



Legislative Reports



House of Commons

On February 2, 1999, Bill C-306, *An Act to amend the Bank Act (bank charges)*, in the name of **Denis Paradis** (Brome-Missisquoi, Lib.) was placed on the order of precedence of Private Members' Business, pursuant to Standing Order 87(6). Pursuant to changes in the Standing Orders adopted on November 30, 1998, this was the first application of the new Standing Order which allows an item to be placed on the order of precedence when the sponsoring Member has obtained the signatures of 100 Members supporting the item in question. This Standing Order makes it possible to avoid the random draw. On February 2, the sponsor of Bill C-306 was changed to **Nick Discepola** (Vaudreuil-Soulanges). The Bill was later designated a votable item.

Points of Order, Questions of Privilege, Routine Proceedings

On February 8, Speaker **Gilbert Parent** gave his ruling on the point of order raised by **John Cummins** (Delta-South Richmond, Ref.) concerning the interpretation of Stand-

ing Order 39 regarding Questions on the Order Paper. The ruling dealt specifically with issues relating to the length of the questions, the number of questions allowed and the length of time taken by the government to answer and the perceived failure to receive factual answers. The Speaker ruled that proper procedure was followed in the request made to the Member to divide his question, and that while the 45-day limit causes problems for both sides of the House, the Chair has no authority to intervene in this area. He also stated that the Chair cannot comment on the quality or the factual content of the answers provided by the government to questions. The Speaker concluded by saying that this issue might be of interest to the Standing Committee on Procedure and House Affairs. He also reminded the government that it is responsible for the quality and accuracy of the answers and that it can inform Members if the 45-day deadline is not being complied with.

On March 4, in the course of a point of order, **Pierrette Venne** (Saint-Bruno-Saint-Hubert, BQ) stated that former Speaker **John Fraser** had struck a committee which dealt with the matters of vocabulary, proper dress in the House and the importance of mutual respect amongst members. She suggested that the committee be re-established. Speaker Parent suggested in turn that if Members would like to support the re-establishment of such a committee, perhaps the best place to discuss its

creation would be with the Standing Committee on Procedure and House Affairs.

On March 15, **Inky Mark** (Dauphin-Swan River, Ref.) rose on a point of order with regard to a possible breach of Standing Order 106(3) by the Chair of the Standing Committee on Canadian Heritage. The Member argued that on February 18, 1999, he had submitted a letter, pursuant to S.O. 106(3), to the clerk of the Committee, asking that a meeting of the Standing Committee be convened for the purpose of hearing testimony from a former National Arts Centre director. Although the Standing Order said that such a meeting must be convened within ten sitting days of the receipt, the Member alleged that the Committee Chair had still not convened such a meeting after twelve days. After hearing other Members, the Speaker asked for clarification from the Member on the matter. The Speaker stated that since the Standing Committee had met as a whole in camera and since there was no requirement that the meeting be held entirely on the subject requested by the Member, the requirement of the Standing Order had been met.

On February 18, the Speaker heard questions of privilege raised by **John Reynolds** (West Vancouver-Sunshine Coast, Ref.), **Jim Pankiw** (Saskatoon-Humboldt, Ref.), **Roy Bailey** (Souris-Moose Mountain, Ref.) and **Garry Breitzkreuz** (Yorkton-Melville, Ref.) concerning picket lines set up by members of the Public Service Alli-

ance of Canada blocking access to Parliament Hill and its buildings. The Members argued that they and their staff were denied access to their offices and considered this to be a breach of privilege and an impediment to carrying out their function as Members of Parliament. Mr. Pankiw added that, in his case, he was assaulted when trying to access his office.

After hearing other Members, the Speaker ruled on the case of the Member for Saskatoon-Humboldt and reserved his decision on the other cases. He declared that he found a *prima facie* case of contempt in the case of the molestation of the Member for Saskatoon-Humboldt and invited him to move a motion so that the question could be referred to the Standing Committee on Procedure and House Affairs. The motion was moved and agreed to.

On April 14, the 66th report of the Standing Committee on Procedure and House Affairs dealing with this matter was presented and adopted in the House.

Questions of privilege were also raised on several occasions concerning the publication in newspapers of sections of draft reports under consideration before certain standing committees. Some Members declared this a breach of privilege for the members of the committees and all Members of the House.

On December 1, **Yvan Loubier** (Saint-Hyacinthe-Bagot, BQ) raised another question of privilege concerning the leak of information contained in a yet untabled report of a standing committee. The Speaker said that he was becoming less patient with regard to this issue. He suggested that the Standing Committee on Procedure and House Affairs deal with this issue and come back to the House with recommendations. If this was not possible, the

Speaker said he might consider requesting a debate in the House on this issue.

On April 21, the Speaker returned to a question of privilege raised by **Bob Mills** (Red Deer, Ref.) on Tuesday, April 20, 1999, regarding the premature disclosure to the media of the government response in a report of the Standing Committee on Foreign Affairs and International Trade prior to its tabling in the House, as well as the problem of the distribution of the report to opposition members. As requested by the Speaker the day before, **Don Boudria** (Leader of the Government in the House of Commons, Lib.) reported to the House on the matters in question.

In reviewing this matter it is clear to me that the government could serve the House better by improving and standardizing the method of responding to committee reports, when required, by Standing Order 109. I have therefore directed my officials to prepare new guidelines for departments with a view toward assuring that the needs of the House remain the principal objective of such responses.

This case certainly demonstrates that some attention has to be given to the government's internal security. In addition, it exposes some errors in judgement and courtesy which, quite frankly, embarrass me, for which I have apologized and about which I have taken steps to correct. There was however, and I say this sincerely, no attempt to deprive the House of any information to which it is entitled. Indeed it was the opposite that was intended, that is to say, to maximize the information available to the House.

After discussions, the Speaker summarised the remarks made by

the Government House Leader and hoped that the proposed solutions would solve this problem in the future. He also hoped that the upcoming report of the Standing Committee on Procedure and House Affairs regarding leaked reports would provide solutions. He then ruled that there was not a question of privilege at this time. On April 28, **Marlene Catterall** (Ottawa West-Nepean, Lib.) presented the 73rd Report of the Standing Committee on Procedure and House Affairs regarding the premature disclosure of committee reports.

On April 28, the Speaker returned to the question of privilege raised by **Mike Scott** (Skeena, Ref.) on April 26, 1999, with regard to **David Iftody's** (Provencher, Lib.) comments about an *in camera* meeting of the Standing Committee on Indian Affairs and Northern Development on April 13, 1999. Mr. Iftody admitted having made such comments during Question Period the previous week, and stated that he should not have made reference to the *in camera* meeting. He therefore offered his apologies to the Chair, to members of the House, to members of the Standing Committee and, most importantly, to the member for Skeena. The Speaker declared that he accepted the apology and the matter was closed.

On several occasions during Routine Proceedings, Members of the Opposition moved that certain standing committee reports be concurred in, specifically the 48th report of the Standing Committee on Procedure and House Affairs concerning broadcasting of committee meetings. Debate arose, and a Member moved that the House do now proceed to Orders of the Day or that debate adjourn. A vote, preceded by a thirty-minute bell took place. The principal reason these motions were moved was to focus

the attention of the House on the issue of broadcasting committee meetings. On April 29, another such debate arose. **Bob Kilger** (Storont-Dundas-Charlottenburgh, Lib.) moved that the House do now proceed to Orders of the Day. **Randy White** rose on a point of order to state that he had discussions with the Government House Leader who indicated that he was prepared to seriously discuss the issue of broadcasting committee proceedings and therefore he would not force a vote on the motion to proceed to orders of the day. The motion was subsequently agreed to.

On Thursday, March 25, during Routine Proceedings, **Randy White** (Langley-Abbotsford, Ref.) moved that the 14th Report of the Standing Committee on Justice and Human Rights, presented on Wednesday, October 28, 1998, be concurred in. The main subject of the debate focused on the decision of the Committee to reject Bill C-251, *An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)*, standing in the name of **Albina Guarnieri** (Mississauga East, Lib.). Mr. White later moved that the debate be now adjourned. The motion was agreed to on a recorded division. During debate on a similar motion, **Chuck Strahl** (Fraser Valley, Ref.) moved that the member for Mississauga East now be heard. The motion was agreed to. Later, **Yvan Bernier** (Bonaventure-Gaspé-Îles-de-la-Madeleine-Pabok, BQ) moved that the House do now proceed to Orders of the Day. The motion was agreed to on a recorded division.

On April 19, the Committee reported the Bill to the House with amendments. These amendments resulted in stripping the Bill of its title and the clauses. Bill C-235, *An Act to amend the Competition Act (protection of those who purchase products*

from vertically integrated suppliers who compete with them at retail), was reported to the House in the same manner. Report stage amendments that would reinstate the bills' titles and clauses were immediately put on notice in the *Notice Paper* as both bills await debate at report stage.

Emergency Debate – Leave Granted

On March 18, the Speaker gave the floor to **Howard Hilstrom** (Selkirk-Interlake, Ref.) so that he could explain his request for an emergency debate pursuant to S.O. 52. The Member requested that an emergency debate be held concerning a strike affecting grain handling in the West. The Speaker reserved his decision and later ruled that the request met the requirements of S.O. 52 and ordered the debate be held at 8:00 p.m. Later, during Government Orders, Mr. Boudria rose on a point of order and moved that the debate be held after proceedings on the adjournment debate were completed, that no quorum calls or dilatory motions or requests for unanimous consent be received by the Chair. After debate, the motion was agreed to.

Back-to-work legislation

On March 23, the Government attempted several times and without success, pursuant to S.O. 56.(1), to have adopted a motion for a special order to debate at all stages Bill C-76, *An Act to provide for the resumption and continuation of government services*. At the beginning of Government Orders, Mr. Boudria moved closure on the motion, pursuant to S.O. 57, in order that the debate on it not be further adjourned. Closure was agreed to on a recorded division and debate on the motion for a special order continued until 11:00 p.m. as required. At that time, the motion was adopted and debate

began on Bill C-76 and continued until the next morning when the bill was read a third time and passed. Royal Assent was given on March 25.

Take Note Debate on Kosovo

Following the adoption of a special order regarding the debate and disposition of Government Business No. 23 (Kosovo), Mr. Boudria moved a take note motion on the tragedy in Kosovo. **Preston Manning** (Leader of the Opposition, Ref.) moved an amendment that was ruled in order. **John Nunziata** (York South-Weston, Ind.) rose on a point of order to ask if there would be a vote on the amendment. The Speaker reminded the Member that there would not be a vote because of the special order concerning the disposition of the motion adopted earlier this day. Later, **Peter MacKay** (Pictou-Antigonish-Guysborough, PC) moved a sub-amendment which was ruled in order. Mr. Nunziata again rose on a point of order to question the acceptance of amendments to a motion that would not be voted on. The Deputy Speaker, **Peter Milliken**, explained the practice regarding the acceptability of amendments to a motion. The debate ended at 8:00 a.m. the following day.

Other Matters

On April 21, Speaker Parent informed the House that the Clerk had received from the Chief Electoral Officer a certificate of the election of **Rick Limoges** (Windsor-St. Clair, Lib.). Mr. Limoges was introduced by Prime Minister **Jean Chrétien** and **Herb Gray**. Mr. Limoges was elected on April 12, following the death of **Shaughnessy Cohen**.

On April 29, the House began its business at 2:00 p.m. due to the Address to Parliament made by the

President of the Czech Republic **Vaclav Havel**. The Address and related remarks made by Prime Minister Mr. Chrétien and the Speakers of both Houses of Parliament were printed as an appendix to the Debates.

Bibiane Ouellette
Procedural Clerk
Journals Branch



Northwest Territories

Fireworks lit up the skies in both Yellowknife and Iqaluit at midnight (EST) on March 31st marking the creation of two new territories in Canada's North, Nunavut and a new Northwest Territories. The months of February, March and April marked the culmination of a hectic and challenging period in the lives of many Northerners and the realization of a dream for the people of Nunavut with the creation of their new territory.

Preparation for the two new territories and related celebrations dominated the final days of the NWT Legislative Assembly prior to March 31st with a number of division-related pieces of legislation being passed. Speaker **Sam Gargan** also recognized the efforts of the Nunavut MLAs, both current and past.

Matters related to a new and smaller NWT Legislative Assembly were also a key focus for the 14 Members remaining in the NWT Legislature reduced from the previous 24-Member Legislature includ-

ing the election of two new Cabinet Ministers on March 29th. The last of the Nunavut Ministers resigned that same day and the new Ministers were sworn in on March 30th.

Elected to Cabinet were Thebacha MLA, **Michael Miltenberger** and Nunakput MLA, **Vince Steen**, both of whom were elected in the 1995 General Election. The selection of these two Ministers brings the number in Cabinet to six down from eight in the previous government. Premier **Jim Antoine** also shuffled cabinet portfolios reflect the changes made necessary by the departure of the Nunavut Ministers.

Members of the new NWT Legislative Assembly reconvened the Seventh Session on April 13th. The main agenda item at this time was the presentation of the 1999-2000 budget. On Monday, April 19th Finance Minister **Charles Dent** made his budget address and tabled the 1999-2000 Main Estimates.

Constitutional issues and the timing of the next General Election continue to be areas of discussion for Members of the Legislative Assembly. The Government applied for and was granted a five-month extension on a judgement that required the Legislature to redraw its electoral boundaries when the Court deemed that three of the existing constituencies unconstitutional if left unchanged due to the extreme variances in population between the constituencies. The judgement originally required the Legislature to address the situation by April 1st.

Members then proposed legislative amendments to add five new seats, three in Yellowknife and one in each of Inuvik and Hay River. That draft legislation, *An Act to Amend the Legislative Assembly and Executive Council Act*, has been referred to Committee after second reading and a decision is required

by the September 1st deadline. Once a decision has been made the date for the next General Election will be set.

Legislation

The final days before the creation of Nunavut and the new Northwest Territories also saw the passage of several pieces of division-related legislation. These included:

- *Division Measures Act, 1999*: This Bill amended the *Business Corporations Act*, *Document Registry Act*, *Personal Property Security Act* and *Securities Act* to implement plans and service agreements relating to the establishment of Nunavut.
- *Nunavut Statutes Amendment Act, 1999*: This Bill adjusted the laws of Nunavut by amending various statutes that were duplicated for Nunavut by the *Nunavut Act*. The amendments came into force on April 1, 1999. The statutes included those such as the *Public Service Act*, *Income Tax Act* and *Workers' Compensation Act*.
- *Northwest Territories Power Corporation Division Measures Act, 1999*: This Bill amended the *Northwest Territories Power Corporation Act* to enable the corporation to carry on its business in Nunavut and the NWT.
- *Interim Appropriation Act, 1999-2000*: this Bill provided interim funding for the Government of the NWT for the period between April 1st and June 30th in advance of the approval of a budget for the new NWT.

Committees

The creation of a new NWT has also meant changes for the Committee structure within the Legislative Assembly. The seven Ordinary Mem-

bers all sit on the Standing Committee on Government Operations. This committee reviews all government-wide issues and financial matters pertaining to the Legislative Assembly. Other committees have also been amalgamated and the number of representatives on each committee has subsequently decreased.

Committees spent much of their time both before and after division reviewing the Government's 1999-2000 Draft Main Estimates and business plans.

The Special Committee on Western Identity continues with its work to establish new symbols for the NWT. The Committee is currently working with artists to design a new Mace for the Legislative Assembly and work will soon begin on a new flag and Coat-of-Arms.

Ronna Bremer

Public Relations Officer
NWT Legislative Assembly



Ontario

The Ontario Legislative Assembly ended its 2nd Session in an unusual way – it failed to pass the 1998 Supply Bill, the first time in Ontario's history that a Session has been prorogued before the annual financial cycle has been completed.

This occurrence, and the procedural intrigue that produced it, each had their roots in a disputed issue of internal House management which also caused the failure of the cus-

tomary final-day accords among the Parties that were to have seen to a smooth and productive end to the Session.

On the intended last day of the Session, plans were made for the Lieutenant Governor **Hilary Weston**, to enter the Chamber for Royal Assent and to deliver a prorogation speech following the completion of the day's business.

Among the items to be completed was the Supply bill. After being debated at 2nd reading, however, the bill was unexpectedly referred to a standing committee. Opposition members employed a little-used rule that requires a bill to be referred to a standing committee if 12 members stand in their places; 12 did. The government had no control over the matter save to choose which committee would get the referral. Moreover, the Standing Orders impose a 5-day waiting period before committees can consider referred bills and, it being the last day of the sitting, there was no opportunity for the bill to be dealt with and returned to the House before the planned prorogation.

Following the referral of the Supply bill to committee, the House continued to meet and dealt with a large number of other issues. However, the ongoing dispute over the House management issue continued to feed into the other House proceedings and, eventually, what was to have been a relatively short, routine debate on a motion to carry items of business over to the next Session became much more than that. A large portion of the evening sitting was spent debating the motion, and the debate continued right up to the appointed hour of adjournment, 12:00 midnight. The Speaker did as the Standing Orders provide: he adjourned to the House to the next Sessional day – a Sessional day that had not been

planned since all business was to have been completed and the Session was to have been prorogued. The intended Royal Assent and prorogation in the Chamber by the Lieutenant Governor could not occur that evening.

Despite the fact that prorogation in these circumstances would cause the loss of the Supply bill and all of the other items that were scheduled to be carried over, the government proceeded with its plans to prorogue the 2nd Session and did so the next day, by Proclamation, immediately following Royal Assent in Her Honour's office of the 25 bills that were to have been assented to in the Chamber the previous evening.

With the Session prorogued, consideration now turned to the procedural and legal ramifications of the failure of the Supply bill to pass, and what steps might have to be taken in the next Session to renew or repeat the financial cycle for the 1998-1999 fiscal year. However, it was discovered that a section of the *Ministry of Treasury and Economics Act* appeared to solve the problem. The section, which has been in existence since 1906 (originally in the *Audit Act*) serendipitously and remarkably predicted exactly the extremely unusual situation that had occurred, but which never had before: while the House had received and passed the Budget, received the estimates and supplementary estimates, referred them to the Standing Committee on Estimates, received the report of the Committee and concurred in all the estimates and supplementaries, the sole last element to complete the cycle did not happen – the Supply bill had died on the Order Paper. The relevant section in the Act states that when precisely this sequence of events has occurred, the Lieutenant-Governor-in-Council may proceed to authorize the pay-

ments concurred in by the House; this previously existing provision was perceived to be a suitable legal substitute for the principle that all appropriations need to be authorized by statute. While a *Supply Act* did not pass to give the legal authority for the government to spend public money, the government decided that, in the precise circumstances the Legislature experienced, the *Ministry of Treasury and Economics Act* did vicariously give that authority.

Prior to the end of the fiscal year, with the House prorogued, the Lieutenant-Governor-in-Council invoked this Section of the *Ministry of Treasury and Economics Act*, and by Order-in-Council the 1998-1999 Budget of the Province of Ontario was perfected.

The Legislature met again on April 22, 1999 to commence the 3rd Session of the 36th Parliament at which the Lieutenant Governor delivered the final Throne Speech of the Parliament. The House met for 7 days, during which it speedily passed 4 public bills, 2 of which had been incidental victims of the procedural predicament that had marked the end of the previous Session. Renewed in the 3rd Session, *The Vintners Quality Alliance Act* and the *Child and Family Services Amendment Act* were debated and passed. *The VQA Act* establishes an appellation of origin designation for Ontario wines, which fulfills the legal and administrative preconditions necessary for these products to be accepted in markets abroad, particularly in European Union countries. *The Child and Family Services Act* amendments served to clarify that the paramount purpose of the Act is to ensure the best interests, protection and well-being of children, and that this be the uppermost criteria to be considered in making court orders and in all inter-

ventions relating to the welfare of a child.

On the last day of the Session, May 4, the House received the 1999-2000 Budget, delivered by Finance Minister **Ernie Eves** (PC/Parry Sound). Immediately prior to the next day's meeting of the House at 1:30 p.m., Premier **Mike Harris**, announced that the Lieutenant Governor had dissolved the House for a general election to be held on Thursday, June 3.

The members of the 37th Parliament who will be elected on that date will return to a Legislative Assembly considerably smaller than its predecessor — 103 seats, 27 fewer than the last Parliament as a result of the passage of the *Fewer Politicians Act*. Ontario's electoral districts now share boundaries and names identical to the federal ridings in the Province. In preparation for the revised House, the Legislative Chamber will be slightly reconfigured to take advantage of the increased space by repositioning member's desks in two-by-two fashion and slightly widening the floor between the opposite sides of the House. The Chamber will not only seem more spacious and better laid-out, but it will also show a new colour since some of the worn broadloom, furniture and fittings will be traded for replacements sporting the traditional parliamentary green. Together with other changes elsewhere in the Legislative Building that have seen original floors restored, lighting improved and life-and-safety features added, such as fire-escape corridors and stairwells, the overall effect will be one of a noble, proud and historic building renewed for and ready to do duty in the new millennium.

Todd Decker

Clerk of Journals and
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Ontario Legislative Assembly



Saskatchewan

Saskatchewan legislators returned to the Chamber on the morning of March 15th, 1999 to prorogue the 3rd Session and to open the 4th session later that day. With a general election widely speculated for this year, the legislative load proved to be light in comparison to recent years. All 45 of the government's bills introduced received Royal Assent while none of the 50 Private Members' Bills proceeded past first reading.

A special morning sitting took place on Thursday, April 8th as the Assembly debated and passed *The Resumption of Services (Nurses - SUN) Act*. This purported to legislate the province's nurses back to work after their services were withdrawn earlier that morning. The back to work legislation was not honoured by the nurses, who continued to withhold their services for several more days. Subsequently, an agreement was reached between the nurses' union and the representatives of the Health Boards for the nurses to return to work while negotiations resumed.

The session was adjourned on May 6th after only 36 sitting days. Recent sessions have averaged 72 days in duration.

The light legislative load evident in the House was also reflected in

the work of committees. Most standing committees met only once or twice during the session. The Committee of Finance, in which the budget estimates are reviewed, sat for a total of 37 hours to approve the budget. This was considerably lower than the 68 hours it sat last year to complete the supply process.

Resignation of Member

On April 20, 1999 the Saskatchewan Assembly took the unusual step of moving towards expelling one of its own members. **Jack Goohsen** (Cypress Hills) was convicted on April 19th of an offense under section 212(4) of the *Criminal Code*. A sentencing hearing is to be scheduled later this year. Saskatchewan law permits a Member to be suspended or his seat declared vacant if a majority of MLAs vote in favour. After moving such a motion on April 20th, the Assembly agreed to postpone the vote for 24 hours to afford Mr. Goohsen the opportunity to respond. Mr. Goohsen subsequently submitted his resignation to the Speaker and the motion was withdrawn.

Social Sciences Teachers' Institute

The first Social Sciences Teachers' Institute on Parliamentary Democracy was held with great success on April 18th to 21st. Both the participating teachers and the MLAs felt that the intensive three and a half days of meetings and activities went a long way to explaining the parliamentary process and the responsibilities of the individuals who work within it.

Margaret (Meta) Woods

Clerk Assistant

Legislative Assembly of Saskatchewan



The First Session of the thirty-sixth Legislature opened on March 2, 1999, a week before the scheduled opening provided for in the Standing Orders of the Assembly. In addition to electing its Speaker by secret ballot for the first time (**Jean-Pierre Charbonneau**, Member for Borduas, was re-elected to this office), the Assembly, early on in the session, introduced and passed two bills amending the *Act respecting the National Assembly*:

The first bill, introduced on the first sitting day, increases from two to three the number of Deputy Speakers of the National Assembly, the first two being elected from among the Members forming the Government (**Raymond Brouillet** and **Claude Pinard** were reelected) and the third from among the Members forming the Official Opposition (the elected Member, **Michel Bissonnet**, thus resumes a position he had held from 1989 to 1994).

The second bill changes the composition of the Office of the National Assembly, increasing by two the number of its members and fixing the quorum at five. This same bill also provides a procedure for the replacement of the President of the Assembly in case of absence, inability to act or vacancy; specifies certain rules applicable to the regular personnel hired to assist, for research and support purposes, a party represented in the National Assembly; and provides that an ad-

ditional indemnity be paid to the caucus chairman of the Official Opposition.

Following the passage of these two bills, the Assembly's Standing Orders referring to the office of Deputy Speaker had to be amended in order to comply with the provisions of the said bills.

Among the other bills introduced by the Government during the first two months of the session are the following:

- regarding electoral reform: *An Act respecting the obligation to identify oneself before voting* provides that electors at a provincial, municipal or school election or in a provincial, municipal or school referendum will be required, before voting, to produce as identification either their health-insurance card, driver's licence or probationary licence, passport or any other document determined by regulation;
- regarding justice: *An Act to amend various legislative provisions concerning de facto spouses* amends the Acts and regulations that contain a definition of the concept of de facto spouse to allow de facto unions to be recognized without regard to the sex of the persons concerned; and the *Act to amend the Civil Code as regards names and the register of civil status* specifies that the choice of the parents prevails as far as the assignment of a name to a child is concerned and transfers, from the registrar of civil status to the Attorney General of Québec, the power to bring the matter before the court if the name chosen clearly invites ridicule. As well, a rule is established whereby surnames and given names containing characters which do not exist in the alphabet used in French will be transcribed into that alphabet.
- regarding finance: two bills giving effect to the reform of the

Government accounting policies announced in the Budget Speech of 1998 were tabled: firstly, *An Act respecting Financement-Québec*, which establishes a financing authority to be known as Financement-Québec, whose primary object is to provide financial services to the public bodies of the education and health care networks, in particular by granting loans to them. The financing authority may, in addition, provide technical services in the field of financial analysis and management; and secondly, the *Act respecting Immobilière SHQ*, which establishes a housing authority to be known as Immobilière SHQ, a legal person with share capital established in the public interest. The mission of the housing authority will be to acquire residential immovables, together with the related rights and obligations, in particular the immovables belonging to the Société d'habitation du Québec, and put them at the disposal of municipal housing bureaus and other non-profit organizations so that they may operate them. Its mission will include acquiring the rights and obligations arising from loans granted by the Société d'habitation du Québec to municipal housing bureaus or other non-profit organizations.

- regarding natural resources: *An Act concerning the construction of infrastructures and equipment by Hydro-Québec on account of the ice storm of 5 to 9 January 1998* gives legal validity to the said construction.
- regarding research: *An Act respecting the Ministère de la Recherche, de la Science et de la Technologie*, provides for the creation of the said Ministry.

In March, the Minister of Finance tabled in the Assembly the Estimates of Expenditure for 1999-2000;

the estimated expenses total \$43.5 billion.

At the same time, the Speaker tabled a summary of the Estimates of Expenditure of the National Assembly. The expenses of the institution for the coming year are estimated at \$72.3 million and the number of employees is as follows: 322 permanent and 159 casual.

The 1999-2000 budget of the Government of Quebec was presented by the Minister of Finance on Tuesday, 9 March 1999. The Minister declared that the zero deficit objective had been attained a year ahead of schedule, that already in 1998-1999 there was no longer a deficit - for the first time in forty years - and that the Government intended to uphold this result in 1999-2000. In addition, he stated that the budget furthered priority reinvestment in health and education, important initiatives with respect to job creation, the development of Québec culture, and a decrease in personal income tax.

On April 15, 1999, the Office of the National Assembly appointed **Cécilia Tremblay** as Assistant Secretary for Administrative Affairs, following the departure of **François Côté**, who is now Assistant Secretary at the Québec and Youth Summit. At the time of her nomination, Mrs. Tremblay was Director of Building Management and Restaurants at the Assembly.

On Wednesday, April 28, 1999, Mr. Bouchard's cabinet underwent its first modification: **Rita Dionne-Marsolais**, who until then was Minister of Revenue, handed in her resignation to the Prime Minister after an unfavourable recommendation was issued by the Access to Information Commission regarding the disclosure of certain information contained in Revenue Ministry files. The Deputy Prime Minister and Minister of State for the Economy

and Finance is the head of this Ministry for the time being.

Johanne Lapointe
Secretariat of the Assembly

Translated by Sylvia Ford
Secretariat of the Assembly



Alberta

On February 16, 1999, the Third Session of the 24th Legislature began with the Speech from the Throne read by Lieutenant Governor **H. A. "Bud" Olson**. The Throne Speech emphasized reinvestment in health, education, advanced education, social services and infrastructure in an effort to "strike the right balance". The spring sitting adjourned on May 18, 1999.

The Provincial Treasurer, **Stockwell Day**, presented the Government's 1999-2000 provincial budget on March 11. Highlights include:

- a 2.2% total expenditure increase to \$16.2 billion and a 1.6% increase in total revenue to \$16.9 billion.
- the budget estimates the price of oil at \$13.50 (U.S.) a barrel in 1999-2000.
- an increase of 21% or \$935 million for Health over three years.
- education and Advanced Education will see a reinvestment over the next three years of \$598.7 million and \$209 million respectively.

- an increase of \$381 million for Child and Family Services and \$270 million for Assured Income for the Severely Handicapped.
- a \$450 million increase for infrastructure funding over three years. This additional annual funding will serve as basic capital for cities and will also be used for transportation infrastructure programs.
- a plan to eliminate Alberta's net debt by the year 2000.
- a three-year tax reform package which would end the deficit-elimination surtax by 2002
- a proposal for Alberta to move to a single provincial income tax rate of 11% in 2002, with an increase in personal and spousal tax exemptions.

On February 24, 1999, the Official Opposition Government House Leader, **Gary Dickson**, (Lib) MLA for Calgary-Buffalo, raised a question of contempt regarding the exclusion of Members who wanted to attend the Health Summit in Calgary on February 25-27, 1999. Delegates of the Health Summit, chaired by former ombudsman **Harley Johnson**, were given an opportunity to discuss and make recommendations relative to the health care system. Speaker **Ken Kowalski** found there was not a *prima facie* question of privilege partly because the Health Summit was a government sponsored event, not a parliamentary proceeding.

During the spring sitting, 39 Government Bills had been introduced in the Assembly. Some of the more noteworthy Bills were:

- **Bill 1, Fiscal Responsibility Act**, introduced by Premier **Ralph Klein** on the opening day of session. The Bill sets out a schedule for repaying Alberta's accumulated debt within 25 years. Un-

der the Bill, deficits remain illegal.

- **Bill 15, Natural Heritage Act**, introduced by **Ty Lund**, Minister of Environmental Protection. This Bill, which has gained a great deal of notoriety, proposes to streamline Alberta's protected area legislation, establish a revised system of classes of protected and recreation areas and clarify the purpose and management requirements of each class. Opponents have claimed that it does not provide adequate protection from industrial activities in parks and protected areas.
- **Bill 25, Insurance Act**, introduced by **Marlene Graham**, (PC) MLA for Calgary-Lougheed. This Bill will modernize the financial regulation of insurance companies and market conduct for insurance companies.
- **Bill 35, Government Fees and Charges Review Act**, introduced by Provincial Treasurer **Stockwell Day**. This Bill requires that all fees and charges presently in place in the province be reviewed. There are approximately 800 charges identified in the Bill which are validated. The Treasurer indicated that the review would be conducted by a committee composed of MLAs and representatives from the private sector. The Bill is Alberta's response to the Supreme Court of Canada's decision in *Re: Eurig Estate*.
- **Bill 36, Gaming and Liquor Amendment Act, 1999**, introduced by **Pat Nelson**, Minister of Economic Development. This Bill gives the Alberta government the authority to direct the Alberta Gaming and Liquor Commission on policy issues. A recent Court of Queen's Bench decision quashed earlier orders by the Commission to remove VLTs in certain municipalities. As well, the Bill provides legislative authority for the Government to terminate VLT

agreements within communities. The Bill validates the results of municipal plebiscites in favour of removing VLTs.

- **Bill 38, Constitutional Referendum Amendment Act, 1999**, introduced by **Jon Havelock**, Minister of Justice and Attorney General. Bill 38 would require that a referendum be held before legislation using the notwithstanding clause may be introduced. This referendum requirement does not apply when the legislation deals with who may marry.
- Bills 15 and 38 were still before the House when the Assembly adjourned on May 18, 1999.

Private Members' Business

A record number of Written Questions and Motions for Return on the Order Paper throughout this session have consumed most of the time set aside for consideration of Private Members' Public Bills on Wednesday afternoons. Nevertheless, one Private Member's Bill, **Bill 202, Farming Practices Protection Statutes Amendment Act, 1999**, introduced by **Tom Thurber** (PC), MLA for Drayton Valley-Calmor, was passed and received Royal Assent. This Bill requires that the land use by-law of a municipality contain policies protecting agricultural land as well as a method of providing written notice to the owners of land situated adjacent to agricultural operations.

Updates

On February 10, 1999 the report by the Auditor General, **Peter Valentine**, on the 1994 Refinancing of West Edmonton Mall was released. The report found there was no evidence that elected officials had ordered Alberta Treasury Branches to provide financing to West Edmon-

ton Mall. Treasury Branches has commenced legal action against the owners of the Mall and others concerning financing issues.

New Appointment

On March 16, 1999, Speaker Kowalski held a ceremony and reception in the Legislature to recognize la Semaine de la Francophonie. At the ceremony, Intergovernmental and Aboriginal Affairs Minister, **David Hancock**, announced the creation of a provincial Francophone Secretariat. **Denis Ducharme** (PC) MLA for Bonnyville-Cold Lake was named chair of the Secretariat. The Secretariat will act as a liaison between the Government and the Francophone community as well as represent the latter within the Government. It will also represent the Government in various organizations as well as aid in the negotiation of federal-provincial agreements in order to promote the French language and culture.

Committee Activity

The final report of the *Select Special Freedom of Information and Protection of Privacy Act Review Committee* was tabled on March 19 in the Legislature by **Gary Friedel**, (PC) MLA for Peace River and Committee Chair. The Committee made 81 recommendations to amend the Act based on feedback from public consultation. Bill 37, *Freedom of Information and Protection of Privacy Amendment Act, 1999*, which was passed by the Assembly, contains some of the proposed amendments.

Other Events

On February 15, 1999, a searchable database was added to the Legislative Assembly of Alberta's web site so that Bills and amendments of the current session could be reviewed by those with Internet access. This

new database provides the status and text of Bills currently before the House. The Bills can be found on the menu at www.assembly.ab.ca.

The first annual Mr. Speaker's Alberta Youth Parliament in Edmonton was held on April 15 and 16 at the Legislature. The program was a joint project of the Alberta-Northwest Territories Command of the Royal Canadian Legion and the Legislative Assembly Office. Command President, **Tom Barton**, served as Lieutenant Governor, and Speaker, **Ken Kowalski**, presided as Speaker. Eighty-three grade 10 students from all parts of Alberta came to Edmonton for two days to experience life as an MLA and learn about the parliamentary process by acting as Members. Each student represented one of Alberta's provincial constituencies. Fourteen grade 10 social studies teachers from across the province participated in the teachers' component of the program.

Robert Reynolds

Senior Parliamentary Counsel



Senate

During the period from early March to mid-May more than twelve bills received third reading. These span a wide range of subjects including emergency legislation to return government employees to work, a bill setting out the framework agreement on aboriginal land

management and another bill establishing the Canada Customs and Revenue Agency. Perhaps, the most hotly debated bill this spring was Bill C-40 dealing with extradition. It was the subject of considerable debate at the third reading stage when several amendments were proposed. Aside from bills, the Senate debated some committee reports on non-legislative issues. Finally, the Senate bid farewell to the last Senator appointed to serve for life and saluted another who now represents the new territory of Nunavut.

Legislation

The emergency legislation to have government blue-collar employees return to work following a walkout of nine weeks was considered by the Senate over two days, March 24 and 25. The bill was presented for debate in the Senate even as the President of the Treasury Board reached a settlement with the unions. To facilitate the speedy consideration of the bill, it was referred to Committee of the Whole after second reading. On Thursday, March 25, the Senate convened at the unusual hour of 9:00 a.m. to sit as a Committee of the Whole to receive statements from the Minister, **Marcel Massé**, and also representatives from the Public Service Alliance of Canada (PSAC). Afterwards, the bill was reported to the Senate without amendment and the third reading motion was adopted soon after Senator **Edward Lawson's** amendment of a three-month hoist was rejected in a recorded vote 26 to 38. Bill C-76 received Royal Assent later the same day with several other bills including two supply bills.

Bill C-49, the *First Nations Land Management Bill*, ratified a framework agreement that will provide authority to 14 First Nations who have signed the agreement to man-

age, develop, and conserve their land outside the constraints imposed by the *Indian Act*. As Senator **Thelma Chalifoux** explained March 16 when she moved the second reading motion, the bill will allow the participating First Nations to undertake various projects without having to seek prior approval of the Minister of Indian Affairs and Northern Development. Instead, they will have flexibility to move quickly when economic opportunities arise enabling them to create jobs and promote economic growth at the local level.

After several days of debate, the second reading of the bill was adopted and it was referred to the Standing Committee on Aboriginal Peoples April 13. One month later, the bill was reported back to the Senate with amendments. In presenting the report, the Chair of the Committee, Senator **Charlie Watt**, indicated that the committee would be undertaking a study later in the year to address the complex issue of matrimonial property and the rights of aboriginal women. With leave of the Senate, the report was adopted the same day and the bill proceeded immediately to third reading which was also adopted after some debate.

Bill C-49 was not the only item of legislation dealing with aboriginal issues considered by the Senate during this period. In early March, the Senate passed Bill C-57 to create a single-level trial court system for the new Territory of Nunavut. The territory came into official existence April 1 and, in accordance with the provisions of Bill C-39 adopted in June last year, Senator **Willie Adams** became the Senator for Nunavut leaving a vacancy for the seat representing the Northwest Territory.

Another legislative item that was enacted this spring was Bill C-43

creating the Canada Customs and Revenue Agency. During debate, Senator **Sharon Carstairs**, the Deputy Leader of the Government, reviewed some of the evidence heard by the National Finance Committee during its month long study. A principal objective in creating the new Agency, she explained, is to enable it to implement operational processes that currently restrict Revenue Canada particularly with respect costs savings and to staffing policies. The issue of staffing and the need to assure recognition of the merit principle was raised in subsequent debate and Senator **Roch Bolduc** and then Senator **Terry Stratton** moved separate amendments to ensure its application to the new Agency. Both amendments were defeated in recorded divisions.

As already noted, Bill C-40, dealing with the matter of extradition, was the focus of an intense twelve-day debate that cut across party lines. It began April 14 when, after Senator **John Bryden** moved third reading of the bill, Senator **Jerry Grafstein** spoke to two amendments he proposed to the bill. One amendment sought to oblige the Minister of Justice to secure assurances that anyone extradited from Canada would not face the death penalty; the second amendment aimed at fast tracking the judicial process for individuals accused of war crimes.

Much of the debate on Bill C-40 concentrated on the first amendment. In his remarks April 22, Senator **Serge Joyal** viewed the amendment as an effective way to avoid an indirect reinstatement of capital punishment that had been permanently abolished in Canada since 1976. In his assessment, it was vital to limit any discretionary authority that could be exercised by the Minister of Justice in dealing

with extradition cases. Otherwise, he argued, Canada would be complicit in indirectly supporting the death penalty contrary to current Canadian law as well as to international treaty obligations to which Canada was a signatory. This position was disputed in a speech made by Senator **Raynell Andreychuk** on May 4. In her judgment, Bill C-40 would not put in question Canada's international treaty commitments respecting support for basic human rights nor would it re-open the question of the death penalty within Canada.

Speaking to what he described as a "first class debate" Senator **Noel Kinsella**, Deputy Leader of the Opposition, noted the complexity of the issues involved and the disadvantage of debating them on the floor of the Senate. Consequently, the Senator proposed a motion to refer Bill C-40 together with the amendments to the Committee on Legal and Constitutional Affairs for further consideration and evaluation.

In the end all the motions in amendment were handily defeated in recorded votes. What was notable, however, was variation and cross party voting on the different questions. Several Liberals, Conservatives and Independents voted without apparent regard for any presumed partisan allegiances. For example, Senator **John Lynch-Staunton**, Leader of the Opposition, voted for Senator Kinsella's motion, against Senator Grafstein's first amendment, and for his second amendment.

Speaker's Ruling

Another distinctive feature of Bill C-40 was that it occasioned the only significant procedural ruling by the Speaker during this period. When Senator Grafstein had originally raised his amendments April 14,

they were available in one language only. This led to a point of order by Senator Bolduc who also questioned the references Senator Grafstein had made to the views of Mme. **Louise Arbour**, an Ontario court justice currently serving as the Prosecutor at the International War Crimes Tribunal in The Hague. As it happened, the point of order did not impede debate on the bill since Senator Grafstein quickly apologized for presenting his amendments in one language and just as readily withdrew any suggestion about the opinions of Mme Arbour.

At the request of the several Senators, the Speaker made a statement regarding the issues raised through the point of order. On May 11, Speaker **Gildas Molgat** explained the nature of Senate practice respecting amendments. Though Senate rules are silent on any requirement to present amendments in both official languages, the Speaker noted that a recent precedent acknowledged its importance and he suggested that the Senate should continue to follow this practice. As to the references to Mme Arbour, the Speaker did not accept the point of order since the comments about her did not constitute a personal attack on a judge nor did they involve an unwarranted intrusion of a public servant in a matter of government public policy. Nonetheless, the Speaker expressed understanding for the motives that prompted concern about references to judges and the courts. The independence and integrity of the courts, the Speaker said, should not be undermined by inappropriate characterizations made during the course of debate in the Senate.

Committee Activity

In addition to considering numerous bills, the Senate also debated some committee reports. Two of

these reports were presented by the Committee of Privileges, Standing Rules and Orders. This committee together with the Committee on Internal Economy, Budgets and Administration are the only standing committees that are permitted to initiate studies without a direct order of reference from the Senate. On March 4, Senator **Shirley Maheu**, the Chair of the Committee presented its eighth report dealing with the rules to be applied to the operation of joint committees. Much of the work relating to establishing a common set of rules had been done in the previous Parliament. This report supported that work and proposed that the leadership of both Houses get together to discuss the minor differences that have still to be resolved. The report was adopted March 9.

The other report of the Privileges Committee, the tenth report, presented March 10, seeks to allow independent Senators, those who are not affiliated to any political party, full membership on the standing committees. Rule 91 permits all Senators to attend Senate committees, but only those nominated by the Selection Committee and endorsed by the Senate are recognized as members of the standing committees. The report proposes to modify this practice by allowing independent Senators an opportunity to participate in committees as members entitled to move motions and to vote. One independent Senator, Senator **Marcel Prud'homme**, has long advocated such a policy and more than once he urged the Senate to adopt the report. Despite several days of debate, the Senate has yet to come to a final decision.

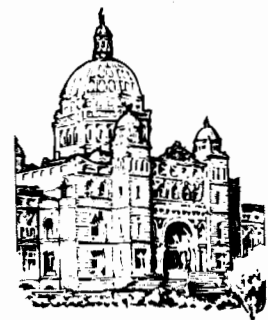
The Agriculture Committee tabled its eighth report March 11, involving a subject that attracted considerable media attention. Senator **Leonard Gustafson**, the chair of

the committee, tabled an interim report assessing the safety risks of rBST a growth hormone used to stimulate the milk production of dairy cows. While the subject was the source of some debate, the report itself was not made the object of a concurrence motion.

Milestones

After serving more than 33 years in the Senate, Senator **Orville Phillips** of Prince Edward Island retired. The Senator was the last of those who had been originally appointed to serve for life. It marked the end of a stage in the evolution of the modern Senate. This fact, plus his long years of in public life, was the subject of many warm tributes offered March 24 just days before Senator Phillips gave up his seat April 5 upon attaining the age of 75.

Charles Robert
Deputy Principal Clerk



British Columbia

Of note this spring, the B.C. Legislature continued the 3rd Session of the 36th Parliament, rather than proroguing and beginning a new session. The continuation of the session enabled the timely passage of the historic *Nisga'a Final Agreement Act*, which also gave rise

to two procedural matters of interest: one concerning the committee stage rules of debate for bills carrying agreements negotiated under Crown prerogative, and one concerning the government's use of a time allocation motion. The Legislative Assembly also received Auditor General **George Morfitt's** report, "A Review of the Estimates Process in British Columbia", and heard the Speaker, **Gretchen Mann Brewin**, rule on four questions of privilege relating to the findings in the report. Also arising out of the report, Finance Minister **Joy MacPhail** announced the creation of an Advisory Panel on the Estimates Process in British Columbia. Finally, Legislative committees are active this spring, having been able to continue their work from the earlier part of the session without needing to be re-struck.

The Nisga'a Final Agreement Act

As reported in an earlier edition, the *Nisga'a Final Agreement Act* (Bill 51) received first reading on November 30, 1998, the first day of a special fall sitting of the Legislature was called expressly for B.C. legislators to debate the *Nisga'a Final Agreement Act*. The bill had proceeded part way through committee stage when the House recessed on February 1st, 1999, in order for **Gordon Wilson**, who had been appointed the Minister of Aboriginal Affairs three days prior, an opportunity to familiarize himself with his new ministerial responsibilities.

Before calling committee stage on January 14, the Chair of the Committee of the Whole House noted that the peculiarities of Bill 51, as the vehicle for passing an Agreement negotiated by the Crown, would require members to pay special attention to the rules of debate during committee stage. The *Nisga'a Final Agreement* formed a schedule to Bill

51, whose body enacted ancillary legislation to conform to various aspects of the agreement. Bills of similar types have been passed by the Canadian Parliament – including the Canada-U.S. Free Trade Agreement, 1988 – and by the U.K. Parliament – such as the *British North America Act, 1949* and the *Canada Act, 1982*. In each of these cases also, the committee Chair has needed to remind members about protocols for debate.

As stated by the Chair, **Bill Hartley**, the role of the House in the committee stage proceedings on Bill 51 was to "debate, accept, reject or amend the bill, but subject to technical amendments, [not to] amend the agreement." The Chair continued, explaining that:

[o]n a proposed motion to amend the agreement during the Free Trade Agreement debate in the Canadian House of Commons in 1988, the Speaker ruled as follows: "I wish to remind the member that treaty-making power is within the prerogative of the Crown, and therefore the agreement itself cannot be amended." In Beauchesne's fifth edition, citation 778 states: "When a bill is introduced to give effect to an Agreement and the Agreement is scheduled to the bill as a completed document, amendments cannot be made to the schedule. An amendment to the clauses of the bill for the purpose of withholding legislative effect from the document contained in the schedule is in order; also as are amendments to those clauses which deal with matters not determined by the document contained in the schedule."

In the case at hand, the Chair will not accept amendments to the schedule, other than purely technical amendments to ensure that the schedule contains the correct text. The Chair will not accept amend-

ments to sections of the bill which have the effect of amending the schedule but will accept amendments to sections of the bill that are relevant and otherwise in order.

The House resumed its special sitting on *Nisga'a Final Agreement* on March 29, picking up its committee stage debate. After eight days in committee, on April 12, the government gave a time allocation notice of its intention to apply closure pursuant to Standing Order 46 if all stages of the bill had not passed by 6 p.m. on April 22.

On April 21, the House passed, under closure, a government time allocation motion. This motion enabled the Chair of the Committee to put the questions, seriatim, on the main operative sections, sections 3 to 10, of the *Nisga'a Final Agreement Act* on April 22, and then to put, after a recorded vote on each of section 3 to 10, a single question to complete committee stage and to dispose of all remaining business relating to the *Nisga'a Final Agreement Act*, including the motion to report the bill. This motion also provided that these questions were to be decided without amendment or debate. Report stage and third reading proceeded immediately upon receipt of the report from Committee of the Whole, and proceedings were brought to a conclusion at 5:45 p.m. with every question being put forthwith for the disposal of report stage and third reading. The bill passed by a vote of 38 to 32, again along party lines.

Bill 51 was the first instance in the history of British Columbia of time allocation having been used.

The Estimates Process in British Columbia

The long-awaited Auditor General's report entitled "A Review of the Estimates Process in British Columbia" was tabled in the House on

March 16 this year. The report was issued in response to questions raised in 1996 about the credibility of Budget '96, particularly with respect to the government's forecasting of a budget surplus of \$16 million for the 1996/97 fiscal year. Budget '96 was introduced in the House on April 30, 1996 by then-Finance Minister **Elizabeth Cull**, immediately prior to the dissolution of the Assembly. Budget '96 also assumed a high profile as the basis of the NDP's election campaign that spring, and was tabled again as the provincial budget by the new NDP Finance Minister, **Andrew Petter**, on June 26, 1996 after the election. The re-elected NDP had to defend the budget almost immediately after forming its new government, since the updated forecast from the financial results for 1995-96 fiscal year, tabled on July 2, 1996, indicated a \$235 million deficit instead of the \$16 million surplus forecast immediately before the election.

In the fall of 1996, Auditor General **George Morfitt** formally announced that his office would review the estimates process, including its governance and management aspects. By looking at both, the Auditor General's office would have the contextual information necessary to understand the fundamental issues underpinning the budget process, and therefore Budget '96.

In light of the Auditor General's mandate as an Officer of the British Columbia Legislature, which does not extend to determining the guilt or innocence of individuals or challenging government motives, Mr. Morfitt's report commented on the two questions about Budget '96 that were within his authority to answer: did Budget '96 conform with legislation and other relevant authorities; and did it include complete and reliable information on government

plans and forecasted surpluses for 1995/96 and 1996/97?

He concluded that "but for [one] possible exception, I found no action taken, or decision made, during the development of Budget '96 that was not permitted by legislation and authorities currently governing the budgeting process in British Columbia." The possible exception referred to the *Financial Administration Act's* requirement that the Minister of Finance bring to the Legislative Assembly a statement showing the expenditure and revenue of the previous year. Prior to the second tabling of the budget in June 1996, the minister received legal advice to the effect that tabling such a statement along with the budget was not necessary. Morfitt noted in his report that this section of the Act is imprecise, and he therefore made no further comment. On the second question, he determined that Budget '96 did not include complete and reliable information on government plans and forecasted surpluses.

Four Questions of Privilege

On March 29, 1999, four opposition members – **Gordon Campbell**, Leader of the Official Opposition, **Gary Farrell-Collins**, Liberal House Leader, **Ida Chong**, Liberal MLA, and **Barry Penner**, Liberal MLA – each introduced a motion of privilege based on Mr. Morfitt's findings around Budget '96 as reported in "A Review of the Estimates Process in British Columbia".

Mr. Campbell raised the first matter of privilege, stating that the Finance Minister had breached the privilege of the members of the House on two grounds:

In tabling a false budget, the member misled this House as to the financial condition of the province for both the 1995-96 fiscal year and the estimates for the 1996-97 fiscal

year.... Further, the member did not present the Legislative Assembly with a statement of revenue and expenditures of the government for the period from the end of the last fiscal year to the most recent date practical, as was required under the *Financial Administration Act*.

Mr. Campbell asserted that these actions breached privilege in that the Minister's conduct impeded the ability of the House to scrutinize the province's accounts, contrary to chapter 9 of May's *Parliamentary Practice*, 21st ed., and contrary to *Parliamentary Privilege in Canada*, 2nd ed. by Joseph Maingot, QC, which states: "The House... is not only entitled to but demands the utmost respect when material is placed before it for its scrutiny, investigation or study."

Mr. Farrell-Collins raised a second matter of privilege, charging that the former Minister of Finance and Corporate Relations, Ms. Cull, in tabling Budget '96, had knowingly misled the House with respect to the results of the 1995-96 fiscal year and the estimates for 1996-97. Mr. Farrell-Collins also referred to chapter 9 of May's *Parliamentary Practice* and *Parliamentary Privilege in Canada*, 2nd edition, page 233.

Ms. Chong raised a matter of privilege against Mr. Petter, claiming that he addressed the House on July 29, 1996 to explain that the previous Finance Minister's decision to raise forestry revenues in the 1995-96 budget from \$1.522 billion to \$1.603 billion represented an intermediate path in the range of options presented to her. Ms. Chong challenged that statement, claiming that Mr. Morfitt's report demonstrates that the raising of forest revenues to that degree actually represented an additional \$156 million over and above the Treasury Board secretariat's optimistic revenue forecast.

Finally, Mr. Penner raised a fourth matter of privilege, claiming that Premier Glen Clark, in August 1996, had misled the Legislature with his statement that Tom Gunton, then-Deputy Minister of Environment, Lands and Parks, had not requested revised revenue projections for the budget planning process from the Ministry of Finance, when, as Mr. Penner claimed, the Auditor General's "Review of the Estimates Process in British Columbia" confirmed that in fact he had.

On April 19, the Speaker delivered her reserved decisions on these four questions of privilege.

On the first matter of privilege, raised by Mr. Campbell, the Chair ruled that "a *prima facie* case has not been established to permit the Member to move the tendered motion." This ruling was based on the arguments presented by the Liberal and NDP sides of the House, the Morfitt report, and earlier decisions of the Speaker of the House delivered on July 15, 1996 and April 3, 1997. The Speaker noted that two previous matters of privilege on Budget '96 had not met the above test, but acknowledged that the Morfitt report was clearly submitted as new evidence on the matter. According to May's *Parliamentary Practice*, 22nd edition at page 65 and *Parliamentary Practice in British Columbia*, 3rd edition, at page 47, in order to establish a breach of privilege, it must be demonstrated that the person or persons named deliberately misled the House. The Speaker therefore noted that "the paramount question which the Chair must focus on is whether or not the Morfitt report provides sufficient evidence that one or more of the accused Members, deliberately misled the House by tabling documents which they knew to be 'forged, falsified or fabricated with

intent to deceive the House.'" (*Erskine May*, 21st edition, page 188).

The Speaker accepted Mr. Petter's presentation, which was also confirmed by the Morfitt report, that an obligation under section 11 of the *Financial Administration Act* to provide the House with a statement of revenue and expenditures only arises where the statement referred to is prepared and submitted to the Minister, which was not the case in this instance. Further, the decision of the Comptroller General not to prepare such a statement was based on legal advice from Finance Ministry staff.

On Mr. Campbell's second point, the Speaker ruled that evidence confirms that "the extent of the disclosure was consistent with the statutory requirements practiced in British Columbia and other Canadian jurisdictions." Further, *Parliamentary Privilege in Canada*, 2nd edition, records that in the federal 1978 case referred to by Campbell, before the Speaker could find a *prima facie* case and permit a motion to be moved, there had to have been an admission by someone in authority that a member of the House of Commons was intentionally misled, or an admission of facts that led naturally to the conclusion that a member was intentionally misled. Speaker Brewin ruled that "no such admissions can be found in the material filed, or in the Chair's opinion, can be extrapolated from the Morfitt report." Finally, the Speaker reminded members of their duty, in the absence of incontrovertible evidence, to accept the word of another Honourable Member.

Ruling on the second motion of privilege, raised by Mr. Farrell-Collins, Speaker Brewin again noted that information presented to the House was not "forged, falsified or fabricated", that actions taken by both elected and appointed govern-

ment officials around Budget '96 were permitted by legislation and other authorities, and that no admittedly misleading information was given to the Minister and from her to the House. The Speaker therefore concluded that: "the Honourable House Leader's statement on the matter of privilege contains a complaint, but falls short of meeting the standards as outlined in the authorities which describe a deliberate misleading of the House with documents that may have been "forged, falsified or fabricated." Consequently, this matter of privilege cannot succeed."

The third motion of privilege, put by Ms. Chong, was dismissed as being based on a misconception. The Speaker ruled that Ms. Chong's allegation that Mr. Petter had misled the House on total revenue figures were based on Ms. Chong's reading of those figures as given in the Morfitt report, while the member's remarks under question were relating only to forest revenues.

Finally, on the fourth question of privilege, raised by Mr. Penner, the Speaker concluded that Mr. Gunton, as one of three members of the Fiscal Budget Steering Committee, requested that one or more additional revenue estimates be prepared by staff based on differing expectations of commodity prices, and that the Morfitt report confirmed that fact. However, the report contains no evidence contravening the Premier's assurance that he had not authorized Mr. Gunton to change revenue projections in the budget planning process. Hence, Speaker Brewin ruled that "the Chair cannot find that the question and answer contained in the ably presented statement of privilege qualifies as a *prima facie* case."

Budget 1999-2000

In other business of the 3rd Session of the 36th Parliament, **Joy MacPhail**, Minister of Finance and Corporate Relations, introduced the province's budget on March 30, 1999. Highlights are an additional \$615 million in health care spending, which will fund more long-term care beds and 400 more nurses, reduce surgery waitlists, and build and expand health care facilities; tax reductions for small businesses to 5.5 percent effective July 1, 1999; and an additional \$45 million in core provincial education funding, which will enable the hiring of 300 more teachers this year, allow for new and replacement school construction and renovation, and allow for a post-secondary tuition freeze.

Ms. MacPhail announced on the same day that the government would appoint an independent advisory panel - the Advisory Panel on the Estimates Process in British Columbia - to review Auditor General George Morfitt's recommendations for improving the budgeting and reporting processes. The advisory panel is mandated to bring forward recommendations, including any legislative proposals required, by September 30.

Committees

Because the 3rd Session of the 36th Parliament continued from spring 1998 into the current legislative sittings without prorogation, legislative committees have been able to continue their work without interruption. The Select Standing Committee on Forests, Energy, Mines and Petroleum Resources is near to completing its review of the 1998-99 Forest Renewal B.C. Business Plan. The Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private

Bills will soon table its report on the *Member's Conflict of Interest Act*.

The Select Standing Committee on Public Accounts has considered the Auditor General's reports entitled "Follow-up review of 1996 Performance Audits"; "Overview of the Provincial Government's Collection of Overdue Accounts Receivable"; "Report on Public Accounts for 1997-98"; and an update on the province's progress in addressing the Year 2000 computer problem. The committee has also completed draft reports entitled "Earthquake Preparedness Performance Audit Review", "Follow-up of 1996 Performance Audits Studies", "Year 2000 Updates"; and "Public Accounts on the Internet", and "Managing the Costs of Drug Therapies". The Public Accounts Committee also heard from **Doug Enns**, chair of the Advisory Panel on the Estimates Process in British Columbia, regarding the panel's mandate, composition goals and processes.

The Special Committee to Review the *Freedom of Information and Protection of Privacy Act* is currently determining its recommendations based on the extensive public review process it began in October 1997, and will likely issue its report this summer. The members of the latter committee have also been named to the Special Committee to Appoint an Information and Privacy Commissioner. That committee has issued an advertisement for applications for the position, which the present Information and Privacy Commissioner, **David Flaherty**, will vacate in August this year. The Special Committee to Appoint an Ombudsman presented its recommendation to the House on April 15. The Committee unanimously recommended that **Howard Lawrence Kushner** be appointed Ombudsman for the Province of British Columbia, pur-

suant to section 2(1) of the Ombudsman Act (RSBC 1996 c.340).

Wynne MacAlpine
Committee Researcher



Manitoba

The public hearings conducted by former Chief Justice **Alfred Monnin** into allegations of vote splitting during the 1995 provincial election wrapped up in February, and the final report from the hearings was released on March 29, 1999. In the report, Mr. Monnin stated that the candidate in question had accepted money and the use of a car as an inducement to run as a candidate, and in the process the candidate and his campaign manager had breached sections of both *The Elections Act* and *The Elections Finances Act*. Given that the six month limitation period specified by legislation had expired, Monnin stated that the matter was concluded, though he did make a number of recommendations to avoid future occurrences, including the removal of a two year time limit for charges to be laid, the revision of election expense reporting, improving audit measures for political parties, and the adoption of a code of ethics by the political parties. Following release of the Monnin report, **Bruce MacFarlane**, the Deputy Justice Minister, announced plans for an independent

investigation to be conducted by **Leonard Doust**, a lawyer from British Columbia, to review allegations of criminal wrongdoing and to consider if there is any basis for the laying of criminal charges.

Legislative Session

The 5th Session of the 36th Legislature commenced on April 6, 1999 with more than the usual share of excitement and controversy. Advance notice had been given that members of the First Nations community would be staging a rally on April 6, to protest high unemployment rates for Aboriginal people, and to demand better housing and better roads in Aboriginal communities. In order to avoid any potential disruption of the opening of the Session, attendees were requested to present invitations. At one point in the rally, some protestors attempted to push through the doors to gain entry into the building, and a number of scuffles broke out. Police responded by arresting a number of the protestors and by spraying pepper spray over the heads of protestors.

Inside the Legislative Chamber, it was business as usual, at least for the early part of the afternoon, as **Peter Liba**, the newly installed Lieutenant Governor read the Speech from the Throne. Events took on a decidedly different turn, as two matters of privilege were raised as soon as the Lieutenant Governor and the Colour Party left the Chamber. The Premier, **Gary Filmon**, who rose to offer an apology to the House for "providing information that was subsequently proven to be inaccurate", raised the first matter of privilege. The Premier explained that when he had given the replies during Question Period in June of 1998, he had no knowledge that the accusations made were valid. He noted that it

was subsequently revealed during the Monnin inquiry held in late 1998 and early 1999 that the allegations raised had substance. The Premier offered an apology for supplying information to the House that was later proven to be inaccurate. The Leader of the Official Opposition New Democrats, **Gary Doer**, also spoke to the matter of privilege. He concluded his remarks by calling on the Premier to resign. Madam Speaker **Louise Dacquay** took the matter under advisement, and ruled on April 15 that the matter was not in order as a prima facie case of privilege, as the Premier had not moved a substantive motion in raising the matter.

A second matter of privilege was raised on Opening Day by **Steve Ashton**, Official Opposition House Leader, who contended that the Premier had deliberately misled the House with replies given during Question Period in June, 1998 on the subject of vote splitting. Ashton noted that the Premier had given an apology over the vote splitting scheme at the PC Party annual general meeting, however Ashton contended that the Premier did not deal with the fact that he had misled the House, nor did the Premier offer an apology to aboriginal people. Ashton concluded his remarks by moving "THAT this House censure the Premier for deliberately misleading the House regarding the vote-rigging scandal on June 23 and 24, 1998, and for the contempt shown to aboriginal people by the Premier who has continued to fail to apologize for his actions to aboriginal people." Madam Speaker Dacquay took the matter under advisement, and on April 20, 1999 ruled the matter out of order as a prima facie case of privilege, as no proof had been supplied that the Premier had intended to deliberately mislead the House.

Two Bills received speedy passage early in the session. Bill 2 - *The Electoral Divisions Amendment Act*; which contains revised electoral boundaries and constituency names as recommended in the December 1998 Report of the Electoral Divisions Boundary Commission, was introduced on April 12, went through the usual stages, and received Royal Assent on April 27. The Bill received considerable interest, as there is wide-spread speculation that an election may be called in Manitoba during this year. The passage of Bill 2 ensures that the new electoral boundaries will be in place for the next provincial election.

The second Bill which received accelerated passage through the Legislature was Bill 17 - *The Elections Amendment and Elections Finances Amendment Act*, which was introduced on April 19, and received Royal Assent on April 28.

Bill 17 contains legislative changes to *The Elections Act* and *The Elections Finances Act* as recommended by the Monnin Report on the 1995 vote splitting episode. The Bill calls for the Standing Committee on Privileges and Elections to consider within 60 days of tabling, the report of the Chief Electoral Officer on the conduct of each general election. The Bill also changes the limitation period for prosecutions under *The Elections Act*. Instead of a five year limitation based on the election, the Chief Electoral Officer will now be able to commence a prosecution no later than one year after the date on which the Chief Electoral Officer has reasonable and probable grounds to believe that an offence has been committed. Several changes have also been made to *The Elections Finances Act*. Provisions are now in place so that auditors retained by registered political parties can be removed if professional judgement or objectivity be-

comes impaired. Changes have also been added to ensure that reports are in accordance with accepted auditing standards, to ensure access to financial records, and to ensure that financial records are maintained for a minimum of five years. The Chief Electoral Officer will also be able to conduct periodic inspections and audits of the records of candidates, constituency associations and registered political parties. The limitation period for prosecutions under *The Elections Finances Act* has been changed, and reports of the Chief Electoral Officer on *The Elections Finances Act* will now have to be referred to the Privileges and Elections Committee within 60 days of tabling in the House.

One other significant change that was approved by the Legislature early in the session was the adoption of rules to provide for the secret ballot election of the Speaker, to come into effect with the next Legislature. The motion containing the

new rules was debated and adopted on April 29.

Neil Gaudry

Many Manitobans were saddened to hear of the untimely passage of MLA **Neil Gaudry**, who represented the St. Boniface constituency. Gaudry, who was first elected in 1988 and re-elected in 1990 and 1995, suffered a heart attack while attending the Festival du Voyageur in February. Mr. Gaudry was a very popular Member whose friendships with MLAs from all political parties transcended the bounds of partisanship. He had also been an active participant in the APF. A motion of condolence was considered in honour of his memory on April 26.

Members Not Seeking Re-Election

Rosemary Vodrey, the Minister of Culture, Heritage and Citizenship, has announced that she will not be seeking re-election. Vodrey was

first elected in 1990 and re-elected in 1995 to represent the Fort Garry constituency. She has served in the Manitoba cabinet since 1992. She served as Minister of Education and Training, and was the first woman in Manitoba to serve as Minister of Justice and Attorney General.

Children's Advocate

Janet Mirwaldt has been appointed as the new Children's Advocate for Manitoba, effective March 29. Ms. Mirwaldt had previously worked with Winnipeg Child and Family Services Central, and has been active in social services delivery in rural and northern settings. Under legislative changes enacted in 1998, the position of Children's Advocate is now an Officer of the Legislative Assembly.