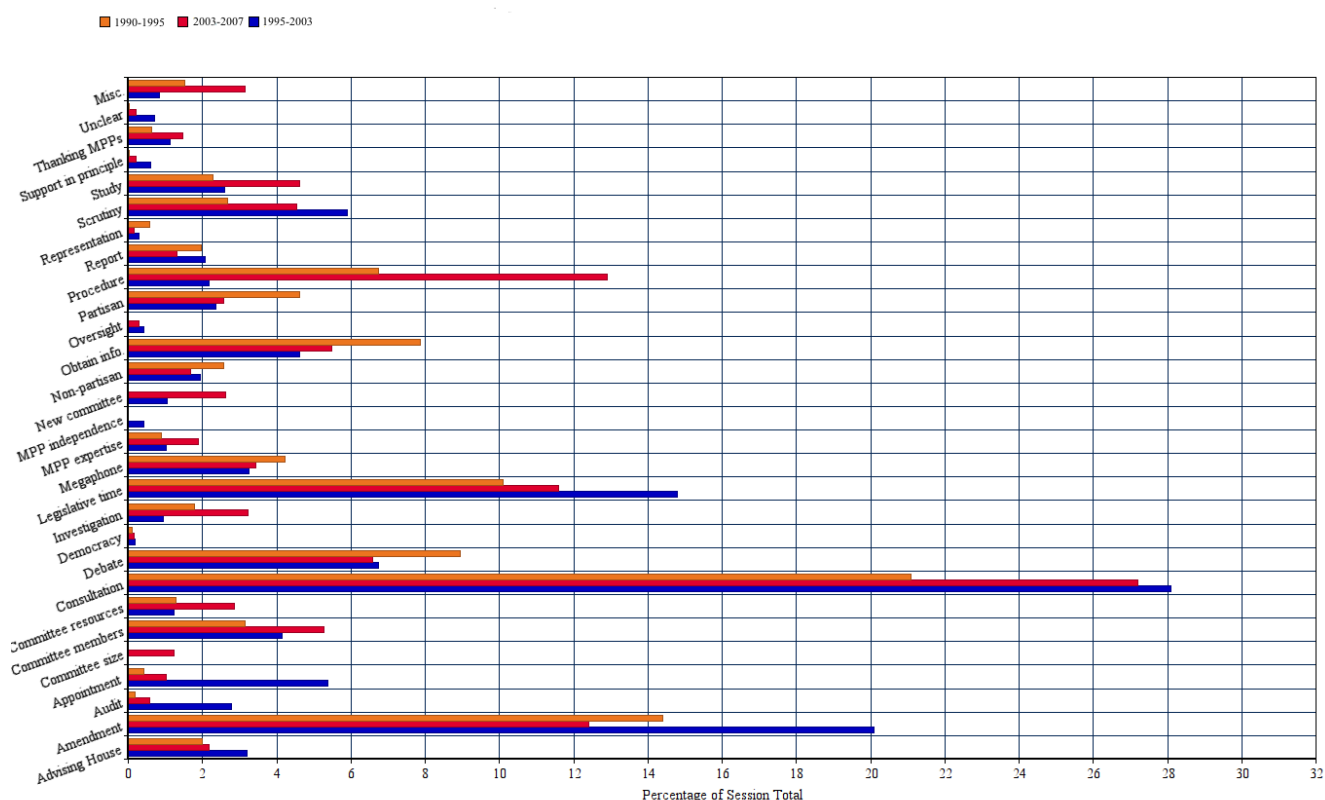


Fig. 1 shows the frequency with which every category of committee function and context was mentioned, by parliamentary session.

“MPP independence” is a category referring to the ability of MPPs to speak, vote and act in a professional capacity without reference to direction from their political parties. MPP independence was not mentioned during the NDP or PC governments, and appeared with 0.414% frequency during the Liberal government. When it did come up, it was usually in the context of an accusation by the opposition that government members were not free to act independently of the political party with which they were affiliated. “Oversight of public bodies” is a category referring to committees supervising the operations of government agencies and public bodies to ensure accountability and responsibility of operations. This concept did not

come up often, appearing with 0.293% frequency during the PC government, 0.414% frequency during the Liberal government, and not at all during the NDP government. A related concept discussed below, the inquiry of ministry/public officials, did appear with more frequency.

“Representing people/constituents” is a category referring to the idea that MPPs are representing the views of constituents or other people in committee. MPPs speak often about their role as elected representatives, but this function rarely appeared connected to the use of the word “committee” in the sample. It appeared with 0.309% frequency during the NDP government, 0.146% frequency during the PC government, and 0.296% frequency during the Liberal government. “Supporting in principle” is a category referring to the practice of MPPs voting for a bill after second reading so that it can pass through to the committee stage for closer scrutiny and amendment. This is a common practice, but was rarely referenced explicitly by MPPs when using the word “committee.” It appeared with 0.0515% frequency during the NDP government, 0.219% frequency during the PC government, and 0.591% frequency during the Liberal government. The final category, “unclear,” captured instances of the word “committee” in which the meaning conveyed by the MPP was unclear. A total of 15 instances of the word “committee” from 1990-2007 fell into this category.

1%-4% frequency

13 of the 29 categories appeared with an average frequency between 1% and 4%. These categories were: advising the House, audit, government appointments, committee and MPP resources, establishing a new committee, MPP expertise, investigation, non-partisan, partisan, report, study, thanking committee members, and miscellaneous.

“Advising the House” is a category derived from the functions of legislative committees identified by Wheare. It refers to the idea that committees advise all members of the House about the most appropriate action to take, whether that action relates to spending, legislation, or something else. The author made a distinction between providing information and recommendations to the House, and amending legislation or arguing that the government should take certain actions, which falls under the category “changing government action.” The difference is that in the former, the committee is advising the whole House, whereas in the latter, it is speaking directly to government. This function appeared with an average frequency of 2.46%, with 1.19% in variation between the highest and lowest frequency. The next category, “audit,” refers to audits of government accounts. It appeared with less an average of 1.21% frequency, with 2.52% variation.

“Committee resources” is a category referring to the monetary or human resources affiliated with committees and the resources available to MPPs to do their committee work. It appeared with an average frequency of 1.90%, with 1.61% variation. The “establishing a new committee” category was not mentioned during the NDP government, and appeared with an average frequency of 1.23% across all three sessions, with 2.63% variation. “MPP expertise” refers to the subject matter expertise of members in the topics contemplated by committees. This category appeared with an average frequency of 1.31%, with 0.89% variation. “Investigation” is a category referring to any formal investigation by a committee into the conduct of a member, government officials or government bodies. It appeared with an average 2.13% frequency, with a variation of 2.27%. The “non-partisan” category refers to mentions of committee members behaving in a non-partisan way. MPPs did not always explicitly use this word; references to

committee members acting “unanimously” or with “consensus” were also included in this category. This category occurred with 2.34% average frequency, with a variation of 1.72%. “Partisan” is the opposite category to “non-partisan.” It occurred with an average frequency of 3.31%, with a variation of 2.63%. “Report” is a category referring to the function of committees to produce reports for the House’s consideration. These reports could be produced for a variety of reasons, including as a response to a crisis event, as part of the committee’s study into a possible area of legislation, or as part of an inquiry. It occurred with an average frequency of 2.02%, with 1.36% variation. “Study” is a category referring to the study by a committee of a topic. It refers to the study of a topic without reference to a legislative document like a bill or government accounts. The careful study and consideration of bills, by contrast, is included in the category “scrutiny.” The “study” category occurred with an average frequency of 3.45%, with a variation of 2.01%. Often, MPPs introduced their discussion of committee affairs in the House by thanking all members (and sometimes the legislative staff) of that committee. The frequency of this occurrence necessitated the “thanking committee members” category. It occurred with an average frequency of 1.152%, with a variation of 0.584%. Finally, the “miscellaneous” category captured 91 total instances of the word “committee” from 1990-2007, and represents an average frequency of 1.91%.

4%-10% frequency

Six of the 29 categories appeared with an average frequency between 4% and 10%. These categories are: committee scope and procedure, debate, obtaining government information, megaphone, committee membership, and scrutiny.

“Committee scope and procedure” is a category referring to any discussion of legislative procedure that took place during committee. It also includes discussion of the appropriate scope or mandate of any committee. It occurred with an average frequency of 7.76%, and a variation of 10.79%. It occurred with 8.19% and 12.9% frequency during the NDP and PC governments, respectively, but only 2.19% frequency during the Liberal government. This can be attributed mostly to the gradual disuse of committee of the whole after 2003. Committee of the whole is a legislative committee of which all MPPs are members. Committee of the whole transcripts were part of Hansard, and as such, many debates about how committee of the whole could proceed were captured in Hansard between 1990 and 2003. Other committee transcripts are recorded separately, and therefore were not captured by this sample. The “debate” category was one that arose from the language used by MPPs themselves. Members frequently referred to committee as an opportunity to discuss and debate issues and legislation, without specifying further about the purpose of this discussion or debate. Rather, the opportunity to discuss and debate itself was the function of committee in that instance. In order to remain sensitive to the language being used by MPPs within a descriptive coding practice, the author created the “debate” category for these instances. Debate occurred with an average frequency of 7.87%, with 3.72% variation. The category “obtain government information” refers to attempts by committee to obtain government information which may be confidential to opposition MPPs. It occurred with an average frequency of 6.27%, with 4.1% variation. “Megaphone” is a category named by the author, referring to a concept explored mainly by Canadian legislative and political communications literature. It refers to the idea that committees are useful in that they allow MPPs to focus public and/or media attention on an issue. Members referred to “reading” matters “into the record” in

committee; these instances of the word “committee” were placed into the megaphone category. Instances that referred to the public watching committee proceedings from home, as well as more overt references to MPPs drawing attention to legislative issues in committee, were all placed in this category. The megaphone function appeared with an average frequency of 4.12%, with 2.42% variation. “Committee membership” is a category necessitated by the frequency with which MPPs referred to themselves and others as committee members, without reference to any other function of committees. This category occurred with an average frequency of 4.32%, with a variation of 1.72%. “Scrutiny” refers to a function of committees identified by Wheare. Since the legislative Chamber is used for general debates about legislation, committee is a smaller forum in which closer examination of a bill can take place. Committee allows MPPs to debate and make minor changes to bills which may not be captured during legislative debates. In Ontario, a standard part of the committee process is called “clause by clause review.” Any mention of “clause by clause” by MPPs was included in the “scrutiny” category. Scrutiny appeared as a function with an average 4.53% frequency, and a variation of 2.77%.

Greater than 10% frequency

Three of the 29 categories occurred with greater than 10% average frequency. They were: altering legislation/motions, legislative time, and consultations.

“Altering legislation/motions” is a category that encompasses references to amending/stopping/voting for or against legislation, introducing proposed amendments or regulations, and urging that legislation be passed to a committee so that it may be amended. It occurred with an average frequency of 16.7%, with 7.7% variation. “Legislative time” refers to the time spent on committee activities. Generally, opposition argued that too little time was

allocated to committee work, while government advanced the position that committee work ought to strike a balance between thoroughness and efficiency. This was true regardless of which party was in government, and which was in opposition. It occurred with an average frequency of 12.7%, with 3.2% variation. “Consultation” refers to the function of committee as a forum to hear from the public, stakeholders or experts about any topic under consideration by a committee. This category occurred the most frequently out of any of the 29 categories, with an average frequency of 26.7%, and a variation of 3.2%.

Audit of speakers by party (1990-1995)

The 29 categories enumerated above do not describe the opinions of MPPs about those categories. For example, the category “legislative time” encompasses both MPPs arguing that more time should be allocated to committee work, and less. The “MPP expertise” category refers both to instances in which a member complained about the lack of expertise of a member, and instances in which a member complimented the subject-matter expertise of a member. The only two categories which imply a value judgement are the categories “partisan” and “non-partisan.” Comments that committee work was essentially partisan, and comments that it was essentially non-partisan, both occurred frequently enough and were different enough from one another that the author created two categories. All other categories are value-neutral.

The ways in which members of the opposition and members of the government spoke about the functions of committees differed. For that reason, the author also conducted an audit of one of the parliamentary sessions in the sample to re-code each instance of the word “committee” with the political party associated with its speaker. This provided additional insight into the frequency with which each political party referred to different functions of committee.

When the word “committee” was spoken by the Speaker, it was not coded according to the political party to which the Speaker belonged, but rather was placed in a fourth “Speaker” category. This is because the Speaker is non-partisan and does not represent their political party while acting as Speaker.

The author chose to audit the parliamentary session from 1990-1995, when the NDP were in government. This is because the sample was the largest of the three sessions. In total, the opposition spoke the word “committee” 77.8% of the time in the sample audit, despite representing only 45.2% of a total of 135 MPPs. Despite representing 54.8% of total MPPs, government members used the word “committee” only 21.1% of the time. The remaining 1.1% of instances of the word committee were spoken by the Speaker. Figure 2 below gives instances of the word “committee” spoken by political party from 1990 to 1995, and the proportion of seats of the Legislative Assembly held by each political party during the same period.

Discussion

The findings indicate that there are 16 different answers to the research question: what is the role of legislative committees with respect to the development of public policy in Ontario? 13 of the 29 categories do not refer to an explicit function of committees, but rather refer to committees for another purpose. These include the “committee scope and procedure,” “partisan,” and “committee membership” categories, for example. The remaining 16 categories are committee functions, and each function represents a different role in the public policy development process. That said, only two of the 16 categories occurred with an average frequency of greater than 10%. This suggests that according to the MPPs who sat between 1990

Figure 2

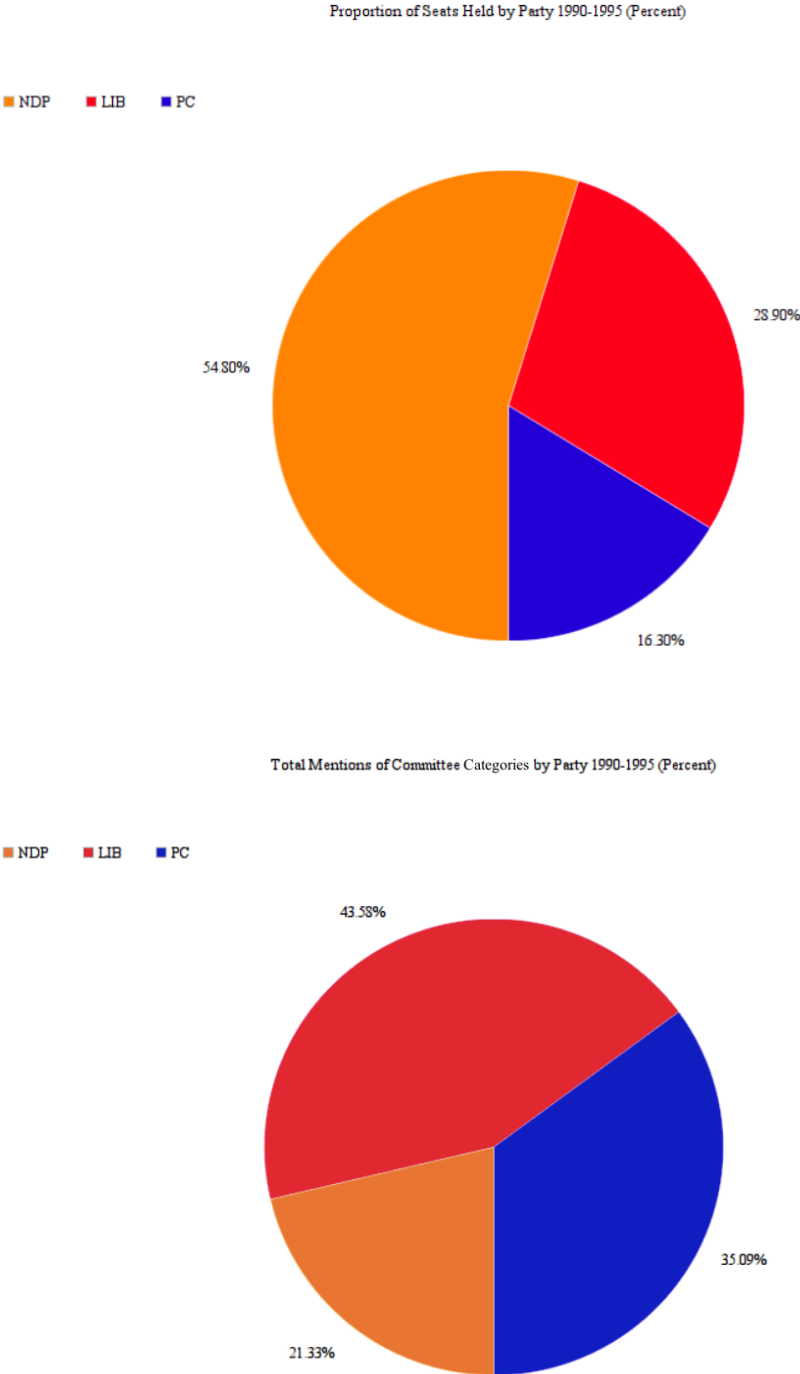


Fig. 2 shows the proportion of seats held by political party from 1990 to 1995 and the proportion of total mentions of the 29 committee categories by party from 1990 to 1995.

and 2007, there may be two functions of committee that are more important than the rest to successful policy development: altering legislation/motions and consultation.

Altering legislation/motions

Despite the fact that party discipline and executive power make it difficult for the opposition to amend legislation, the “amending legislation/motions” category arose frequently in the sample. “Altering legislation/motions” is a broad category. In some ways, given the highly partisan nature of the Ontario Legislature, all committee work conducted by the opposition is done with the aim of altering some kind of government action. By contrast, all committee work conducted by government members is ultimately in support of government action. That said, all government action is not executed via legislation. Moreover, not all legislation is initiated by the government; private members’ bills also pass through committees before third reading and receipt of royal assent. This category encompassed references both to private members’ bills in committee and government bills. “Altering legislation/motions” occurred with an average 16.5% frequency in the sample. This is the second-highest average frequency of any of the 16 committee function categories in the sample. Therefore, it appears to be an important function in the eyes of the MPPs who sat between 1990 and 2007. This aligns with Valmond Bouliane et al.’s study of Ontario committees from 1993 to 1994, which found that the examination of public bills took up 61.7% of committee work (1996). Of course, some of what Bouliane et al. termed “examination” may be represented in other categories in this study, most notably the “scrutiny” category. Further, three of the nine standing committees in Ontario are devoted entirely to the examination of legislation. While this study is limited to the functions of committees according

to MPPs, the findings in this study add strength to the supposition that altering legislation is an important part of Ontario committee work.

The altering legislation/motions function of legislative committees is well-documented in British parliamentary literature. One of the six functions of committees outlined by Wheare is “to legislate” (1955). Despite the emphasis on using committee to alter and amend legislation, this is a function that is perpetually frustrated by governments. Beginning in the 1990s, the NDP and then PC governments made efforts to limit the ability of the opposition to effect legislative change (Raney et al., 2013, p. 9). Further, in any majority government (including all three of the governments between 1990 and 2007), the majority of MPPs sitting on each committee are government backbenchers. Given the level of party discipline in Ontario, it is essentially unheard of for a government backbencher to vote against government legislation, in committee or in the House. Therefore, it is exceedingly unlikely that a committee in this environment could succeed in voting down or substantially altering legislation before it passes. As opposition PC MPP David Allan Tilson noted in the House about a bill that was before a committee, “[t]he government would put forward, during the committee, its proposed amendment, which of course carried. They have the majority on the committee and can do anything they wish, notwithstanding the position of the opposition parties” (Tilson, 12 October 1992). Opposition Liberal MPP Bruce Crozier noted that after a bill went to committee, “the government amendments will be put on the table. There may even be some opposition amendments to the bill, and you know and I know what happens to opposition amendments” (Crozier, 14 November 2000). He commented further: “I can tell you that in seven years here, particularly since 1995, I have been in committee and I have seen the opposition propose amendments to bills and I have

yet, in my experience at least, to see one accepted” (ibid.). Opposition NDP MPP Charles “Bud” Jackson Wildman insisted that the government “can’t just assume that because there’s a majority government, matters that have not even been debated, that have not gone to committee, will pass as they are introduced at first reading” (Wildman, 22 January 1997). This does seem to have been the governments’ assumption, however, through all three parliamentary sessions examined in this study.

Opposition amendments that *were* accepted did not represent substantive changes to legislation. Opposition Liberal MPP Michael A. Brown commented in 1994 about a bill that “[t]here have been some...minor, minor improvements to the wording of the legislation and in some places to the intent. That’s how the committee system works” (Brown, 29 November 1994). There were also suggestions that when government did incorporate opposition amendments to bills, they did not do so overtly at the committee stage. Instead, they voted against opposition amendments at committee and then introduced them as their own amendments, later, in order to take credit for these changes. For example, government NDP MPP Drummond White commented during debate in the legislative Chamber that “members will notice that a number of amendments have been made...Many of these were in response to comments that we heard in committee. I would also like...to state very clearly that there were several amendments that came forth from my colleagues on the opposite side of the House.” (White, 30 November 1994).

Not only were opposition amendments largely ignored, but governments also employed procedural maneuvers to ensure that opposition did not have sufficient time to understand

government amendments before they were required to vote on them. Opposition PC MPP Jim

Wilson described one committee process this way:

[A]mendments to this bill had to be filed with the clerk of the committee just 12 hours after the completion of committee hearings. So we finished committee hearings and, through the night, had to ensure that our amendments were made up, and it was pretty hard to do, given that legislative counsel shouldn't be asked to work all hours of the evening. It was a very difficult process and we were all quite tired. Then to have this bombshell dropped on us with respect to the surprise amendment...really does disturb me greatly (Wilson, 13 December, 1993).

Opposition amendments are rarely accepted in committee, opposition MPPs rarely have the resources to properly consider government amendments in committee, and parties rarely have any intention of voting for amendments put forth by other parties. Given these facts, the function of committee to alter legislation faces significant challenges. While this function was mentioned many times by MPPs and is an often-cited function of committees in the international literature, in reality, this function may be near-impossible to execute in the political context of the Ontario Legislature.

Consultation

“Consultation” was the category that appeared the most frequently in the sample. This committee function was integral to the policy development process according to the MPPs in the sample. With an average frequency of 26.7%, over a quarter of all instances of the word “committee” cited the purpose of committee to allow stakeholders, experts or members of the public to share their views about a matter with committee members. Consultation is not a committee function that appeared in the literature review this author conducted. It is not one of the six functions of committees identified by Wheare (1955). It does not arise in the study of American committees, in which the ability to change government action and obtain government

information is emphasized (Russel et al., 2013). Consultation is the opposite of the ‘megaphone’ theory of committee function; rather than bringing committee work to Ontarians, consultation invites Ontarians into the committee process. In a 2002 paper entitled “Change in the Ontario State 1952-2002,” White explains that in Ontario in 1952, unlike in 2002, “the notion of legislative committees...routinely touring the province soliciting the views of the public and of organized interest groups on policy questions or pending legislation was far outside the expectations of citizens and politicians alike” (White, October 2002, p. 5). From 1990 to 2007, by contrast, the importance of committees as a tool for consultation is clear in the frequency with which it appeared in the sample.

White also describes the Ontario Public Service of 2002 as “immense and organizationally complex” (White, October 2002, p. 6). Given the increasingly complex nature of public policy work undertaken by the provincial public service over time, it became necessary for MPPs to “develop substantial policy expertise” in order to keep up (White, October 2002, p. 8). However, every MPP cannot be a subject-matter expert on each bill that passes through committee, and consultation appears to have been helpful in members to clarify their own understanding of pending legislation. Indeed, figure 3 demonstrates that an average 37.7% of instances of the consultation function, or an average 10.1% of the total sample, were sub-coded “hearing from stakeholders” or “hearing from experts.” This supports the idea that consultation may be helpful in providing useful information to committee members regarding matters under consideration by committee.

The other 62.3% of the total 1330 times the consultation function arose, it was sub-coded “hearing from the public.” A common refrain from MPPs speaking about the consultation

function was that hearing from members of the public was important to the bill-amending process. Opposition NDP MPP Gilles Bisson explained that the legislative process allows for “further discussion with the public, where they get to come and present before us, and we, as legislators, sit back and think about what they’ve said and then try to strengthen the bills” (Bisson, 28 October 2002). Opposition Liberal MPP Mike Colle described the public as MPPs’ partners in scrutiny: “I hope the public will join in the scrutiny of this bill, which I think will make it a much better bill” (Colle, 18 June 1998). Both comments suggest that even discussion with the general public has the potential to positively alter legislation, and therefore that this function should not be limited to consultation with experts or direct stakeholders. There is some indication that the government did seriously consider consultations conducted during legislative committee meetings when making decisions about amendments to bills. PC Cabinet minister Al Leach noted that his government “listened to the deputants who came in to the committee hearings, all 600 of them...That’s why we made the substantive changes and the number of amendments we made to this bill” (Leach, 2 April 1997). Other MPPs, however, pointed out the difficulty that arises from party discipline and executive control over government backbenchers who sit on committees. Opposition Liberal MPP Gerard Kennedy described a committee hearing process in which “parent after student after teacher after interested member of the public...expressed themselves, and this government continued as if there wasn’t a single pebble thrown in the water. Not a ripple of counterthought emanated from the government benches” (Kennedy, 18 June 2001). Opposition Liberal MPP Dwight Duncan said on one occasion that the “committee hearings were a waste of time, as they have been on so many other occasions. The government members dutifully come in, dutifully do what they’re told, not even having read the

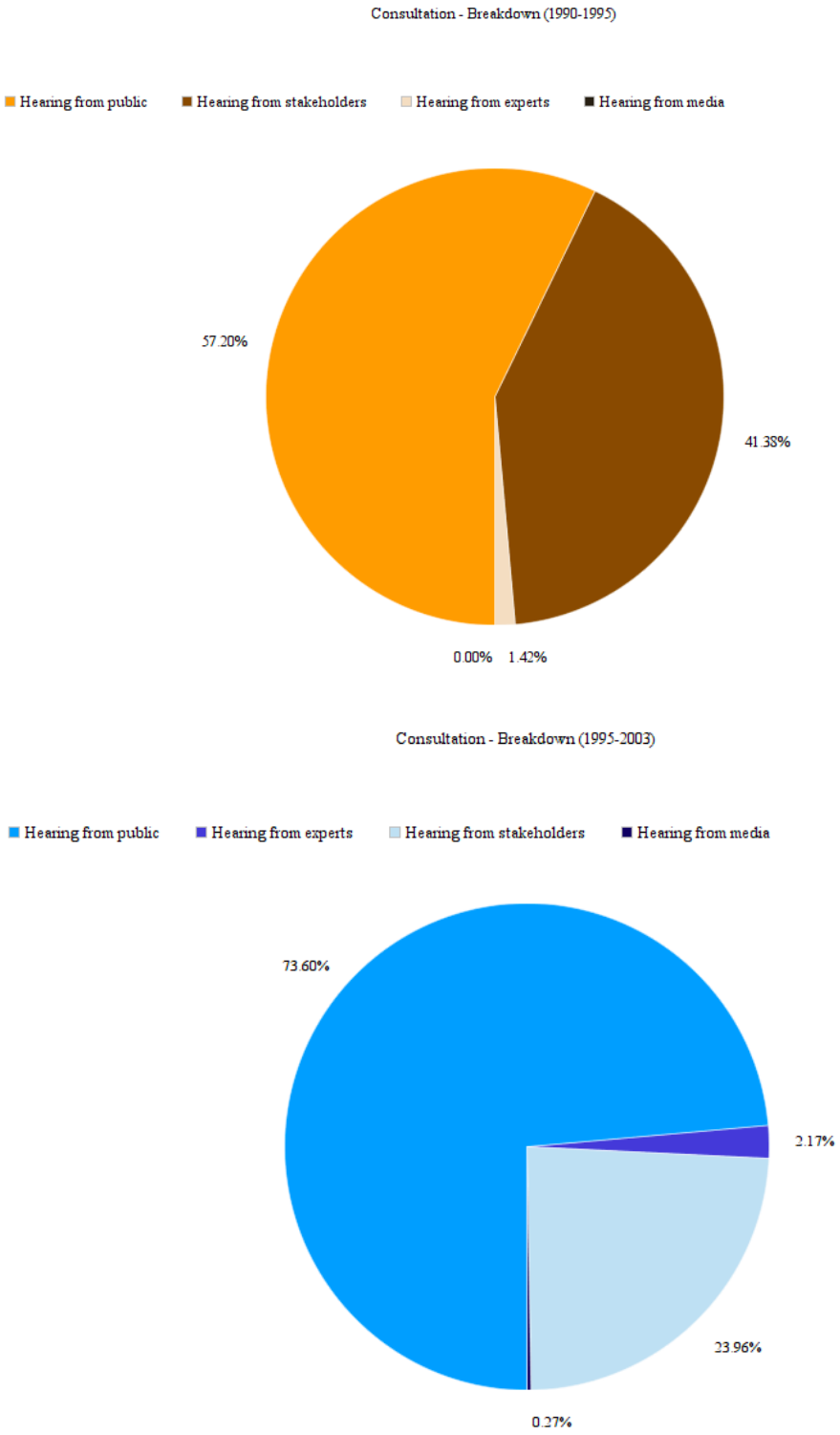
amendments” (Duncan, 7 October 1997). Opposition Liberal MPP Richard Patten described the fundamental tension between responsible government and the work conducted by committees thusly:

Very often the backbenchers sitting on the committee, when they hear from certain witnesses who are articulate and can communicate their feelings and their views -- it has an impact. It definitely has an impact and it moves them. They're moved personally. But you can't be moved if...things are just designed from the back rooms of the Premier's office (Patten, 17 September 1997).

Consultation was touted not only as a tool for assisting MPPs in understanding and amending legislation, however. It was also positioned as a part of a democratic right of Ontarians to be involved in the legislative process. In this formulation, the end result of the legislative committee process is irrelevant; what is important is that members of the public had the opportunity to be heard by MPPs in committee. Opposition Liberal MPP Colle asserted that a “committee has to ensure that no matter how odious the group is, how contrary it is to the government, that group has a right to at least present the alternative view” to committee (Colle, 22 January 1997). Government NDP MPP Irene Mathyssen alleged that when the opposition blocked committee travel, this was “tantamount to blocking the rights of the people of the province of Ontario to have their input into the bill” (Mathyssen, 1 December 1993). Finally, opposition Liberal MPP Alvin Curling described committee consultation as the opportunity “for people to have their democratic say” (Curling, 20 February 1997).

Finally, MPPs frequently debated the use of procedural manoeuvres by government to limit the time allowed for legislative committees to consult. Opposition PC MPP Frances Lankin criticized the government in one instance for allowing only 300 of 1000 individuals or groups to speak to committee (Lankin, 29 January 1996). Meanwhile, government often emphasized the

Figure 3



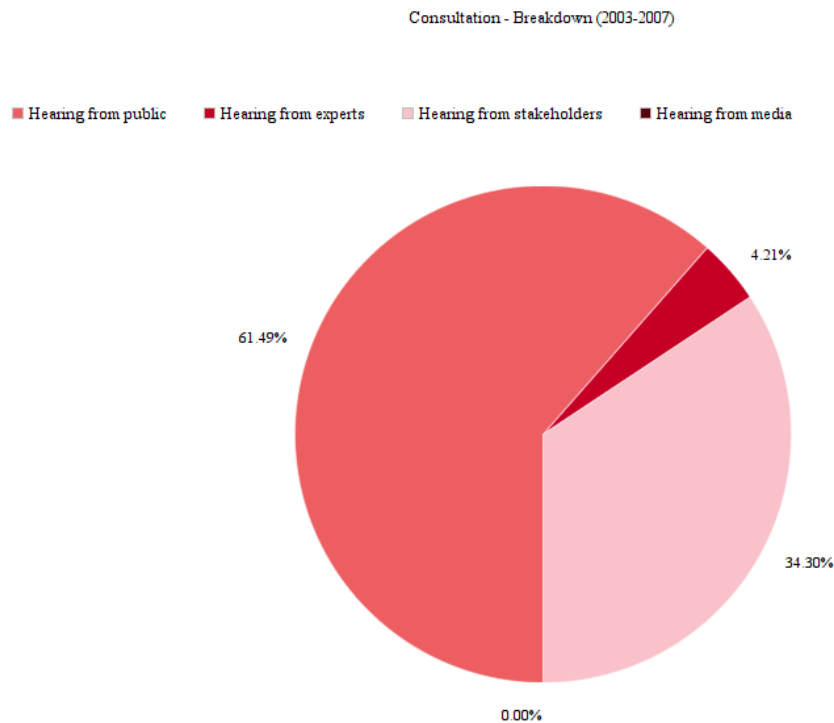


Fig. 3 shows the frequency with which the sub-types of the “consultation” function appeared during all three parliamentary sessions examined in the study, in percentages.

importance of efficiency, and the need to end consultation eventually so that a bill may be passed. Of course, the longer such consultations take place, especially about unpopular legislation, the easier for a committee to act as bad press for the government.

In conclusion, the consultation function of legislative committees was a significant one in that appeared most frequently of all 29 categories identified by this author in the sample. Consultation was described by MPPs as an opportunity to listen to informed opinions from stakeholders and experts about bills before committee. MPPs also spoke about the importance of listening to members of the public, and positioned public participation in the committee process as a democratic right. Throughout the sample, governments struggled to limit committee time allocated to consultation, and opposition drew on consultations conducted (or not conducted) by committees to criticize the government’s approach to amending legislation.

International criticisms of committee

International criticisms of legislative committee effectiveness cite the following issues, which largely do not appear in the sample analyzed in this paper: MPP expertise, committee size, partisanship, and MPP independence. The exception is the issue of partisanship; taken together, the partisan and non-partisan categories appear in the sample with an average frequency of 3.31% and 2.34%, respectively, for a total average frequency of 5.65%.

The literature examining British and Canadian legislative committees has bemoaned the lack of subject-matter expertise of MPPs in matters contemplated in legislation (Franks, 1987; Johnson, 1966; Mallory, 1963; Norton, 1998; Palmer, 1970; Wheare, 1955). This lack of expertise may not always be obvious in legislative Chamber debates. In committee however, where closer scrutiny of legislation is required, any lack of expertise becomes immediately apparent. It is partially for this reason that Malloy has advocated for additional legislative resources to support committee work (2004). With limited research resources available to them, opposition MPPs in particular may struggle to understand technical legislation before them in committee. That said, concerns about member expertise arose with an average of only 1.31% frequency in the sample. Further, not all of these instances represent members complaining about the lack of expertise of their peers; a portion represents members complimenting the extensive knowledge of another member regarding a topic under consideration by a committee. The frequency of the “committee resources” category arose only slightly more often, with an average frequency of 1.90%. Contemporary committees in Ontario are equipped with a dedicated legislative research officer and committee clerk. Therefore, committees do have some resources

available to assist them in gaining proficiency in the topics they are asked to consider during committee.

Mention of the size of legislative committees did not arise at all during the NDP or Liberal governments, and only arose with 1.24% frequency during the PC government. When it did arise, it was in response to a move by the government to limit the size of committees to nine MPPs, down from 14 (“Standing Orders Reform,” 20 August 1997). The opposition’s concern was that there would be less opposition representation on these committees, rather than that the overall size of the committee would get in the way of committee work. The latter was the case in the 30-strong Canadian parliamentary committees which Franks criticized for their unwieldiness (1987).

Partisanship and the related category of “MPP independence” did arise as concerns in the sample. MPPs occasionally praised the ability of all members of a legislative committee to work in a non-partisan fashion. There were also, however, criticisms of backbench MPPs who toed the party line with little understanding of committee proceedings. Opposition NDP MPP Peter Kormos told of an incident in committee in which backbench MPPs had concerns about government legislation but “were content to let themselves be whipped; they were content to simply go with the flow” (Kormos, 20 November 2000). Similarly, opposition PC MPP John O’Toole spoke about seeing “the members of the government sitting on the committee -- hostages really -- being told what to say by the whip, by the House leader, by the minister and by the Premier’s office” (O’Toole, 5 April 2004). Opposition PC MPP Bob Runciman said the following about backbench MPPs who sat on committees:

They are all now, and have been for some period of time, people who obey -- and I don’t think that’s too strong a word -- the direction of the chief whip of their party when they’re in government. We saw that very, very clearly during this committee process, where you

had people there who did not hear one moment of testimony voting on critically important amendments to the legislation and simply doing whatever the whip of the committee told them they should do -- if you're voting yes or you're voting no. You're simply there to put your hand up (Runciman, 16 October 2006).

Members also expressed concern about the partisan nature of legislative committee debates. Opposition Liberal MPP Michael Bryant despaired that "committees hardly ever sit, and when they do, by and large they turn into the same kind of partisan debates that tend to dominate what happens in this House here too" (Bryant, 8 May 2003). Opposition Liberal MPP Joseph Cordiano commented that "committees of this assembly need reform. The opportunities for backbenchers must be enhanced in the future if we are to ensure we have a vibrant democracy in this assembly" (Cordiano, 15 May 2003).

Therefore, of the issues identified in the international literature as potential roadblocks to the participation of legislative committees in the policy development process, partisanship is the one that appeared most frequently in the sample. It is also the issue about which members expressed the most concern.

Other categories

Four categories appeared with an average frequency between 4% and 10%. These were: debate, megaphone, scrutiny, and obtaining government information. The relatively low frequency with which these categories appeared may suggest that these functions were not as important to MPPs as the "altering legislation/motions" or "consultation" categories. It may also suggest that these functions worked more effectively than the former two functions, and merited less discussion in the legislative Chamber.

"Debate" is a category arising from the language used by members themselves. Often it was used neutrally in the sample; MPPs said they looked forward to discussing a bill in

legislative committee, for example. Sometimes, MPPs spoke about the importance of allowing all members of a committee to discuss and provide their thoughts about a bill. Opposition Liberal Gerry Phillips described “committee of the whole [a]s an opportunity for all the members in the Legislature to participate in a debate around a bill and get into some comment and some discussion on it” (Phillips, 9 June 1993). When governments limited committee time to consider pending legislation, concerns often arose about whether all members of a committee would have a chance to discuss the bill.

The ‘megaphone’ theory of legislative committee function appeared with some frequency in the sample, but not as frequently as expected, given its prominence in Canadian literature about committees. Malloy has said that “the role of committees is to provide a forum for discussion and scrutiny of public issues and government actions,” rather than to amend legislation or compel government action (2004). The “megaphone” category arose with an average frequency of just 4.12%. That said, just because MPPs did not reference the ‘megaphone’ theory, does not mean that committee members did not accomplish this function in the course of their committee work. Despite not receiving much overt comment by MPPs, drawing public/media attention to various government actions may still be a valuable function of committee.

Arising with an average 4.53% frequency, scrutiny was a function of legislative committee that appeared in all three parliamentary sessions. “Scrutiny” could be considered a sub-category of the “altering legislation/motions” category, but it arose often enough that the author created a separate “scrutiny” category. Given that “committees to scrutinize” is one of the

six functions of committees identified by Wheare and that three of nine Ontario standing committees scrutinize bills, it is surprising that this function did not arise with higher frequency.

By contrast, it is not surprising that the category “obtaining government information” appeared with 6.27% frequency. Canadian governments are notoriously tight-lipped about government information (Forcese, 2004; Roberts, 2008). In an adversarial parliamentary system, government has no interest in sharing its information with opposition members. In the sample, the majority of incidences of the word “committee” that were tagged “obtaining government information” consisted of opposition MPPs urging ministers to divulge government information to a legislative committee, often as part of an investigation.

Of the other findings, three of those categories that appeared with between 1%-4% average frequency were surprising. These were: audit, advising the House, and investigation. “Committees to advise” and “committees to investigate” are both functions of legislative committees identified by Wheare. The public accounts committee, which is tasked with auditing government finances, was lauded by Malloy as a committee that has the potential to be relatively powerful (2004). The relative infrequency, then, with which these categories appeared may suggest two things: first, that these functions are more effective than the rest. In this case, they would not merit much discussion in the House because they function well and quietly. Second, the findings may suggest that these functions were not as important to members as the functions of committee to amend legislation and consult.

Audit of speakers by party (1990-1995)

There were differences in the frequency and manner in which legislative committees were discussed in the 1990-1995 sample by opposition and government MPPs. Opposition MPPs

often criticized the ways in which the work of committees was hampered by government. This included arguments that the time spent in committee was being inappropriately curbed by government, that government was ignoring opposition amendments to bills, and that government was ignoring consultation undertaken by committee. The number of instances of the word “committee” spoken by opposition MPPs in the sample is disproportionate to the number of seats held by opposition MPPs. Though opposition MPPs held a minority of seats, a majority of instances of the word “committee” were spoken by opposition MPPs.

Opposition MPPs frequently discussed legislative committee proceedings with the aim of criticizing government. As part of the impartial legislative process, committees are a Trojan horse that allows one to criticize government without appearing partisan. By positioning themselves as defenders of the Legislature and of democracy, opposition MPPs can attack government from a moral high ground. Consider, for example, opposition Liberal MPP Timothy John Murphy, who said the following about the government’s move to restrict further debate of a bill: “there is no justification for saying now that we need to put the jackboots on the debate, to stamp down democracy. It’s just an outrage” (Murphy, 1 December 1993). Further, attacking the process allows the opposition to avoid discussing a bill itself. The opposition may not wish to give the government air time to discuss its legislation, especially if the opposition does not have significant criticisms of the substance of a bill.

Opposition also brought up legislative committee proceedings with much more frequency than government MPPs. Opposition MPPs represented the majority of instances of the word “committee” in every category bar one (“advising the House”), as noted in figure 4 below. This may suggest two things: first, a preference for procedural rather than substantial criticisms of

government; and second, since opposition MPPs do not have easy access to internal government policy development processes, focusing on the parts of a bill's development in which they are involved is easier. Committees are one such part. Opposition MPPs become familiar with legislation, government estimates and government accounts in committee. Therefore, they are well-equipped to attack government actions from the perspective of what they have learned in committee. The alternative involves time-consuming freedom of information requests to gain information about policies under development. The one committee function that was brought up more often by government MPPs than opposition MPPs was "advising the House." Government members took pains to suggest that the government took the advice of committees seriously, whereas the opposition, understandably, did not have much faith in this function of committee.

Despite the differences with which different political parties spoke about legislative committee, the concerns brought up most frequently by opposition members about committees should not be discounted as mere partisan grandstanding. Criticisms about government limiting committee time, surprising opposition with complex, technical amendments they did not have a hope of reading before it came time to vote on them, and voting against opposition amendments no matter the content, were present from 1990 to 2007. They spanned 17 years and three governments of three different political stripes. Though it is clear that opposition members used committee work to criticize government for partisan purposes, this does not mean that the criticisms should be dismissed out of hand. One thing became clear from the process of reading the entire sample from 1990 to 2007: the executive branch continued to seek to siphon and consolidate more and more power from the legislative branch, no matter the political party in government at the time.

Figure 4

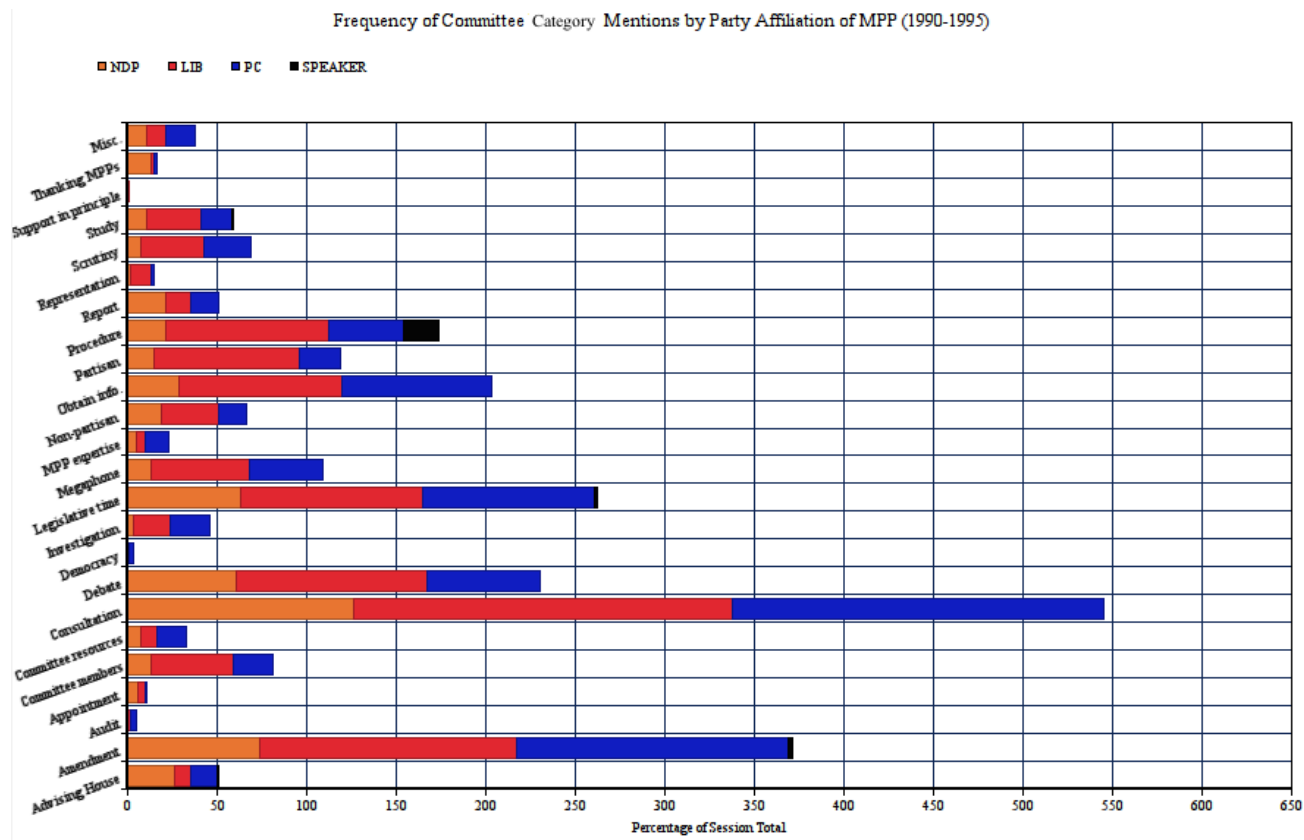


Fig. 4 shows the political party affiliation of speakers of the word “committee” in the sample from 1990 to 1995.

Limitations

There are a number of limitations to this research project which circumscribe the internal and external validity of the findings. While the aim of this paper is to contribute to a body of knowledge about Canadian legislative committees, it is a case study of a distinct period in Ontario provincial government history. The findings in this study cannot be generalized to other periods in Ontario provincial government history, nor to the experiences of other Canadian jurisdictions either at the same or different periods in time. All jurisdictions operate within their own specific, historical and political contexts which inform the ways in which their committees

operate. In fact, the importance of historical, political and structural contexts to the effectiveness of any committees is one of the main premises on which this study rests. The historical and political specificity of every jurisdiction is also the reason that the study is not externally valid. The author hopes that this paper can provide clues as to potential avenues for further research in the study of Canadian committees, but does not advocate for the wholesale application of principles that apply in the Ontario context in the late 20th and early 21st centuries to other jurisdictions and times.

The process of descriptive coding by the author introduced the risk of bias and presents a threat to internal validity. The author coded uses of the term “committee” in Hansard based on the author’s own understanding of the use of the word in that context. The risk of descriptive coding by the author is that categories of meaning were created by the researcher rather than the speakers. The author could not speak directly to the intended and latent meanings of the word “committee” as MPPs used it. Therefore, there remains a risk to internal validity in the coding of Hansard by the author.

Using a content analysis methodology, the author analyzed data from Hansard to learn about the purpose of legislative committees, but did not interview MPPs or other stakeholders to triangulate or confirm assumptions made by the author during data analysis. MPPs speaking in the legislative Chamber are always speaking with a political angle in mind. Those same MPPs’ opinions may be different now from those they presented 15-30 years ago in the Legislature. Therefore, any meaning that can be gleaned from Hansard was not subject to outside commentary by MPPs. Neither were the views of stakeholders who have spoken to committees, committee clerks and library researchers, or members of the public, included in the study. There

is certainly room for further research about the perceptions of these groups regarding the purpose(s) of committees in the public policy development process.

Finally, there are some limitations associated with a content analysis of Hansard. First, transcripts of legislative committee proceedings, which may have provided additional insight about the perceptions of committee members, were not analyzed as part of the content analysis. Second, Hansard sometimes omits some limited speech by MPPs if words are overlapping and the Hansard transcriber cannot discern what everyone is saying. In these instances, the word “Interjections” is used in Hansard. Finally, MPPs may have referred to committee in some instances without using the word “committee.” Therefore, it is possible that this content analysis did not capture every comment about committees by members in the sample.

Recommendations

1. Encourage consultations

The consultation function of legislative committees was the most commonly referenced function in all three parliamentary sessions between 1990 and 2007. Consultation was discussed as an important way for members to gather stakeholder and expert insight into pending legislation, and a way for constituents to participate in the legislative process. It is clear that MPPs of all political stripes found the consultation function of committee to be an integral one in the policy development process. Therefore, the Legislature should allocate enough time to committee hearings to allow committees to hear from those people who wish to make submissions. Further, the government should incorporate feedback from committee submissions when preparing amendments to bills.

There is no obligation and little motivation for any government to consider submissions to legislative committees when amending legislation. If the speaker is a key stakeholder, they will likely already have other ways to communicate their views to the government. If the committee's consultation is simply a watered-down version of the consultation government itself conducts, then it is irrelevant. Further, governments must always be concerned with the legislative agenda, and how much of their mandate they can fulfill within a year. Committees cannot consult endlessly. Neither is all consultation conducted by committees quality, unbiased consultation. Committees and governments must be mindful of capture, which occurs when the interests of stakeholder groups are expressed in government policy at the expense of public interest (Flood and Sossin, 2018, p. 314). Organized stakeholder groups will always have more resources at their disposal to lobby the government than a member of the public. That said, committees are more accessible to the public than internal government consultation processes. Therefore, allowing committees to exercise their consultation function may temper the likelihood of capture.

Nonetheless, there are three reasons why governments should invest in and take seriously the consultation work of legislative committees. First, it would remove an arrow from the opposition's quiver of complaints about a bill. The opposition can always attack how a bill is moving through the legislative process if it does not have major criticisms of the bill's content. Accusations that government is ignoring the democratic process are easily flung. By giving committees enough time to consult, governments stand a chance at depoliticizing the legislative process, forcing the opposition and the public to spend more time considering a bill itself. Second, since most committee meetings are public, it would be easy for government to draw

positive attention to itself by making a point of accepting amendments to legislation that originated with committee submissions. This would make government seem collaborative and connected with the public. In 2015, the Ontario government launched Budget Talks, a tool to digitally consult with Ontarians about the budget (Government of Ontario, March 2019).

Committees are an existing tool that could be leveraged in a similar way to make government seem accessible and responsive. Third, committees may be a way to restore trust in government. If public cynicism in partisan politics threatens to disengage voters entirely (Flinders and Curry, 2008; Gidengil et al., 2001), non-partisan committees of MPPs working together could help to mend that damaged reputation. Committees once travelled often across the province to conduct consultations. By bringing a non-partisan face of the Toronto-based Legislature, often dismissed as out of touch with the rest of Ontario, across the province, the government might be able to create its own public relations machine out of committees.

2. Amend the Standing Orders

The Standing Orders of the Legislative Assembly should also be amended to give legislative committees a chance to more effectively carry out the functions to alter legislation and consult. The categories “altering legislation/motions” and “consultation,” added together, comprised 42.6%, 39.6%, and 48.2% of the instances of the word “committee” between 1990 and 1995, 1995 and 2003, and 2003 and 2007, respectively. The work of amending legislation and consultation take up much of the time committees spend sitting. Nevertheless, each of these functions is restricted by governments seeking to dominate the legislative process and control its outcome. According to the findings of this paper, governments tended towards lowering the time allowed for public consultation, and refusing to accept opposition amendments. Therefore, these

functions should be encoded in the procedural rules of the Legislative Assembly, the Standing Orders, in order to protect their place in the policy development process.

The Standing Orders should prescribe a minimum amount of time legislative committees must spend consulting on pending legislation. They should provide that this minimum amount be overturned not merely by a majority, which would hand control of the committee's agenda to any majority government, but by a supermajority or by unanimous agreement. This would assist in creating a norm around the amount of consultation a committee conducts. Any attempt by the government to change it would require the government to amend the Standing Orders, something the opposition could then criticize loudly.

In order to reduce the partisan control of the Government Whip's Office, the executive branch and party caucuses over backbench legislative committee members, the Standing Orders should also provide for random sortition of members onto committees and a vote by secret ballot for committee chairs. This would prevent governments from giving committee chairmanship positions to MPPs as rewards for good behaviour. It would also prevent governments from removing MPPs from committees as a punishment for speaking out against their party in committee.

Again, no government is obliged to change the Standing Orders in these ways. Should a government choose to do so, no successive government would be obliged to keep the changes. That said, any government that makes the rules of the Legislature more difficult for the opposition only makes the rules difficult for its own party in several years' time, when it is in opposition once more. By the same token, any government that invests in the effective functioning of the Legislature invests in the future of its own party in opposition. Were a

government brave enough to establish a new precedent that gave some power back to the legislative branch, this could create a new standard to which successive governments would feel beholden. Any successive government that failed to live up to the new normal would open itself up to criticism. Thus, by making some small changes to the Standing Orders to improve the functionality of committees, governments may ultimately be rewarded.

Conclusion

Legislative committees played a unique role in Ontario from 1990 to 2007, one that is distinct from the roles committees play in American, British or European legislatures. Through a content analysis of a sample of appearances of the word “committee” in Hansard from 1990 to 2007, the author was able to identify 29 different ways in which the word “committee” was used. This included 16 different committee functions. The two functions that appeared with more than 10% frequency in the sample were “altering legislation/motions” and “consultation.” Though altering legislation is a committee function that appears commonly in the literature, consultation is not a function that appears in any of the international literature surveilled by this author. Consultation appears to be at least a uniquely Canadian committee function, and possibly one that is emphasized in particular in Ontario’s Legislature. The audit of speakers by party in the 1990-1995 sample revealed that opposition MPPs discussed committees more frequently than government MPPs. Opposition MPPs often criticized government’s handling of committee proceedings. Discussions of committee in the House in the 1990-1995 sample were undeniably partisan. Certainly, other researchers should consider interviewing MPPs about their views on committee work, to examine whether MPPs’ personally held opinions differ from what they said

publicly and in a professional capacity in the legislative Chamber. Nonetheless, criticisms by opposition MPPs of successive governments' dismissive attitude towards committees did not change throughout the sample, regardless of the political party in power. Their criticisms are consistent with Canadian literature that suggests the power of the executive branch in Canadian jurisdictions far outweighs the power of the legislative. Even in this kind of political environment however, the findings indicated that from 1990 to 2007, committees served important consultative and legislation-amending functions. This paper asked how committees support the policy development process in Ontario, and found that committees carry out a number of policy development functions. Now in its 42nd parliament, the future of committees at the Ontario Legislative Assembly is far from certain. It remains to be seen how the role of committees in Ontario will evolve in the coming decades.

Conflict of Interest

During the conception, research and partial writing of this paper, the author was employed at the Legislative Assembly of Ontario in a role dealing directly with MPPs on a regular basis. To avoid a conflict of interest, the author declared her intention to pursue this study to her employer at the outset of the study. The employer indicated that to avoid a conflict of interest, she should not interview current MPPs as part of her study. The author followed these directions. The author did not receive any funding or support for this paper, which was written to fulfill her Master's in Public Policy, Administration, and Law degree requirements as part of the class PPAL 6230: Topics in Public Policy at York University.

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