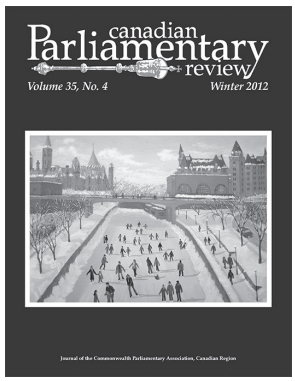
canadian Parliamentary review

About the cover
In winter the skating rink on the Rideau Canal has come to symbolize Ottawa almost as much as the Parliament Buildings. Darlene Agner is a member of Ottawa's Art Association. She has had exhibits at Ottawa's Little Theatre, Cumberland City Hall, the Old Mill and other places in Ottawa. Her work has been sold at Koymans Galleries, Vogue Gallery, A. Lamont Gallery and privately.



Skating on the Rideau Canal

by
Darlene Agner

Courtesy of the artist

The *Canadian Parliamentary Review* was founded in 1978 to inform Canadian legislators about activities of the federal, provincial and territorial branches of the Canadian Region of the Commonwealth Parliamentary Association and to promote the study of and interest in Canadian parliamentary institutions. Contributions from legislators, former members, staff and all other persons interested in the objectives of the Review are welcome.

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Nunavut: An Example of Consensus Government in the Canadian Arctic

Hunter Tootoo MLA

This article provides an introduction to the territory of Nunavut and its place in the Canadian federation. It also offers an overview of the Legislative Assembly's structure and operations. It concludes with a discussion of some emerging challenges and opportunities.

The territory of Nunavut is over two million square kilometres in size and spans three time zones. Approximately 85% of our territory's 33,000 residents are Inuit. The Inuit Language (which includes Inuktitut and Inuinnaqtun) and English are the major languages in Nunavut. There is a small Francophone community in Iqaluit.

There are 25 incorporated communities in the territory. Iqaluit, the capital, is the largest with a population of approximately 7,000 people. Grise Fiord, Canada's most northerly community, is the smallest, with a population of approximately 180.

Constitutional Evolution

In 1971 the Inuit Tapirisat of Canada (ITC) was established to represent the interests of Canadian Inuit. During the 1970s, a number of proposals to negotiate a land claims settlement between Inuit and the Government of Canada were considered.

In 1982 responsibility for land claims negotiations with the federal government was transferred to the Tunngavik Federation of Nunavut (TFN), the regional organization representing the Inuit of the Eastern Arctic.

In 1990 an Agreement-in-Principle between the TFN and the Government of Canada was signed. In a plebiscite held in May of 1990, voters across the Northwest Territories approved the proposed boundary for division of the territory.

In November 1992, Inuit in the Eastern Arctic voted to ratify the proposed *Nunavut Land Claims Agreement*. Following ratification, the *Agreement* was formally signed on May 25, 1993. It contains forty-two separate articles. Article 4, *Nunavut Political Development*, provided for the establishment of a "new Nunavut Territory, with its own Legislative Assembly and public government."

The *Nunavut Land Claims Agreement Act* and the *Nunavut Act* were passed by the Parliament of Canada in 1993 to ratify the *Nunavut Land Claims Agreement*, establish the territory of Nunavut and provide for its government's powers and responsibilities.The territory came into existence on April 1, 1999. The first sitting of the First Legislative Assembly of Nunavut was held on that day.

Unlike a province, Nunavut does not have complete control over public lands and resource management. The Government of Nunavut is pursuing a formal devolution agreement with the federal government that would see greater control over lands and resources transferred to Nunavut, and an agreement on the sharing of royalties from natural resource development, such as mining activities.

Legislative Assembly of Nunavut

There have been a total of three Assemblies to date:

- 1st Legislative Assembly (1999-2004)
- 2nd Legislative Assembly (2004-2008)
- 3rd Legislative Assembly (2008 -)

During our Assembly's recent spring sitting, we reached the milestone of our 500th formal sitting.

The federal *Nunavut Act* establishes the powers and jurisdiction of the Legislative Assembly and the

Hunter Tootoo is Speaker of the Legislative Assembly of Nunavut. This is an edited version of his presentation to the 50th Canadian Regional CPA Conference held in Quebec City in July 2012.

government. For example, the Legislative Assembly has the authority to make laws in the areas of health, education, municipal governance, the administration of justice and direct taxation.

There are presently 19 Members of the Legislative Assembly, three of whom are women. The number of seats in the Legislative Assembly has remained unchanged since 1999.

An independent Electoral Boundaries Commission was established by the Legislative Assembly in the fall of 2010. The Commission's final report recommended that the number of seats be increased to 22.

Last year, the Legislative Assembly passed legislation to implement the recommendations of the Electoral Boundaries Commission. The changes will come into effect at the next general election.

Nunavut and the Northwest Territories are the only two Canadian jurisdictions that pursue a consensus approach to government. This approach has often been described as a fusion of Westminster-style structures and aboriginal views of deliberation and decision-making.

> ***Candidates for election to the Legislative Assembly stand for office as independents, not as members of a political party.***

Although unanimous agreement is not required for decisions in the Legislative Assembly, unanimity is generally regarded as a desirable outcome. The Regular Members of the Legislative Assembly, although regarded as an "unofficial opposition", do not view their role as opposing government initiatives for the sake of opposition itself. They are no "government-in-waiting."

Some areas of consensus government that have distinct characteristics include:

- Leadership selection and accountability;
- The budget and legislative process;
- Caucuses and Committees;
- Appointment of Independent Officers; and
- The tone of deliberation and debate in the House.

The Speaker, Premier and Cabinet Ministers are chosen by Members of the Legislative Assembly in a secret ballot selection process following the general election. The Members of the Executive Council (Cabinet) are formally appointed to office by the Commissioner of Nunavut, and serve at the pleasure of the Legislative Assembly as a whole.

In order to ensure the accountability of the executive branch of government to the legislature, the Commissioner may not appoint a majority of Members of the Legislative Assembly to Cabinet. At present, the Cabinet consists of eight members, including the Premier. The Premier has the prerogative to assign Ministerial portfolios, but cannot dismiss Ministers.

The Commissioner of Nunavut is appointed by the federal government by Order in Council. The position is similar to a provincial Lieutenant Governor. Formal Mid-Term Leadership Reviews of the Cabinet have been held during each of our three Assemblies.

The government's annual main estimates and departmental business plans are introduced in the winter sitting of each calendar year. To accommodate sealift deadlines, the annual capital estimates are introduced in the fall sitting of the preceding calendar year.

Standing Committees are provided with the opportunity to review departmental estimates and business plans during *in camera* meetings held prior to each budget session. This is to allow for the government to consider recommendations by Standing Committees on spending priorities prior to the finalization and introduction of the estimates.

Standing Committees are provided with the opportunity to review and comment upon plain language legislative proposals prior to bills being drafted and introduced in the Legislative Assembly.

Although many bills are amended during Standing Committee review, a significant number are ultimately passed by the House in unanimous votes. From time to time, Bills have been withdrawn as a result of concerns expressed by Standing Committees and MLAs.

The laws passed by the Legislative Assembly of Nunavut must be transmitted to the federal government after they are given Assent by the Commissioner of Nunavut. Although it has never used this power, the federal government could disallow any law made by the Legislative Assembly within one year of its enactment.

Two caucuses are formally recognized in the *Legislative Assembly and Executive Council Act*. These bodies do not have formal powers under the legislation. The Full Caucus (FC) consists of all nineteen MLAs, including the Speaker.

The Regular Members' Caucus (RMC) consists of all non-Ministers. The Speaker does not participate in this entity's deliberations. Both the Full Caucus and the Regular Members' Caucus elect Chairpersons and Co-Chairs.

The Full Caucus serves as a forum in which all 19 MLAs may deliberate in confidence and as equals on such matters as:

- Scheduling of House business;
- Setting of dates for general elections, by-elections and sittings of the House;
- General priority-setting;
- Review of House Bills and other matters under the jurisdiction of the Legislative Assembly; and
- Review of appointments of independent officers, prior to formal motions of appointment being moved in the House.

The Regular Members' Caucus meets during sittings of the Legislative Assembly to plan Members' activities in the House. The Chair of the Regular Members' Caucus may liaise with the Government House Leader and the Office of the Clerk of the Legislative Assembly on scheduling matters and the planning of House business.

The Chair of the Regular Members' Caucus does not have any formal powers with which to discipline members.

The ten Regular Members (MLAs who are not Ministers) of the Legislative Assembly serve on a number of Standing Committees. Standing Committees review Bills, scrutinize government spending and budget proposals and, from time to time, undertake special studies.

Standing Committees hold hearings on a variety of matters, including the annual reports of the Auditor General and other Independent Officers. The *Rules of the Legislative Assembly* provide Standing Committees with the authority to require the government to table formal written responses to their reports and recommendations.

Under the *Legislative Assembly and Executive Council Act*, Standing Committees have the legal power to compel the attendance of witnesses and call for the production of documents. During the 2nd Legislative Assembly, these subpoena powers were exercised on a number of occasions.

A number of Independent Officers are appointed by, and report directly to, the Legislative Assembly as a whole:

- The Integrity Commissioner;
- The Languages Commissioner;
- The Information and Privacy Commissioner; and
- The Chief Electoral Officer.

The Auditor General of Canada acts as the auditor for Nunavut, in the same way that the position serves the Northwest Territories and the Yukon.

Although MLAs vigorously question Ministers during oral question period, heckling is rare. Nunavut's oral question period is sixty minutes in length, which is among the longest in Canada.

> ***Visitors to our Legislative Assembly often remark on the relatively decorous nature of proceedings. To illustrate this point, I would note that since April 1, 1999, not a single MLA has been "named" by the Speaker and ejected from the House for breaches of order.***

Unanimous consent is frequently sought and received to waive provisions of the *Rules of the Legislative Assembly* to facilitate the conduct of House business. On occasion, the daily question period is extended by unanimous consent.

Although the principle of Cabinet solidarity applies to Ministers when voting on most matters before the House, Regular MLAs are free to vote as they deem appropriate. When casting deciding votes, the Speaker is advised according to traditional procedural principles. Formal motions are often moved to express the sentiments of the House on a variety of issues.

Proceedings of the Legislative Assembly take place in the Inuit Language and English. Our *Hansard* is produced in both Inuktitut and English on a daily basis.

The Management and Services Board (MSB) has authority over the operations of the Office of the Legislative Assembly, the provision of services to Members, the administration of Members' indemnities and allowances, and other areas of responsibility. The MSB is analogous to the Board of Internal Economy of the House of Commons.

The MSB conducts recruitment and selection processes for the Independent Officers of the Legislative Assembly. The Board's recommendations for appointment are discussed by Full Caucus prior to formal motions being moved in the House.

The Board is composed of five MLAs: the Speaker, who serves as its Chairperson, three Regular MLAs and one Minister. Board approval is required for amendments to statutes that fall under the jurisdiction of the Legislative Assembly, such as the *Legislative Assembly and Executive Council Act*, the *Nunavut Elections Act* and the *Integrity Act*.

Elections Nunavut, an independent office of the Legislative Assembly, is responsible for administering

territorial general elections, by-elections and plebiscites. Its offices are located in the community of Rankin Inlet.

The Legislative Assembly provides support to the Order of Nunavut Advisory Council, which was established in 2010. This body, which consists of the Speaker of the Legislative Assembly, the Senior Judge of the Nunavut Court of Justice and the President of Nunavut Tunngavik Incorporated, reviews nominations to the Order of Nunavut, which is our territory's highest honour.

Just ten years ago, the proceedings of our legislature were recorded on tape cassettes. We recently undertook a process to convert these to a digital format that will ultimately reside in our territorial archives. Our library has been converting documents of historical interest to digital formats that will be web-accessible.

Our remote location can pose challenges to effective information technology management. Bandwidth limitations hinder our ability to fully maximize such tools as webstreaming of our proceedings.

Viewers in our twenty-five communities can watch the televised proceedings of the Legislative Assembly on their local cable stations. However, households that subscribe to Direct-to-Home satellite television services cannot. In cooperation with the Legislative Assembly of the Northwest Territories, we have requested the Canadian Radio- television and Telecommunications Commission (CRTC) to modify its rules to require satellite providers to carry our broadcasts.

In the fall of 2010, the Standing Committee on Rules, Procedures and Privileges considered the issue of the use of new technologies in the Chamber and committee rooms, including laptop computers and hand-held electronic devices, including blackberries and iPads. A number of our Members are active users of social networking tools.

We are presently in a trial period. For example, although Members are permitted to use their devices during the proceedings of the Committee of the Whole, electronic devices must be shut off during oral question period.

In preparation for the expansion of seating in our Chamber to accommodate the additional Members who will be elected at the next general election, we are also reviewing technological upgrades at Members' desks to facilitate expanded use of technology.

In considering the experience of other jurisdictions, we have noted that some provinces and territories have also established positions to address such issues as whistleblower protection and to provide general ombudsperson services to the public.

Given our jurisdiction's small population, recruitment of independent officers in highly specialized fields is an ongoing challenge.

The Management and Services Board has recently undertaken a number of initiatives to strengthen the framework within which these offices account to the Legislative Assembly for their management of financial and human resources, while fully respecting their independence in such areas as the investigation of complaints and making of recommendations. Initiatives include:

- Clarifying the authority of the Board to issue directives in respect to independent officers' financial management, human resources management, contracting and procurement activities;
- Holding annual meetings with independent officers to review their proposed budgets and business plans prior to their being incorporated into the main estimates of the Legislative Assembly; and
- Developing formal *Position Profiles* for all independent officers that include clearly-defined expectations and accountabilities.

Finally, the Legislative Assembly will expand in size from 19 to 22 seats at the next general election. This will require a review of the size of Cabinet, the number, size and mandates of Standing Committees and a review of certain procedural rules, including the length of oral question period and the number of questions that each Member is permitted to pose. Currently, each Member is permitted to ask up to one main question and three supplementary questions.

Are Private Members' Bills A Useful Tool in Today's Legislatures?

David Forbes MLA

Private Members' Bills are ones presented by members who are not part of cabinet. They may be opposition members or private members on the government side. This article argues that private members' bills are useful mechanisms to serve citizens regardless of whether the bill passes or not. They can serve as a catalyst for generating the discussion and motivation required to achieve the policy end.

My own interest with private member's bills started in the winter of 2007 while I was serving as the Minister of Labour for the Calvert government in Saskatchewan. The Opposition had announced in early January that it was going to introduce a private member's bill regarding Reservists Leave in the upcoming spring sitting. Following a quick discussion, the government announced in a press release that it would "work with the Official Opposition Saskatchewan Party to bring about the necessary changes." I was quoted saying, "This is an instance where the government and the opposition can – and should – work together." Although the private member's bill was tabled, we ultimately brought forward the necessary changes in a government-sponsored bill.

Many political observers and politicians believe that private member's bills can be an effective way for private members to serve their constituents. Brazier and Fox write:

> It enables individual parliamentarians to develop their role as initiators of policy, as campaigners, and as legislators, it provides a useful check on the executive and it offers a valuable channel to ensure Parliament can address emerging topical issues, thereby demonstrating its responsiveness to evolving matters of public concern."[1]

In the last three years, as a member of the Opposition, I have sponsored three private members' bills (Protection of Service Animals, The R Word, and currently, Bill 601, Jimmy's Law) with varying degrees of success. I am now, more than ever, convinced that private members' bills are an effective tool for MLAs to meet the needs of our constituents and our citizens through their Legislature.

Many have suggested that there are four key elements that lead to the success of a private member's bill; 1) the substance of the bill, 2) the engagement of the stakeholders and interested public, 3) media engagement and now social media and 4) openness of the government to entertain private member's bills.

Getting Things Done

I want to reflect on my four experiences with private members' bills as each one illustrates important elements of our role as elected representatives (whether in government or in opposition) when we serve our constituents, whether they are individuals or stakeholders with a special interest.

The Reservists Leave Bill, initially launched by the Opposition of the day, really illustrates the flexibility of a private member's bill to respond quickly to an emerging need or a gap in government policy. We were at war in Afghanistan and local reservists felt that they needed job protection should they be required to take a leave to serve in the Canadian Forces. They actively lobbied both sides of the House to get the necessary amendments to the *Saskatchewan Labour Standards Act*, a statute for which I was responsible as Minister of Labour.

David Forbes is MLA for Saskatoon Centre in the Saskatchewan Legislative Assembly. This is a revised version of his presentation to the 50th Canadian Regional Conference in Quebec City, July 2012.

The Opposition seized the opportunity to champion this issue, causing the government to explain itself, really an indefensible position. As Minister of Labour, at the request of the premier of the day, I offered to work together with the Opposition by first consulting with the stakeholders and then drafting the appropriate legislation. While we did not include all aspects of the private member's bill in the government sponsored legislation (they wanted to include a scholarship program, which they later passed when they became government), we were able to achieve the Opposition's cooperation and support for a number of reasons: First, the government was open to the issue and was able to assure that the necessary amendment was drafted correctly because it could bring its resources to the table. Secondly, we were also prepared to give the Opposition credit in the House for their efforts.

The experience taught me some valuable lessons:

- We were able to achieve a significant policy objective on behalf of a group of citizens. Focusing on this objective (rather than on political wins and losses) meant that cooperation with the other side of the Legislature was mutually beneficial.
- The policy issue itself, the right of reservists to have their jobs protected when they take leave from their employment to serve in the Canadian Forces, was (if I may be colloquial) a "righteous" one – a substantive matter that required a policy solution.
- Giving credit where credit is due allows all sides of the Legislature to secure "political" wins.

I have taken these lessons forward in my experience in Opposition, where I have now tabled three private members' bills.

My next experience with a private member's bill was Bill 617 *An Act to Provide for the Protection of Service Animals* in November 2010. This was my first experience tabling a private member's bill.

I do not think many private members' bills are of original thinking, we often borrow from others and this certainly was the case here. Through contacts and discussions, it came to my attention that throughout North America, Animal Protection Acts were being updated to give greater protection to service animals. Modeled after *Layla's Law* from Washington State and via Sharon Blady an MLA in Manitoba, I became aware of this initiative in April 2010. I reached out to some local activists in the disabilities community and to the Saskatoon Canine Police Unit over the summer of 2010 and invited them to discuss this issue. Little did I know that each group was already working on the same issue independently calling for similar legislative protection. They were happy to join together in this work.

At the same time, although we were unaware of it, the government was preparing a major update to the *Animal Protection Act* – although this update did not include additional protection for service animals. The government was equally unaware of our work until we made it public on November 22, 2010. We had built a strong coalition of the disabilities community and police forces. The best part, was the day I introduced The *Service Animals Bill*, we had nine service animals in the Legislative chamber. It was quite the occasion - even the security folks had to smile!

In spite of the House being at the first stages of pre-election rumblings, the government took The *Service Animal Protection Bill* and essentially rolled it into its very own section of the government's bill before the House. It passed third reading on December 8 (only 2 weeks after the private member's bill had been tabled) – very quick work!

Of course this was very good news for the stakeholders as their needs were being met. But more than that it meant they had the government as the administrator for the new Act. This is no small thing as it often becomes a problem for private member's bills. Who looks after the details once the bill is passed?

This bill had some similar characteristics to the amendments to *The Labour Standards Act* to address reservist job security. It was a substantive issue and it had a strong coalition of affected stakeholders. However, there was one added element in this case – the government was already planning significant amendments to the relevant statute. This made it a relatively simple matter for the government to cooperate. The policy issue we were trying to address was easily rolled into their process.

In our own caucus, the decision regarding whether to cooperate with the government or not was not an easy one. The pre-election time period was just beginning and the issue had created significant profile for our caucus. In the end, it was the issue itself that won out. We realized that we were able to achieve our goal by cooperating with the government and citizens were well served. There was sufficient media attention to the issue to go around and the affected stakeholders were appreciative of our efforts on their behalf.

I introduced *The Respectful Language Act* on April 18, 2011 calling for the removal of the last traces of the "R" word (references to mental retardation) from our statutes. I also called on the government to look through their print and on line materials to change any negative references to more respectful language. Many of us will be aware of the campaign against the

"R" word. Rosa's Law, in the United States is one of the first examples of this effort. Again, here was an occasion where a very effective stakeholder group wanted a very focused but important job done by their legislators. I happened to be at a People First event calling for the end of the "R" word and, after hearing the arguments, I felt I needed to act and I had the tool to do it – a private member's bill. Again the bill was not passed but the effect of the private member's bill was felt throughout government and the point was made. There remains more work to be done in this area in Saskatchewan (and I am sure in other jurisdictions as well) and legislators will hear more about this.

My current project, Jimmy's Law, Bill 601, was tabled in the Saskatchewan Legislature in December 2011. This is a more substantive bill than the others in that it calls for greater protection for late night retail workers by having two employees at the store or barriers in place. Largely based on Grant's Law from British Columbia, this effort came about because of the shooting death of gas bar employee, Jimmy Wiebe, of Yorkton in 2011 while he was working a late shift.

After the incident, Jimmy Wiebe's friend, Aaron Nagy, started a social media campaign gathering considerable support for the introduction of greater protections for late night retail workers, including some support from organized Labour. Shortly after the fall election, we decided to take on the issue. In this case, the interested stakeholder group was not organized and identifiable. While the issue itself was substantive, there was not a clearly defined group advocating for it as had been the case for other private member's bills I have been involved with. Our first job was to get some media attention to the issue and to also build awareness of the issue among late night retail workers. We launched midnight tours in eight of our larger cities to highlight the working conditions in our late night retail stores and to meet with late night retail workers. The lesson here is media engagement. We garnered a lot of media interest for this issue and interestingly the media has continued to be very engaged as they have conducted follow-ups over the year.

While the bill was not dealt with in the session and will likely die on the order paper, the final settlement of the issue is not yet resolved. We have a commitment from the current minister that action will be taken. We are not yet sure what form that action will be, but it is likely to be amendments to *The Occupational Health & Safety Regulations*. If there is no action, we will likely retable the bill.

I would argue from my own experiences that, through circumstance and political management, private member's bills can be effective tools to address emerging policy issues and gaps. Of the four key elements that lead to the success of a private member's bill; (the substance of the bill, the engagement of the stakeholders and interested public, media engagement and now social media and openness of the government to entertain private member's bills). Those of us in Opposition have little control over the last of these points. We do have considerable control over the first three. In my experience, it is the management of these that can lead to success – recognizing that success may not necessarily mean the passage of a bill.

Potential Enhancements

In the course of my experience and my reading there are several ideas in the literature that offer some help in making private member's bills more effective. I bring forward three suggestions for discussion.

First, cap the number of private member's bills introduced. Interestingly, the number of private member's bills being introduced across Canada is very uneven and the argument is made especially in the House of Commons that some private member's bills are really introduced only for first reading impact. For example the number of Federal private member's bills in the 39th Session was 355, 40th session 441 and in this session so far, 230. Provincial private member's bills ranged from British Columbia (15), Alberta (2), Saskatchewan (3), Manitoba (17), Ontario (88), Quebec (34), Nova Scotia (52) New Brunswick (8), Newfoundland & Labrador (0), Prince Edward Island (0), Northwest Territories (0), Yukon (3).

This suggestion raises a lot of questions about processes of selection of private member's bills (such as the federal lottery process). If we are committed to focusing on substantive issues, should there be a determination of merit or support?

Secondly, consider the implication of Prorogation on private member's bills. This is an important issue here in Saskatchewan as government bills are carried forward but not private member's bills. The likelihood of a private member's bill actually making it through all the legislative stages is very limited as there is just not the time for it. Specifically, my current bill 601 will likely die on the order paper at prorogation, as it cannot be brought forward. Alternatively, others argue that prorogation is a way of cleaning up the private member's bill's clutter as they are seldom introduced with the intention of seeing them go through to third reading.

Third, consider different procedures when a private member's bill has broad support. These procedures would have to be developed at the local level, bringing

into account scheduling, committees and so forth but the implication is that some private member's bills have significant support across the House and they are worth the extra resources such as committee support, research and drafting resources. The test for "broad support" is likely to be difficult to negotiate, but there is some merit in exploring the matter more fully.

Several themes emerged through my work as a legislator on private members' bills. If private members are to fully serve the needs of their constituents then a private member's bill can be an effective tool in their tool kit. They enhance legislators' work and relevance to their constituents both inside and outside the chamber.

Strategically, private members' bills play an important role in shaping policy and giving voice to stakeholders and the public as well as responding quickly to emerging social and economic issues.

The sticking point though, seems to be on how to allow private member's bills to have a higher success rate in actually passing and becoming law and accessing the necessary resources to do so in the current circumstances. Interestingly though, while some will argue that change is needed, others would say it is not. They would suggest that the status quo is quite effective as it is – the challenge for private members and private member's bills is really political strategy and management.

Many politicians will remember some very effective private member's bills from their own day, I would add these two bills as positive examples for those who believe that private member's bills have no place in our chambers:

- The *Commonwealth Electoral Bill 1924*, in Australia introduced compulsory voting for federal elections. Senator Herbert Payne's private member's bill was passed in 1924, with less than 1 hour's debate.
- NDP MP Lynn McDonald's private member's bill, the "Non-smokers' Health Act" 1986, restricting smoking in federally regulated workplaces and on airplanes, trains and ships. The bill was passed in a free vote despite being voted against by all members of the cabinet, including the Minister of Health.

Many would argue that the intent of a private member's bill is not necessarily to have the bill make it to third reading, because of the almost certain failure rate but to keep it alive so the issue remains for public debate. I have found this to certainly be the case. In fact a private member's bill has an interesting way of getting results not by the usual means and that's all that matters to our constituents. The lyrics from a song by the Rolling Stones succinctly summarizes my philosophy about Private Members' Bills.

> "You can't always get what you want,
> But if you try sometimes You just might find,
> You get what you need"
>
> Mick Jagger, Keith Richards, 1969

Notes

1 Alex Brazier and Ruth Fox. "Enhancing the Backbench MP's Role as a Legislator: The Case for Urgent Reform of Private Members Bills." Parliamentary Affairs 63, no. 1 (January 2010): 201-211. Available at: http://pa.oxfordjournals.org/content.by/year Accessed October 2011.

For additional articles on Private Members' Bills see Mark Holland, "Private Members' Bills from a Perspective of a Parliamentarian." *Journal of Parliamentary and Political Law* 4 (2011): 91-94. Linda Jeffrey, "Private Members and Public Policy." *Canadian Parliamentary Review* 31, no. 4 (Winter 2008-09): 2-6. Evan Sotiropoulos, "Private Members' Bills in Recent Minority and Majority Parliaments." *Canadian Parliamentary Review* 34, no. 3 (Autumn 2011): 34-37. R.R. Walsh "By the Number: A Statistical Survey of Private Member's Bills". *Canadian Parliamentary Review* 25, no. 1 (Spring 2002): 29-33.

Editor's Note: On November 7, 2012 the Government of Saskatchewan announced new regulations similar to what was proposed in Jimmy's Law, Bill 601 to better protect late-night retail workers from violence in the workplace. The regulations include safe cash handling procedures, use of video cameras, and the provision of good visibility and signage for all late-night retail premises. In addition, the regulations will require a check-in system and personal emergency transmitters to be provided to all workers working alone in late-night retail establishments.

Engaging Youth Through Social Media

Linda Reid MLA

The last two decades have witnessed a decline in voter turnout, most noticeably among young voters. During this same period, the use of cell phones and digital and social media has increased dramatically. Effective use of social media tools has the exciting potential to connect young voters with political decision-makers and to help rebuild the relationship between citizens, elected officials and parliamentary democracy. This article offers some new ideas about how to engage with young people.

Before turning to how a variety of social media tools can be used to engage voters, I would like to quickly sketch out the challenges we face engaging young people and getting them out to vote.

The national trend of declining voter turnout is most pronounced among young Canadians. For example in the 2008 federal election, 36% of people aged 18-24 voted and the last election in my province in 2009 had lower numbers still: only 27% of eligible youth aged 18-24 voted. Youth participation is slightly higher in other countries: 51% of American youth aged 19 to 29 voted in 2008; and 44% of 18-24 year olds in the UK cast ballots in 2010.

A lot of research has been done on this topic. The overall conclusion is that young people are not voting because they feel distanced from the operations of the political system and because they lack a clear understanding of how the political system and parliamentary democracy function.

To encourage youth to participate in the electoral process BC's Chief Electoral Officer recommends that BC legislators consider allowing provisional registration of individuals when they are 16 years old. While youth would remain unable to vote until they turn 18, provisional registration could allow Elections BC to work with schools and the driver licensing programs to ensure the maximum number of students are registered voters before leaving high school. In addition to this proposed change in the rules for voter registration I look forwards to seeing how the use of online voter registration and online voting can also facilitate the engagement of youth and increase overall voting levels.

In the past the BC Legislative Assembly and Elections BC have partnered to use digital media to increase youth engagement. In 2009 a project called "Democracy on Location" was launched to recognize and celebrate the second annual United Nations International Day of Democracy. Students were invited to create a two-minute video about democracy in their lives at school, home or with their friends. The winning video — "Why Should Youth Care About Democracy?" — was created by four students from Burnaby North Secondary School. The winning students travelled to Victoria to be interviewed for Hansard TV, toured the Parliament Buildings, to learn about parliamentary democracy and learn about professional video production and broadcasting. The winning video was posted on the Elections BC website and on the Legislative Assembly website and played on Hansard Television.

Since disengagement and under-education are, in part, an explanation for low voter turnout and youth disaffection with politics then there is a clear role for elected officials to encourage youth participation. New tools, like Twitter, Youtube, Linkedin and QR codes provide exciting engagement and teaching opportunities for parliamentarians.

In British Columbia traditional outreach activities in our constituencies include speaking to school groups, participating in youth parliaments, engaging with youth organizations and encouraging youth participation during election campaigns. Today, Members of the Legislative Assembly are also working

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Linda Reid is Deputy Speaker of the Legislative Assembly of British Columbia. This is a revised presentation of her address to the 50th Canadian Regional CPA Conference held in Québec City in July 2012.

to bring politics alive through a variety of social media platforms.

Close to 50 of BC's 85 MLAs how have active Facebook pages and an even greater number of MLAs use Twitter to communicate with constituents. Members use these platforms to post photos of events they host and to share video clips of the statements they make in the House. I even book meetings with constituents using Twitter!

Both Facebook and Twitter allow Members to converse with voters about issues of concern. For example, Private Members and Ministers in British Columbia, host "Twitter town halls" that encourage old and young alike to voice their concerns and engage with their elected representative. As part of these town halls British Columbians are encouraged to ask MLAs questions or express opinions on Twitter. By using a specific hash tag, the tweets are compiled and Members can engage in an online discussion and answer questions. Town halls hosted by Members have focused on local issues but are also used to interact with all British Columbians on province-wide issues like education and job creation.

In autumn 2011, our Committees Office launched a Facebook page to keep the public up to date with information and photos about the work of BC's parliamentary committees. Information about up-coming meetings and reports, about committee public consultation processes, and pictures from committee meetings are posted online. In addition to print ads about committee public consultations, online advertisements and ads on Facebook are also being used to reach out as many British Columbians as possible.

During the annual budget consultation last fall members of the Select Standing Committee of Finance and Government Services posted tweets with pictures and comments about what they heard on their tour of the province in an effort to engage youth.

MLAs also make use of blogs to update constituents and engage with citizens. Many Members make regular postings about their work in the House and events in the community. In some cases these blogs also include an opportunity for constituents to comment on posts — another new way digital tools can be used to interact with constituents.

There are other online networking tools that are also useful for Parliamentarians to get connected with young people in their communities.

The use of QR codes is increasingly popular in British Columbia. QR, or quick response, codes are a type of bar code that can be read by smart phones, which many young people have. By placing QR code on a document, or on my business card, access to additional information is simplified — just scan the code and the designated webpage will load. These codes have also been used by the Clerk of Committees Office on print advertising for public consultations taking place. By including the codes in the ads citizens are quickly directed to an online form where they can share their views.

> ***We only need to watch the evening news to see how social media tools can mobilize young people to get involved in politics.***

Linkedin is also a great, and free, networking tool available to parliamentarians. Though my online profile I am able to connect with students, employers and businesses in my community.

Youtube provides a unique way to interact with and inspire younger voters. Both the Government of BC and a number of MLAs in my province share information using online video clips. The Government website showcases local businesses and provincial parks whereas some Members tape their monthly updates and post them online for all constituents to see. Members also post clips from Hansard to demonstrate to their constituents the work that takes place in the House.

There are numerous ways digital and social media tools can be used to facilitate interaction between young people, parliamentarians and the political system. Designing youth-friendly tools and providing youth with an opportunity to provide feedback to legislators on issues that touch their lives are important components of fueling civic engagement and voting practice is crucial to developing a connection between British Columbians and their Legislature.

Rethinking House of Lords Reform

Rt. Hon. Sir Alan Haselhurst MP

Throughout its life, like all parliamentary institutions, the House of Lords has been in a state of flux. The road to reform has been a long and rocky one. Ironically, Canada has been facing the same questions over the Senate for almost the same period of time. This article looks at the recent attempt to reform the Upper House.

On September 3, 2012, Deputy Prime Minister, Nick Clegg made a statement to the House of Commons that the House of Lords Reform Bill (HCB 52) had been withdrawn. To shouts of hooray, the Deputy Prime Minister, who led the charge for reform, explained why the process had collapsed after only getting as far as its Second Reading. Oddly enough, the Second Reading had resulted in 462 members voting in favour of the Bill to 124 against.[1]

This Statement ended what was a two and a half year process of attempting to alter the structure and make-up of the United Kingdom Parliament's Upper House; a practice that has been ongoing for the last century. I was not in the Chamber that morning, but if I was, I do not know if I too would have shouted hooray or cried out in despair.

Party Games

In 2010, as it had done over previous elections, the Liberal Democrat Party placed in their manifesto that it would "Replace the House of Lords with a fully-elected second chamber with considerably fewer members than the current House".[2] The Conservative Party limited itself to saying that it "will work to build a consensus for a mainly-elected second chamber to replace the current House of Lords, recognising that an efficient and effective second chamber should play an important role in our democracy and requires both legitimacy and public confidence".[3]

In 2009, the then leader of the Party (and current Prime Minister David Cameron) had nevertheless proclaimed Lords Reform a 'third term issue'. However, this was clearly an item likely to appeal to the Liberal Democrats when in 2010 these two parties discussed forming the first post-war Coalition Government. As such, when the Coalition Agreement came about, the Conservative Party agreed to include reform of the House of Lords, by stating that "We will establish a committee to bring forward proposals for a wholly or mainly elected upper chamber on the basis of proportional representation. The committee will come forward with a draft motion by December 2010. In the interim, Lords appointments will be made with the objective of creating a second chamber that is reflective of the share of the vote secured by the political parties in the last general election".[4] In hindsight, perhaps it should have been obvious to the Liberal Democrats that an agreement to establish a committee does not equate with passing legislation. Nevertheless, between May 2010 and September 2012, after half a dozen cross-party talks, the drafting of a White Paper and draft Bill (Cm 8077), not to mention the formation of a Joint Committee to examine the proposals. What comprised the Bill is briefly listed below:

House of Lords Reform Bill (HCB 52 12/12)[5]

Membership

- 360 elected members,
- 90 appointed members (Life Peers),
- Up to 12 Lords Spiritual (Archbishops/Bishops) and Ministerial members. Most importantly, no Hereditary Peers.

Elected Members:

- 120 members would be elected at each election (3 elections, 5 years each)
- Each elected Member would have a non-renewable term of 15 years
- Elections would be via an open list system (STV

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in Northern Ireland),

Electoral districts would be created

Elected members would be disqualified from standing as MPs for a period of four years after their term expires

Non Elected Members:

House of Lords Appointments Commission would be set up to recommend nominated peers

Parliament Acts of 1911 and 1949 (see below):

Neither would be repealed

Current membership of the House of Lords (as of 8 October 2012)[6]

674 Life Peers

92 Hereditary Peers

26 Bishops/Archbishops

Although it is hard to say what the final Bill would have looked like after all the legislative stages had been completed, nothing in the Bill itself condemned it to the scrap heap. It was ironically the programme motion or 'guillotine' as it is frequently referred to which brought it to a close. There was a concern by the Government that with no fixed timetable the Bill could be filibustered out of time by those opposing it. With the need to keep a tight rein on parliamentary time, especially as priority would have to be given to issues of economic and financial importance, a programme motion was essential. The Bill was arguably the legacy of the previous Labour Government and was supported by the majority of the Parliamentary Labour Party, but ironically the Labour Party was partly responsible for its ultimate demise. They did not wish to have a timetable which would limit debating time on a substantial constitutional issue. Yet in the end I think that the Bill was pulled because, despite the Coalition Agreement, too many members of the Conservative Party would not have been willing to uphold their side of the coalition bargain. To prove my point, ninety-one Conservative backbenches rebelled, one of whom was me.

Background

To get the clearest understanding of the background to the issue it is necessary to look at the history of reform, successful and unsuccessful. Rather than going back many centuries, perhaps the best place to start is the early twentieth century.

In 1906, the Liberal Party won a significant election victory. They campaigned on creating a new welfare state and produced an impressive array of reforms. David Lloyd George, the then Chancellor of the Exchequer wished to pay for these reforms via taxation which was not welcomed by the aristocracy who as landowners would be most affected. As the aristocracy made up the majority in the House of Lords they would prove to be most hostile. As expected, the 'People's Budget' as it was called was defeated in the Lords. Furious, the Government went back to the people won the election and forced the Budget through. However, the Government and the House of Commons were still unprepared to have its democratic authority challenged by what Lloyd George called "five hundred men, chosen randomly from the ranks of the unemployed".[7] Prime Minster Henry Herbert Asquith put forward a Parliament Bill which would curtail the Lords ability to amend or veto money bills. Over what contemporaries considered to be some of the most outrageous behaviour ever witnessed in Parliament, the *Parliament Act* 1911 was passed, and when supplemented by the *Parliament Act* 1949, the House of Lords would be left without the power of vetoing legislation only delaying it (suspensory veto). Despite only intending to be temporary measures, the Parliament Acts are still in use, last being employed in 2004 for the *Hunting Act.* Perhaps what began in 1911 may have continued if it had not been for two world wars, a great depression, a Cold War and many other troubles along the way.

In addition to the Acts, there are some conventions that although not constitutionally binding are still in practice. The most notable of these is the *Salisbury Convention*. The Convention is simply that the House of Lords will not oppose a Second Reading of any piece of legislation (originating in the Commons) that was in the winning Government Party's manifesto at the previous election. It does not prevent placing amendments on Bills, but they cannot be wrecking motions. The reasoning behind the Convention dates from 1945, when an agreement was reached between the Conservative majority in the House of Lords (led by the fifth Marquis of Salisbury) and the Labour Party Minority (led by Lord Addison). The Government, in a similar scenario to that of 1906 wished to put through Parliament legislation that would create the 'Welfare State'. The Convention was intended to prevent obstruction and to uphold the principle that democratically elected governments should not be hindered by unelected peers.

In fact the *Salisbury Convention* was built on the principles set down in the Mandate Doctrine which originates with the Marquis's ancestor, the third Marquis of Salisbury and Prime Minister for most of the latter end of the nineteenth century. He argued a slightly different case which was more in favour of the House of Lords, that as the will of the people and the views expressed by the House of Commons did not necessarily coincide, the House of Lords had an obligation to reject, and hence refer back to

the electorate, particularly contentious Bills, usually involving a revision of the constitutional settlement, which had been passed by the Commons.[8] Both codes of behaviour are still in principle upheld today, but with the end of the Conservative majority in the Lords, and with a more assertive Chamber, there is less of a willingness to uphold it.

In addition to altering the power of the House vis à vis the House of Commons, the biggest shake up to the internal dynamic of the House of Lords come from the *Life Peerages Act* 1958 and the *House of Lords Act* 1999. The 1958 Act created Life Peers or as they are also known, Lords Temporal; meaning that the title of Lord was not hereditary and could not be passed on to their children. This meant Prime Ministers could bestow patronage and change the political dynamic of the Chamber. Most importantly, women would now be allowed to participate. The 1999 Act was a compromise which got as far as removing most of the Hereditary Peers (leaving only 92) and reducing overall membership from 1330 to 669.

The final Act passed that would alter the membership and power of the House of Lords came in the shape of the *Constitutional Reform Act* 2005 which ended the judicial role of the House of Lords. As a consequence of the Act, the Law Lords would no longer sit in the House, a Supreme Court of the United Kingdom would be created and the Lord Chancellor would cease in his/her official capacity in presiding over the House and was Head of the judiciary. A new Lords Speaker would be created; to date the only two office holders have been women, Baroness Hayman and Baroness D'Souza.

However, the course of true reform never runs smoothly and there have been many failures along the way. More recent than the little known Bryce Commission in 1917; the Wilson Government in 1967 attempted to alter the powers of the House and its membership by ending the voting powers of the Hereditary Peers. Additionally, they could only remain in the Lords for the remainder of their lives. The House of Lords agreed to the proposals but the Commons did not and the Bill eventually fell at Committee Stage. After the successes of the Labour Government under Tony Blair, in 1999 a Royal Commission under the Rt Hon. Lord Wakeham (Cm 4534) was set up to take the 1999 Act further forward and look at numerous wholesale changes. The report recommended the following proposals:

- The House of Lords would be reduced in number to around 550 members
- Rather than being selected by the Prime Minister, an Appointment Commission would chose who would become a Peer
- A minority of members would be elected on a regional basis, elections would be on a three election cycles for a 15 year term.
- Hereditary Peers would be removed.[9]

It is clear that a great many of the proposals from the *Wakeham Report* are reflected in the recent House of Lords Reform Bill. But in both circumstances the proposals could not make it on to the statute books. Between 2005 and 2008 numerous cross-party talks, White Papers, debates and Committees examined an assortment of proposals which predominately shared a number of common factors, namely removal of Hereditary Peers, appointed vs. elected Peers, length of term of office, etc. All have fallen by the way side and no Government has been clear or decisive enough to push anything through.

Why HCB 52 was Withdrawn

What are my issues of concern with the latest Bill (and its previous incarnations) and why has there been so much contention? Although there is a vast array of reasons, the most salient can be condensed into a number of points.

Those in favour of reform believe that having elected Peers would be a cure-all for the House of Lords. They claim it would give democratic legitimacy to the chamber. That is all well and good, but is being elected necessarily adding legitimacy and democracy to the Upper House? This is a question that Lord Norton, Professor of Politics and member of the Joint Committee that examined the Draft Bill asks. He and I are opponents of the recent Bill, because being democratic is more than just being elected. It is also about accountability to the public and the role and authority that peers have. Democracy is about people power, but history suggests that you cannot then expect them not to try to acquire extra powers. The concept of accountability is shot to pieces if members are given a 15 year term without having to face the electorate again.

A second issue relates to authority. Any attempt at reforming the House of Lords must come with the proviso that whatever the transformed Upper House looks like, it cannot challenge the supremacy or to use a more popular term, primacy of the House of Commons. It goes without saying that my colleagues and I in the Commons would be unwilling to institute reform that would undermine our power and authority. But the problem arises that as soon as you create a chamber whose membership is democratically elected, either wholly or partly, the authority of the Lower House comes into question. It could be argued that an elected chamber would challenge our authority to a certain degree. Some may argue that, if the Lords are elected

under a form of Proportional Representation and MPs in the Commons are elected via First Past the Post, they will have more credibility. Then the question arises, if they have more credibility, members in the House of Lords could challenge the laws and conventions that give primacy to the Commons. The Coalition Government has tried to hold back the potential floodgates of undermining Commons supremacy by keeping in place the Parliament Acts and by giving Peers longer terms of office and a rolling membership, but there would be nothing to stop an elected House from challenging MPs authority in the future, especially as the UK has no codified constitution. I and many others feel that the power and role of the Upper House should be to complement and support the work of the House of Commons and not be a rival to it. We also feel that no piece of legislation should be laid before either House without examining the membership and more importantly the role of the House of Lords.

What also raises concerns is that if Lords are elected they may find themselves rivalling members of the House of Commons in our constituency work. Who would represent the electors more, them or us? Although these new Peers would not be expected to deal with constituency casework, I suspect that willingly or otherwise they will be drawn into it. The scope for duplication and controversy could be limitless. As I understand it, a similar issue could affect those in the House of Commons and provinces across Canada.

Putting all these arguments to one side, it could be said that primacy in the UK Parliament in fact lies with the Executive which wields substantial power in the House of Commons and Lords via the Whips and the parliamentary timetable. A more assertive Upper House may give greater strength to Parliament as a whole. It could also be argued that, if it is elected and more competent in its role and functions, the House of Commons may have to 'up its game' scrutinising, legislating and debating to a higher degree. Whatever reform is proposed must state the role, power and membership of the House and its relationship with the House of Commons. Either way, until any of these squares can be circled the reform cannot move ahead. The real difficulty in the UK is through 700 years of history power has transferred from the Lords to the elected representatives of the people. No-one has convincingly shown how the flow can be reversed.

One of my strongest reservations about the 2012 reform Bill is the type of peer likely to emerge from the election process. It is hard to imagine most of the crossbench peers (Lords who do not take the party whip) who are independent and considered extremely competent standing for popular election. The same is true of many of the party elders who contribute their experience to the present Upper House. I find it difficult to identify the possible benefits. Through a PR system of election we risk ending up with a Lords (or Senate) membership dominated by political party influence. Large electoral districts will ensure no real connection with voters in much the same way at the UK's members of the European Parliament struggle to be identified. The resulting Upper House will become 'more partisan' when in its unreformed state it often has more objective and insightful debates than the Commons. Electing members to a chamber which has no powers does not obviously make it a better place making better laws.

When you look beyond those who are to be elected, there is still the matter of the Lords Spiritual, the 26 most senior bishops of the Church of England. Should twelve of them remain in a reformed House? Although the UK is still a Christian country, should not other faiths be equally represented? However, it is clear from opinion across the board that to remove Lords Spiritual would be unpalatable for too many. As noted in a report entitled *Breaking the Deadlock*, which was written back in 2007 and was intended to build consensus on Lords reform which at the time had stalled, it was stated that, "whilst we believe that there are arguments for removing Bishops from the chamber, this opens up bigger issues which could derail Lords reform"[10] I am in no doubt this sentiment is still applicable today.

In his evidence to the Joint Committee on the Draft House of Lords Reform Bill, Lord Lipsey suggested that the cost of implementing the reform would be £177 million in the first year and a further £433 million between 2015 and 2020. This bill would cover salaries, pensions, elections and staff support. It is questionable whether at this time such a cost is affordable. Lord Lipsey qualified it by saying such a cost would be the equivalent to 21,000 nurses.[11] Yes, you cannot put a price on democracy, but the timing of the recent Bill which coincides with a serious global financial downturn does not help sell the argument for spending more.

Putting party politics aside, when you took the temperature outside the 'Westminster Village' there was very little enthusiasm for any change. With over 35 years of representing my constituency I could count on the fingers of one hand the number of letters I had received pressing for House of Lords reform. It seemed to me that with the country struggling to get out of a recession, the public felt that the reform agenda was ill timed and a nonsensical side-issue; far more important was that the Government should concentrate on improving the economy. This was confirmed by the

poor turnout and interest in the recent referendum to change the UK electoral voting system. Even on that issue the public preferred the status quo.

What I considered to be an element lacking from the reform process was the refusal to have a referendum. This meant there would be no national debate, nothing to strike up an interest in the issue. Yet again, as with Europe, matters of huge constitutional reform were going to be the purview of a small number of experts and of course the media.

Unfortunately because the world will not come to a crashing end if things remain the same, things may very well remain the same. Realistically, there needs to be some change in the next few years. It has been estimated that by 2015, there will be approximately 1000 Members in the House of Lords if things remain unchanged and new appointments continue to be made. This number is simply unmanageable despite members not all being present at once. Nevertheless there is a growing concern that there is a lack of effective scrutiny of legislation. More importantly and based on a number of recent instances there is a need for Peers to be held more accountable for misdemeanours. A Private Peers Bill, one of many over the last five years, has been presented by the Rt Hon. Lord Steel of Aikwood. His House of Lords [Cessation of Membership] Bill which is viewed by many, particularly in the House of Lords, as an acceptable temporary alternative dealing more realistically with accountability.[12] However, the Bill is currently in the House of Commons and without the support of the Government, it looks like it too will fail.

Concluding Thoughts

In the most recent statement by the Coalition Government made on October 8 by the Leader of the House of Lords, Lord Strathclyde, he stated that

> Lords reform is now a matter for future Parliaments. I can confirm that the Coalition Government will not deliver Lords reform during this Parliament...[13]

It would seem from this and other remarks that reform will remain on hold for the time being. I voted against the House of Lords Reform Bill, not because I am opposed to any kind of reform. I opposed it because of its central failure to deal with the issues of powers and accountability, because of the control it would give to political parties to determine the candidates, but most importantly because it puts at risk the primacy of the House of Commons. I believe in bringing the House of Lords into the twenty-first century, even the twentieth century would do. I am not sure what the best solution is, perhaps Lord Steel's Bill would be worth supporting or even a continuance of cross-party talks. Yet I feel the present Government has lost its appetite for pursuing reform. The public it seems had no appetite in the first place.

I am a passionate believer in democracy and I believe the CPA and the Commonwealth should promote the creation and development of democratic institutions. I know the British and Canadian Governments promote the same principles. Perhaps I should feel a sense of guilt for tolerating the continuance of an unelected chamber in my Parliament. Nevertheless it is hard to disentangle oneself from the way the UK Parliament has developed.

As a Conservative I respect tradition, but I am not a slave to it. We should respect the past but be restless in questioning whether our institutions reflect changing needs and new challenges. For me the true test of parliamentary democracy is whether there is a chamber elected by the people and accountable to the people. Provided that the last word rests in such a place, having a reviewing body however composed is a secondary issue. The elected chamber must continue to demonstrate its relevance and effectiveness to each new generation of citizens.

Notes

1 HCD 03/09/12, *House of Commons Official Report*, Monday September 3, 2012.

2 Liberal Democrat Manifesto 2010.

3 Invitation to join the Government of Britain – The Conservative Manifesto 2010.

4 The Coalition – Our programme for Government, Cabinet Office, May 2010.

5 HCB 52 12/13, House of Lords Reform Bill, 27/06/12.

6 http://www.parliament.uk/mps-lords-and-offices/lords/lords-by-type-and-party/

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8 LLN 2006/006, *The Salisbury Doctrine*, House of Lords Library Note, Glenn Dymond and Hugo Deadman, June 30, 2006.

9 Royal Commission on the Reform of the House of Lords: A House for the Future, January 2000.

10 Reforming the House of Lords: Breaking the Deadlock, Final Draft, 05/07/2007.

11 HCP 1313-III 11/12 / HLP 284-III, Joint Committee on the Draft House of Lords Reform Bill, Draft House of Lords Reform Bill, Volume III, Other written evidence, Lord Lipsey evidence, April 23, 2012.

12 HLB 21 12/13, House of Lords (Cessation of Membership) Bill.

13 HLD 08/10/12, House of Lords Official Report, Monday October 8, 2012.

Bicameralism in South Africa

Hon. Nomaindiya Mfeketo MP

During the transition following Apartheid, South Africa completely redesigned its constitution and its political institutions. This article looks at how bicameralism operates in that country.

Both the South African and Canadian Parliaments subscribe to a system of bicameralism but I must hasten to point out that our system of bicameralism is firmly rooted within the unitary state system of governance whilst the Canadian one functions within the federal State system where provinces are regarded as autonomous. This actually differs from our system where provincial legislatures take their cue from the national parliament through a system of cooperative governance.

In reflecting on the concept of bicameralism itself, perhaps it is important to highlight that the institutions which form part of a bicameral system trace their origins to the medieval period when Kings would consult with trusted and respected members of different sections in society. Parliament came into existence to serve this practical purpose, and a bicameral structure was adopted because different forms of consultation with different sections of society were deemed more appropriate.

I am reminded of our unique situation in South Africa when we were determining how to establish a legislative body to adequately deal with the country's needs. During the Convention for Democratic South Africa (CODESA) negotiations, not only was an interim constitution adopted, but it was also decided that a bicameral system would be ideal for the country's needs. A bicameral Parliament was established, which resulted in the abolition of a racially and ethnically divided tri-cameral system which was in place. The then tri-cameral system catered to whites through the House of Assembly, coloureds in the House of Representatives and Indians in the House of Delegates. This system actually marginalised the African people since their affairs where designated in the homelands. As a way of endeavouring to deepen democracy and foster public participation, it was imperative for the Parliament of the Republic of South Africa to establish National Council of Provinces system as opposed to the Senate or Second House. Through this arrangement the process of public involvement through the law making processes has been enhanced and provinces are better placed to reach the members of the public.

I also draw attention to the mandate of our Parliament which forms the bedrock upon which our system of democracy is established. The mandate of the South African Parliament is premised on building a democratic Parliament that is transparent and responsive to the needs of the people. It also bases its existence on the need to develop and follow a legislative agenda that is aimed at accelerating the transformation of South African Society. This has been Parliament's overriding policy and strategic objective since 1994.

In terms of Chapter 4, section 42(3) and (4) of the Constitution, Parliament's role and ultimate objective is to represent the people and to ensure government by the people under the Constitution, as well as to represent the provinces in the national sphere of Government.

In terms of section 42(3) of the Constitution of the Republic of South Africa, 1996, the National Assembly is elected to represent the people under the Constitution and to ensure government by the people under the Constitution. It does this by electing the President, providing a national forum for public consideration of issues, passing legislation and by scrutinising and overseeing executive action. The National Assembly is further required to provide mechanisms to ensure

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that all executive organs in the national sphere of government are accountable to it.

In terms of section 42(4) of the Constitution, the NCOP represents the provinces to ensure that the provincial interests are taken into account in the national sphere of government. It consists of 52 Members who are appointed in the provincial legislatures to represent the interests of provinces. The NCOP participates in the national legislative process by providing a national forum for public consideration on issues affecting the provinces. In addition, the NCOP's role includes exercising oversight over the national aspects of provincial and local government. Section 100 of the Constitution provides for the National Council of provinces to exercise oversight in cases when the National Executive intervenes in a province that cannot fulfil its executive obligations.

The institutional relationship between the two Chambers can be realised through the legislative process, in the sense that any Bill that has been debated and passed by the National Assembly has to be referred to the National Council of Provinces for issues that might impact on the provinces, before it can be adopted by the National Assembly. In dealing with National legislation, the Parliament introduced the notion of tagging mechanism to determine whether a particular legislation is of national competency or provincial and local competency.

The Constitution differentiates between the Section 75 legislation that deals with national competency and Section 76 Bills that deal with Provincial and local competencies. The legislation that deals with Constitutional amendments and Money Bills resides within the competency of the National Assembly as it is enshrined in Section 74 and Section 77 of the Constitution respectively. All Bills dealt with in the National assembly are referred to the National Council of Provinces for concurrence and vice versa.

This legislative process also encompasses the ratification of International Agreements, where the constitution clearly states that "an international Agreement binds the Republic only after it has been approved by resolution in both the National Assembly and National Council of Provinces" (section 231(2)).

The National Assembly consists of 400 Members, directly elected through a system of Proportional Representation, and our constitution prescribes for Members of Parliament to be voted into power every five years period they have been in office. Before elections, parties draw up electoral lists of potential members of the Assembly. Voters vote for the party of their choice and parties gain seats in the Assembly strictly according to the support they receive".

Election to the NCOP is indirect. Citizens vote for provincial legislatures, and each legislature then appoints a delegation of ten members to the NCOP. Thus, each of South Africa's nine provinces has equal representation in the Council regardless of population. Each provincial delegation consists of six permanent delegates, who are nominated for a term that lasts until a new provincial legislature is elected, and four special delegates. One of the special delegates is the province's Premier, or another member of the provincial legislature designated by the Premier, while the other three special delegates are designated ad hoc by the provincial legislature. The party representation in the delegation must proportionally reflect the party representation in the provincial legislature, according to a formula included in the Constitution.

The challenge, in certain occasions, the temptation by one Chamber to overstep the constitutional mandate lends itself into situations where the system itself would look unsustainable because one house would have assumed responsibilities that goes beyond or outweighs its capacity. Perhaps it could be argued that clear roles and lines of responsibilities as enshrined in the constitution need to be clarified at all times.

Women in Politics

I must reflect on some of the success stories of our Parliament in relation to women and gender issues. There is a minimum success that we pride ourselves as a country in key political sectors of the country. This off cause relates to the 50% gender parity adopted by the ruling party in key political areas of deployment. The Minister of Women, Children and People with disabilities is currently initiating a bill to compel both public and private sector to adopt the 50% gender parity. We also celebrate the election of our former Home Affairs Minister, Dr Nkosazana Dlamini- Zuma who has been elected Chairperson of the African Union Commission and we hope that she will enjoy your support in her endeavours to advance the cause of Africa and women of the continent.

In 2014, South Africa government will be celebrating twenty years of democracy. This should also present an opportunity to review our statutory frameworks, reflect on the progress on Institutions Supporting Democracy. This introspection should also examine whether we are on track with the systems we have created in Parliament, governance systems, electoral systems and the whole debate of having three spheres of governance. As we review other transformational

changes that are necessary for the country to succeed, including issues relating to the reduction of provinces. It is perhaps incumbent upon us to re-consider a debate of having a Speaker of Parliament who will account for both houses and the legislative of the state in general. This will off cause be done in spirit and the quest to strengthen our system of bicameralism. As we walk this path of transformation, we shall also draw lessons on best practices in our counterparts in the Commonwealth Parliaments. We do so conscious that in the course of strengthening our democratic systems, along the way mistakes will be made. We might be able to draw a distinction on what we should not do, but we might not always know what should be done to get things right.

Conclusion

Let me conclude by reflecting on one of the famous statements uttered by Comrade President Mandela during his legal defence statement in the Rivonia Trial in 1964 which he repeated during his release from Prison in 1990. These words are still lingering in our subconscious minds as a source of inspiration to the majority of South Africans. In his statements, President Mandela state that,

> "I have fought against white domination, and I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons will live together in harmony with equal opportunities. It is an ideal which I hope to live for, and to see realised. But if needs be, it is an ideal for which I am prepared to die"

Looking back on the epoch-making events that surrounded President Mandela`s release from prison with the advantage of hindsight, we cannot but appreciate the enormity of challenges we had to wade through, and Mandela's statesmanship, courage and moral consistency, qualities that successfully guided our political transition through uncharted but turbulent terrain.

Lessons in Democracy from Australia

From Coalition Government to Parliamentary Privilege

Bruce M. Hicks

This paper examines Australian developments with respect to the Westminster-model of responsible parliamentary government. Australia has adopted preferential voting and compulsory voting; and it has a long history of governments that are coalitions or that negotiate support from smaller parties and independents, or both. Australia began making its previously 'secret' cabinet handbook available to the public in 1982, and followed this up with release of the Executive Council Handbook and 'caretaker conventions' to prevent a government from making major commitments during an election. And recently it has reduced parliamentary privileges and codified them in statute. Each offers lessons for Canada. To that end, this paper traces the Australian developments and practices beginning with its electoral system and compulsory voting, government formation (including changing governments mid-term), popular understanding of the powers of the Governor General, the unclassified cabinet and executive council handbooks, caretaker conventions and parliamentary privileges. There are lessons on each for other Commonwealth countries to learn, as several countries including the United Kingdom have begun to realize.

The British gave a number of countries a system of parliamentary government.[1] This became known as the Westminster-model, after the Royal Palace in London where the British Parliament has been ensconced since the 13th century.

The British constitution is an unwritten document, though portions of it have been codified by quasi-constitutional statutes. The most important rules, however, are unwritten and governed by convention, which are constitutional rules all parties have agreed to be bound by pursuant to precedent.[2]

Australia, like Canada, is in a slightly different situation than the U.K. as it has a written constitution. But this constitution simply identifies the formal structures of government, such as vesting the executive powers of government in the Queen and allowing these to be exercised by the Governor General in Her stead (s.61) and vesting legislative power in a 'Parliament' composed of the Queen, a 'House of Representatives' and a 'Senate' (s.1). Apart from their Senate being an elected body, the structures of this Westminster-modeled government are identical to Canada; and, like Canada's, a reading of the *Constitution* would make it seem that the Queen and Her Governor have all the power.

It is the unwritten constitutional conventions surrounding the Queen's powers that graft democratic elements onto an archaic monarchical system of government. It is through conventions that the British Parliament was slowly transformed from a group of representatives who assembled to petition at the foot of the Throne into a body in which the wielders of state power must reside and to which they must remain accountable. In colonies like Canada and Australia, the same developmental trajectory occurred as these conventions were transferred, transforming representative government into responsible government.

When it comes to these conventions, the United Kingdom, Australia, Canada and the Queen's other dominions overseas should have identical constitutional rules.[3] Yet the example of Australia shows that these rules are being operationalized

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differently than in Canada. The explanation for these differences is due in part to Australia's electoral system. But these differences are being increasingly seen in other dominions, including the United Kingdom itself, so historical, temporal and cultural factors provide greater explanation for comparative variation between countries of the Commonwealth than any differences in institutional rules.[4]

The foundational principle behind the Westminster-model is that people elect a representative and send him or her to the capital. This MP's first task is to meet with colleagues and act as an electoral college to choose a government and then to hold that government to account on a daily basis. This is the way the Westminster-model is understood in Australia and most other dominions. It is not the way it is understood in Canada.

This is not to say that Canadian PMs have been violating our shared constitutional conventions; rather that ambiguity has allowed Canadian PMs to follow the letter of the constitution without following the spirit.[5]

Canada can therefore learn some lessons about democracy from Australia.

Electoral System

The Australian story begins in 1918 with its electoral system. In the federal electoral district of Swan, a by-election was held which saw the vote on the right of the political spectrum split between the Farmers and Settlers Party (31.4.%) and the governing Nationalist Party (29.6%), permitting the Labor candidate to win with only 34.5% of the vote under the single member plurality electoral system still used to this day in Canada.

The fact that the three political parties so evenly split the vote suggested to the Australian public that there was an inherent defect in SMP, or what is often referred to in Canada as first-past-the-post. All three parties could claim to have the support of roughly 1/3 of the constituents in this riding, but when ideology was taken into consideration, 2/3rds of the voters clearly opposed the views of their newly elected Labor representative.

While one by-election may not normally be expected to encourage a country to reexamine its electoral system, this riding was symbolic. It had been held by the Nationalist former premier of Western Australia, Sir John Forrest, since Australia's 'confederation' in 1901. It was also understood to be an indicator of what was likely to occur on a larger scale in the next and subsequent elections.

Fearful that the urban-rural split among right-of-centre voters would see the Labor Party win a sufficient number of ridings across Australia to form a majority government without receiving the support of the majority of the population, the Nationalist Prime Minister of Australia, Billy Hughes, asked the Parliament to change the electoral system to preferential voting.

Also known as the alternative vote, instant-runoff voting or transferable voting, the ballot asks electors to rank the candidates in order of preference: 1,2,3… The ballots are counted and, if no candidate has received over 50%, then the lowest ranked candidate is eliminated and his votes are distributed to his electors' second choices, and then the next lowest to her electors' second choices and so on, until the candidate who has the support of the majority of voters is identified.

The Farmers and Settlers Party had been a state (or provincial) agrarian party that emerged in New South Wales, with the Victorian Farmers Union and the Country Party of Western Australia gaining ground in those respective states.

In the federal election of 1919, under the new preferential balloting, the Nationalist Party was forced to cede 11 seats to these state-based agrarian parties, but not to Labor as it would have under SMP. The Nationalist Party won 37 of the seats in the lower chamber, compared to 25 Labor; and with one of the two independents agreeing to support the government, Hughes was able to hold onto power. The following year the 11 agrarian MPs united under the banner of the Country Party of Australia.

In the 1922 election, the Labor Party won the most seats, with 29 of the 75 seats in the lower chamber. The Nationalist Party came second with 26, the Country Party 14, five Liberals and one independent. The leadership of the Nationalist and Country parties entered into negotiations to form a coalition government, and one of the prices extracted by the Country Party was the resignation of Billy Hughes as PM.[6] The new leader of the Nationalist Party, Stanley Bruce, then finalized the coalition agreement with the leader of the Country Party, Earle Page, who asked for and received five of a total of 11 Cabinet posts for him and his members, including the post of treasurer. The order of precedence was amended so Page would be PM in Bruce's absence (making him the first de facto Deputy Prime Minister of Australia) and the government became known as the Bruce-Page Ministry.

While the Australian political parties have since evolved in name and format, a coalition government between the leading non-Labor parties has been an

alternative government to a Labor government since 1922. Only once, in 1931, did a non-Labor party (the United Australia Party) have sufficient seats to form a government without negotiating a coalition, but they returned to a partnership with the Country Party after the following election.[7]

Today the two main political parties in opposition to Labor, and in semi-permanent coalition, are the Liberal Party and the National Party. An election flyer aimed at supporters of the National Party might indicate that the Liberal party is the second choice. Liberal party flyers might make the inverse recommendation.

This is strategic voting without forcing electors to do the vote calculus of determining which candidate is ahead in their riding so as to stop the candidate/party they don't want to win, something we know is very difficult for voters to do under Canada's SMP.[8] In Australia, the electoral system, ensures that one of the non-Labor parties is competitive in each riding; provides the opportunity for political parties to throw their support to the party closest to them in terms of ideology and policy if their candidate is eliminated; and enables independents and regionally popular small parties to win seats.[9]

SMP has been entirely eliminated for legislative elections in Australia. Most of the lower chambers at the state-level have transitioned to preferential voting, with the exception of Tasmania and the Australian Capital Territory where a form of single transferable voting has been adopted due to the multi-member constituencies.[10]

Compulsory Voting

At the same time as Australia was considering changing its electoral system to preferential voting, compulsory voting emerged as another possible improvement for Australian democracy. While it did not initially make it into the *Electoral Bill* of 1918, it was adopted federally in 1924 through a private members' bill.[11] What is compulsory, of course, is not 'voting' but registering to vote and then showing-up at a voting booth. After that, citizens are free to spoil their ballot or leave it blank.

Failure to show-up at a poll on Election Day results in the non-voter being sent a form letter. The recipient can pay a $20 fine or explain their absence due to illness (no doctor's note required), travel, religious objection or forgetfulness. About 80-85 percent of eligible Australians register to vote; less than four percent of these fail to vote. Among these registered non-voters, 80 percent provide excuses; five percent pay the fine; and 15 percent are mostly conscientious objectors who court the higher $40 fine or a brief prison stint to express their discontent with the system. The fine for non-voting is roughly a tenth of a parking fine in Australia.[12]

While initially seen as an unpopular change, public opinion shifted rapidly after the introduction of compulsory voting and today polls regularly show that 70-80 percent of Australians support the law. And, of course, the country's registration and turnout statistics put most democracies to shame, even more so at the state- and municipal-levels (turnout in most countries declines between levels of government).[13]

Federal elections occur every three years, though there is no fixed election date and, like Canada, the constitutional convention is that the Governor General dissolves the parliament and issues the writs for an election to be held in each electoral district on a specific day on the advice of the Prime Minister; the advice to issue writs in Australia must be formally delivered to the Governor General through the Executive Council.[14]

The *Commonwealth Electoral Act* sets the campaign period for federal elections between 33 and 58 days, and 10 days are allowed between the dissolution of the House of Representatives and the issuance of writs, so the longest a campaign can be is 68 days. Election Day must be a Saturday.

Government Formation and Change

As noted above, the principle behind responsible parliamentary government is that the voters choose a representative and these representatives collectively, in turn, choose the government and hold it to account. The constitutional convention by which this principle is given effect is that a government remains in power only so long as it has the confidence of the lower chamber of the legislature. Having lost its confidence, the PM has the option to recommend that an election be called or to resign and allow the Governor General to ask a person who does have the confidence of Parliament to form a government.

Because of preferential voting (and single transferable voting) in Australia, often no political party will win a majority of seats in the legislature; and smaller parties and independents (what Australians call 'cross-benchers') are able to win seats and hold the balance of power in the legislature. The willingness of non-Labor parties to form coalitions means that there are often alternative government configurations possible in any parliament.

All this combines to create the expectation that of the two options available to a PM in the event of

a defeat on a confidence question, the PM should resign. And if they try to recommend dissolution, as will be seen below, Governors will refuse to grant the recommendation if an alternative government exists that the Governor believes has the confidence of the chamber.

Here is a dramatic example of responsible parliamentary government as it should work, and does in Australia: In 1941, the House of Representatives opted to change governments and did so by reducing the government's "supply" by £1. The leader of the coalition, Prime Minister Arthur Fadden, resigned and the Labor leader, John Curtin, was asked by the Governor General to form a government.

The pre-vote developments are also noteworthy as they show how the spirit of the conventions can operate independent of the letter. The coalition government was between the United Australian Party and the Country Party, and as the UAP had the most seats its leader, Robert Menzies, had been Prime Minister. Once Menzies realized that the cross-benchers no longer had confidence in his government, he resigned as PM. The Deputy Prime Minister and Country Party Leader Arthur Fadden established a new government and attempted to win the support of the cross-benchers. This all before the House of Representatives formally expressed its lack of confidence by the symbolic defeat on a money vote.

As noted above, today at the federal-level a semi-permanent coalition exists between the Liberal and the National parties, though there are regional sub-parties within this Liberal-National appellation. When they form a government, the leader of the party with the most seats becomes PM and the leader of the smaller party becomes deputy PM and chooses that party's cabinet members. The choice of portfolios is the PM's, though this is done after consultation with the deputy PM.

As for Labor, from 1907 until 2007, members of the Cabinet were elected by the caucus. The PM had considerable influence, though leaders of factions within the party would be able to land themselves seats in Cabinet. The portfolios assigned to these 'elected' ministers were up to the PM. Before the 2007 election, Labor leader Kevin Rudd announced he would be choosing his own Cabinet if he won, though he ended up having the caucus 'elect' his slate of ministers at its first post-election meeting.

For all the main parties in Australia, the leader and deputy leader are each elected by the parliamentary caucus. They can also be removed by the caucus. This is known as a 'leadership spill' because the leadership is deemed to be vacant at the moment prior to balloting.

In Australia, the principle of 'Cabinet government' (rather than 'prime ministerial government') continues to guide public office holders. There are four main reasons for this: (i) the parliamentary caucus selects (and removes) the leader and deputy leader, (ii) there is knowledge of and respect for the constitutional conventions surrounding Cabinet government, (iii) the Governor General's 'reserve powers' are not readily available to PMs as a substitute for Cabinet conventions, and (iv) the rules and procedures of the Executive Council are designed to reinforce these Cabinet conventions.[15] The latter two points will be discussed more fully below.

Key among the conventions surrounding Cabinet government are that: it is up to the PM to select ministers; once appointed, the PM is expected to discuss Ministerial shuffles with his Cabinet, and obtain its support, before advising the Governor to implement a reassignment of portfolios; the PM should ask ministers to resign their portfolios in this (or any other) context and should give the Minister reasons when doing so; ministers should tender their resignation when asked by the PM; and when a leadership challenge arises, the PM can initiate a 'leadership spill' or face Parliament and ascertain if the House's confidence in his Ministry continues to be enjoyed.

The current Prime Minister, Julia Gillard, became PM by asking Prime Minister Kevin Rudd for a 'leadership spill' in October 2010. She was deputy leader and thus Deputy Prime Minister at the time. More recently, Gillard announced a spill in February of this year when Rudd resigned as Foreign Minister as a challenge to her leadership. Rudd ran against her in this spill and she defeated him 71 to 31. Leadership voting is not by secret ballot. The ministers who backed Rudd in the vote have continued in their portfolios.[16]

There are tiers of ministers in Australia, with some ministers sitting in Cabinet and other ministers holding portfolios and being members of the Executive Council (the Australian equivalent of the Privy Council) but not participating in Cabinet meetings unless invited to attend for discussion on a particular issue. This duality gives the PM flexibility in giving leaders of opposing factions, leaders of smaller parties or cross-benchers portfolios; all while the PM and Cabinet maintain control over the government's overall agenda and direction. At the federal-level, parliamentary secretaries are also sworn into the Executive Council and thus are considered like non-Cabinet ministers to be 'Ministers of State'.[17]

In terms of government formation, Australians think of Labor versus Coalition as being the two

possible configurations. Since 1949, the Australian Electoral Commission has, in addition to reporting the actual results by riding, reported the two-party preferred results so Australians know, between the two alternative government configurations, which side has the greatest overall support. But, and it bears repeating, government formation is not about elections in the Westminster-model. The voters choose their representatives in the legislature and those representatives in the lower chamber become an electoral college.

In Australia, governments do not usually wait for the House of Representatives to express its lack of confidence. They negotiate with the MPs for their support. This goes beyond the now 90-years of negotiation between the different non-Labor parties to form coalition governments. It involves negotiating with smaller political parties and cross-benchers for their support on motions of non-confidence and supply.

Take the most recent election: in 2010 the electorate returned 72 Labor representatives and 72 Coalition representatives. The Liberal-National coalition included: 44 Liberal Party of Australia, 21 Liberal National Party (Queensland), six National Party of Australia and one Country Liberal Party MPs. In addition, there were six cross-benchers in the parliament: one of whom had been elected under the Green Party banner, one under the National Party of Western Australia label and four independents. Seventeen days of negotiations took place, during which different government formations were explored.

One of the configurations considered by both Labor and the Coalition involved offering independent MP Rob Oakeshott the post of Minister of Regional Affairs.[18] Regional policy and programs had been a key demand for his support. In the end, he opted to support Labor but not to accept a ministerial position, feeling his regional package would be more easily enacted with him advocating on its behalf from the cross-benches. A Labor government under Julie Gillard was eventually formed with negotiated support from the green MP and three independents.

In the Cabinet, Simon Crean was made the minister responsible for keeping the independents happy. Given their demands, his official portfolio included Minister for Regional Australia, Regional Development and Local Government (he is also Minister for the Arts). He is a former Labor leader (2001-2003) and has spent most of his parliamentary career, now 22 years, as a Cabinet minister, having served under prime ministers Hawke, Keating, Rudd and now Gillard.[19] The designation of a minister of his stature to deal with the cross-benchers is evidence of the importance governments place on Parliament.

Governor General

While government formation in Australia is largely left to the House of Representatives and its party leaders and cross-benchers, Governors General (and Governors at the state-level) are strong believers in the importance of the 'reserve powers'. These are the powers "which the Governor-General may, in certain circumstances, exercise without – or contrary to – ministerial advice… they are generally agreed to at least include:

> 1. The power to appoint a Prime Minister if an election has resulted in a 'hung parliament'; 2. The power to dismiss a Prime Minister where he or she has lost the confidence of the Parliament; 3. The power to dismiss a Prime Minister or Minister when he or she is acting unlawfully; and 4. The power to refuse to dissolve the House of Representatives despite a request from the Prime Minister.[20]

As these are the 'personal prerogatives', in Australia Governors have consulted, and continue to assert the right to consult, with more than just the PM when asked to use the 'reserve powers', and this includes other ministers and MPs, including the Leader of the Opposition.

The Governor General also claims "a supervisory role to see that the processes of the Federal Executive Council are conducted lawfully and regularly" and to "protect the Constitution and to facilitate the work of the Commonwealth Parliament and Government".[21] In addition, the Governor General must satisfy herself that a law has passed each stage in both chambers of Parliament, and receives a certification from the Attorney General in this regard, before giving Royal assent.

In Australia, non-controversially, Governors have refused to grant dissolution. The most recent instance was 1989, when the Premier of Tasmania, Liberal Leader Robin Gray, having failed to win a majority in the election asked for a second dissolution on the grounds that it was a 'hung parliament' (i.e. no party had a majority of the seats in the legislature). The Governor, Sir Phillip Bennett, refused his recommendation and commissioned the Labor leader to form a government. There is an expectation in Australia that Governors will refuse a request for dissolution if it is much before the full three year term.[22]

Also non-controversially, Governors have refused to dismiss Cabinet members when asked to do so by a premier. The most recent example of this was in 1987 in Queensland. Premier Joh Bjelke-Petersen,

facing a cabinet revolt, asked Governor Sir Walter Campbell to dismiss the Ministry (including him) and then reappoint him as Premier with a new Cabinet. Campbell pointed out that he would have to ascertain whether he enjoyed the confidence of the House before re-appointing him (which was by no means clear). When Bjelke-Petersen then asked to shuffle the Cabinet and dismiss five ministers, the Governor insisted that he discuss the proposed Cabinet shuffle with the entire Cabinet and that he ask for the five ministers' resignations, pursuant to the Cabinet conventions. After the Premier did this and the ministers had refused to resign, the GG agreed to the Premier's request to use his 'reserve powers' to dismissed three ministers (or more accurately withdrew their commissions as they serve at the Governor's pleasure).

In response, the party attempted to remove the Premier by convening a meeting of the parliamentary caucus, which proceeded to elect a new party leader. Bjelke-Petersen refused to resign as Premier. During these events, the Governor, a former state Supreme Court Judge, kept the Queen and Palace briefed on developments. And when Bjelke-Petersen tried to contact the Queen and have Her intervene, he was informed that the Queen had full confidence in Her Governor. The Governor then convinced the Premier to convene Parliament and ascertain if his Ministry had the support of the House.

At the time the Governor came under public criticism for failing to dismiss the premier. And speculation was that the Premier might hold onto office with the support of political parties other than his own. Eventually Bjelke-Petersen stepped aside in favour of the new party leader, and the general consensus with hindsight has been that the careful adherence to the conventions surrounding Cabinet government and the 'reserve powers' ensured that this internal party matter did not escalate into a constitutional crisis as it had in 1975.[23]

Noting that it is impossible to foresee all contingencies, and that circumstances will change from case to case and country to county, Governor Campbell outlined in a speech (after leaving office) the overriding principle that should guide a Governor when applying constitutional conventions:

> It should be borne in mind that a Governor, in times of political crisis, has a constitutional right to advise and counsel ministers and those who are seeking to form a government with the object of bringing about conciliation or accord between opposing factions or parties – advice based on the wish for the retention of stable and orderly government.[24]

He went on to say that a Governor must not take sides in an open political conflict and must be guided by the test that the person he chooses to be premier must be the one who can command the majority of votes in the Parliament.

Of course there have famously been two controversial instances of governors dismissing first ministers in Australia. In 1932, New South Wales' Governor Sir Philip Game dismissed Labor Premier Jack Lang after he took all the province's money out of the bank to keep it from being spent on debt interest; and in 1975 Governor General Sir John Kerr dismissed Labor Prime Minister Gough Whitlam after he failed to get supply through the Senate. The events surrounding these dismissals have been well chronicled and need not be recounted here, as they for our purposes are less significant than the fact that the issue for Australians has been to identify and better understand the constitutional conventions and to make improvements where necessary.

For example, one of the events which precipitated the Whitlam Government failing to get supply through the Senate was the decision by the Premier of New South Wales to replace a Labor vacancy in the Senate with a non-Labor temporary appointment. The state legislature can fill vacancies but convention dictated they should be from the same political party which won the seat in the election. In 1977, *Constitution Alteration (Senate Casual Vacancies)* was proposed by the Coalition government that replaced Whitlam. Adopted by referendum at the level of 76 percent, it amended the *Constitution* to require that vacancies can only be filled by Senators from the same party and that these interim Senators would only finish the previous Senator's term, at which point the seat would come up for election.

Additionally, in both these constitutional crises, the first minister contemplated how to stop the Governor dismissing him. This led the states of Queensland and New South Wales to change the foundational basis for the authority of the Governor from prerogative to legislative, replacing the Royal 'letters patent' and Royal 'instructions' with Acts of the state legislature.[25] Included in the Queensland Act is the requirement that the appointment of a Governor can only be terminated by an instrument signed by the Queen under the great seal of the state and only after this instrument has been published in the *Government Gazette*. So the idea that a Premier could simply pick-up the phone and ask the Queen to sack the Governor before the Premier gets sacked is no longer a possibility, if it ever was.

Queensland also leads the way in legislatively entrenching the Australian understanding that the

'reserve powers' are those of the Governor alone. The *Constitution Acts 1867-1978* provide that appointments to public offices are to be made by the Governor-in-Council but the appointment of "officers liable to retire from office on political grounds" (i.e. ministers) shall be vested in the Governor alone (s.14). A 1977 amendment to the state constitution takes this further and states that in appointing and dismissing 'officers liable to retire from office on political grounds' the Governor "shall not be subject to direction by any person whatsoever nor be limited as to his sources of advice" (s.14(2)).

The constitutional convention that a Governor appoints or dismisses ministers on the advice of the premier still applies in Queensland, as in any other Australian state. The purpose of this legislative clarity is to ensure that all concerned know the Governor is not bound by advice in the exercise of the 'reserve powers', namely to dissolve the legislative assembly and to appoint and dismiss the ministers when circumstances require a change of government.

Cabinet and Executive Council Handbooks

In 1982, the Australian government decided to make public the *Cabinet Handbook*.[26] This document includes broad constitutional principles and conventions accepted by the executive branch to be binding on this and all future governments and day-to-day technical requirements set in place by the government of the day and subject to change. For example, it makes clear that a "Westminster-style Cabinet is defined by adherence to the principles of collective responsibility and Cabinet solidarity" (art.12) and then goes on to operationalize both these constitutional conventions. At the other end, it makes clear to ministers that submissions to Cabinet need to be circulated five days before a meeting (art.32), that once submitted to Cabinet or a committee a submission cannot be changed (art.33) and that while it is possible that a matter can be considered without a written submission, this "increases the risk that the Cabinet's decision will result in unforeseen and unintended consequences. It weakens the ability of the Cabinet to apply scrutiny from a whole-of-government perspective and ultimately undermines the Cabinet system itself" (art.36). The more recent versions even sets rules for how and when audio-visual presentations can be made to Cabinet (arts.14-18).

Nothing in this document involves the legislative branch or the conventions surrounding the Governor General's 'reserve powers' (which mediate relations between the legislative and executive branches).[27] This document is specific to what its title implies. It is a handbook for Cabinet ministers and senior members of the civil service. It is written to ensure that proper procedures are always followed and that the constitutional conventions surrounding [*only*] the executive branch are followed in principle and practice.

The government also released the *Federal Executive Council Handbook*.[28] The Executive Council exists to put into official form decisions which have been made elsewhere and thus is the body which gives formal advice to the Governor General by way of written submissions. Matters are debated in Cabinet but made law in the Council.

The Executive Council is established by the Australian Constitution and ministers are sworn into this Council by taking "the oath of allegiance, the official oath and the oath of fidelity" (s.62). Appointments are at pleasure, which simply means they can be removed by the Governor General, but membership is usually for life.[29]

In addition to the constitutional references to the Council, the *Acts Interpretation Act 1901* makes clear that when a statute of Australia refers to the Governor General it is to be read as referring to the Governor General acting on the advice of the Executive Council. The constitutional convention is that the Governor General, when exercising Royal prerogative *in the executive branch* (i.e. not the 'reserve powers'), does so only on the advice of a Minister who can be held to account for that advice by Parliament (and the people come election time).

Documents are placed before the Executive Council through a departmental minute. An explanatory memorandum is attached to the minute which offers the mechanism by which a minister takes responsibility for the advice offered to the Governor General. The Governor General is free to seek more information and to advise against an action or even delay it, pursuant to the often stated convention identified by Walter Bagehot that the Crown has "the right to be consulted, the right to encourage, the right to warn".[30] After doing so, the Governor General signs the departmental minute accepting that advice and then signs the Executive Council minutes bringing the ordinance, appointment or regulation into force.

Like the *Cabinet Handbook*, this document runs the gamut from constitutional provisions to the minutia of day-to-day government administration. The Council must by convention advise on (art.2.1.8):

> The making of proclamations;
>
> The making of regulations and ordinances;
>
> The making and terminating of appointments to boards and commissions;
>
> Changes to government departments;

Issuing writs for elections;
The approval of compulsory land acquisitions;
Approval of international treaties;
Appointment of officers in the armed forces;
Government borrowing overseas;
Grants of lands to Aboriginals; and
The issuing of Treasury Notes and Government Stock.

On the more administrative side, the Council meets every two weeks at Government House (art.2.2.1), ministers must attend if they are on the roster (a rotation is drawn-up at the start of each calendar year; art.2.2.3) and quorum is two ministers plus the Governor General (art.2.2.4).

The goal in releasing these documents was to create transparency in government and to let Australians know how their government operates in both principle and practice.

Caretaker Conventions

When governments lose the confidence of Parliament, or when an election is underway, it is a constitutional convention that no major decisions should be undertaken. Cabinet manuals historically have been secret so the extent of this constraint is not widely known inside government let alone outside government. As most Cabinets and Privy Councils (as the name would imply) operate in secret, government decisions will not be known immediately and sometimes for decades (if ever) thus the convention can be violated without Parliament's and the public's knowledge. This is not the case in Australia, due to the publication of its Cabinet and Executive Council handbooks.

The *Executive Council Handbook* identifies the 'caretaker period' as being between "dissolution of the House of Representatives and the point in time when the outcome of the election is clear" (art.2.3.1). If the government has not been defeated on a confidence question, the Executive Council can meet before the announcement of an election to deal with outstanding appointments and urgent matters, but not after (art.2.3.2). By the Executive Council not meeting during the caretaker period, the caretaker government is deprived of the legal mechanism to access the Governor General's prerogative powers as head of the executive branch and thus cannot do any of the things mentioned. (art.2.3.3).

Building on these primary government documents, the Department of the Prime Minister and Cabinet releases more detailed rules governing the caretaker period.[31] The principle behind the caretaker conventions is stated clearly and succinctly: "with the dissolution of the House, the Executive cannot be held accountable for its decisions in the normal manner, and that every general election carries the possibility of a change of government" (art.1.1). During the caretaker period, governments are not allowed to make major policy decisions that will commit an incoming government, make significant appointments or enter into major contracts or undertakings (art.1.3). And a caretaker government must not put the public service in a position where they are being asked to violate these conventions.

Specifically, the guidelines obligate caretaker government ministers to consult with the opposition spokesperson(s) if a decision has to be made or a contract signed that cannot be postponed before binding a future government (art.2.4), to stop all international negotiations or exchanges and, if impossible, attend only as an observer (art.5.1) and to make only 'acting' appointments to bodies where a Minister has appointment authority (art.3.2) [more senior appointments obviously are already impossible since the Executive Council does not meet to approve 'order-in-council' appointments during elections].

Government advertising must be vetted by the public servants in the Department of the Prime Minister and Cabinet and, even then, for a campaign to go forward it requires bipartisan agreement (art.6.1.1.). And, more recently, in response to the internet, restrictions have been extended to government websites so that they are not used to promote a Minister or the Government during an election (sec.6.2).

Parliamentary Privilege

Another area where Australia has led the Commonwealth of Nations in innovation is with respect to codifying parliamentary privileges. These are immunities from normal laws that were deemed to be necessary for members of the legislature to properly discharge their functions.

Like the Canadian one, the Australian Constitution transferred to the Australian Parliament "all the powers, privileges and immunities" of the U.K. House of Commons, and it authorized the Parliament to establish its own privileges (s.49).[32] It also empowered each House "to make its own rules and orders with respect to: (i) the mode in which its powers, privileges, and immunities may be exercised and upheld" and (ii) for proceedings in either chamber (s.50). Thus the British Commons' immunities and privileges at 1901, when Australia was founded, were put in place.

The privilege of freedom of speech was famously set out in article 9 of the English *Bill of Rights* (1689) which

states: "*That the Freedome of Speech and Debates or Proceedings in Parlyament ought not to be impeached or questioned in any Court or Place out of Parlyament*". This aspect of privilege has been taken to mean that an MP or Senator cannot be brought before a criminal or civil court over something they say or do in the chamber or at committee.[33] The other great privilege claimed by Parliament is known as 'exclusive cognisance', meaning it has exclusive jurisdiction over all aspects of its own affairs: the right to set procedures, determine if there is a breach of those procedures and what then should happen. This includes disciplining its own members for misconduct and punishing anyone, member or not, for interfering with parliamentary business. These two privileges established Parliament's independence from the Crown.

These two privileges also come together in the 'enrolment' principle which prevents courts from examining the procedure by which a bill was adopted; the court must simply accept that, when a bill is placed on the parliamentary rolls (i.e. enrolled), it was adopted according to Parliament's rules. And, as noted above, the Governor General in Australia (and Governors at the state-level) verifies that the bill properly passed all stages before giving Royal assent.

What triggered the review of privileges in Australia was a court allowing testimony that had been given to a Senate Select Committee on whether a High Court Judge should be removed from office to be used by prosecuting and defense attorneys to question the truth and motives of a witness.[34] In response a Joint Select Committee on Parliamentary Privileges was established in 1982 to review the practice and law surrounding parliamentary privileges.

While the initial motive was the court case(s) in New South Wales, the committee took on this project with an eye to determining what privileges and immunities were relevant to a modern democracy. It was accepted from the outset that some privileges and immunities won by the British Parliament from the Crown beginning in the 1300s may not be necessary or appropriate in the 21st century; and that all parliamentary privileges needed to be weighed against the rights and interests of all citizens.

Academics and parliamentary staff appeared as expert witnesses and the hearings generated a great deal of media and public interest. A draft was released and comments solicited; and the final report contained 35 recommendations.[35] Among these were a procedure for a 'right of reply' if people feel they have been defamed during parliamentary deliberations, that immunity should be reduced to only the days on which the House or a committee was sitting (and five days on either side) and that there should be some form of judicial review available for people who are found in contempt of parliament.

The resultant *Parliamentary Privileges Act 1987* implemented many of the committee's recommendations.[36] It defines 'proceedings of Parliament' from the English *Bill of Rights* to mean "all words spoken and acts done in the course of, or for purposes of or incidental to, the transaction of business of a House or of a committee" including: giving evidence before the House or a committee; preparation of a document for the House or its committees; and the preparation and publication of any House or committee proceedings or reports (16.2). It makes clear that these proceedings, this evidence and these reports cannot be used in a court to raise questions about the proceedings in Parliament including the motives and validity surrounding evidence given at a parliamentary committee. While most of the Act's provisions reduce privileges felt to be too sweeping or no longer appropriate (e.g. it eliminates the power to expel a member), it extended the contempt power by allowing for fines to be levied (marrying this with limited judicial review).[37]

Not everyone was in favour of codifying parliamentary privileges. At the time, two members on the committee expressed concern that this would allow the courts to become involved in parliamentary matters (something they considered undesirable).[38] Others have argued the opposite: that contempt should to be transferred entirely to the courts and that immunity protection for parliamentary debate should be reduced to allow civil actions when citizens are defamed.[39] The general belief, however, was that the process and the willingness shown by Parliament to review and reduce its inherited ancient powers strengthened these powers, and Parliament more generally.[40]

It is noteworthy that here, too, the United Kingdom has taken notice. In 1997, a joint select committee was struck to review the law and practice of parliamentary privileges in the 'mother' Parliament at Westminster and, in its 1999 report, the committee recommended a 'Parliamentary Privileges Act' similar to the one in Australia (including adopting the Australian definition for the English *Bill of Rights*' phrase: 'proceedings in Parliament'); and more specifically it recommended the elimination or reduction of a number of privileges, including turning over to the *courts* the determination of contempt and new criminal code provisions for *courts* to apply in the event of a failure to produce documents or appear before Parliament.[41]

Conclusion

The very fact that Governors are called upon to

use the 'reserve powers' against the advice of a first minister reflects the highly combative nature of Australia legislative politics. But the fact that coalition governments and negotiations with cross-benchers is possible in such a competitive environment points to why this country can offer Canada lessons when it comes to institutional rules and behaviour.

The key lesson to take away from Australia is how important first principles are to the proper operation of governance. For example, it is by keeping in mind that the principle behind responsible parliamentary government is government formation and accountability to the Parliament that the constitutional conventions of having the confidence of the House makes sense. Failure to do so is why these conventions are operationalized simply in the negative in Canada (and in the more limited way that loss of confidence triggers a new election). By doing so, Australia uses these same conventions in the positive, and we see the leadership of the larger parties actively negotiating support from other parties and independents before forming a government.

Electoral rules, whether it be preferential balloting or compulsory voting, were similarly rooted in first principles. Obviously there was some self-interest on the part of the government in the move to preferential voting as there will always be when considering electoral rules. But there are other electoral systems that would have advantaged the Nationalist Party more. In the end, Australia could never have made the change in electoral systems if the Australian people did not accept that the new system was rooted in democratic principles and that these principles were in-line with Australian values. It is precisely because Australians had come to believe that an elected representative should have the support of the majority of the constituents that this change was supported, and why it has spread to the state-level, and has continued to enjoy popular support.

The same is true for compulsory voting. While voters seem to have not supported it before its introduction in 1924, they have embraced it since, extending it to the state- and even municipal-levels, as it is also rooted in the principles surrounding majoritarian politics. For Australians, representatives, and thus government, should have the support of a majority of the citizens.

This brings us to coalition governments. In a Westminster-model Parliament, a government needs to be supported by the majority of the people's representatives. A coalition of political parties that has the support of a majority of MPs is seen as far more democratic than any minority alternative in Australia. Any election where no political party wins a majority of the seats is merely the prelude to parliamentary negotiations during the government formation period.[42]

The release of Cabinet and Executive Council handbooks was driven by the belief that in a democracy transparency at the highest levels of power is an obligation to the citizens. Full disclosure and an informed citizenry can only strengthen the government by ensuring public confidence in its decision making ability. The publication of caretaker conventions is in this same spirit and is seen as essential to protect Australian democracy and responsible parliamentary government.

Similarly, the review and reduction of unique privileges that members of Parliament enjoy is believed to have strengthened public confidence in the institution and to have increased popular acceptance for parliamentary privileges and immunities that exempt these elites from society's ordinary laws. Here too, the review was done from the position of first principles. After identifying the purpose of privileges (i.e. parliamentary independence from the Crown), each privilege could be examined through the lens of its role in contributing to that independence today, and a decision could be made as to whether these immunities from society's laws can still be justified in a free and democratic society.

In short, the lesson from Australia has to be the importance of democratic theory and first principles for institutional rules: the need to revisit those principles as part of their application; and the need for a regular review of these rules from the perspective of first principles.

Notes

1 Currently there are 85 countries or states/provinces that use the Westminster-model of responsible government [Anthony Low, "Buckingham Palace and the Westminster model", *The Round Table*, No.304 (1987)].

2 This is the litmus test for constitutional conventions set by Sir Ivor Jennings, *The Law and the Constitution* (London: University of London Press, 5th edn., 1960). It has been accepted and applied by the Supreme Court of Canada (Reference re: Amendment of the Constitution of Canada (1981) 1 S.C.R. 753, 888; and Re: Objection by Quebec to a Resolution to amend the Constitution (1982) 2 S.C.R. 793, 803-818).

3 All had been established prior to the *Statute of Westminster 1931* (U.K. 22 & 23 George 5, c.4), which gave Australia and the other dominions legislative autonomy, and certainly before the *Australia Act 1986* (S.U.K. 1986, c.2), which gave it constitutional autonomy (what is called in Canada 'patriation').

4 See Bruce M. Hicks, "The Westminster Approach to

Prorogation, Dissolution and Fixed Date Elections", *Canadian Parliamentary Review*, Vol.35, No.2, pp 20-27 (2012); and Bruce M. Hicks, "British and Canadian Experience with the Royal Prerogative", *Canadian Parliamentary Review*, Vol.33, No.2, pp 18-24 (2010).

5 Though the current Canadian prime minister has been intentionally misrepresenting the conventions in order to pre-empt the formation of a coalition government by opposition parties in the future. See Peter Aucoin, Mark D. Jarvis and Lori Turnbull, *Democratizing the Constitution: Reforming Responsible Government* (Toronto: Emond Montgomery Publications Limited, 2011).

6 The response of the Canadian Prime Minister, William Lyon Mackenzie King, to these same developments would be to try to use the 'reserve powers' to stay in power, leading to the constitutional crisis known as the King-Byng Thing.

7 It was able to do so because the 1931 election returned 34 UAP members, compared to Labor 14 and Country at 16. The UAP had campaigned as though it was going to form a coalition with the Country party, but opted to govern alone when it found it had more seats than Labor and Country combined. The 1934 election saw eight seats shift to the Country Party from UAP and Labor gain four, forcing it to return to coalition.

8 Only half of the voters in Canada are able to properly identify which of the three main parties (Liberal, Conservative and NDP) is running third in their riding during an election [André Blais and Mathieu Turgeon, "How good are voters at sorting out the weakest candidate in their constituency?", *Electoral Studies* Vol.23, No.3, pp 455-461 (2004)]. The evidence suggests that in Canada only around three percent of voters vote strategically, though this can go as high as 12 percent in a single issue election.

9 This is assuming that the political party wants to give voters this leadership and that their supporters wish to follow the party's advice.

10 STV is also used for upper chamber elections in Australia at the federal and state-level. In multi-member constituencies, the voters need to fill several vacant seats in each election. Like the preferential ballot, voters rank the candidates. For the sake of simplicity, let's say there are four vacancies and a successful candidate needs to get 25 percent of the vote. In addition to eliminating unpopular candidates and distributing the ballots to their supporters' second choices, the votes of candidates who have the support of more than the necessary percent of the population are also distributed to voter's second preferences at a fraction of their value (based on the size of the surplus the first candidate received). This way, all voters will have a representative they support elected.

11 The *Commonwealth Electoral Act 1924* was introduced by Nationalist Senator Herbert Payne. The idea had been recommended by a Royal Commission and compulsory voting was first adopted for the two plebiscites on conscription in 1916 and 1917.

12 In rebuttal, see Frank Devine, "Why Endure a Law That Benefit Only Politicians?: Compulsory Voting Doesn't Put People in the Booths", *The Australian* (June 18, 2001).

13 Only some municipalities have moved to compulsory voting.

14 By contrast, in Canada, an Order-in-Council in 1896 had established that it is the PM who recommends to the Privy Council the dissolution of Parliament. In 1920, Mackenzie King had a new Order-in-Council passed stating that the PM's recommendation was to the Governor General and not the Governor-in-Council. And, in 1957, the formality of the PM's minute going through the Council was eliminated and the Canadian PM now delivers his recommendation privately, without the Cabinet or Council being informed, in a lofty titled letter to the GG called an 'instrument of advice'. Having eliminated the Council, the GG issues a series of proclamations and writs (assuming he agrees with the PM's recommendation; which in Canada he always does).

15 Cabinet conventions make the PM *primus inter pares*, but he is still only one minister among equals. Confidence is not given to the PM by the House but to the entire Ministry. Ministers are appointed by the Governor to the Ministry, with sole authority over and responsibility for any department he may assign to their charge. The difference between Cabinet government and prime ministerial government, which has become the norm in Canada, lies not in constitutional conventions but in the deference the Governor General, ministers, MPs, Senators, the press and the public show to the Canadian PM.

16 Rudd, having resigned as foreign minister, is now a backbencher.

17 Liberal Leader Paul Martin did this for his parliamentary secretaries during his term as Prime Minister of Canada.

18 This ministerial post was described by Labor Leader Gillard as "cabinet-level". But as Oakeshott would not have been bound by Cabinet solidarity it is clear that he would not have been a member of the Cabinet. See "Rob Oakeshott turns down ministry offer" published at http://www.news.com.au/features/federal-election/ministry-offer-for-independent-mp-rob-oakeshott/story-e6frfllr-1225917448775 (accessed on August 13, 2012)

19 He also holds the distinction of being only the second Labor leader to not lead the party in an election. Even though he had been re-elected by caucus following a leadership spill, he opted to step down when public opinion polls suggested he would not win the election. The first Labor leader to not contest an election was Billy Hughes, who had been chosen as leader in 1915 and then quit to form the Nationalist Party in 1916 (it was initially to be called the National Labor Party), taking most of the parliamentary talent with him.

20 Office of the Governor General, "Governor General's Role" published at http://www.gg.gov.au/governor-generals-role (last updated on November 7, 2012).

21 *Ibid.*

22 This is the same constitutional convention as in Canada, though in Canada this is described in proximity to the previous election not to the end of the full term, with a

dissolution request within a year of the previous election being the only circumstances where the PM's request has been denied and, even here, not in every instance.

23 This is the position of Geoff Barlow and J.F. Corkery, "Sir Walter Campbell: Queensland Governor and his role in Premier. Joh Bjelke-Petersen's resignation, 1987", *Owen Dixon Society eJournal* located at http://epublications.bond.edu.au/odsej/5 (accessed on Aug. 16, 2012).

24 Walter Campbell, "The Role of a State Governor, with particular reference to Queensland", Brisbane: Royal Australian Institute of Public Administration, 1989, p.8.

25 In New South Wales it is the *Constitution (Amendment) Act 1987* (S.N.S.W. 1987, c.64).

26 That edition was published in *Politics*, Vol. 17, No.1, pp 146-163 (1982). More recent versions are released directly to the public by the Department of the Prime Minister and Cabinet of the Australian Government. The latest version, cited in this paper, is: *Cabinet Handbook* (Canberra: Commonwealth of Australia, 7th ed., 2012).

27 This is in contrast to the New Zealand and United Kingdom Cabinet manuals that have been released, partially, as an attempt to codify the conventions surrounding the 'reserve powers' of the Queen/Governor General.

28 The latest version is the *Federal Executive Council Handbook* (Canberra: Commonwealth of Australia, 2009).

29 At the state-level the convention is that members resign from the Executive Council when leaving the ministry.

30 Walter Bagehot, *The English Constitution* (1867).

31 *Guidance on Caretaker Conventions* (Canberra: Department of the Prime Minister and Cabinet, 2011).

32 The Canadian *Constitution Act, 1867* (s.18) also allows for the Canadian Parliament to set its own privileges, immunities and privileges and transfers the U.K. Commons' privileges to the Canadian Parliament in the interim, with an additional proviso that the Canadian Parliament cannot increase them beyond those enjoyed by the U.K. Commons at that time of Confederation.

33 This extends to presentations and submissions by witnesses, their drafts, and notes prepared by or shared with parliamentary staff for speeches or questions in the chamber or at a committee.

34 *R. v. Murphy* (1986) 64 ALR 498.

35 Joint Select Committee on Parliamentary Privilege, "Final Report", Australian *Parliamentary Paper* No.219 (Oct. 1984).

36 S.C.A. 1988, c.9.

37 The committee had concluded that Parliament could not levy fines, as the British House of Commons had not levied a fine since 1666 (*supra* note 36, p.219). The belief in Britain is that the House of Commons "probably" does not have the power to fine someone for contempt but that the House of Lords "possibly" does [Oonagh Gay, "Parliamentary privilege and individual members", *Standard Note* No.04905 (London: House of Commons Library, Feb. 10, 2010), p.4].

38 Senators Don Jessop and Peter Rae.

39 See Geoffrey Marshall, 'The House of Commons and its privileges' in S.A. Walkland (ed.), *The House of Commons in the Twentieth Century* (Oxford: Clarendon Press, 1979), pp.213-4.

40 Bernard Wright, "Patterns of Change – Parliamentary Privilege", *Parliamentary Studies Paper* No. 2 (Canberra: Australian National University, May 2011).

41 U.K. *House of Lords Paper* No.32-1/U.K. House of Commons Paper No.214-I (1998-9).

42 Whereas in Canada, on election night where no party wins a majority will see all party leaders and the press announce the result as being the election of a 'minority government'.

An Innovation in Parliamentary Staff Training

Vienna Pozer

In June 2012 the pilot session of a global first – an International Executive Parliamentary Staff Training Program – was hosted by McGill University's Institute for the Study of International Development. Organized as a collaborative venture between ISID, the World Bank Institute, the Canadian Parliamentary Centre, the Commonwealth Parliamentary Association and the State University of New York, with support from other organizations around the globe. The program brought together participants from 11 countries.

Assistance to parliaments has historically included activities intended to improve the skills of Members of Parliament. And, more recently, to help improve the infrastructure, such as libraries and information technology, within parliaments. However, experience has shown that focusing on these areas alone yields limited results. The effectiveness of parliaments depends on more than structure and capacity of their premises, equipment and technical services and of the skill-sets of MPs, important as these are. Over the past decade, there has been increasing recognition of the importance of enhancing the institutional memory of parliament and thus combating the problem of skills loss at election times, when in some countries the turnover of MPs is 80% or higher. Building institutional memory in parliament requires a focus on training of parliamentary staff.

The Need for Parliamentary Staff Development

Starting in the early 2000s the development of training programs geared towards meeting the specific needs of parliamentary staffers has expanded dramatically. Leading the way in this new approach to parliamentary strengthening were several of the world leaders in international development; the World Bank Institute (WBI), the Canadian Parliamentary Centre, the Commonwealth Parliamentary Association (CPA) and the State University of New York's Center for International Development (SUNY-CID), among others. However, early attempts in the development and delivery of training programs for parliamentary staff lacked coherence, and were usually delivered on an *ad-hoc* basis, not interwoven with broader staff development initiatives within parliaments. Furthermore, because these early programs relied mostly on traditional face-to-face training methods, there was an issue of equity of access. International organizations and bilateral donors tended to focus on a few favoured countries, such as Bangladesh, Ghana, Kenya, Tanzania and Uganda, with francophone nations and smaller jurisdictions being excluded due to unavailability of resources.

Concerned about these and related issues, the World Bank Insitute undertook a 'capacity enhancement review' in order to help it to best manage the burgeoning demand for parliamentary staff training globally, in the face of only slowly increasing – and more recently declining – aid budgets. The review identified two challenges to providing support to parliaments globally; sustainability and scalability. The review recommended the scaling up of training for parliamentary staff in order to achieve sustainable capacity results and the use of 'new technology' – such as the delivery of courses online and via multimedia – so as to be financially sustainable. At the same time, it was recommended that WBI's partnership network – *inter alia*, the Canadian Parliamentary Centre and the CPA – be approached in order to develop a multi-organization approach to parliamentary staff training, thereby helping to reduce the overlap and duplication of staff training programs heretofore offered by international organizations.

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International Executive Parliamentary Staff Training Participants*

Bangladesh
Md Enamul Hoque
Md Faisal Morshed
Abu Sadat Mohammad Ataul Karim
A.K.M.G. Kibria Mazumdar
Shahan Shah Azad Kabir
Md Enamul Haque

Barbados
Ruth Linton
Suzanne Hamblin

Canada
Kimberley Hammond
Linda Buchanan

Ghana
Robert Apodolla

Kenya
Phyllis N. Makau

Namibia
Margareth Walenga
Dorotea Haitengi
Amalia Iita
Dorothea Fransman
Benedict Likando

St. Helena
Gina Benjamin

South Africa
Timothy Layman

Tanzania
Emmanuel Mpanda

Trinidad & Tobago
Keiba Jacob
Candice Skerrette

Uganda
Paul Wabwire
Josephine Watera

*Three participants from Nigeria, Aisha Ali Kotoko, Lawal Daniel Omolade and Ibrahim Ma'aruf, registered in the Program, but their visas did not arrive in time for them to participate in the 2012 residency. They will participate in the 2013 residency but have already started the e*Learning courses.

Using New Technologies

This approach resulted in what evolved as a two-track approach. First, driven by potential economies of scale, was the development of an open-access, introductory-level, program of e*learning courses. By increasing the number of participants that are able to engage in such a program, costs of delivery were reduced and access was increased. Operating over the past six years or so, this program – offered free to parliamentary staff around the world on a first come-first served basis – offers a dozen different courses, ranging from Executive-Legislative Relations and Committees to Parliament and the Budget Process and Climate Change. Each course typically has 40-50 participants, which come from countries as diverse as Nigeria, South Africa, Zambia, New Zealand and Greece, although the majority of participants are from English-speaking African countries. Encouraged by this success, the World Bank Institute, with encouragement from the Canadian Parliament, is working with ASGPF (the Association of Francophone Parliamentary Secretaries General) to deliver these courses in French.

The second track is the outcome of ongoing collaboration between WBI and the CPA. As successful as the basic e*learning courses are, there was increasing demand from parliaments for a more advanced set of courses. Recognizing this, and the fact that such a program should be demand-driven, thereby reflecting the needs of developing country parliaments, rather than supply-driven (reflecting the interests of donor agencies) WBI and its partners sought guidance from the clerks and secretaries general of developing country parliaments. A three-stage consultative process was launched: regular briefings to Commonwealth Clerks and Secretaries General; a survey of Clerks and Secretaries General across the Commonwealth and la Francophonie and a WBI-CPA study group which brought together a dozen senior parliamentary staff for a week to provide detailed guidance to program designers.

Professional Development for Parliamentary Staff

The outcome of these consultations was the development of a pilot program which represents the height of technological and academic knowledge available today which recognizes the expectations of what is needed for the future. To complement the existing e*learning courses, which were designed to expand the breadth of international efforts to support parliamentary staff training, WBI and its partners have developed a unique program that expands the depth

During the week participants had the opportunity to break away from the more traditional class setting and visit the Parliament in Ottawa, where the group was acknowledged by the Senate and where the group attended presentations by Charles Robert and Terry Moore on the procedures of the Senate and House of Commons. The group also attended a roundtable on extractive industries and parliaments, organized by the Parliamentary Centre, which provided participants with an opportunity to discuss the role of legislatures in ensuring good governance of extractive industries around the world.

of parliamentary staff training programs. While the e*learning courses described above are designed for junior parliamentary staff, the new program is more for mid-career parliamentary professionals. It is a global, university-certified, executive-level training program which combines the personal aspects of face-to-face training with the flexibility of web-based courses. Unlike the basic e*learning courses, however, there is a fee for participating in this program. Currently, Can. $5,995 per participant – representing the financial break-even for program delivery. WBI and its global partners, the Government and Parliament of Finland, have both met all program development costs and offer discounts of up to $1,500 to highly qualified participants from developing countries.

The program comprises a one-week intensive residency, at McGill University in Montreal, a set of advanced e*learning courses and an applied research project, related to the individual's professional interests. Throughout, participants are assigned a mentor to assist and guide them through the program. A unique feature of the program is that it combines theory and an academic approach with practical case studies and experiences.

Recognized international leaders in parliamentary development from Canada, the United States, Europe, Africa, Asia and Australia were engaged in the development of the curriculum for the residency and the e*learning courses and an advisory board of leading academics and practitioners provides strategic guidance. The first residency, held in Montreal in June 2012, included resource persons from a wide array of backgrounds and specialities, from business administration and political science to parliamentary administration and parliamentary development.

To open the residency, program co-ordinator, Dr. Rick Stapenhurst, parliamentary adviser to WBI and Professor of Practice at McGill University, led the opening address along with Paul Belisle, former Clerk in the Canadian Senate. Following this, eight sessions were held through the week:

- Democracy, Accountability & Parliaments
- Legislative-Executive Relations
- Parliamentary Oversight
- Parliamentary Representation
- Strategic Communications for Parliaments
- Corporate Management of Parliaments
- Legislation
- Parliamentary Procedure

Resource persons included Philip Oxhorn (Professor, McGill University and Director, ISID), Riccardo Pelizzo (Parliamentary consultant, WBI), Anthony Staddon (Professor, University of Westminster), Rasheed Draman (Director, Canadian Parliamentary Centre), Mitchell O'Brien (Team Leader, WBI), Craig James (Clerk, BC Legislature), Gurprit Kindra (Professor, University of Ottawa), Marie-Andree Lajoie (former Clerk Assistant, Canadian Parliament).

Included within the residency were a series of keynote speakers, including the Rt. Hon. Joe Clark,

former Prime Minister of Canada. Other speakers were: Jean-Paul Ruszkowski (President and CEO of the Parliamentary Centre) and Mark Baskin (Senior Associate and Professor at SUNY-CID).

E*learning and Applied Research Projects Begin

Each participant is required to take a total of seven e*learning courses, out of ten offered, by December 2013. The first such course, on Executive-Legislative relations, began in August 2012. Future courses include Committees, Corporate Management, Strategic Communications, Public Financial Management, Research, ICT, Parliament and the Media, Controlling Corruption, Extractive Industries Oversight and Parliaments and Climate Change. Participants have the option for a short attachment at another Parliament, in lieu of one of the e*learning courses and McGill and WBI have agreed to give advance standing in the program to parliamentary staff who have completed the Canadian Parliament's Parliamentary Officers' Study Program (POSP).

All participants have been assigned mentors and are now beginning, either individually or in groups, to develop their applied research projects, the topics of which range from improving the 'money' committees in Bangladesh to enhancing parliamentary communications across the Caribbean. The professional mentoring relationship is a unique feature of this program, building a professional ink between participants and experienced professionals with parliamentary experience. The selection of each individual's mentor was made in the last two days of residency, to allow participants and resource persons to become familiar with each and their own respective fields of interests.

On completion of the program, in December 2013, participants will receive a certificate from McGill University's Institute for the Study of International Development.

Participant Feedback

As the residency came to an end, an overwhelmingly positive response was shown from participants and resource persons alike. Both groups attributed an overall Program content score of 4.3 out of a possible 5. This first review reflected the relevance, interest and organization of the week-long seminar as well as a marked enthusiasm for the 18-month-long e*learning portion of the course that is still to come. Additional positive feedback was given based on the quality of instructors and moderators as well as the level of synergy that developed within the group. Along with their praise for their initial experience in what is to be the first of an annual program, participants offered several suggestions as to the possible changes that could be made in order to benefit future participants. A recurring remark was made regarding the demanding agenda during residency. From 9:00 am until 5:30 pm every day, participants followed an intense program. It was suggested that this be eased somewhat, to allow time for individual reflection and interaction among participants. Furthermore, looking beyond the technological and academic improvements, WBI and its partners were asked to more explicitly recognize that no single model is right for all jurisdictions and especially to develop greater insights into the needs of parliaments in smaller jurisdictions and 'semi-westernized' states.

Furthermore, many participants noted a particular interest in going beyond the objectives set by program co-ordinators and building upon the platform of knowledge of the parliamentary procedures and practices at the international level. In particular, they wanted to increase their own level of understanding of parliamentary democracy and democratic principles and become better knowledgeable in core functions of parliament, in order to provide efficient services to MPs. Participants also showed significant interest in the specificity and flexibility of e*learning courses offered. The exchange of knowledge using peer-to-peer learning, was viewed by participants as a valued way to share, replicate, and scale-up those parliamentary practices found effective elsewhere. Parliamentary staff participants voiced a desire to learn from the practical experience of those who have faced similar problems.

In short, participants found that the current Program's framework provides parliamentary staff with what is perceived as both needed and lacking in other available training programs.

Next Steps

Response was overwhelming for the first residency – not only was the program over-subscribed, but about half-a-dozen participants who were not accepted this time round were placed on a waiting list. As a result, a second program offering is being planned, with its residency at McGill in mid-April 2013.

At the same time, substantial interest is being shown by francophone parliaments in such a course. WBI is currently working with its current program partners plus professors at Laval University to adapt the program for francophone parliamentary staff, with the aim of offering the program in French in late 2013.

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Social Media, Free Speech and Parliamentary Service

Blair Armitage

The Senate Administration has, in the last few years, adopted a Statement of Values and Ethics, a Code of Conduct for Staff of the Senate Administration and, very recently, a set of Social Media Guidelines for Staff of the Senate Administration. This article looks at certain provisions of these documents and related issues involving parliamentary service.

Modern technology has been getting employees into trouble for years, decades even. Social media can be seen as simply the latest challenge evolving technology has introduced to the workplace. In their early stages of adoption, photocopiers, fax machines and email all provided avenues for inappropriate expressions and behaviour, or were used for non work-related matters. Internal guidelines and processes had to be put in place to address issues that arose.

The *Social Media Guidelines for Staff of the Senate Administration* recently adopted by the Clerk of the Senate distinguishes among official use, professional networking, work-related use and personal use. Official use may involve providing content to or responses within an institutional social media tool like Twitter or Facebook. Work-related use may involve passive monitoring of issues related to one's professional responsibilities using a social media account. Staff are reminded in the Guidelines that they are to conduct themselves with the professionalism and integrity expected of Senate personnel, as well as those of any professional organization to which they may belong.

Privacy settings on various sites change frequently, as do the features. On Facebook, social readers share with everyone who has access to your page your history of online reading. From that history, perceptions can be formed about your political views. Tagging of photos by friends of yours on their own pages can bring to public light events you might prefer remained private. The other reality of social media platforms is that their features and personal settings change often, and sometimes without warning.

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But how does this relate to professional lives? How should parliamentary employers and employees accommodate this new reality? How should parliamentary employers react to different degrees of questionable behaviour online?

There do not appear to be any black and white answers to these questions. Context is a variable that plays an important element in judging behaviour. It is virtually impossible to predict all the possible scenarios that might occur, and equally difficult, therefore, to dictate hard and fast rules.

As an easy, accessible means of self-expression, social media is also blurring the lines between public and private, citizen and employee. Because they are not technically or physically on corporate "territory", employees can convince themselves that their actions online can be divorced from their professional accountabilities. The false sense of anonymity that is sometimes involved in online environments can add to this sense of distance. Finally, the immediacy of interaction, the emotional intensity and the competitiveness of certain situations can also provoke strong, intemperate reactions or statements from participants in online dialogue.

Managing our reputations against perceptions of unprofessional behaviour or perceptions of partisan bias has always been a feature of parliamentary service. With respect to social media, self-interest would suggest not only paying careful attention to who is able to see personal content, but also the wisdom of having that content committed to the digital universe for all time. There are two simple rules of thumb for online behaviour: if you would not say or do something in a public location, or write a letter to an editor about it, do not do it online; there is no such thing as guaranteed privacy or anonymity in the online universe.

Staff should be very mindful that all information they post is ultimately traceable and leaves a permanent digital footprint online. They should also

be aware of what Google says about them. Staff can have a colleague search for them online and assess if they are comfortable with what their colleague finds. Pay attention to privacy settings on the various sites and understand that these settings may not protect information from becoming public.

One recent development in the features of online search engines is image recognition (try using the terms "reverse image search" to see current possibilities). Pictures of oneself posted online or pictures that colleagues have posted may soon be easily sought out and found using this technology. Because sites can cache information from a specific point in time, attempts to remove photographs may be fruitless. We need to make clear to our respective social online networks our desire to maintain a professional public profile and also be mindful of how our actions might inadvertently affect other people.

Many have likely set up social media accounts for various reasons relatively early in their evolution: maybe to keep in contact with family, or subscribe to an interesting source of information. Some may have used a work email address, or included information about a professional affiliation that is not necessary for its use. We must carefully consider the image we are creating online, including who is part of our network, and how anything posted there might impact on one's reputation. Even subtle choices such as who you follow on Twitter might leave an impression that you have a particular bias in one way or another.

Free Speech and the Duty of Loyalty

Beyond the issue of social media (although related to it) is the issue of free speech and parliamentary employment. The freedom of speech is a cornerstone of liberal democracy. The right of an individual to speak his or her mind lies at the heart of the freedoms we celebrate and so many have fought to protect. In Canada, freedom of expression is protected by the *Charter of Rights and Freedoms*. But it is not without limits.

On June 3, 2011, a Senate page left her post in the Senate Chamber during the reading of the Speech from the Throne in order to disrupt that ceremony and protest against her perception of the newly-elected Government's "agenda". In so doing, this page broke her employment contract and the oath she swore, and acted contrary to the training she received. She was immediately dismissed. In addition to the political ramifications of her actions, the impact it had on her peers was equally significant. Many among her fellow pages spoke of the disappointment and shame they felt in being associated with someone who so completely betrayed the basic principles of their program and of parliamentary service. That same sense of betrayal and shock was shared throughout the Senate Administration.

Parliamentary employees enjoy rare access to moments of great ceremony, to the inner workings of the chamber and committees, in camera deliberations and planning meetings. They advise on matters ranging from legal drafting and parliamentary procedure to financial reporting and employment practices. The parliamentarians expect to be served according to tenets of integrity, respect and ethical behaviour. The moment an individual in the non-partisan employ of a parliamentary legislature reaches a point where their personal convictions outweigh their obligations to their job, they have a duty to leave that employment if they wish to actively promote and act upon their personal convictions. To take advantage of their privileged position to make a showy splash is not only a violation of their own employment contract, it can also have a wide impact on those with whom they work.

In our non-partisan model of parliamentary administration, parliamentarians delegate to the administration the responsibility for hiring and organizing the personnel required to provide the range of procedural, legal, administrative, custodial and security services necessary to the functioning of the legislature. Essential to this model is the expectation that the staff of the legislature's administration will serve all members of the legislature equally and impartially, and without partisan consideration. Without this faith, how can parliamentarians allow staffers to be present at in camera meetings? How can they rely on institutional staff when they have confidential requests for procedural advice or submit their declarations of private interests?

Among the unwritten implications of parliamentary service is that you must trust the system, believe in the legitimacy of the choices made by the people, and accept that those within the system are acting in good faith and in the best interests of the country. The role of the staff of a parliamentary administration is to support the parliamentarians in doing their work, not to oppose, applaud or champion it. It takes an incredible amount of hubris to substitute one's personal opinion on any matter for that of the hundreds of parliamentarians chosen to represent the country and to subvert that system from within.

In Canada, the duty of loyalty from an employee to an employer is a well-established common law principle. It has been the subject of useful case law with respect to public servants. The Chief Human Resources Officer of the Treasury Board Secretariat has posted a related summary and more extensive background paper online.[1] Although about the duty of

loyalty owed by members of the federal public service to the federal government, the message is relevant to parliamentary employees. The core of the summary is as follows:

- The duty of loyalty owed by public servants to the Government of Canada encompasses a duty to refrain from public criticism of the Government of Canada.
- Failure to observe the duty of loyalty may justify disciplinary action, including dismissal.
- However, the duty of loyalty is not absolute, and public criticism may be justified in certain circumstances.
- In determining whether any particular public criticism is justified and therefore not subject to disciplinary action, the duty of loyalty must be balanced with other interests such as the public servant's freedom of expression.

Three situations in which the balancing of these interests is likely to result in an exception are where:

- the Government is engaged in illegal acts;
- Government policies jeopardize life, health or safety;
- the public servant's criticism has no impact on his or her ability to perform effectively the duties of a public servant or on the public perception of that ability.

Criticism may impair a public servant's ability to perform his or her specific job or to perform any public service job and hence justify disciplinary action. Public perception of that ability is as important as actual ability. An inference of impairment can be drawn in both cases, based on the principles and qualifications set out above, without the need for direct evidence. Criticism that is not related to the job or department of the public servant may still be found to be subject to the duty of loyalty.[2]

Canadian case law is growing with respect to employee online behaviour. Based on an article summarizing the facts of recent cases and the subsequent outcomes, *Canada: Facing Discipline for Facebook Postings*[3], a number of early observations can be made:

- Facebook postings are considered public, not private communications
- The absence of a policy respecting employee behaviour online, while a useful and important element taken into consideration, may not be entirely fatal to an employer's case against an offending employee.
- If the comments reflect badly on, or contradict the values of the employer, the employer has a right to take action. The severity of the action can be mitigated by the nature of the comments, the degree of injury to the reputation of the employer, subsequent acceptance of responsibility and expression of remorse by the employee.

Internationally, case law from the United States and from the Commonwealth indicates variations in interpretation, including differences over the degree of privacy one can expect based on privacy settings employed. It is worth reviewing relevant case law from other jurisdictions to get a firm understanding where the lines are being drawn.

To avoid being involved in a test case, the best course for an employer is to act before it is too late to adopt the necessary policies and guidelines, to articulate values and expectations for employee behavior, to alert employees to the dangers related to using social media to their reputations and potentially to their employment. Employers should have regular, ongoing conversations with employees and create a common sense of what is appropriate and inappropriate and where the grey areas are so they can be better understood and pitfalls avoided.

While traditionally the common law and existing jurisprudence in Canada on the duty of loyalty would be sufficient in establishing the standards of conduct expected of an employee, the ground may be shifting. Paradoxically, with the emergence of new policies on various subjects and the degree of detail and scope increases in individual policies within the Public Service, such "codification" has the effect of weakening the standing of existing interpretations of rights and obligations within that same overall environment. Influenced by this trend of setting out long established rights and obligations in policies and guidelines, arbitrators, tribunals and other adjudicators may be more inclined to be sympathetic to arguments made by employees saying, in effect, that in the absence of a clear policy or guideline the employee was unaware of the expectation of the employer.

As employers, the administration of a parliamentary assembly has to work out what its position is on neutrality among its staff, the degree to which its members are sensitive to employees' impartiality and how best to address the matter. In the case of the Senate, the Clerk has adopted a *Statement of Values and Ethics* as well as *a Code of Conduct for Staff of the Senate Administration*. Both documents are relevant to the terms of employment in the Senate Administration.

In the *Statement of Values and Ethics*, under professional values, staff are expected to serve with impartiality. In the *Code of Conduct*, staff are reminded that conduct within and outside the workplace that could affect their ability to fully carry out their workplace responsibilities are governed by the Code. They are further reminded that they are to conduct themselves not only within written rules and policies, but also within the values and best practices of the institution and that they should always consult with supervisors or the Corporate Officer for Values and Ethics when they are unsure of

how to behave in a given circumstance.

The Code includes behavioural qualities, based partially on the *Statement of Values and Ethics*. In it, impartiality is referenced and described as referring to non-partisanship. It goes on to say that "The Senate is a political institution where political parties compete; staff of the Senate Administration must be perceived at all times by Senators to be non-partisan in order to function effectively within the institution."

The Senate management team intends to have an ongoing conversation with staff to underscore the importance it places on its core service values and to continue to improve the mutual understanding of how individuals can continue to enjoy the benefits of social media activities, while avoiding misperceptions regarding their professionalism and neutrality.

Conclusion

The entire purpose of the staff of a parliamentary administration is to serve and support the members' efforts to make the parliamentary process work. How the politicians conduct their business is dictated by certain rules, conventions and practices adopted by the legislatures as well as the constitution and relevant statutes. The role of parliamentary employees is to assist and facilitate the members' work within those constitutional, legal and conventional parameters and to keep separate their personal opinions about their work and the issues they face.

Collectively, parliamentary employees and employers should be exploring these issues in an ongoing conversation about how social media tools are being used, how they are changing, and how their use might compromise our interests.

Consider these hypothetical examples of behavior. What do you think is the risk involved? Is it potentially personally embarrassing for the employee, but not a big deal? Is it inappropriate, but caught in time to delete it and of negligible likelihood to become more widely known? Is it damaging to the individual's reputation? Is it clearly a violation of the terms and conditions of employment and beyond redemption? What impact does it have on the overall reputation of their colleagues? Imagine a colleague has:

- Tweeted derogatory remarks about a parliamentarian, using foul language, and using his own name.
- Links on his Facebook page to news articles on a hot button social issue. The link includes a personal editorial remark indicating where his sympathies lie. His "friends" include staff from other administration offices and parliamentarians.
- Submitted an observation, using her real name but without disclosing her position, under a blog posting belonging to a national news outlet on an issue related to parliamentary proceedings.
- Been discovered using a pseudonym in order to participate in vigorous debate online over the merits of a bill before Parliament. Her in-depth knowledge of procedure betrays her probable working relationship to the institution but you only discover her identity accidentally.
- Used a Twitter-related GPS feature called Foursquare to alert followers to his whereabouts at any given time. He uses his own name for the Twitter feed. Some of the locations cited outside of working hours are of a disreputable sort. Some of the locations mentioned are during working hours.
- Posted a wall photo of himself in an obvious state of impairment, with a joint in his hand, and declares just how high he was when it was taken. After a few days of comments, the photo is quietly deleted.
- Posted a photo on her Facebook wall taken with a parliamentarian while at an official dinner in a recognizable location in a world capital.
- Tweeted about enjoying free drinks in the first class lounge to an international conference.

In each case, what would you expect as a response from the employer if it is brought to their attention: tolerance and a blind eye; a casual conversation and warning; a verbal reprimand and instruction to make changes; a written reprimand; dismissal?

Do your responses change depending on the job position involved in the case study? In other words, is there an order of hierarchy where the degree of perceived severity changes depending on where the person is in the hierarchy? When does online interest in a topic morph into a perception that you are biased on that topic? When does bias on one issue become ascribed to party affiliation or sympathy? How might it affect your reputation if one of your direct colleagues were involved?

There is a gulf between what may be philosophically proper for a citizen to do and say, as compared to the formal and informal impacts exercising those options may have on one's career. The grey zone, so to speak, is immense and governed by variables that are often difficult to codify. Social media may be new in terms of our understanding of how it works and how it might be used. There is nothing new, however, about ensuring that our personal comportment reflects the paramount virtues of parliamentary service: integrity, neutrality and professionalism.

Notes

1 http://www.tbs-sct.gc.ca/rp/icg01-eng.asp

2 http://www.tbs-sct.gc.ca/rp/icg01-eng.asp

3 Nikfarjam, Parisa: *Canada: Facing Discipline for Facebook Postings* edited by Jennifer Fantini and Naomi Calla, http://www.mondaq.com/canada/article.asp?articleid=176406&login=true&nogo=1

Strengthening Parliamentary Scrutiny of the Estimates

TinaLise LeGresley, Lindsay McGlashan and Alex Smith

The House of Commons Standing Committee on Government Operations and Estimates has a mandate, amongst other matters, to review and report on the process for considering the estimates and supply. The Committee began a review of this issue in February 2012. It held 13 meetings and heard from 31 witnesses, including knowledge observers, academics, departmental officials, and international experts. On June 20, 2012, the Committee presented its report to the House of Commons. The report made 16 recommendations to improve the procedures, structure, and support related to parliamentary scrutiny of the estimates. The government presented its response to the report on October 18, 2012. This article summarizes the report's observations and recommendations, as well as the government's response.

One of the fundamental roles of Parliament is to review and authorize the government's expenditure of public funds. To this end, the government presents its spending plans to Parliament in the form of "estimates," which are then referred to and scrutinized by the appropriate standing committee. In this way, Parliament can hold the government to account for its spending. However, it has long been acknowledged that Parliament does not effectively fulfill its role and standing committees are at best making a cursory review of the government's spending plans.

There have been two wide-ranging reviews of the estimates process at the federal level, one in 1998 and the other in 2003, but few changes were made as a result of these reviews.[1] As dissatisfaction with Parliament's role in the scrutiny of government spending remains, both among observers and many members of Parliament, the House of Commons Standing Committee on Government Operations and Estimates (henceforth, the Committee) began a study in February 2012 on the process for considering estimates and supply. Over several months, the Committee heard from former members of Parliament, departmental officials, academics, international experts, the Auditor General of Canada, the Parliamentary Budget Officer, former clerks of the House of Commons, the New Zealand House of Representatives, and the Senate of Australia, and other knowledgeable observers.

The Committee focused its study by examining the estimates process on three levels – procedures, structure, and support. The Committee believed that greater and better scrutiny of the estimates could be achieved by improving the parliamentary processes to consider the estimates, ensuring that parliamentarians have clear and understandable estimates information, and providing sufficient support and capacity for members to interpret the information available. As outlined below, the Committee sought in its report to make focused and modest recommendations that would result in progress in these select areas.

Observations and Recommendations

Accrual versus Cash Appropriations: One of the issues that has been of concern to the Committee is that it is difficult to compare the government's spending plans, outlined in the main and supplementary estimates, to its actual spending, set out in the public accounts, because they are prepared on different accounting bases. The estimates are prepared on a cash basis, and since 2001 the public accounts have been prepared on an accrual basis. Cash-based accounting reports transactions when cash is received or paid out; whereas, accrual-based accounting recognizes transactions when they have been earned or incurred. The Committee heard considerable evidence both for and against moving to accrual-based appropriations in the estimates. While accrual-based appropriations would provide greater consistency with the public accounts, cash-based appropriations may be more

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easily understood by parliamentarians. As the Treasury Board of Canada Secretariat is currently studying the matter, the Committee decided to wait until the review is complete to re-examine the issue.

Vote Structure: The main and supplementary estimates documents outline separate spending authorities, or votes, for each federal organization. These votes act as a form of parliamentary control by setting an upper limit on government spending for each vote. Many federal organizations have separate votes for operating and capital expenditures. Numerous witnesses told the Committee that a vote structure based on programs would be preferable because it would relate more closely to the way parliamentarians think about government expenditures, the way departments are organized and report on performance, and the way ministers make spending announcements. Thus, the Committee recommended that the government move towards estimates votes based on program activities, with the expectation that program activity votes would be more relevant and generate more interest in the estimates and standing committee consideration of them.

Reports on Plans and Priorities: The Committee noted that, should the government agree, it would take several years to change the estimates vote structure. In the meantime, parliamentarians could make better use of the information that is currently available. For example, departmental reports on plans and priorities (RPPs) contain information on the financial and human resources dedicated to each program activity, as well as expected results and performance measurement indicators and targets. While these reports are referred to standing committees, they are often not examined as part of their estimates review. The Committee felt RPPs would receive more attention if they were presented at the same time as the main estimates. The RPPs could also be improved by presenting financial information for program activities for the past three years and future three years, and by explaining changes in planned spending and variances between planned and actual spending.

Alignment of the Budget and the Main Estimates: One of the key issues for members of the Committee was that the main estimates are not well aligned with the budget. In other words, the main estimates, which present the government's spending plans for the coming year, do not include most of the new spending initiatives announced in the finance minister's budget plan, usually presented in February or March. The Committee was told that the primary reason for the lack of alignment is timing – the main estimates are prepared prior to the budget, even though the budget may be presented before the tabling of the main estimates. As a consequence, spending items announced in the budget are generally included in supplementary estimates or subsequent main estimates. The Committee felt that the lack of alignment between the main estimates and the budget makes it difficult for parliamentarians to get a complete picture of planned federal spending at the beginning of the fiscal year. Witnesses provided the Committee with a variety of possible solutions to this issue. The Committee recommended that the budget be presented no later than February 1, and that all new funding in main and supplementary estimates be identified separately, including a cross-reference to the appropriate budget source.

Deemed Reported Rule: Once tabled in the House of Commons, the main and supplementary estimates are referred to the appropriate standing committee for review. Committees have a specific period of time in which to review and report back to the House on the estimates referred to them. If committees have not reported on the estimates by the end of the period, they are deemed to have reported them back to the House. This rule prevents committees from impeding the House's consideration and approval of the estimates; however, it also means that some committees may not study or report on the estimates referred to them. The Committee felt that it was necessary to keep the deemed reported rule in order to avoid undue delays in Parliament's granting approval for supply. Nonetheless, the Committee also believed that standing committees should be examining the estimates, and thus recommended that standing committees be required to spend a minimum amount of time studying the estimates, as well as have sufficient time to study and report on supplementary estimates.

Questions for Officials: Standing committees often invite ministers and departmental officials to appear before them to discuss the estimates. The Committee was told that one way to improve the quality of the responses to members' queries on the estimates would be to provide questions to departmental officials in advance. The Committee learned that the New Zealand House of Representatives' Finance and Expenditure Select Committee develops a standard estimates questionnaire that is sent to all departments and agencies. To help departmental officials prepare and improve the productivity of estimates hearings, the Committee recommended that, where feasible, standing committees should provide questions to departmental officials in advance of hearings on the estimates, and endeavor to ensure that the right officials are called to appear.

Statutory and Tax Expenditures: Statutory expenditures, which constitute approximately two-thirds of total federal

expenditures, are authorized by previously adopted legislation and are not subject to the estimates review and approval process. Tax expenditures, which essentially represent foregone tax revenue through measures such as tax exemptions, deductions, deferrals, and credits, amount to over $100 billion every year. Despite their significance to overall federal expenditures, both statutory and tax expenditures receive minimal scrutiny from parliamentarians. The Committee felt that, given the magnitude and importance of statutory and tax expenditures, they should be reviewed on a systematic basis by the appropriate standing committee, at least once every eight years. Additionally, tax expenditures should be included in the appropriate departmental reports on plans and priorities.

Support to Committees: An impediment often identified by observers to better estimates scrutiny is the lack of resources and tools available to parliamentarians to help them review the estimates. The Committee felt that parliamentarians would benefit from a better understanding of the overall supply cycle, and recommended that standing committees schedule briefing sessions on the estimates process and related documents. Additionally, while the work of the Parliamentary Budget Officer has been useful for members of Parliament and for standing committees, several witnesses told the Committee that the role of the Parliamentary Budget Officer could be strengthened. The Committee recommended that it be given a mandate to undertake a study of the Parliamentary Budget Officer's mandate and function. It should be noted that this recommendation was not unanimous, and two dissenting opinions to the report argued that the Parliamentary Budget Officer should be made an officer of Parliament.

Information Resources: Lastly, the linkages are not often clear between the financial and performance information found in various federal government documents, including the budget, main estimates, supplementary estimates, reports on plans and priorities, departmental performance reports, quarterly financial reports, and public accounts. Several witnesses told the Committee that an online tool would help parliamentarians sort through the data and "connect the dots." The Committee agreed and recommended that the government develop a searchable online database containing information on departmental spending by type of expense and by program.

Response to the Report

After the Committee's report was presented in June 2012, it received a favourable response, most notably from the editorial boards of the *Globe and Mail* and the *National Post*. The *Globe and Mail* commented that the Committee's recommendations were "measured and sensible," and "the report demonstrates a clear yearning by MPs from all parties to do a better job of overseeing the government's spending."[2] The *National Post* indicated that "The report contains suggestions for improving the rules—including mandating that federal budgets be brought down earlier, and allowing for more effective scrutiny by parliament—that are worth enacting."[3]

In its response presented on October 18, 2012, the government indicated that it agreed with a number of the Committee's recommendations and would be taking action, but in other areas it did not agree. The government agreed to present its study of accrual-based budgeting and appropriations by March 1, 2013, and it committed to providing a model, including cost estimates and a timeline for completion, of an estimates vote structure aligned with strategic outcomes and program activities. It also agreed to improve the linkages between reports, to identify new programs in the estimates with their source of funds from the fiscal framework, and to review options to make information more readily available through advances in technology. The government did not support a fixed date for the presentation of the budget, as it would reduce the government's flexibility to respond to global and domestic imperatives. It also did not agree to include tax expenditure information in departmental reports on plans and priorities, as these expenditures are the responsibility of the minister of finance. The other recommendations were directed to the House of Commons, and the government did not respond directly to them; though, it did note that the mandate of the Parliamentary Budget Officer was previously studied by the Standing Joint Committee on the Library of Parliament, which found that the Parliamentary Budget Officer's services are a "natural extension" of the Library.

Notes

1 See House of Commons, Standing Committee on Procedure and House Affairs, *The Business of Supply: Completing the Circle of Control*, Fifty-First Report, 1st Session, 36th Parliament, December 1998; and House of Commons, Standing Committee on Government Operations and Estimates, *Meaningful Scrutiny: Practical Improvements to the Estimates Process*, Sixth Report, 2nd Session, 37th Parliament, September 2003.

2 "Watching our money," Editorial, *Globe and Mail*, July 19, 2012, page A12.

3 "Lack of spending oversight is highly frustrating," Editorial, *National Post*, July 17, 2012.

Editor's Note: On November 7, 2012, the House of Commons decided to refer the report back to the Committee for further consideration.

The Ontario Legislative Library Marks 100 Years in the North Wing

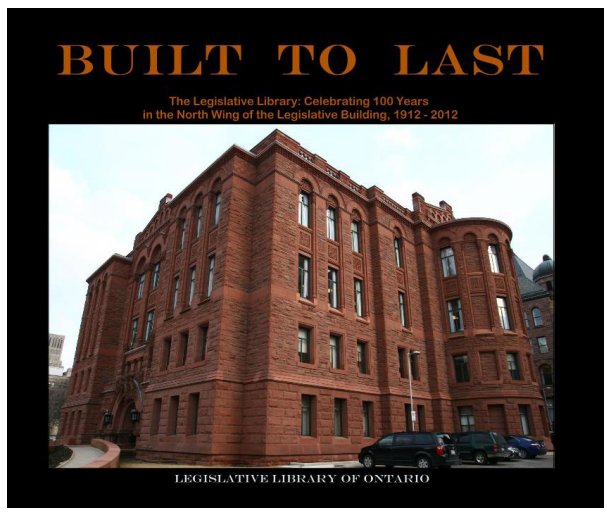
Susanne Hynes

In May 2012 the Ontario Legislative Library published an illustrated book, Built to Last, *to tell the story of the planning, construction and evolution of the Library in the North Wing and provides a snapshot of the facility in its 100th year. The book draws on the Library's photo collection, original architectural drawings, archival materials of former Legislative Librarians, interviews with staff and contemporary photographs.*

The year 2012 marks the centenary of the Ontario Legislative Library's move into the North Wing of the Legislative Building situated at Queen's Park, Toronto. The move took place three years after a devastating fire destroyed its predecessor facility in the West Wing. Today, the Library that was planned by Toronto architect George Gouinlock and librarian Avern Pardoe, retains the same floor plan and many of the unique architectural features envisioned more than 100 years ago.

The North Wing was planned with the Library's needs in mind: an innovative central bookstack wired for electric lights, high ceilings to allow for two stack levels per storey, and many fireproof features such as steel stacks, marble floors, metal window frames and a corridor with retractable steel doors at each end connecting the Library to the Main Building.

The Library, built and furnished in 1912, remained largely unaltered over the next fifty-three years. In 1914 an iron grille or fence was installed around the third level of the stacks to protect the book collection and light bulbs from "attrition" and in 1949 the Library was repainted and new light fixtures were installed. By the early 1960s, the Librarian's desk from 1912 was still in use, the Library was getting dingy, and its furnishings shabby. In 1965, under the direction of Jean Kerfoot, a much-needed facelift was accomplished with the addition of custom furniture, a dropped ceiling to accommodate lighting and air conditioning, carpeting and a new blue Naugahyde cover for the stack perimeter counters.



Another major renovation, under the guidance of Brian Land, was undertaken in 1980 to provide better reading facilities for Members, suitable office space for the Legislative Librarian and better service desks. Subsequent changes included new work stations and public service desks designed to accommodate telephones and computers, new carpets, and consultation areas. In the 1990s a project to restore historic details was undertaken and today many "artefacts" from the past are still in use and provide the Library's interior with a sense of continuity.

The concept of a library collection surrounded by areas of work and consultation has proven its worth

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A new inquiry desk was one of the pieces of furniture designed specifically for the Legislative Library.

The 1965 Members' Reading Room was furnished with the "latest" sofas and chairs and custom-built reading carrels.

over a century of service to the Members of Ontario's Provincial Parliament. Perhaps the greatest tribute to the people involved in planning and constructing the Library is the fact that the use of the Library's space in 1912 is almost identical to its use today. The stacks, Members' Reading Room and the Librarians' workroom are all located in the same areas. The Library's solid backbone of steel and marble and its unique layout is the foundation that has allowed the structure and the facility to adapt to the changing needs of clients and staff.

The Library has sponsored a number of events to commemorate the centenary. A winter speaker series featured Catherine Dowling, Assistant Professor, Ryerson School of Interior Design, Christopher Hume, Architecture Critic and Urban Issues Columnist, *Toronto Star* and Mark Osbaldeston, author of *Unbuilt Toronto: a History of the City That Might Have Been*, and *Unbuilt Toronto 2: More of the City That Might Have Been*.

It also celebrated the centenary at Doors Open Toronto, the opening reception of the CALL (Canadian Association of Law Libraries) Conference in May, and at the annual APLIC (Association of Parliamentary Libraries in Canada) and Parliamentary Researchers Conference in September 2012. An illustrated Timeline of notable events in the life of the Library was unveiled at this Conference.

Built to Last can be viewed online in a pdf version or as a Flip Book. It is a companion to *From Ashes to Steel* which documented the destruction by fire and water of the earlier Library facility in the West Wing.

The motif on the face of the Circulation desk installed in 2003 reflects the motif on the 1912 stack railings seen behind it.

Parliamentary Book Shelf

Odgers' Australian Senate Practice, 13th Edition, edited by Harry Evens and Rosemary Laing, Canberra: Department of the Senate, 2012, 942 pages

The publication of *Odgers' Australian Senate Practice, 13th edition* is a wonderful tribute to James Rowland Odgers, Clerk of the Australian Senate from 1965 to 1979, and to Harry Evens, also Clerk of the Senate from 1988 to 2009. Odgers, who began compiling this parliamentary authority in 1953, edited five versions of the book with the sixth being produced in 1991 following his death but based on material he had prepared. Evens, the longest serving Senate Clerk, wrote all subsequent editions, co-editing the thirteenth with the current Senate Clerk, Dr. Rosemary Laing who has had twenty-two years' experience working in the Senate. The book will undoubtedly prove invaluable to their President and committee chairs, assisting them to resolve questions on how their legislature should proceed on the business before them as well as to students of constitutionalism who monitor the Senate as to how well it fulfills its constitutional functions vis-à-vis the executive, the House of Representatives and the judiciary.

But the book is primarily addressed to Australian senators and its most valuable contribution lies in its unsaid encouragement to them to develop loyalty to the institution, its purposes, and bicameralism. As Dr. Laing states in the Preface, it not only provides an account of the practices and procedures of the Senate, but also describes "its place in the framework of the Australian Constitution." Australia, which was the first Westminster style Parliament to have a popularly elected upper house, is only one of five contemporary regimes that the eminent political scientist Arend Lijphart has categorized as "strong bicameralism", the others being Columbia, Germany, Switzerland, and the United States (*Patterns of Democracy*, 1999). Although the dedication found in the twelfth edition has been dropped, this new edition continues the tradition established by Odgers of explaining the rationale of bicameralism, the functions of the Senate and keeps current the chronology of how the Senate has exercised its powers from 1901 to 2012.

On the surface one would assume that *Odgers'* would have little relevance for the Canadian Senate as the two chambers are so different. Australian senators are elected for six year terms based on a system of proportional representation with preferential voting, while Canadian senators are appointed until the age of seventy-five. About one-quarter to one-third of the ministry sits in the Australian Senate while in Canada, with the exception of 2006-2008 when Michel Fortier also sat in cabinet, the Leader of the Government has served as the sole minister since 1984. For reasons that merit further study, the Australian Senate amends many more bills than its Canadian counterpart. For example in 2010, Australian senators made 416 amendments to 40 bills while Canadian senators only made 17 amendments to 10 bills. Unlike in Canada, the Australian Senate has used its legislative powers to delay approval of supply. In 1975 this precipitated a serious constitutional crisis and led to the dismissal of the government of Prime Minister Gough Whitlam. As well, minor political parties are invariably represented in the Australian Senate while the Canadian Senate has a two-party system, although at times with a number of independents.

Notwithstanding these important differences, the similarities between the two institutions are quite striking. As Meg Russell notes in *Reforming the House of Lords* (2000), the Australian and Canadian Senates are bound up with the history and traditions of their countries in that they represent the development of their federal systems. In both countries, the founding fathers spent most of their time in constitutional discussions on the composition and powers of the upper house, and without an agreement on their Senates there would have been no Commonwealth of Australia or Dominion of Canada. They are smaller houses than their bicameral partners and about the same size: the

Australian Senate has 76 seats, compared to 150 seats in the House of Representatives, while the Canadian Senate has 105 seats compared to the Commons' 308. In both Houses, the President/Speaker has a deliberative, not a casting, vote and if a vote is tied the decision is deemed to be in the negative. The functions listed in various editions of *Odgers'* can in many ways also apply to the Canadian Senate: "the guardian of the interests of the States; the House of review; the checks and balances Chamber; the second opinion of the nation; the monitor of Government performance; insurance against Government incompetence and maladministration; the defender of the rights and liberties of the citizen; and, in general, the safety valve of the federal system."(*Australian Senate Practice*, 6th edition, p. xxxvii)

As an elected legislature, Australian senators take their representative role very seriously. Although not elected, Canadian senators have always seen themselves as a representative chamber, particularly of linguistic, aboriginal and other minority groups. The two houses have vibrant committee systems which produce valuable and well respected policy studies and gather evidence on bills. Most importantly, both chambers are constitutionally unable to unseat a government since in accordance with the theory of responsible government, to stay in office a ministry only has to have the confidence of the lower house and not the upper. Both chambers are restricted by the constitutional provision that bills appropriating revenue or monies, or imposing taxation, are to originate in the lower house. As well, as David Smith has recognized in *The Canadian Senate in Bicameral Perspective* (2003, p. 12), what is "central to second chamber existence in both countries is partisanship." Even Harry Evens in a publication separate from *Odgers'* has lamented that since the time of David Hamer who retired from the Australian Senate in 1990 "government control over its backbenchers is much tighter in the Senate as well as in the House of Representatives." Many authors point to the Australian Senate as an example of "divided party government" in that very rarely does the government command a majority in the upper house. Such a description is not entirely inappropriate for the Canadian Senate. Since 1945 the government has been in a minority in the Senate for 22.5 years, which corresponds roughly to 33% of the time. In neither parliament did this necessarily mean complete legislative and policy gridlock, although there have been occasions, for example in Australia in 1975 over appropriation and in Canada in 1988 over the Free Trade Agreement with the United States, when elections were triggered by proceedings in the Senate on government legislation.

Odgers' ranks as a classic parliamentary authority and a useful source of procedural knowledge, particularly for the Canadian Senate. The 13th edition lists the important procedural changes which have occurred since 2008. For example, a protocol was developed for witnesses seeking to be excused from answering particular questions on grounds of public interest immunity and was reflected in a 2009 Senate resolution. This resolution forms an integral part of the chairs' opening statements at estimates hearings. In 2010, the Senate adopted a resolution affirming its "undisputed power" under section 49 of the Constitution "to order the production of documents necessary for its information, a power which encompasses documents already in existence and documents required to be created for the purpose of complying with the order." Also in 2010, a motion was adopted that "the Senate is of the view that the declaration of the opening of Parliament should be preceded by an Indigenous 'Welcome to Country' ceremony." This ceremony symbolizes the traditional owners giving blessing to an event taking place on the land and is meant to show respect to the traditional custodians of the land. The 'welcome to country' ceremony was formalized as part of the proceedings for an opening of Parliament and an acknowledgement of country was incorporated into each day's proceedings after prayers.

Odgers' has a reputation for its "forthright language and uncompromising declarations of opinion". But such a writing style may be necessary given that the mere existence of second chambers in democratic systems is often criticized and their role in the legislative process questioned. Dr. Laing suggests in the Preface that there may come a time for a wholesale revision of the book. It is sincerely hoped that whatever changes are made, *Odgers'* continues to be a great proponent of bicameralism, the rights of the Senate and its independence from the House of Representatives.

Gary W. O'Brien
Clerk of the Senate of Canada

***At the Heart of Gold: The Yukon Commissioner's Office 1998-2010*, by Linda Johnson, The Legislative Assembly of Yukon, 2012**

One of Canada's smallest jurisdictions, Yukon is also one of the most active in the promotion of its legislative history which, like the Territory itself, has been long and colourful. Linda Johnson was Yukon Archivist for 20 years, and later College Archivist at Yukon College. She is author of *With the People Who Live Here: The History of the Yukon Legislature, 1909 – 1961,* published in 2009.

This book is about the men and women who have held office as Yukon Commissioner since 1898. As present Commissioner Doug Phillips notes "The term Commissioner could refer to anything from a guard at the Parliament Building to the head of the RCMP to any number of positions in between." (p. 315). The Office has evolved over the years and is now similar to the office of Lieutenant Governor in a province.

The first part of the book consists of a series of mini biographies of 15 Commissioners from 1898 to 1962. Many were closely aligned with the Liberal or Conservative Party, depending on who was in office in Ottawa. Most were transplants from the southern provinces but all fell under the "Spell of the Yukon". A few went on to federal politics like George Black (1912-1918) who later served as a member of Parliament and Speaker of the House of Commons in the 1930s. James Ross (1901-1902) became an MP and then a Senator. In the process of learning about their lives the reader becomes familiar with all the great themes of Yukon history from the Gold Rush to mining to pipelines to aboriginal land claims.

The second part of the book focuses on the men and women who served as Commissioner since 1962. They are a more diverse lot including the first woman, Ione Christensen, and the first Aboriginal, Judy Gingrell. At the time this book was started, all the Commissioners appointed since 1962 were still alive and nine of them were interviewed. The biographies are edited extracts from these interviews. These oral histories are refreshingly frank as many Commissioners do not hesitate to recount their failures and shortcomings as well as their successes.

Each oral history covers more or less the same ground with information about their early lives, family lives and, of course their years in office. This format makes interesting reading but the problem with oral history becomes clear when we look at the issue of achieving responsible government.

The struggle for responsible government, whereby the Commissioner went from being the head of government to a ceremonial figure was a struggle as was the case much earlier in Upper and Lower Canada. No blood was shed in Yukon but between 1978 and 1980 there were four Commissioners (Arthur Pearson, Frank Fingland, Ione Christensen and Doug Bell) two resignations and a flurry of charges and counter charges as elected assemblymen clashed with appointed Commissioners for control of the Territory. The situation was further complicated by two change in governments in Ottawa so that there were half a dozen Ministers of Northern and Indian Affairs during this three year period.

Each Commissioner discusses the move to responsible government but each has his or her own perspective on how it happened and who deserves the credit or blame. It is difficult for the uninformed reader to separate fact from opinion. The definitive history of responsible government in the Yukon remains to be written.

Despite this problem the collection of Yukon stories is a valuable addition to the literature on the Canadian north. Several generations of Commissioners, Speakers and Clerks deserve credit for supporting the oral history project and seeing it used for this valuable and entertaining publishing project.

Gary Levy
Editor
Canadian Parliamentary Review

CPA Activities: The Canadian Scene

Thirty Fourth Canadian Regional Seminar

The 34th Seminar of the Canadian Region of the Commonwealth Parliamentary Association was held in Edmonton from October 11-14, 2012. Twenty-nine legislators from most Canadian jurisdictions attended. Only Quebec, Yukon and the federal Parliament were unable to send delegates.

The Seminar was hosted by Alberta Speaker **Gene Zwozdesky** and Deputy Speaker **George Rogers**. Other Speakers in attendance were **Bill Barisoff,** British Columbia, **Daryl Reid**, Manitoba, **Gordie Gosse**, Nova Scotia, **Carolyn Bertram,** Prince Edward Island, **Dale Graham** New Brunswick, **Jackie Jacobson**, Northwest Territories and **Hunter Tootoo**, Nunavut.

The first session featured a presentation on the courts and legislators with the former Chief Justice of Alberta, **Allan H. Wachowich**.

The second session was on redistribution and effective representation. The opening presentation was given by **Christopher d'Entremont** of Nova Scotia House of Assembly.

The third session was on new media and information technologies. The presentation was by **Steven Patten** of the Department of Political Science at the University of Alberta

The topic of the fourth session was government involvement in youth sport and the role governments should play. The presenter was **Ron Schuler** of the Manitoba Legislative Assembly.

The final session featured a presentation by **Cheri DiNovo** of the Ontario Legislative Assembly. She spoke on differences in being a legislator in a minority vs a majority government situation.

Every session provided an opportunity for a lively discussion among the members present.

Aside from the business sessions, delegates were treated to some outstanding Alberta hospitality. This included a

lunch at the Glenmore Club with entertainment provided by Pro Coro Canada, a resident choral ensemble at the Francis Winspear Centre for music. There was also a dinner at Fort Edmonton with entertainment provided by folk singer **Stewart MacDougall** and **Asani**, an internationally renown aboriginal women's group from Edmonton. The closing banquet was held at Government House. Delegates thanked Speaker Zwozdesky, Deputy Speaker Rogers and staff for making the seminar a great success.

By coincidence the next CPA Regional Conference will also be held in Alberta in July 2013.

Myrna Driedger Elected Vice Chair of CPW

At the 16th meeting of the Commonwealth Women Parliamentarians (CWP), held in Colombo, Sri Lanka at the time of the 58th Commonwealth Parliamentary Conference in September 2012, the CWP Steering Committee elected **Myrna Driedger,** MLA for Manitoba as its Vice-Chairperson. The position is elected on an annual basis with the possibility of re-election for one subsequent term only. Ms. Driedger was elected following the completion of a two year term by the Rt. Honourable **Rebecca Kadaga,** Deputy Speaker of the Parliament of Uganda.

Myrna is currently the Deputy Leader of the PC Party of Manitoba as well as the Critic for Finance, Civil Service and Crown Corporations. She has also held a number of diverse critic roles in the past including that of Critic for Health, Status of Women, Child & Family Services, and Education. During her time in government, she was the Legislative Assistant to the Minister of Health.

In 2011, Myrna was elected Chair of the Canadian Region of the Commonwealth Women Parliamentarians (CWP) by her peers from across the country. CWP works for better representation of women in legislatures throughout Canada and the Commonwealth.

Both the Canadian Federal and Regional Branches of the Commonwealth Parliamentary Association are delighted that Ms. Driedger has been elected to fulfill this important role with the CWP. As Chair for the Canadian Region of CWP, she has been recognized for her work in fostering closer relationships with Canadian women parliamentarians at both the federal and provincial levels as well as internationally, and in looking to increase the representation of women in politics.

President of the Québec National Assembly re-elected

The new President of the Québec National Assembly is the same as the former President.

Jacques Chagnon was born in Montreal and holds a BA in political science (public administration) from Concordia University. He completed his graduate studies in political science and law at the University of Montreal.

He was President and CEO of the Québec Federation of Catholic School Boards from 1982 to 1985 before being elected MNA for the riding of Saint-Louis in 1985. Re-elected seven times since in a riding now named Westmount-Saint Louis, he has held several parliamentary and ministerial positions in the National Assembly.

In addition to serving as a member or chairman of numerous committees over the years. Mr. Chagnon was Education Minister and President of the Council of Education Ministers of Canada in 1994. From April 2003 to February 2005 he was Minister of Public Security. In April 2007, he became Second Vice-President of the Quebec National Assembly.

In April 2011, Mr. Chagnon was elected President of the National Assembly, becoming in the process Chairman of the Committee on the National Assembly, Chairman of the Sub-Committee on Parliamentary Reform and President of the Office of the National Assembly. He was re-elected President by acclamation on October 30, 2012 despite the change in government following the September 4 provincial election.

He was re-elected President by acclamation on October 30, 2012.

Legislative Reports

Senate

Of particular importance to the Senate of Canada in recent months has been the implementation of a revised version of the *Rules of the Senate*, which came into effect on September 17, 2012. Adopted by the Senate on June 19, 2012, after several years of study in the Standing Committee on Rules, Procedures and the Rights of Parliament, and after a comprehensive examination by a Committee of the Whole, where amendments were proposed and adopted, the revised rules aim to clarify the *Rules* and to make them easier to use. The chapters are now separated into distinct subjects. For instance, all the rules relating to debate can be found in the same chapter, and all the rules pertaining to time allocation are in another chapter. This reorganization is complemented by a new numbering system that makes rules easier to locate, with each rule identified with the number of its chapter. For example, Chapter 4 deals with the order of business, and the first order of business is Prayers. Therefore, the rule pertaining to prayers is rule 4-1.

Another purpose of the revisions was to make certain clarifications to the *Rules* while avoiding significant changes. Most changes simply reflect current practice. One such clarification negates the need to pass a motion at the beginning of each session to allow committees the permission to broadcast their proceedings. This permission is now included in the revised *Rules* (see rule 14-7(2)). An additional new feature of the revised *Rules* is the use of constitutional and statutory references as well as lists of exceptions to any particular rule. One of the effects of the revised *Rules* that will be most evident is the reorganization of the *Order Paper and Notice Paper*, to make it easier to follow the progress of proceedings.

Legislation

The spring and summer sittings of Parliament brought a heavy legislative agenda to the Senate. Fifteen government bills, seven Senate public bills, eleven Commons public bills, one private bill and two proposals for user fees were introduced and/or considered by the Senate. Of the bills that received Royal Assent during this period, eleven were proposed by the Government, four were Commons Public Bills and one was a Private Bill. One of the bills of note included Bill C-11, *An Act to amend the Copyright Act*, which aimed, amongst other things, to modernize the *Copyright Act* to bring it in line with advances in technology and international standards. Another significant bill that was considered and passed during this period was Bill C-31, *An Act to amend the Immigration and Refugee Protection Act, the Balanced Refugee Reform Act, the Marine Transportation Security Act and the Department of Citizenship and Immigration Act*. This bill made changes to Canada's inland refugee determination system and also to the inland refugee determination process with respect to "irregular arrivals" of refugee claimants. The bill also amends other areas of immigration law with respect to the use of biometrics.

Committees

An interesting committee related procedural event occurred in June, when five different committees were authorized to conduct pre-study of particular elements of Bill C-38, *An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*. In addition, the Standing Senate Committee on National Finance was authorized to conduct a pre-study of the entire bill, and the chair and deputy chair from each committee studying a part of the bill briefed the National Finance Committee on their portion of the pre-study.

In addition to the study of many other bills, Senate committees were busy with their special studies. In July of 2012, the Standing Senate Committee on Energy, the Environment and Natural Resources released a report entitled: *Now or Never: Canada Must Act Urgently to Seize its Place in the New Energy World Order.* After hearing from over

250 witnesses over a three year period, the committee identified 13 priorities for action to achieve long-term and affordable energy solutions, addressing the challenges and opportunities of responsible development and energy efficiency. Other committees that issued substantive reports included the Standing Senate Committee on Human Rights, the Standing Senate Committee on Foreign Affairs and International Trade, the Standing Senate Committee on Aboriginal Peoples and the Standing Senate Committee on Transport and Communications. All of these reports are available at http://www.parl.gc.ca/SenCommitteeBusiness.

Changes to the *Conflict of Interest Code for Senators* that had been proposed by the Standing Committee on Conflict of Interest for Senators and adopted by the Senate in March of 2012, came into effect this October. The objective of the changes was to adapt the provisions of the *Code* to contemporary realities and practices; to avoid any misunderstanding about the outside activities of Senators; to increase the transparency of the conflict of interest regime applicable to Senators; and to enhance public confidence and trust in the conflict of interest regime applicable to Senators.

Senators

There were a number of vacancies in the Senate due to retirements, a resignation and the death of Senator **Fred Dickson** of Nova Scotia, who passed away earlier in the year. Senators who retired included Senators **David Angus** (Quebec), **Ethel Cochrane** (Newfoundland and Labrador), **Consiglio DiNino** (Ontario) and **Rose-Marie Losier Cool** (New Brunswick). Senator **Vivienne Poy** (British Colombia) also resigned from the Senate in September of 2012.

On September 6th, 2012, Prime Minister Harper named five new members to the Senate including **Diane Bellemare** (Quebec), **Tobias C. Enverga, Jr**. (Ontario), **Thomas J. McInnis** (Nova Scotia), **Paul E. McIntyre** (New Brunswick) and **Thanh Hai Ngo** (Ontario). The new Senators were introduced on September 25, 2012.

Senate Ethics Officer

The Senate also saw a change to the position of Senate Ethics Officer due to the retirement of **Jean-Guy Fournier**, who left his position in March. Mr. Fournier was a former ambassador and senior public servant. He was appointed the Senate's first Ethics Officer following the adoption of a motion to that effect by the Senate on February 24, 2005. In April, **Lyse Ricard** assumed the position of interim Senate Ethics Officer and was then appointed to the position for a seven year term on October 4, 2012. Ms. Ricard, a chartered accountant, has a long background of public service in the federal government, including Deputy Commissioner of the Canada Revenue Agency. Most recently, Ms. Ricard had been the Director of the Board of Directors at the Université du Québec en Outaouais. The position of the Senate Ethics Officer is an independent Officer of the Senate, whose mandate is to administer, interpret and apply the *Conflict of Interest Code for Senators*.

Vanessa Moss-Norbury
Procedural Clerk
Journals Office

Saskatchewan

The Second session of the Twenty-seventh Legislature began with the Speech from the Throne by Lieutenant Governor, **Vaugh Solomon Schofield** on October 25, 2012. The Throne Speech, entitled *Planning for Growth,* focused on investing in infrastructure, addressing the skilled labour shortage and ensuring Saskatchewan remains competitive, while maintaining fiscal discipline and a balanced budget. The Speech also focused on improving the health and education systems, life for persons with disabilities, educational outcomes, and employment opportunities for First Nations and Métis people.

The Opposition argued that the Throne Speech did not address the needs of the middle class or small businesses and only provided tax cuts to big business. According to the Opposition, the Speech also failed to address the shortfalls in education and post secondary education, nor did it provide any new plans to improve health care.

Diamond Jubilee and 100th Anniversary of the Legislative Building

The year 2012 marks the100th Anniversary of the Legislative Building in Saskatchewan and the 60th Anniversary of Her Majesty's accession to the throne and as such, many events have taken place to mark these significant milestones.

The official opening of the newly enhanced Queen Elizabeth II Gardens occurred on August 12, 2012. The opening included the arrival of the Lieutenant Governor, the Premier, **Brad Wall**, and City Councilors in the province's landau. They were accompanied by the 32 member RCMP Musical Ride. It was the final time the province used the landau. The landau will be on permanent display at Government House.

The contents of the 1909 Time Capsule and more than 100 archival photos of the Legislative Building were on exhibit in the Cumberland Gallery until November 26, 2012. The new 2012 Time Capsule was filled with new items that will be sealed for future generations. Speaker **Dan D'Autremont** wrote a letter to future Members, which is to be included in the 2012 Time Capsule.

The Ministry of Education developed an education program for grade 4 students, which included a die-cut model of the Legislative Building, resources for educators and a website with online learning tools about the Legislative Building.

On October 10, 2012 Speaker D'Autremont officially unveiled the new carpet in the Chamber. The worn-out red carpet was replaced with a new green carpet in keeping with the original intent of the building's design.

The 100th Anniversary celebration took place on October 11, 2012. The celebration included:

- A special ceremony with the presentation of seven of the Queen's Diamond Jubilee medals by His Excellency Governor General of Canada and Her Honour the Lieutenant Governor of Saskatchewan
- Cutting of the 100th Anniversary cake
- Special Legislative Building station tours that included the Cabinet room
- Showcase of artifacts from the building and the 1909 Time Capsule
- Announcement of the items to be placed in the 2012 Time Capsule
- Saskatchewan artists and entertainers
- "Share your story" exhibit
- A fireworks display

Portrait Unveiling

On June 25, 2012 the official portrait of former Premier **Lorne Calvert** was unveiled in the Rotunda of the Legislative Building. He was first elected to the Saskatchewan Legislature in 1986 and re-elected in 1991 and 1995. He left politics in 1999 only to return in 2001, when he won the leadership of the NDP becoming Premier on February 8, 2001. Mr. Calvert announced his retirement as Party Leader on October 16, 2008. He was Saskatchewan's 13th premier and served from 2001 until 2007. The portrait, created by artist **Susanne MacKay Kaplan** of Saskatoon, will remain on permanent display in the Saskatchewan Gallery as part of the Legislative Building Art Collection.

Constituency Boundary Final Report

On October 18, 2012, the Speaker tabled the Final Report of the Saskatchewan Provincial Constituency Boundaries Commission. The Commission was created to make recommendations with respect to 59 proposed constituencies south of a northern dividing line. The existing boundaries of the northern seats of Athabasca and Cumberland are established by legislation and were not within the mandate of the Commission. The total number of constituencies will increase by three, from 58 to 61 seats at the next provincial general election. It is expected that the Assembly will debate a motion to approve the report during the fall portion of the parliamentary calendar. A new *Representation Act* will be introduced upon approval of the boundary report.

Passing of Former Lieutenant Governor

Sylvia O. Fedoruk, former Lieutenant Governor passed away on September 26, 2012. She was the first woman to be named Lieutenant Governor in Saskatchewan, serving from 1988 to 1994. Born in Canora and graduating from the University of Saskatchewan, she was the sole woman on the research team that developed the world's first Cobalt 60 cancer therapy unit in 1951. In addition to her distinguished career in nuclear medicine and education, she received numerous awards including the Saskatchewan Order of Merit, the Officer of the Order of Canada and the Distinguished Canadian Award.

Robert Park
Committee Clerk

Nova Scotia

The fall sitting of the Fourth Session of the 61st General Assembly commenced on October 25, 2012. During the first five days of the sitting the NDP Government introduced five bills and the Opposition parties

introduced ten Private Members' bills.

New Electoral Districts

Bill 94 – *An Act to Amend Chapter 1 (1992 Supplement) of the Revised Statutes, 1989*, the *House of Assembly Act* was introduced on opening day. Second reading debate has taken over eight hours to date, with more debate expected before the Bill is referred to the Committee on Law Amendments. Numerous public presentations are anticipated before the Committee. The Bill implements the changes in the electoral boundaries recommended September 24, 2012 by the Electoral Boundaries Commission appointed pursuant to the *House of Assembly Act*. The major changes include a decrease in the present fifty-two to fifty-one electoral districts and a re-setting either by the removal of or the addition of territory to most of the districts.

Pursuant to the *House of Assembly Act*, an Electoral Boundaries Commission was established on December 31, 2011. Under that Act, the Commission is to prepare, for approval by the House, a report recommending the boundaries and names for the electoral districts comprising the House. The Commission was issued terms of reference by a Select Committee of the House, in accordance with the statute. In re-setting the boundaries, the Commission must ensure that each electoral district is within plus or minus 25% of the average number of electors per electoral district. The final number of recommended districts cannot be more than the current number of fifty-two.

Based on the 2011 census data the average electoral population per electoral district is 13,687. Therefore the range of 25% plus or minus is from 10,265 to 17,109 electors per district. Currently ten districts are below 25% and five districts are above 25% of the average elector population range while thirty-seven districts are within the range.

The Commission's interim report was issued on May 31, 2012. The Commission chose to treat its terms of reference as "guidelines" rather than as binding requirements, and maintained four smaller ridings with their existing boundaries. These ridings had been situated in 1990 to take into consideration several communities of special interest. Three have significant Acadian populations and one has a significant African-Canadian population. The report did not comply with the terms of reference issued to the Commission and the Attorney General advised the Commission that it was not acceptable and that the Commission would have to produce a revised interim report that complied with those terms.

The Commission issued a revised interim report on July 20, 2012. The revised report recommends reducing the number of electoral districts from fifty-two to fifty-one. On August 20, 2012, the Commission asked the Attorney General for a three week extension on the deadline for its final report. The Attorney General replied that he did not have the authority to extend the deadline and that only the House of Assembly could do that. He advised that he was aware that the report would be delivered beyond the deadline. The report was delivered on September 24, 2012.

Emergency Debate

House Rule 43 allows a Member of the House to request leave to move that the business of the House be set aside for the purpose of discussing a definite matter of urgent public importance. The notice of intention to move is made in writing to the Speaker at least two hours before the opening of the sitting. The Speaker decides whether the matter is proper to be discussed and if so the motion for leave is put to the House.

Normally opposition Members avail themselves of this Rule to bring matters for debate to the floor of the House. On Wednesday, October 30, 2012 – Opposition Members' Business day – the Premier requested an urgent debate for the support of the Lower Churchill project. On making his request he stated in part:

> The Lower Churchill project and the Maritime Link will bring predictability and stability to an electricity system in Nova Scotia that underwent no significant change for 30 years under successive governments. This system has left our province too exposed to swings in the price of fossil fuels to power our electricity system….An independent report released today indicating that Newfoundland and Labrador will achieve $2.4 billion of savings by proceeding to develop the hydroelectric power at Muskrat Falls on the Lower Churchill River to meet its power needs, thereby confirming the value of this important development.

The House granted leave and at the moment of interruption at 6:00 p.m. that evening the topic was debated for a two-hour period.

Annette M. Boucher
Assistant Clerk

Prince Edward Island

The Third Session of the Sixty-fourth General Assembly opens on November 13, 2012, with the Speech from the Throne delivered by the Lieutenant Governor **H. Frank Lewis**.

The Second Session of the Sixty-fourth General Assembly was prorogued on November 9, 2012.

Retirement of Auditor General

After a decade of highly professional public service, Auditor General **Colin Younker** retired from his position in October. "Over the years, Mr. Younker has distinguished himself as one of the most credible and reliable public servants in the Prince Edward Island government," Premier **Robert Ghiz** said. "His diligence has helped government to improve its processes – and his work has served as an important check and balance." Audit Director **Jane MacAdam** will serve on an interim basis until a permanent Auditor General is appointed.

CAPA Conference

Prince Edward Island was proud to host the 12th annual conference of the Canadian Association of Parliamentary Administration from September 10th to 14th. Forty-one delegates attended and enjoyed a busy agenda, which included a welcome reception, twelve business sessions, evening social events, some golf and a North Shore tour. The business sessions were a mix of plenary and breakout, covering Finance, Human Resources and Information Technology. Topics discussed included: "How Are Wwe Advising and Preparing our Legislatures for the Future"; "Social Media Update"; "Mobile Technologies in a Parliamentary Environment"; "Managing Fixed Election Dates"; "Bridging the Broadcast and IT Worlds"; and "Members' Allowances, Benefits and Entitlements – A Northern Perspective". From the positive feedback received the conference was deemed a great success.

Province House Renovations

Work is underway on much-needed repairs to the foundation, mortar, stone facing, windows and roof of Province House, the home of Prince Edward Island's Legislative Assembly and a national historic site. No significant restoration has been undertaken for the past several decades and weather-related stresses have taken their toll on the structure. The renovations are meant to get the building ready for 2014 which is the 150th anniversary of the meetings of the Fathers of Confederation in Charlottetown.

Marian Johnston
Clerk Assistant and
Clerk of Committees

ASSEMBLÉE NATIONALE
QUÉBEC

The First Session of the Fortieth Legislature opened on October 30, 2012 with the election of the President and Vice-Presidents. **Jacques Chagnon**, Member for Westmount-Saint-Louis from the parliamentary group forming the Official Opposition, was re-elected President by acclamation. As regards the party forming the Government, **Carole Poirier**, Member for Hochelaga-Maisonneuve, was elected First Vice-President, and **Claude Cousineau**, Member for Bertrand, Second Vice-President. **François Ouimet**, Member for Marquette from the group forming the Official Opposition, was elected Third Vice-President.

The opening speech of the session was delivered by Premier **Pauline Marois** on October 31 and, after the 25-hour debate thereon, will conclude with the question being put on the motion for approval of the general policy of the Government.

Cabinet and parliamentary offices

On September 19, 2012, Premier Marois appointed the members of her Cabinet, which is composed of 8 women and 15 men. Among the appointments to the several parliamentary offices, it should be noted that **Stéphane Bédard**, Member for Chicoutimi, will carry out the duties of Government House Leader and **Yves-François Blanchet**, Member for Johnson, those of Chief Government Whip.

Jean-Marc Fournier, interim leader of the Québec Liberal Party and leader of the Official Opposition, announced the responsibilities of the Members of his parliamentary group. Among those who will be holding parliamentary offices are **Robert Dutil**, Member for Beauce-Sud, as Official Opposition House Leader and **Laurent Lessard**, Member for Lotbinière-Frontenac, as Chief Opposition Whip.

Lastly, the leader of the

Coalition Avenir Québec, **François Legault**, presented the parliamentary officers of the Second Opposition Group. They are **Gérard Deltell,** Member for Chauveau, as Second Opposition Group House Leader, and **Daniel Ratthé**, Member for Blainville, as Whip of the Second Opposition Group.

Other events

From July 15 to 21, the President of the National Assembly and chair of the Québec Branch of the Commonwealth Parliamentary Association, Mr. Chagnon, hosted the 50th Canadian Regional Commonwealth Parliamentary Association Conference, which brought together some 140 delegates from the Canadian sections of the CPA and from several other Commonwealth countries. The meetings of the Canadian Region of the Commonwealth Women Parliamentarians and the Canadian Regional Council were held in parallel with the Conference.

At a ceremony organized by the Forum des communicateurs gouvernementaux on September 5, 2012, the National Assembly received two Zénith awards underlining its excellence in government communications: in the Publications category for the book *Québec, splendeurs capitales* and in the Public Relations category for the tabling of the report from the Select Committee on Dying with Dignity.

Sylvia Ford
Parliamentary Proceedings Directorate

Ontario

During the Summer adjournment, **Gregory Sorbara,** a long serving member of the Peterson and McGuinty cabinets, resigned as the Member of Provincial Parliament for Vaughan. His resignation, effective August 1, 2012, coupled with the earlier resignation of **Elizabeth Witmer** as the Member for Kitchener-Waterloo, left the Legislative Assembly with two vacancies. In by-elections held on September 6, 2012, **Steven Del Duca** (Liberal) was returned as the Member for Vaughan and **Catherine Fife** (NDP) was returned as the Member for Kitchener-Waterloo. The resulting composition of the 107 seat minority legislature is now 53 Liberals, 36 Progressive Conservatives and 18 New Democrats.

Recall of the House

On August 21, 2012 the government advised the Speaker that it was in the public interest to reconvene the House earlier than the September 10, 2012 start date for the Fall meeting period. Accordingly, the Spring meeting period was extended and resumed on August 27, 2012 to allow for the introduction of Bill 115, *An Act to implement restraint measures in the education sector*. The Act established a restraint period of two years for the compensation of workers in the education sector and set out requirements for terms that must be included in employment contracts and collective agreements that apply during the restraint period. The Act also amended the *Education Act* to provide for regulations that establish and govern existing and new systems of sick leave credits/ gratuities and provided for their termination.

After three days of debate, Bill 115 was time-allocated and referred to the Standing Committee on Social Policy for consideration. The time-allocation motion contained a provision that in the event the committee failed to report the Bill by September 10, 2012, the Bill was deemed to be passed by the Committee and was deemed to be reported to and received by the House. This provision proved to be significant because the motion striking the membership for all legislative committees following the last general election included a termination date of September 9, 2012. Although the Committee had concluded clause-by-clause consideration of the Bill and had ordered the Chair to report the Bill, as amended, to the House, the Standing Committee on Social Policy no longer had a Chair or Members by the next opportunity to report the Bill. The Bill was therefore deemed reported as amended. It received Third Reading and Royal Assent on September 11, 2012. A number of education sector unions have launched *Charter of Rights and Freedoms* challenges related to the Bill's impact on collective bargaining processes.

The early resumption of the House also afforded the Attorney General **John Gerretsen** the opportunity to introduce legislation to amend a section of the *Legislative Assembly Act* respecting the composition of the Board of Internal Economy. The amendment provides for parity

in the membership between government and opposition parties on the Board and for the Speaker to continue as Chair, however in a non-voting capacity. The Bill passed unanimously on September 4, 2012.

Matter of privilege

On August 27, 2012, the Chair of the Standing Committee on Estimates tabled a report on the Committee's request for documents from the Ministry of Energy. This report was the result of a motion adopted in committee on July 11, 2012. The report claimed that the Minister of Energy **Chris Bentley** had not produced certain correspondence ordered by the Standing Committee on Estimates during its review of the printed estimates of the Ministry of Energy, and that the non-production of documents may give rise to a matter of privilege. The report recommended that the Minister be compelled to provide the requested documents without delay, and that the Minister be held in contempt if he refused to do so. Debate on the motion to adopt the report's recommendations was adjourned.

The correspondence in question related to the cancellation of gas-fired power plants in Oakville and Mississauga, two communities in the Greater Toronto Area. Included in the Committee's report was a response from the Minister of Energy noting that the information requested by the Committee was subject to solicitor-client privilege and was highly commercially sensitive. The response also maintained that disclosure of the documents would prejudice ongoing negotiations and litigation regarding the cancellations.

Later that same day, **Rob Leone**, the Member for Cambridge, rose in the Legislature on a question of privilege concerning the Minister not having produced the documents ordered by the Standing Committee on Estimates, of which he was a member.

On September 13, 2012, after considering all submissions and reviewing the matter, Speaker **Dave Levac** ruled that the committees of the Legislative Assembly are effectively empowered to order the production of documents and that non-compliance with a production order made by a committee can, in proper cases, constitute a matter of privilege. In his ruling, the Speaker further stated that:

> The right to order production of documents is fundamental to and necessary for the proper functioning of the Assembly. If the House and its committees do not enjoy this right, then the accountability, scrutiny and financial functions of Parliament – which go to the core of our system of responsible government – would be compromised.

The Speaker was satisfied that a *prima facie* case of privilege had been established, but rather than immediately look to the Member for Cambridge for a motion, he offered the three House Leaders until September 24, 2012 to find a way to satisfy the request of the Standing Committee on Estimates. The House Leaders did not reach such an agreement, however the Minister of Energy and the Ontario Power Authority did table with the Clerk of the Legislative Assembly a large number of documents on September 24 related to the Oakville and Mississauga power plants.

On September 25, 2012, the Speaker asked the Member for Cambridge if he wished to proceed with his motion in light of the recent tabling of documents. The Member did wish to proceed and moved a motion that the House direct the Minister of Energy and the Ontario Power Authority to table immediately all remaining documents, as ordered by the Standing Committee on Estimates on May 16, 2012, and that the matter of the Speaker's finding of a *prima facie* case of privilege with respect to the production of documents be referred to the Standing Committee on Finance and Economic Affairs.

Over a four-day period 67 Members spoke on the matter, and the debate ended with the Member for Cambridge moving closure. The main motion carried 53 to 50. The Order of the House authorized the Standing Committee on Finance and Economic Affairs to meet at the call of the Chair, reconstituted its membership and gave the Committee until November 19, 2012 to report its findings.

Prorogation

On October 15, 2012, Premier **Dalton McGuinty** met with Lieutenant Governor **David Onley** to ask His Honour to prorogue the First Session of the Fortieth Parliament. The Premier also announced that he would be stepping down as Premier of Ontario once his successor had been chosen, but would serve the remainder of his term as MPP in the current parliament. The Liberal leadership convention is scheduled to be held the weekend of January 25, 2013. At prorogation, the legislature had passed 13 public bills and 3 private bills.

Committee Activities

Prior to the termination of Committee Membership on

September 9, 2012, the following Committee activities occurred:

- The Standing Committee on Estimates continued its review of the printed estimates for the Ministry of Energy; the Ministry of Finance; the Ministry of Health and Long-Term Care; the Office of Francophone Affairs; and the Ministry of Aboriginal Affairs.
- The Standing Committee on General Government undertook a review of the *Aggregate Resources Act* in the spring of 2012 as directed by the House. The review garnered a great deal of attention by the public and media. The Committee visited active, abandoned and rehabilitated aggregates sites during the summer adjournment and held public hearings in Orangeville, Kitchener, Ottawa and Sudbury.
- The Standing Committee on Public Accounts continued its review of the *2012 Special Report of the Office of the Auditor General on Ornge Air Ambulance and Related Services*. With two Speaker's warrants issued for his appearance, the former Chief Executive Officer of Ornge, Dr. **Chris Mazza,** testified before the Committee on July 18, 2012. The Committee heard from 63 witnesses during 17 meetings, and several key witnesses were recalled by the Committee, including the Minister of Health and Long-Term Care **Deb Matthews**.

  The Committee also passed a motion requesting that the Auditor General examine the Ontario Power Authority's contract to have a gas-fired power plant built in Mississauga. The motion requested that the Auditor table a value-for-money report before September 1, 2013 on the cost associated with the cancellation of the Mississauga plant.

Katch Koch
Committee Clerk

Nunavut

The 2012 fall sitting of the Legislative Assembly convened on October 23, 2012. It adjourned on November 5, 2012. Minister of Finance **Keith Peterson** delivered his fall fiscal update on the first sitting day. The proceedings of the Committee of the Whole during the fall sitting of the House were dominated by the consideration of the Government of Nunavut's proposed 2013-2014 capital estimates.

On October 29, 2012, Speaker of the Legislative Assembly **Hunter Tootoo** tabled a draft *Plebiscites Act*. The Management and Services Board of the Legislative Assembly has invited members of the public and interested organizations to provide written submissions concerning the proposed new *Plebiscites Act*, which would replace the territory's current statute. Legislation concerning territory-wide elections, including the *Nunavut Elections Act*, falls under the jurisdiction of the Legislative Assembly itself.

On October 30, 2012, the Speaker tabled a report of the Integrity Commissioner of Nunavut concerning the Member for South Baffin, **Fred Schell**. The report was submitted to the Legislative Assembly following the Integrity Commissioner's review of the Member's alleged contraventions of the territorial *Integrity Act*. Section 48 of the statute requires that the Legislative Assembly consider such reports within ten sitting days of their being tabled. The Legislative Assembly must accept all of the Integrity Commissioner's recommendations or reject all of the Integrity Commissioner's recommendations. The Integrity Commissioner's report concluded that the Member had committed a number of breaches of the *Integrity Act*.

On November 5, 2012, the Legislative Assembly adopted a formal motion to accept the Integrity Commissioner's recommendations for sanctions. The motion was moved by Premier **Eva Aariak**. The motion passed without opposition. In speaking to the motion, Mr. Schell announced his resignation from Cabinet, where he had been serving as Minister without Portfolio since March of 2012.

During the fall sitting, Speaker Tootoo also tabled the Legislative Assembly's sitting calendar for 2013, as required under Rule 3(2) of the *Rules of the Legislative Assembly of Nunavut*. The general election for the 4th Legislative Assembly will be held on October 28, 2013.

The 3rd Session of the 3rd Legislative Assembly will reconvene for its 2013 winter sitting on February 26, 2013. It is anticipated that the proceedings of the winter sitting will be dominated by the consideration of the Government of Nunavut's proposed 2013-2014 main estimates and departmental business plans.

Legislation

A total of four bills received Assent during the Legislative Assembly's 2012 fall sitting:

- Bill 41, *Appropriation (Capital) Act, 2013-2014*;
- Bill 42, *Supplementary Appropriation (Operations and Maintenance) Act, No. 2, 2012-2013*;

- Bill 43, *Supplementary Appropriation (Capital) Act, No. 3, 2012-2013*; and
- Bill 45, *An Act Respecting Constituency Names and Superannuation of Certain Independent Officers of the Legislative Assembly*.

Bill 45, which was introduced under the authority of the Legislative Assembly's Management and Services Board, amended the *Nunavut Elections Act* to change a number of constituency names. The bill also amended a number of statutes to provide that the Chief Electoral Officer and the Languages Commissioner are deemed to be members of the public service for the purposes of superannuation. Speaker Tootoo appeared before the Committee of the Whole on the occasion of its clause-by-clause consideration of the bill.

Three bills are currently under consideration by the Legislative Assembly's Standing Committee on Legislation, which is chaired by **Johnny Ningeongan**:

- Bill 32, *An Act to Amend the Legal Services Act*;
- Bill 40, *Representative for Children and Youth Act*; and
- Bill 44, *An Act to Amend the Justices of the Peace Act*.

On November 5, 2012, **Ron Elliott** gave notice of motion for the first reading of Bill 46, *Donation of Food Act*, which will be introduced as a Private Member's Bill. The motion will be called for consideration when the 2013 winter sitting convenes on February 26, 2013.

Committee Activities

From August 19-21, 2012, the Legislative Assembly of Nunavut hosted the 33rd annual conference of the Canadian Council of Public Accounts Committees (CCPAC). The conference was held jointly with the Canadian Council of Legislative Auditors (CCOLA). Nunavut's Standing Committee on Oversight of Government Operations and Public Accounts was represented by its Chairperson, Mr. Elliott, and its Co-Chairperson, **Louis Tapardjuk**. One of the conference's panel discussions focused on the three territorial legislatures. Panelists were Mr. Elliott, Northwest Territories MLA **Daryl Dolynny**, Yukon MLA **Jan Stick** and Auditor General of Canada **Michael Ferguson**.

During the 2012 fall sitting of the Legislative Assembly, government responses to two reports of the Standing Committee on Oversight of Government Operations and Public Accounts were tabled in the House by Premier Aariak.

Order of Nunavut

On September 20, 2012, Speaker Tootoo and Commissioner of Nunavut **Edna Ekhivalak Elias** presided over the investiture of **Charlie Panigoniak** into the Order of Nunavut. The investiture ceremony was held in the Chamber of the Legislative Assembly. The investiture ceremony for Ms **Kenojuak Ashevak** will be held on a date to be announced.

Born in the Kivalliq, Mr. Panigoniak is a singer, songwriter, guitarist and broadcaster. Mr. Panigoniak has performed at numerous festivals and events in Canada and abroad. Ms Ashevak of Cape Dorset has received numerous awards and honours in recognition of her lifetime of artistic accomplishment. She was invested as an Officer of the Order of Canada in 1967. She was subsequently invested as a Companion of the Order of Canada in 1982.

Alex Baldwin
Office of the Legislative Assembly of Nunavut

Manitoba

The Second session of the 40th Legislature is set to open on Monday, November 19, 2012 with the reading of the Speech from the Throne. In accordance to a House Leaders' agreement, notice for the 2012 Fall legislative session was required to be given by September 30th as well as four week's notice will be required for the resumption of the 2013 Spring legislative session.

Standing Committees

Manitoba Standing Committees held four separate intersessional meetings since our last submission. The Standing Committee on Legislative Affairs met in October to consider the contents of Bill 209 which proposes cooling-off periods relating to Independent Officers of the Assembly. This particular meeting was an anomaly and was held based on a House Leaders' decision. Also, the Standing Committee on Public Accounts met on three separate occasions to consider reports from the Auditor General covering a variety of topics including:

- Members' Allowances
- Appointment Process to Agencies, Boards and Commissions
- Wireless Network Security
- Managing Climate Change

- Protection of Well Water Quality in Manitoba
- Environmental Livestock Program
- Contaminated Sites and Landfills

New PC Caucus appointments:

After winning the by-election for the Fort-Whyte constituency held on September 4, 2012, Official Opposition Leader **Brian Pallister** was sworn in on September 19, 2012 and will officially be introduced to the House on November 20, 2012. On November 3, 2012, an Orientation session with the Table Officers was provided to Mr. Pallister and the briefing material was tailored to suit his thirteen years of experience as a former MLA and former MP.

On September 5, new shadow cabinet was assigned as follows:

- **Brian Pallister**, critic for Federal-Provincial Relations and Francophone Affairs;
- **Myrna Driedger,** critic for Finance, Civil Service and Crown Corporation Accountability;
- **Blaine Pederson**, critic for Local Government;
- **Mavis Taillieu**, Infrastructure Transportation, Emergency Measures and Lotteries critic;
- **Kelvin Goertzen**, Education critic;
- **Reg Helwer**, critic for Justice, Attorney General, Constitutional Affairs and MPI;
- **Bonnie Mitchelson,** Immigration and Multiculturalism critic;
- **Cameron Friesen**, Health critic;
- **Larry Maguire**, Conservation and Water Stewardship critic;
- **Ron Schuler,** critic for Innovation, Energy and Mines, as well as Manitoba Hydro;
- **Heather Stefanson,** Aboriginal and Northern Affairs critic;
- **Cliff Cullen,** critic for Healthy Living, Seniors and Consumer Affairs and the *Liquor Control Act*.;
- **Cliff Graydon**, critic for Entrepreneurship, Training and Trade;
- **Ian Wishart**, critic for Housing and Community Development critic;
- L**eanne Rowat,** critic for Family Services, Labour, Workers Compensation, Persons with Disabilities and Status of Women;
- **Wayne Ewasko,** critic for Culture, Heritage and Tourism;
- **Stuart Briese,** critic for Advanced Education and Literacy;
- **Dennis Smook,** critic for Children and Youth Opportunities and Healthy Child Manitoba;
- **Ralph Eichler**, critic for Agriculture, Food and Rural Initiatives.

On September 12, 2012, **Larry Maguire** resigned as Chairperson for the Standing Committee on Public Accounts and **Reg Helwer** was elected as the new Chairperson.

Report on MLA Salaries

The new Commissioner **Michael Werier**, appointed pursuant to *The Legislative Assembly Act*, provided a report to the Speaker of his review of the salaries, allowances and retirement benefits for Members. Based on his findings, Manitoba MLAs will receive a 4.9% salary increase effect April 1, 2014 being the first pay hike in five years. The additional pay for cabinet ministers and the premier will also be increased. Other increases include:

- Effective immediately, a 10% increase applicable to certain special positions such as caucus chair, house leader, whip, committee chair and deputy chair and legislative assistant.
- MLA allowances such as travel for southern MLAs, constituency office rent, constituency assistant salaries and moving expenses. These allowances are reimbursement for expenses incurred in the course of duties as a member of the legislative assembly

The Werier Report on MLA Salaries, can be found at http://www.reviewcommissioner.mb.ca/.

Current Party Standings:

The current party standings in the Manitoba Legislature are: NDP 37, Progressive Conservatives 19 and one Independent Liberal.

Monique Grenier
Clerk Assistant/
Clerk of Committees

Northwest Territories

The Third session of the 17th Legislative Assembly reconvened on Wednesday, October 17, 2012. The focus of the Session was the introduction and passage of Bill 14: *Appropriations Act (Infrastructure Expenditures), 2013-2014*. This is in keeping with the changes which the Assembly adopted in 2008 to introduce the capital budget in the fall, rather than as part of the Main Estimates, which are introduced in the spring. In addition, two supplementary appropriation bills, addressing both operations and infrastructure, were introduced and considered during the sitting.

Alfred Moses, Chair of the Standing Committee on Social Programs, reported back to the Assembly on the consideration of four bills which were referred to Committee during the spring

sitting. The Standing Committee held public hearings in the capital on Bill: 5, *Legal Aid Act*, on August 23, 2012 and October 29, 2012. Based on substantive public input, the Committee proposed twelve amendments to the bill. The Minister concurred with all but one of the amendments during the public clause-by-clause review. The remaining amendment was introduced during the Committee of the Whole consideration of the Bill in the House and was subsequently defeated. The Standing Committe on Social Programs considered and reported on a total of six bills during the sitting.

Committee Reports

Two Committee reports were presented during the sitting. **Robert Hawkins,** Chair of the Standing Committee on Economic Development and Infrastructure, presented the *Report on August 2012 Hydraulic Fracturing Study Tour: Toward a Policy Framework for Hydraulic Fracturing in the Northwest Territories*. In its report, the Standing Committee provided eight recommendations to the government, most relating to the establishment of policy and regulations with respect to hydraulic fracturing in the Northwest Territories. During its review of the report in Committee of the Whole, the Assembly adopted all eight committee motions.

Bob Bromley, Chair of the Standing Committee on Rules and Procedures presented the *Report on the Use of Tablet Computers in Formal Session of the Legislative Assembly*. This report recommended that Members be permitted to use tablet computers during all proceedings in the Chamber, with the exception of the following: during the prayer, when the Commissioner is present in the Chamber, during the Speaker's opening and closing remarks and rulings, during votes and at any other time designated pursuant to instruction of the Speaker. Tablet computers are also subject to the existing convention that any electronic device used in the Chamber must be on silent mode at all times. The report further recommended that the Rules of the Legislative Assembly be amended to reflect this decision and that the changes be effective for the February 2013 sitting of the Assembly. During consideration of the report in Committee of the Whole, three motions were introduced and adopted by the Assembly.

Business Plan Reivew

Working within the consensus government framework, the Standing Committees of the Legislative Assembly devoted three weeks in September to the review of departmental business plans. The business plans are developed by the government departments in accordance with the Assembly's vision and goals, as established collaboratively at the beginning of each Assembly. The Standing Committee on Economic Development and Infrastructure, the Standing Committee on Government Operations, and the Standing Committee on Social Programs examined the business plans and met with the ministers and senior officials from all twelve government departments as part of the review process.

Establishment of Electoral Boundaries Commission

Pursuant to section 2(1) of the *Electoral Boundaries Commission Act*, a motion was adopted by the House on October 18, 2012, to establish an Electoral Boundaries Commission, 2012. The motion also recommended to the Commissioner of the Northwest Territories the appointment of a chairperson and two commission members. A second motion, adopted on the same day, established guidelines or criteria to be taken into consideration by the Commission. The final report of the Commission is to be submitted to the Speaker and Clerk of the Legislative Assembly within seven months of the establishment of the Commission

Diamond Jubilee Medals

On November 6, 2012 **George Tuccaro**, Commissioner of the Northwest Territories and **Jackie Jacobson**, Speaker of the Legislative Assembly accompanied by Premier **Robert R. McLeod** had the honour of presenting the Queen's Diamond Jubilee Medal to two Members of the Legislative Assembly. **J. Michael Miltenberger**, and **Jane Groenewegen**, are currently the longest-serving Members of the Legislative Assembly of the Northwest Territories. They were honoured on the floor of the Chamber, in the company of their colleagues, for their seventeen years of dedicated public service.

Assent to Bills

Commissioner Tuccaro gave assent to ten bills, before proroguing the Third Session of the 17th Legislative Assembly on November 6, 2012.

- Bill 2: *Miscellaneous Statute Law Amendment Act, 2012*
- Bill 5: *Legal Aid Act*
- Bill 7: *An Act to Amend the Judicature Act*
- Bill 8: *An Act to Amend the Securities Act*
- Bill 12: *An Act to Amend the Human Rights Act, No. 2*
- Bill 13: *An Act to Repeal the Credit Union Act*
- Bill 14: *Appropriation Act (Infrastructure Expenditures),*

2013-2012

- Bill 15: *An Act to Amend the Human Rights Act, No. 3*
- Bill 16: *Supplementary Appropriation Act (Infrastructure Expenditures), No. 2, 2012-2013*
- Bill 17: *Supplementary Appropriation Act (Operations Expenditures) No. 2, 2012-2013*

Conferences

The 39th Annual Conference of the Hansard Association of Canada took place August 13-17, 2012. Thirty-nine delegates attended from Canada's federal, provincial and territorial legislatures, as well as representatives from the United Kingdom House of Commons, the Scottish Parliament and the National Assembly for Wales. The conference program included sessions on the impact of social media, the advent of high definition television and other new broadcasting technologies.

The Parliamentary Visitor Services Association Conference was held September 4-7, 2012. Attending were delegates from ten Canadian legislatures. Sessions and discussion focused on the various outreach programs that each legislature provides to the public.

Gail Bennett
Principal Clerk, Operations

New Brunswick

On September 26, 2012, Premier **David Alward** announced various changes to cabinet. Four MLAs joined cabinet: **Hugh Flemming** was appointed Minister of Health; **Danny Soucy** was appointed Minister of Post-Secondary Education, Training and Labour; **Troy Lifford** was appointed Minister of Human Resources and **Dorothy Shephard** was appointed Minister of the newly created Department of Healthy and Inclusive Communities. **Madeleine Dubé** moved from the Department of Health to Social Development and **Sue Stultz** moved from Social Development to Government Services. The four new cabinet members were sworn into the Executive Council on October 9, 2012, by Lieutenant-Governor **Graydon Nicholas**.

Committee Activities

The Select Committee on the Revision of the *Official Languages Act* is mandated to oversee the examination of and consultation on the *Official Languages Act*, to review legal decisions, recommendations of the Office of the Commissioner of Official Languages, as well as suggestions and recommendations from civil society and New Brunswickers. The 2002 Act requires a review to be initiated before December 31, 2012.

During the summer and fall months, the Committee met with various interest groups, experts and individuals to receive input on possible revisions to the Act. The Committee held discussions and received briefs and submissions. The Committee filed an interim report on June 28, 2012, and is expected to file a final report during the next session of the House. The Committee is chaired by **Marie-Claude Blais,** Minister of Justice and Attorney General.

The Standing Committee on Public Accounts, Chaired by **Rick Doucet**, held public meetings from October 31 to November 2, 2012. The Committee reviewed the 2010-2011 annual reports of the Department of Social Development, Department of Health and the Department of Local Government. On December 4, 2012, the Committee will meet in a joint session with the Standing Committee on Crown Corporations, Chaired by **Jack Carr,** to receive Volumes 1 and 2 of the 2012 Report of the Auditor General of New Brunswick.

The Standing Committee on Law Amendments received briefs and submissions on Bill 64, *An Act Respecting the Selection of Senator Nominees*. The proposed Act would introduce a process in New Brunswick for the election of nominees to the Senate of Canada. The Committee is expected to present a report during the fall session.

Electoral Boundaries and Representation Commission

New Brunswickers had the opportunity to provide their opinions on modifications to the provincial electoral districts through a series of public hearings. The Electoral Boundaries and Representation Commission, an independent body operating under the terms of *New Brunswick's Electoral Boundaries and Representation Act*, was tasked with redrawing the boundaries of New Brunswick's electoral ridings and replacing the current 55 ridings with 49 ridings to be implemented in the next provincial general election in 2014. The Commission visited 13 communities in October and November 2012 to gather input in preparation for its preliminary report. The Commission will hold a second series of public meetings to receive feedback on its

preliminary report.

Caucus Changes

On September 21, 2012, Premier Alward announced that **Jim Parrott** would no longer sit as a member of the government caucus. Dr. Parrott, a retired heart surgeon, will sit as an Independent Progressive Conservative in the Legislative Assembly. He was elected to the Legislature in the 2010 provincial election.

Liberal Party Leader

On October 27, 2012, **Brian Gallant** was elected the Leader of the New Brunswick Liberal Party. Mr. Gallant, 30, a lawyer practicing in Dieppe, does not currently have a seat in the Legislative Assembly. **Victor Boudreau** will remain as Leader of the Opposition.

House Sitting

The Second Session of the 57th Legislative Assembly will reconvene on the morning of Tuesday, November 27, 2012, for the purpose of proroguing. The Third Session will formally open in the afternoon with the Speech from the Throne, the third for the government of Premier Alward. The current House standings are 41 Progressive Conservatives, 13 Liberals and 1 Independent Progressive Conservative.

Ryan Ballak
Clerk Assistant and Committee Clerk

Yukon

The 2012 Fall Sitting of the 1st Session of the 33rd Yukon Legislative Assembly convened on Thursday, October 25th, and is expected to rise on Thursday, December 13th, after 28 sitting days. Pursuant to Standing Order 74 the government introduced all its legislation for the Sitting by the fifth sitting day, Thursday, November 1. The bills introduced and given first reading were:

- Bill No. 7, *Second Appropriation Act, 2012-13*
- Bill No. 42, *Donation of Food Act*
- Bill No. 43, *Act to Amend the Securities Act*
- Bill No. 44, *Miscellaneous Statute Law Amendment Act, 2012*
- Bill No. 45, *Act to Amend the Municipal Finance and Community Grants Act*
- Bill No. 46, *Act to Amend the Income Tax Act*
- Bill No. 47, *Act to Amend the Retirement Plan Beneficiaries Act*
- Bill No. 48, A*ct to Amend the Access to Information and Protection of Privacy Act*
- Bill No. 49, *Act to Amend the Oil and Gas Act*
- Bill No. 50, *Statute Law Amendment (Nurse Practitioners) Act*
- Bill No. 51, *Residential Landlord and Tenant Act*

Tribute to former Speaker

At the outset of the opening day, Speaker **David Laxton** offered a tribute to former Speaker **Don Taylor**, who had passed away from lung cancer on October 7th. Mr. Taylor had won seven successive elections, serving as MLA for Watson Lake from 1961 through 1985, and as Speaker from 1974 through 1985. Mr. Taylor holds the dual distinctions of being Yukon's longest-serving MLA, and longest-serving Speaker of the Legislative Assembly (as opposed to the Territorial Council).

Protesters in the Gallery

Also at the start of the opening day, the public gallery was filled with protesters representing a few different groups, some of whom had placed advertisements in local newspapers respecting their intention to hold a rally outside the building and to then fill the gallery. The protesters in the gallery were orderly, and, as anticipated, left at the conclusion of Question Period.

Interim leader leaves the Liberal caucus

During the summer recess (on August 17th), Interim Liberal Leader **Darius Elias,** MLA for Vuntut Gwitchin since the Fall 2006 general election, left the Yukon Liberal Caucus to become an Independent member. Mr. Elias indicated that the responsibilities of Interim Leader were detracting from his mandate to represent the people of his northern community of Old Crow. The remaining member of the Yukon Liberal Party caucus, **Sandy Silver**, issued a statement thanking Mr. Elias for the contributions the latter had made to the Liberal Party, and leaving the door open for Mr. Elias's return to the party in the future. Mr. Silver was elected as the MLA for Klondike in the Fall 2011 election. He now takes on the mantle of Interim Liberal Leader, and de facto Leader of the Third Party.

Change to the Standing Orders

On October 30th, the House adopted a motion, moved by Mr Elias, providing for the inclusion of Independent Members in the roster used to determine the order for Opposition Private Members' Business under Orders of the Day on Wednesdays. This motion effected a change to the Standing

Orders, which previously had not provided for the calling of bills and motions for debate by Independent Members. Due to this exclusion of independent members, Mr. Elias required unanimous consent to bring his motion before the House for debate. The motion was adopted 16-0 on Division.

Use of electronic devices in the Chamber

On October 29th, the House Leaders and the Independent member agreed upon provisional guidelines for the use of electronic devices in the House, and provided them to the Speaker, who agreed to be guided by them, subject to his discretion. The guidelines generally allow for the silent, unobtrusive, non-camera use of electronic devices in the House at times other than: Question Period, when the Chair is speaking, when a point of order or privilege is raised, during the taking of divisions or counts, when the Commissioner is present, or at any time the Chair judges such use to impinge on the decorum or dignity of the proceedings. The guidelines also "officially" allow departmental officials to make use of these devices in Committee of the Whole, a practice which had occasionally occurred over the last couple of years. The guidelines currently exist as an addendum to the Standing Orders, but may be incorporated into the Standing Orders at some point in the future.

Linda Kolody
Deputy Clerk

British Columbia

As previously reported, the 4th session of the 39th Parliament recessed on May 31, 2012. As no fall sitting has been announced, it is anticipated that the House will reconvene in February 2013.

Committee Activity

Despite the current recess, several committees have been very active over the last few months.

On August 15, 2012, the Special Committee on Timber Supply released its unanimous report, *Growing Fibre, Growing Value*. The Committee, appointed by the House on May 16, was tasked with examining how to increase the supply and value of mid-term timber in BC's central interior – an area hit hard by a mountain pine beetle epidemic. During the intense six-week consultation period, 650 submissions were received.

The Committee's key recommendations to increase mid-term timber supply focused on: engaging local communities and First Nations in future plans; finding ways to grow more fibre and maximize its value by utilizing marginally economic stands and/or investing in fertilization; and increasing the supply of area-based tenures to support enhanced levels of forest stewardship and private sector forest investment. The Committee's report also outlined steps for government to facilitate the economic recovery effort in Burns Lake, where the local sawmill had been tragically destroyed by fire in January 2012.

The Ministry of Forests, Lands and Natural Resource Operations issued a response to the Committee's report on October 9, 2012, announcing its support for the recommendations emanating from the Special Committee's report and reaffirming its commitment to forest renewal.

The Special Committee to Inquire into the Use of Conducted Energy Weapons and to Audit Selected Police Complaints has begun its review of the implementation of Justice Braidwood's 2009 recommendations on the use of conducted energy weapons (TASERs), as well as an audit of the outcome of randomly selected police complaints (under Part 11 of the *Police Act*). Public meetings were held in the fall with various expert witnesses briefing the Committee on the status of Braidwood's recommendations and the Committee engaged the Office of the Auditor General to perform the audit. The Committee has until the end of this calendar year to complete its reviews and until May 2013 to table its report.

The Select Standing Committee on Finance and Government Services completed its annual budget consultations on October 18, 2012. The Committee heard 214 presentations at 19 public hearings in September and October, received 311 written submissions, 286 online survey responses, and two video submissions. The Committee must release its report by November 15, 2012 in accordance with the *Budget Transparency and Accountability Act*.

Cabinet Changes

On September 5, 2012, Premier **Christy Clark** introduced a revised 19-member cabinet.

Bill Bennett, **Ben Stewart** and **Moira Stillwell** rejoined cabinet as ministers of Community, Sport and Cultural Development, Citizens Services, and Social Development respectively, while the two newcomers to cabinet, **Norm Letnick** and **Ron Cantelon,** were appointed Minister of Agriculture and Minister of State for Seniors.

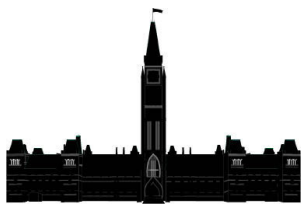
Ministers that were appointed to new portfolios include: **Michael de Jong** who moved to Finance and resumed his earlier role as Government House Leader; **Margaret MacDiarmid** moved to Health; **Stephanie Cadieux** to Children and Family Development; **Ida Chong** to Aboriginal Relations and Reconciliation; **John Yap** to Advanced Education; **Naomi Yamamoto** became Minister of State for Small Business; **Don McRae** assumed Education and **Mary Polak** took over Transportation and Infrastructure.

New Lieutenant Governor

On November 2, 2012, **Judith Guichon** was sworn-in as British Columbia's 29th Lieutenant Governor in a ceremony held at the Legislative Assembly. Elder **Lottie Lindley** delivered the blessing to open the proceedings which were attended by Members of the Executive Council, Members of the Queen's Privy Council for Canada, members of the Judiciary, and Members of the Legislative Assembly of British Columbia. The ceremony included the reading of the Commission of Office and the administering of the Oath of Allegiance and the Oath of Office by **Lance Finch,** Chief Justice of British Columbia.

Mrs. Guichon, only the second woman to hold the post in British Columbia, was presented with the Order of British Columbia and the Collar of Office. The former head of the British Columbia Cattlemen's Association, Mrs. Guichon replaces outgoing Lieutenant Governor, **Steven Point**.

Susan Sourial
Committee Clerk



House of Commons

The First Session of the Forty-First Parliament resumed from summer adjournment on September 17, 2012. The information below covers the period from August 1, 2012 to November 1, 2012.

Financial Procedures

On October 15, 2012, **Ted Menzies** (Minister of State (Finance)) tabled a Notice of a Ways and Means motion to implement certain provisions of the budget that was tabled in Parliament on March 29, 2012 and other measures. The resulting motion, Ways and Means Motion No. 13, was adopted by the House on October 17, 2012. The Bill based thereon, Bill C-45, *Jobs and Growth Act, 2012*, was introduced the following day.

On October 19, 2012, **Lynne Yelich** (Minister of State (Western Economic Diversification) moved a motion to remove from Bill C-45 the sections relating to Members' of Parliament pensions (clauses 475 to 514) and to create from them a new bill, Bill C-46, *Pension Reform Act*. The motion, which was later adopted, also provided that Bill C-46 be adopted by the House at all stages without debate. Having completed the remaining stages in the legislative process, Bill C-46 received royal assent on November 1, 2012.

On October 30, 2012, Bill C-45 was read a second time and referred to the Standing Committee on Finance. During the Committee meeting the next day, **Shelly Glover** (Parliamentary Secretary to the Minister of Finance) moved a motion to have the Chair of the Committee write to the Chairs of 10 other standing committees to invite them to consider the subject matter of various provisions of the Bill, and to convey to the Finance Committee Chair recommendations, including suggested amendments to the Bill, by 5:00 p.m. on November 20, 2012. The motion also specified how the Committee would deal with these and other proposed amendments during its clause-by-clause consideration of the Bill, and set timelines for its work on the Bill. After debate, the motion was adopted.

By October 18, 2012, six of the seven opposition days allotted for the supply period ending December 10, 2012, had been designated. Topics for debate on these supply days included: the economy, employment insurance, foreign investment, omnibus legislation, and food safety.

Procedure, Points of Order, and Questions of Privilege

On September 17, 2012, the House adopted by the following motion:

> That, having considered the nature of a request made of the Auditor General under the

Access to Information Act, the House of Commons waives its privileges relating to all e-mails pertaining to the Auditor General appearing before a parliamentary committee from January 17 to April 17, 2012.

Following the adoption of the motion, the Speaker, **Andrew Scheer**, made a statement to clarify the situation that gave rise to the decision. He explained that the House of Commons had been advised by the Office of the Auditor General in June that they had received a request for the release of e-mail exchanges between their office and the clerks or officials of five standing committees, relating to the Auditor General's appearances before these committees. The Office of the Law Clerk and Parliamentary Counsel suggested that the documents were protected by privilege, and, since the House was not sitting at the time, requested that the Auditor General's office delay a decision on the release of the documents until the House resumed sitting in September. The Office of the Auditor General decided to proceed with the request nonetheless, arguing that parliamentary privilege was not one of the exemptions or exclusions in the Act that would allow them to refuse to release the documents. Before the release could occur, however, the House had 20 days to apply for a review of the decision. Faced with the deadline, the House filed an application for a judicial review of the Auditor General's decision to release the documents. (Had this filing not been made on or before September 10, 2012, the documents would have been released without the express consent of the House). In concluding his remarks, the Speaker reminded Members that this matter was not precedent setting and, noting that similar situations may arise in the future, encouraged the Standing Committee on Procedure and House Affairs to do a thorough review of the matter. The Committee met on October 16, 2012, to consider the issue and heard from **Marc Bosc**, Deputy Clerk of the House of Commons, and **Richard Denis**, Deputy Law Clerk and Parliamentary Counsel. At the time of writing, the matter is still before the committee.

One question of privilege was brought before the House during this period. On October 25, 2012, **Don Davies** (Vancouver Kingsway) raised a question of privilege concerning the alleged misuse of e-mail accounts. Mr. Davies argued that thousands of e-mails had been transferred to his personal e-mail account instead of his public account by **Bev Shipley** (Lambton—Kent—Middlesex). He maintained that this had frozen his account, thereby preventing him from carrying out his duties as a Member of Parliament. In response, Mr. Shipley rose to state that the redirection of e-mails to Mr. Davies' personal e-mail account had been unintentional and he extended his apologies. At the next sitting, in light of these events, the Acting Speaker declared the matter closed.

Since its return on September 17, 2012, the House has seen many Members rise to object to both the relevance of remarks made by their colleagues during debate, and to the language used in the House. Although none of these resulted in formal rulings by the Speaker, the increase in these kinds of objections should be noted.

Similarly, Members have risen on different occasions to indicate their concern about the misuse of Statements by Members pursuant to Standing Order 31. For example, on two occasions in October, **Elizabeth May** (Saanich—Gulf Islands) rose on points of order, alleging that their content, which was increasingly political in nature, was disrupting the House and contributing to a lack of decorum. On October 30, 2012, Mr. Van Loan and **Ralph Goodale** (Wascana) both also rose to indicate their concern.

Committees

While undertaking its annual pre-budget consultations, the Standing Committee on Finance took a different approach this year, introducing a system of online submissions which allowed individuals and groups to contribute their views on the priorities that should be reflected in the federal budget in 2013. The site opened on June 8, 2012, and closed on August 3, 2012. As in 2011, submissions were posted on the Committee's Web site. At the time of writing, the Committee is continuing its study and is hearing from witnesses.

Other Matters

The Speaker informed the House on September 17, 2012, that vacancies had occurred in the ridings of Durham and Victoria, by the resignations of **Bev Oda** and **Denise Savoie**, respectively. As a result of Mrs. Savoie's resignation, a vacancy occurred in the position of Deputy Speaker and Chair of Committee of the Whole. Pursuant to Standing Order 7.(1), the Speaker proposed **Joe Comartin** (Windsor—Tecumseh) for the position of Deputy Speaker and Chair of Committees of the Whole, and the motion was subsequently agreed to by the House.

During Statements by Members on September 17, 2012, **Candice Bergen** (Portage—Lisgar), formerly

Candice Hoeppner, informed the House that she would be returning to her birth name.

The Speaker informed the House on October 25, 2012, that, following a decision of the Supreme Court, the election of **Ted Opitz** (Etobicoke Centre) had been declared valid.

On September 28, 2012, by unanimous consent, and notwithstanding Standing Order 28 which calls for the Speaker to table the House of Commons calendar, the calendar for 2013 sittings was tabled by **Gordon O'Connor** (Minister of State and Chief Government Whip) and adopted.

On September 19, 2012, the House resolved itself into Committee of the Whole to welcome the Olympic and Paralympics Athletes. Similarly, on October 24, 2012, the House resolved itself into Committee of the Whole to recognize the 100th anniversary of the Grey Cup. Former football player **Russ Jackson**, who was carrying the Grey Cup, was welcomed onto the floor of the House.

John Baird (Minister of Foreign Affairs) made a Ministerial Statement on October 17, 2012 concerning the attempt on the life of **Malala Yousufzai**. An advocate for education and women's rights in Pakistan, Ms. Yousufzai was shot by Taliban gunmen on October 9, 2012. Pursuant to Standing Order 33(1), **Paul Dewar** (Ottawa Centre) and **Irwin Cotler** (Mount Royal) also made statements on the matter on behalf of their respective parties. Having sought and received the unanimous consent of the House, Bloc Québécois member **Maria Mourani** (Ahuntsic) and Ms May also spoke to the matter. Afterwards, the House observed a moment of silence.

On October 3, 2012, following the recall of beef after an E. coli contamination at XL Foods facility in Brooks, Alberta, the House held an emergency debate on food safety.

Caroline Bosc
Procedural Clerk
Table Research Branch

Alberta

The Fall Sitting of the First Session of the 28th Legislature commenced on October 23, 2012. At the time of writing, the Assembly had passed eight Government Bills. Two Government Bills and four Private Members' Bills remain on the *Order Paper* for the Assembly's consideration.

Bill 2, *Responsible Energy Development Act*, received third reading on November 21. This Bill was contentious, receiving much debate, especially in Committee of the Whole, in which over 20 amendments were proposed. Debate on Bill 2 was a chief contributor to a marathon sitting of the Assembly, which began at 1:30 p.m. on November 20 and lasted until 1:03 p.m. on November 21.

Bill 2 establishes the Alberta Energy Regulator, with a mandate that provides for "the efficient, safe, orderly and environmentally responsible development of energy resources in Alberta through the Regulator's regulatory activities." With respect to energy activities, it regulates "the disposition and management of public lands, the protection of the environment, and the conservation and management of water, including the wise allocation and use of water" in accordance with the Bill and other legislation. The Bill is intended to streamline the provincial regulatory processes concerning certain energy resource projects. Bill 2 awaits Royal Assent.

Bill 3, *Education Act*, replaces Alberta's *School Act*. It is the third consecutive session in which such a bill has been proposed. The Bill, among other things, grants natural person powers to school boards, defines bullying and requires school boards to develop a student code of conduct addressing bullying behaviour, including cyber bullying. Additionally, Bill 3, among other things, raises the age of mandatory school attendance from 16 to 17 years, requires schools boards to collaborate with post-secondary institutions and communities to enable transitions from high school to post-secondary education or to the workforce, and establishes criteria for the creation of charter schools.

Bill 4, *Public Interest Disclosure (Whistleblower Protection) Act*, is currently being considered in Committee of the Whole. The Bill establishes the Public Interest Commissioner and sets up processes for employees in the public sector to disclose certain wrongdoings that relate to departments, public entities, or offices of the Legislature, including the contravention of an Act or regulation or the gross mismanagement of public funds.

Bill 5, *New Home Buyer Protection Act*, provides that new homes must include, at a cost to the home buyer, a warranty of various time periods for

labour and materials, defects in labour and materials under certain circumstances, and major structural components, among other warranties.

Members of the Opposition accepted the principles of Bill 5 but opposed some of its provisions, including the authority of the Minister to exempt certain persons or categories of persons from the proposed legislation. Another concern was that minimum coverage periods outlined and stipulated in the Bill are not adequate to provide full and comprehensive protection to new home buyers in Alberta. Bill 5 received third reading and awaits Royal Assent.

Bill 7, *Election Accountability Amendment Act, 2012*, is a lengthy Bill which makes numerous amendments to several pieces of legislation concerning elections and election financing. Some of these changes include a requirement for the Chief Electoral Officer to disclose his findings when a penalty is imposed and the adoption of rules concerning political party leadership contests. Bill 7 is presently being considered at second reading.

Committee Activity

The three Legislative Policy Committees, which are new as of the 28th Legislature, have been active in recent months in reviewing different matters relevant to their mandates. The Standing Committee on Resource Stewardship is in the midst of reviewing the feasibility of developing hydroelectric capacity on Alberta's three major northern rivers. The Standing Committee on Alberta's Economic Future is investigating the operation of a program which enables companies to obtain bitumen from the Government to upgrade it into more valuable petroleum products. The Standing Committee on Families and Communities is in the process of determining its subject matter to review.

The Special Standing Committee on Members' Services continues its review of Members' compensation and benefits, which it commenced in June of this year. Pursuant to a Government motion passed in the Assembly in May, the Committee has implemented a number of recommendations made by retired Supreme Court of Canada Justice **John C. Major** in his report entitled *Review of Compensation of Members of the Legislative Assembly of Alberta* (http://www.mlacompensationreview-alberta.ca). In addition, the Committee continues to investigate Members' RRSP allowance and pension plans and a mechanism to review Members' pay in the future.

The Select Special Conflicts of Interest Act Review Committee has been struck and is poised to engage in a comprehensive review of the Act.

Centennial of the Legislature Building

Albertans recently celebrated the 100-year anniversary of the opening the Alberta Legislature building. Celebrations commenced on June 18, 2012, with the extraction and unveiling of a 1909 time capsule, over which Speaker **Gene Zwozdesky** presided. Additional events took place on September 2 and were highlighted by a re-enactment of the opening ceremony from 1912 and a free musical performance on the grounds of the Legislature, attended by over 15,000 people. In addition, members of the public submitted suggestions of items to be included in a new time capsule, the contents of which will be revealed in 100 years.

Unveiling of Speaker's Portrait

On October 15, 2012, the portrait of **Ken Kowalski,** the 11th Speaker of the Legislative Assembly of Alberta, was unveiled. Mr. Kowalski served as Speaker from 1997 to 2012, the second longest tenure of any Speaker in the Assembly's history. Mr. Kowalski made a number of innovations during his time as Speaker, including making the Legislature Building and the Grounds more accessible to the public and by overseeing the creation of programs to engage students in learning about the parliamentary process in Alberta. It was also under the leadership of Mr. Kowalski that a series of books were written commemorating Alberta's centennial. The Centennial Series contains volumes on Alberta's Lieutenant Governors, Premiers, and Speakers and also includes a book on the elections of the Legislative Assembly of Alberta.

Lying in State of E. Peter Lougheed

Former premier of the Province of Alberta **Peter Lougheed** passed away on September 13, 2012. Mr Lougheed lay in state in the Alberta Legislature on September 17 and 18, and hundreds of mourners, greeted by members of the former premier's family, paid their respects. Mr. Lougheed was Alberta's 10th premier and served from 1971 to 1986.

Philip Massolin, Ph.D.
Manager of Research Services
Legislative Assembly Office

Canadian Study of Parliament Group | Groupe canadien d'étude des parlements

The Canadian Study of Parliament Group (CSPG) is a non-profit, non-partisan organization that brings together parliamentary experts, academics, and public servants with an interest in the role, function and reform of parliamentary institutions.

Parliamentary Business Seminars

The CSPG offers an annual series of seminars on issues relevant to parliamentary and government relations specialists. Seminars are held at the Government Conference Center and include a healthy breakfast and buffet lunch. Upcoming events include:

Wednesday, January 23, 2013

Technical Briefing: Managing the House of Commons and Senate: Roles of House Leaders, Whips, and Clerks' Offices
The workshop on managing the Senate and House will focus on the roles played by House Leaders, Whips, Clerks and procedural advisors and their respective offices. Presentations by senior staff from the Senate, House of Commons and Leaders' offices will provide an overview of the duties and functions of these officers in setting the legislative agenda, engaging in inter-party negotiations and administering parliamentary business.

Discussion panel: Challenges in Managing the House of Commons and Senate: Personal Perspectives
The panel discussion will bring together distinguished panellists, including former and sitting members of the Senate and House of Commons, who will share their experiences, including challenges in enforcing party discipline, and managing competing agendas. Panellists will provide insights based on their extensive knowledge of House and Senate management. Presentations and discussion from the panellists will be followed by a plenary session that will enable direct audience participation.

Wednesday, May 15, 2013

Technical Briefing: Committees – How They Work and How to Work With Them
The workshop on parliamentary committees focuses on what they do, how they work, why they work the way they do, and how to maximize your effectiveness in working with them. Presentations by senior experienced staff from the Senate, House of Commons and Library of Parliament will be followed by small group discussions and a wrap-up plenary session.

Discussion panel: Parliament, Committees and the New Social Media
The panel discussion brings together three distinguished panellists who will tackle the social media and the challenges and opportunities they provide to Parliament. Are they helping Parliament contribute to the democratic process, or do they threaten to marginalize Parliament? What are the uses of social media that are having the greatest impact on Parliament? Presentations and discussion from the panellists will be followed by an "open mike" session that enables direct audience participation.

2013 National Essay Competition

Community college, CEGEP, university undergraduate and graduate students in any discipline are invited to participate in the 2013 National Essay Competition sponsored by the CSPG. Essays may be submitted in either official language, deal with any subject matter broadly relating to Parliament, legislatures or legislators, should be no longer than 5000 words, and must be received by the CSPG by January 11, 2013. The author of the best essay will receive a $1000 prize and public recognition at a suitable event or time. The best essay will be posted on the CSPG Web site and will be automatically considered for publication in the *Canadian Parliamentary Review*. Additional prizes may also be awarded at the discretion of CSPG.

For further information, please consult our Web site at **www.studyparliament.ca** or call us at 613.995.2937