

Canadian Parliamentary review



Volume 41, No 3

***Police Intervention Involving
Members of the National Assembly:
The Importance of Respecting
Parliamentary Privilege***

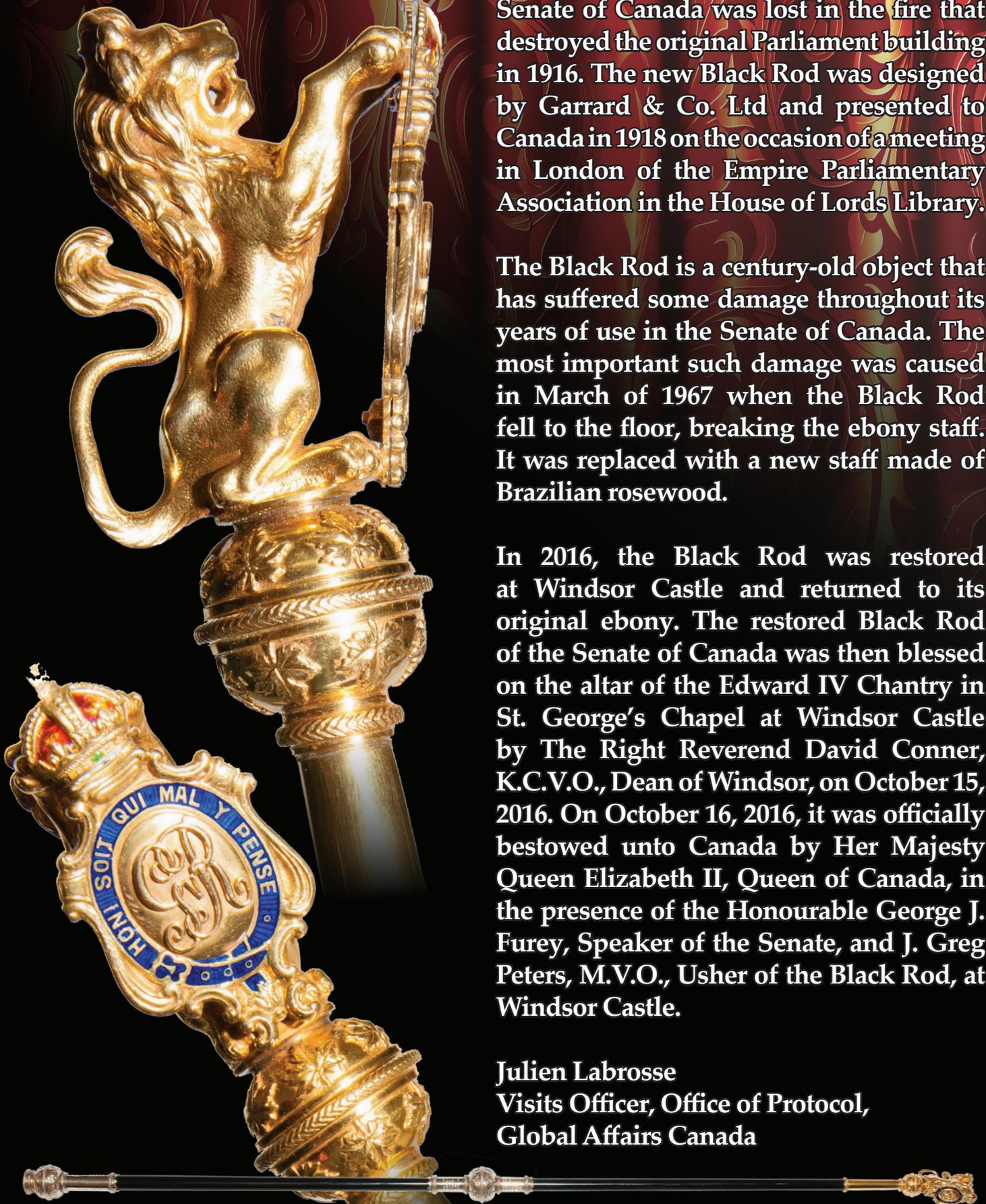
Black Rod

The Black Rod that is currently in use in the Senate of Canada is not the original Black Rod that was used at the time of Confederation. The first Black Rod of the Senate of Canada was lost in the fire that destroyed the original Parliament building in 1916. The new Black Rod was designed by Garrard & Co. Ltd and presented to Canada in 1918 on the occasion of a meeting in London of the Empire Parliamentary Association in the House of Lords Library.

The Black Rod is a century-old object that has suffered some damage throughout its years of use in the Senate of Canada. The most important such damage was caused in March of 1967 when the Black Rod fell to the floor, breaking the ebony staff. It was replaced with a new staff made of Brazilian rosewood.

In 2016, the Black Rod was restored at Windsor Castle and returned to its original ebony. The restored Black Rod of the Senate of Canada was then blessed on the altar of the Edward IV Chantry in St. George's Chapel at Windsor Castle by The Right Reverend David Conner, K.C.V.O., Dean of Windsor, on October 15, 2016. On October 16, 2016, it was officially bestowed unto Canada by Her Majesty Queen Elizabeth II, Queen of Canada, in the presence of the Honourable George J. Furey, Speaker of the Senate, and J. Greg Peters, M.V.O., Usher of the Black Rod, at Windsor Castle.

Julien Labrosse
Visits Officer, Office of Protocol,
Global Affairs Canada



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.

The Review is published for the Canadian Region, CPA. Any opinions expressed are those of individual contributors and should not be attributed to any Branch of the Canadian Region.

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Four (4) issues in English or French
Canada \$40.00 - *International* \$75.00
Four (4) issues in English and French
Canada \$75.00 - *International* \$125.00

Cheques should be made payable to:
Canadian Parliamentary Review

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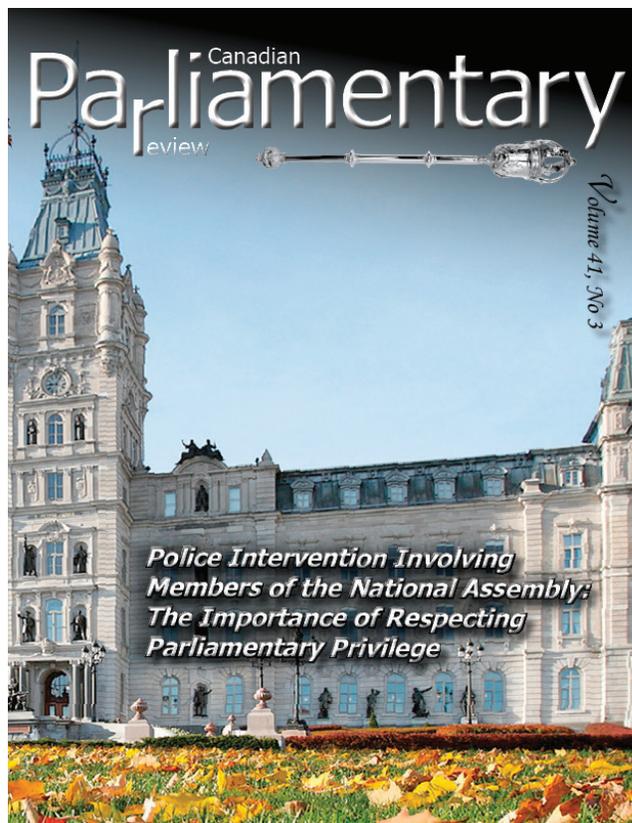
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Legal Deposit:
National Library of Canada
ISSN 0229-2548

Cette revue est aussi disponible en français



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Selection and Appointment of Clerks in Canadian Jurisdictions

Clerks hold a critically important position in Canada's parliamentary assemblies. Yet the path they take to the role is generally not well known or understood. In this article, the author outlines a Clerk's role and responsibilities, how they cultivate their procedural knowledge, and how the selection and appointment process for position has developed.

Deborah Deller

Over 40 years ago, I walked through the doors of the Ontario Legislative Building for the very first time. I had just returned from backpacking in Europe, was on my way to university and was in need of a job.

I had heard about an opening for a tour guide position. I applied and was lucky enough to be given an interview. Serendipity has played a part throughout my career and it certainly helped me out on that day.

During the interview I was asked what my dress size was. I answered that I was a size 7 (which in those days was true). That, as it turned out, was the right answer. New uniforms had just been purchased and one of the tour guides had quit. She was a size 7 – so they were looking for someone to fit into her uniform. Being eminently qualified, I got the job!

In the 37 years that I was employed full time at the Legislative Assembly I held numerous positions before retiring in 2016 as its Clerk. In my career, I bore witness to a great many significant changes in the procedural and administrative operations of the Assembly. For one thing, it no longer hires people based on their dress size!

Debates became televised as did committee hearings; a website was developed; computers became commonplace; and scissors and glue sticks were no longer required tools used to prepare the house documents. Security became a greater concern than ever before and global issues started to find their way to the steps of the legislative building.

This modernization brought its share of challenges. Many legislatures reside in old buildings ill-equipped for such things as computer cables and security apparatus. An information-insistent public requires more data in less time than ever before in our history and our parliamentary procedures have struggled to keep pace.

These changes have necessitated an increase in staff and budget. When I first began working there, Ontario's Office of the Assembly essentially consisted of the Clerk's office, Hansard, the Library, and a combined Finance and Human Resources office that fit into what is now a committee room. Today, every service available to Members is provided by the Office of the Assembly under the supervision of the Clerk. These now include, among other things: broadcast and recording, parliamentary and public relations, research, information and technology, and security and building management.

There are a myriad of services and facilities available and necessary to Members today that were not available before the early 70s.¹ A modern parliamentary democracy requires the support of a robust, non-partisan and professional procedural and administrative team. In Canadian legislatures, this team is managed by the Clerk. These days, the Clerk not only needs to be an expert on parliamentary procedure, but also needs to be the chief permanent officer responsible for a disparate and crucial set of administrative services.

In his 1994 address to the Canadian Study of Parliament Group, Sir Clifford Boulton, the former Clerk of the British House of Commons, said:

The whole service must be efficiently and effectively managed. It must be seen as a

Deborah Deller is a retired Clerk of the Ontario Legislative Assembly.

complete parliamentary service. I do not think it can become compartmentalized. I do not think one can say one service can act totally in ignorance or independence of what another service is planning. The whole thing must be drawn together in some way by some organization or some person who is prepared to take responsibility for giving that coordinated service.²

While the job has seen an expanded administrative role over time, the Clerk is still first and foremost a specialist in parliamentary law and procedure. Professor C.E.S. Franks noted that “The quality of the advice the speaker receives on procedure and other matters is crucial. The speaker’s adviser on procedure is the Clerk of the House of Commons.”³

It is a unique position for which, on the procedural side, there is little formal training.

There have been occasional relationships developed between academic and parliamentary institutions that have sought to address procedural education, however. Notable among these was an agreement established in 2007 between Laval University and the National Assembly of Québec which created the Research Chair of Democracy and Parliamentary Institutions. The agreement saw the creation of a specialized course in parliamentary law and procedure.⁴

By and large, the procedural knowledge is learned on the job. Hired into entry positions such as committee clerk, there has been largely a “learning by doing” approach to procedural training. Many jurisdictions have created some form of orientation and/or developmental rotations to supplement direct experiential training.

The necessity for procedural knowledge in the position, and the now essential requirement for senior level management skill, makes the qualified pool from which a Clerk might be hired fairly small.

Fortunately, there has historically been considerable longevity in the position and most parliaments are not frequently faced with the prospect of hiring a new Clerk. I was only the eighth Clerk to have served the Legislative Assembly of Ontario since 1867. I had close to 29 years of experience at the Legislature before I took the job; 15 of those years were at the Table. This pales in comparison, though, to someone

like George MacMinn, the retired Clerk of the British Columbia Legislative Assembly. He was honoured by Her Majesty Queen Elizabeth II as the longest serving Table Officer in the Commonwealth when he marked 50 years in that capacity in 2007.

Longevity aside, the scope of the job of the modern day Clerk of a Parliament requires – now more than ever – a hiring process that ensures a high level of procedural knowledge and administrative ability alongside demonstrated political neutrality that will command the absolute confidence of Members on both sides of the Chamber.

In many or most parliamentary jurisdictions in Canada, the process for the selection of the Clerk is neither prescribed in legislation or in the rules of the House. However, what once may have been a government appointment with a perfunctory consultation with the opposition, has in most cases developed into a more or less open competitive process that involves the participation of all sides of the House.

In 2001 for example, the Canadian House of Commons agreed to a recommendation of the Special Committee on the Modernization and Improvement of the Procedures of the House of Commons to provide for a committee review of any proposed appointment of a Clerk and a subsequent ratification vote by the House. This procedure was used for the first time when Audrey O’Brien’s proposed appointment was reviewed and recommended by the Standing Committee on Procedure and House Affairs and subsequently approved by the House.⁵

In Alberta, the appointment of current Clerk, Robert Reynolds, was announced in a press release issued by the Speaker, as having been made “after extensive consultations with staff and input from all legislative caucuses”.⁶

It was a statement farther along in this press release though that I think furnishes a description of what is taken into consideration when a Clerk is selected. Speaker Robert Wanner wrote that Mr. Reynolds was:

A long serving and dedicated employee of the Alberta Legislative Assembly, is recognized as one of Canada’s foremost experts on Westminster style parliamentary practice” and that he would ensure “continued focus on the Legislative Assembly Office’s (LAO) mission to

provide nonpartisan parliamentary support and to implement the innovative changes necessary to sustain the LAO as a leader in parliamentary support organizations in Canada.⁷

I know Mr. Reynolds well, and I know everything in Speaker Wanner's statement about him to be true. I also know that the same thing could be said for each of the Clerks currently serving parliaments across the country. They are a distinctly qualified cohort by virtue of their procedural expertise coupled with the administrative responsibility equivalent to a Deputy Minister. For the most part, they have long years of experience directly related to the procedural and administrative operations for which they are responsible. Those years of service have had the consequential benefit of earning the respect and confidence of all parties for professional, non-partisan service to Parliament.

The job has changed a lot in recent years; it requires a broad range of expertise and skill. With few exceptions, recruitment processes have developed to include consultation or participation with representation from all caucuses. In many cases, the position has been advertised widely, making it, in theory more open to a broader pool of applicants.

A parliament, however, is a unique institution. It operates by a set of procedures that are often not widely known or understood, even by those elected Members who are seated in it. This type of institution requires the assistance of someone expert in those procedures to provide advice and assistance and ensure the integrity of the proceedings.

This is a truth that one hopes does not become lost as the recruitment processes for the job of Clerk of the House are developed and modernized. Hiring panels need to be composed of participants who have intimate familiarity with the House, its committees and the administrative operations required to support them. Healthy consideration should be given to past experience; a candidate cannot hope to have the required procedural knowledge without some significant demonstrated capability in a parliamentary setting. As well, the trust between the Clerk and Members of all parties is one that develops over time and is usually well established long before an individual occupies the Clerk's chair.

Whatever has been debated or written about how parliaments operate, these institutions are an integral component of Canada's federal, provincial

and territorial political systems. Parliament needs to be preserved and protected, and the Clerk plays an essential role in ensuring that. A healthy, fair competitive process for the job can and should go hand in hand with consideration for and understanding of what essential skills and knowledge are required and the importance of parliamentary related experience in developing them.

In that 1994 address to the Canadian Study of Parliament Group, Sir Clifford Boulton opined (though not specifically speaking on the issue of recruiting a Clerk), "The methods of the boardroom are not appropriate for dealing with a parliamentary chamber."⁸ Truer words might never have been spoken.

The Selection of The Clerk In Canadian Legislatures

The following pages summarize the responses received from Canada's Legislative Libraries regarding the selection and appointment process for the chief procedural officer (i.e., the Clerk of the House of Commons, Secretary General, Chief Clerk, or Clerk of the Legislative Assembly). In the case of Ontario, the response was added by the author of the foregoing article.⁹

Notes

- 1 Graham White, "The Life and Times of the Camp Commission," *Canadian Journal of Political Science*, Vol. 13, No.2, (June 1980), p. 357-375.
- 2 Sir Clifford Boulton, "The Role of the Clerks in the Parliamentary System, Canadian Study of Parliament Group, 1994.
- 3 C.E.S. Franks, *The Parliament of Canada* (Toronto: University of Toronto Press, 1987), p. 123.
- 4 The Society of Clerks-at-the-Table in Commonwealth Parliaments, House of Lords, "Comparative Study: Recruitment and Training of Clerks", *The Table: The Journal of the Society of Clerk-at-the-Table in Commonwealth Parliaments*, Vol. 76, (2008), pp. 107-127.
- 5 Parliament of Canada, Appointment of the Clerk of the House of Commons, <https://www.ourcommons.ca/About/Clerk-Appnt-e.htm> (accessed May 2018)
- 6 Corporate Communications and Broadcast Services Legislative Assembly of Alberta, (April 4, 2016), *New Clerk of Legislative Assembly of Alberta Appointed*, [Press Release]
- 7 Ibid.
- 8 Sir Clifford Boulton, "The Role of Clerks"
- 9 Laura Anthony, Nick Ruderman, Legislative Library and Research Services, Role of the Clerk, (March 22, 2018) (responses in Table compiled by Erica Smith, Research Librarian)

Details of Selection and Appointment Process for Clerks in Canada

Canada – House of Commons

The Clerk of the House of Commons is appointed by the Governor-in-Council under the provisions of the *Public Service Employment Act*, though neither the Clerk nor any staff of the House of Commons are technically part of the federal public service (see: Parliament of Canada, Appointment of the Clerk of the House of Commons).

Standing Order 111(1) specifies that “Where the government intends to appoint an Officer of Parliament, the Clerk of the House, the Parliamentary Librarian or the Conflict of Interest and Ethics Commissioner, the name of the proposed appointee shall be deemed referred to the appropriate standing committee, which may consider the appointment during a period of not more than thirty days following the tabling of a document concerning the proposed appointment.”

Canada – The Senate

The Clerk of the Senate and Clerk of the Parliaments is appointed by the Governor-in-Council under the provisions of the *Public Service Employment Act*. (see: Parliament of Canada, Appointment of the Clerk of the Senate and Clerk of the Parliament).

British Columbia

All permanent officers are appointed pursuant to section 39 of the provincial *Constitution Act*, R.S.B.C., c. 66, which provides that:

39 (1) The appointment of all permanent officers of the Legislative Assembly must be made by resolution of the Legislative Assembly or, during the interval between 2 sessions, by the Lieutenant Governor in Council. (2) All appointments of permanent officers of the Legislative Assembly made during any interval between sessions must be ratified by the Legislative Assembly at its next session. (3) The appointment of all other officers and employees of the Legislative Assembly must be made (a) by the Speaker, or (b) by the Provincial Secretary, if there is no Speaker or the Speaker is absent or unable to Act. (4) A person occupying the position of a permanent officer of the Legislative Assembly is deemed to have occupied that position on and after the date of his or her appointment until the person dies, resigns or is removed from office.

Alberta

There is no provision in legislation for the appointment of the Clerk of the Legislative Assembly of Alberta. As noted on page 118 of *The Table* article, “Comparative Study: Recruitment and Training of Clerks,” Alberta’s Clerks “are normally recruited through a competitive process.”

Manitoba

The Civil Service Act, section 32, speaks to the appointment of the Clerk of the Legislative Assembly. “Unless they are appointed by Act of the Legislature, the Lieutenant Governor in Council shall appoint (a) deputy ministers, the Clerk of the Executive Council, the Clerk of the Legislative Assembly, and other technical officers; and (b) the members, or members of the board of management or boards of directors, of agencies of the government with respect to which any provision of this *Act* has been brought into force.” The *Act* doesn’t specify the process for recruitment. In 1999, when the role was last filled, the competition process was run by a subcommittee of the Legislative Assembly Management Committee (LAMC), with support provided by the Director, Member Services. The role was advertised in the *Free Press* and the *Globe and Mail* and sent to the Clerks Association network. Interviews were conducted by a subcommittee of LAMC and ultimately LAMC determined who would be offered the position subject to Cabinet approval.

Ontario

The Legislative Assembly Act provides that:

77(1) The Lieutenant Governor in Council shall appoint the Clerk of the Legislative Assembly. R.S.O. 1990, c. L.10, s. 77 (1).

Tenure of office

(2) The Clerk of the Legislative Assembly shall hold office during good behaviour but shall be removable from office for cause by the Lieutenant Governor on address of the Assembly. R.S.O. 1990, c. L.10, s. 77 (2).

Quebec

In Québec, in 1969, the position title was changed from Clerk to Secretary General. Under section 26 of the *Act Respecting the National Assembly*, the Secretary General is appointed by the Assembly on a motion of the Premier. The Secretary General must enjoy the full confidence of the President and the House as a whole, which is why it is customary for the Premier to consult the Opposition before standing in the Assembly to propose a candidate. As the Act does not limit the appointment to a set number of years, a Secretary General's term of office is indefinite. (Source: Parliamentary procedure in Québec. Québec (Province). Assemblée nationale. Direction générale des affaires juridiques et parlementaires. Québec: Assemblée nationale du Québec, 2012, p. 157.

New Brunswick

In New Brunswick, the Clerk is appointed by resolution of the House. Furthermore, according to the New Brunswick's *Legislative Assembly Act* 41(2), "The Clerk shall be appointed by the Legislative Assembly on the recommendation of the Legislative Administration Committee."

Nova Scotia

Neither the legislation nor the rules of the House specify the appointment process. *House of Assembly Act* 46: "The Governor in Council may appoint a suitable person to be Chief Clerk of the House, who shall perform all the duties performed by the Chief Clerk of the House prior to the seventeenth day of April, 1937, in addition to the further duties prescribed after that date." Nova Scotia's present Chief Clerk took on the role in an acting capacity in 2010 and was appointed in 2011; he was formerly an Assistant Clerk. He tells Nova Scotia's Legislative Library that the process has changed since his appointment. The procedure now (used for more recent hiring of Assistant Clerks) is through an open national competition run by a three-party subcommittee of the House of Assembly Management Commission. The interview panel is supported by Legislative Counsel, the Director of Administration (Speaker's Administration Office), and the government Public Service Commission.

Prince Edward Island

Under section 38(2) of the *Legislative Assembly Act*, the Clerk and Clerk Assistant are appointed by the Legislative Assembly on the recommendation of the Standing Committee on Legislative Management and shall serve at pleasure. The Standing Committee on Legislative Management may employ whatever process of selection it deems appropriate.

Saskatchewan

The information available for the appointment of our Clerk in Saskatchewan comes from *The Legislative Assembly Act, 2007*: Appointment of Clerk 77.1 The Clerk shall be appointed by order of the Legislative Assembly. (2015, c.14, s.9).

Newfoundland and Labrador

In Newfoundland and Labrador, the process of appointment for the Clerk of the House is provided in section 7 of the *House of Assembly Accountability, Integrity and Administration Act*. It specifies that: “House officers 7. (1) Upon nomination by the House of Assembly, the Lieutenant-Governor in Council shall, by Commission under the Great Seal, appoint the following officers: (a) the Clerk of the House of Assembly; (b) the Clerk Assistant of the House of Assembly; (c) the Law Clerk; and (d) the Sergeant-at-Arms of the House of Assembly. (2) Before a nomination is made under subsection (1), the speaker shall consult with the commission, the Clerk of the Executive Council and the chairperson of the Public Service Commission to determine an appropriate process for recruitment of suitable candidates for appointment. (3) Where an officer referred to in paragraphs (1)(a) to (d) is unable to act by reason of absence, incapacity or other cause or the office is vacant, the Speaker, upon the recommendation of the commission, may appoint a person to act as that officer in a temporary capacity for a period that shall not exceed 12 consecutive months.”

Northwest Territories

The Legislative Assembly and Executive Council Act provides the following with respect to the appointment of the Clerk: | “54. (1) The Clerk shall be appointed by the Commissioner on the recommendation of the Board of Management approved by motion of the Legislative Assembly.”

Nunavut

In Nunavut, the process for nominating a Clerk is in the *Consolidation of the Legislative Assembly and Executive Council Act*. Appointment of Clerk: 50. (1) The Clerk shall be appointed by the Commissioner on the recommendation of the Management and Services Board approved by motion of the Legislative Assembly. Tenure of office (2) The Clerk holds office during good behaviour but may be removed from office for cause by the Commissioner on the recommendation of the Management and Services Board approved by motion of the Legislative Assembly. (S.Nu. 2010,c.13,s.11).

Yukon

In Yukon, the position of Clerk is classified in the *Public Service Act*'s regulations as a deputy head. Neither the *Public Service Act*, nor any other legislation describes the process for the recruitment and appointment of the Clerk of the Legislative Assembly. The last time a clerk was recruited (2007) the recruitment process was created by the Assembly's Members' Services Board (the Assembly's board of internal economy). The MSB created an all-party subcommittee to recruit and recommend to MSB a person to assume the role of Clerk. The sub-committee consisted of the Speaker (as Chair) and one member from each caucus represented in the House. There was no motion in the House confirming the appointment. An order in council, issued pursuant to the *Public Service Act*, was the legal instrument used to appoint the current clerk.

The process for removing the Clerk is contained in the *Public Service Act* regulations [sections 4.1(1) and (2)]. The process contains the following provisions:

1. “The Speaker of the Legislative Assembly, on the advice of the Legislative Assembly or an appropriate committee thereof, may recommend to the Commissioner [of Yukon] the probationary release, the suspension or termination of the Clerk of the Legislative Assembly.”
2. “Where the Speaker makes a recommendation pursuant to subsection (1), it shall be in writing with reasons for such recommendation and a copy of the recommendation shall be forwarded to the Public Service Commissioner.”

Police Intervention Involving Members of the National Assembly: The Importance of Respecting Parliamentary Privilege

On October 25, 2017, a Member of the National Assembly was arrested by Québec’s anti-corruption unit (UPAC), whose police officers used a ruse to lure the Member away from the parliamentary precincts in order to arrest him. In the days following the arrest, the President of the National Assembly made a statement in the House on the matter and the Member (who had not been charged on any count whatsoever) addressed his colleagues using the “Personal Explanations” procedure. The Official Opposition House Leader then submitted several requests to the President for directives on parliamentarians’ rights and privileges in the context of police work. In this article, the President recounts the facts surrounding this uncommon event and summarizes the main principles and conclusions of the directive he issued in this matter. The article is based on a speech he gave at the 35th Canadian Presiding Officers’ Conference in Québec City in January 2018.

Jacques Chagnon

An unusual arrest received extensive media in fall 2017, when a Member of the National Assembly was arrested by Québec’s anticorruption unit (UPAC). This article revisits the events as I addressed them, as a presiding officer wishing to ensure that the privileges of his institution and its members are protected and respected at all times and concerned about maintaining separation of the powers of the State.

I should point out that the investigation is ongoing and that legal proceedings are still underway, requiring certain information to remain confidential. Furthermore, as I write these lines, we do not know how this story ends, as no charges have yet been brought against the Member concerned or anyone else since the arrest occurred. Consequently, this article deals not with what is currently before the courts but with the principles of parliamentary law raised by these events. Clearly, despite these principles, which seek to ensure that Members are not prevented from performing their duties, parliamentarians are in no way above the law.



Jacques Chagnon

Jacques Chagnon is President of the National Assembly.

On October 25, 2017, it was business as usual at the National Assembly with parliamentary proceedings underway in the House and in several parliamentary committees. In fact, that morning, the Member, then Chair of the Committee on Institutions—whose areas of competence include justice and public security and which oversees the government departments and public bodies responsible for these matters, including UPAC and other police forces—, had chaired the Committee’s clause-by-clause consideration of a bill. He was scheduled to chair that same Committee’s afternoon proceedings.

At lunchtime, the Member received a text message from a police officer pretending to be an information source known to the Member and summoning him to an urgent meeting. The Member arranged for a substitute to chair the Committee so he could go to the designated meeting point, which was outside Québec City. On arriving, he was met by UPAC police officers, who arrested him.

News of the arrest was quickly reported by the media and hit the Québec political scene like a bombshell. No charges were brought against the Member, who was released late that evening. That day, the police also seized the Member’s cellphone and various other electronic devices in his possession.

The next day, October 26, the newspapers headlined the story, recounting the previous day’s events, giving information on the arrested Member—outlining his career in both politics and as a former *Sûreté du Québec* police officer—and questioning his integrity.

Late that afternoon, the Chair of the Government Caucus sent my office a letter informing me that the Member no longer belonged to the parliamentary group forming the Government, that he would henceforth sit as an independent Member and that, consequently, he had lost his position as Chair of the Committee on Institutions.

Interestingly, at the time of the Member’s arrest, the Committee on Institutions which he chaired, had just finished its consultations on Bill 107, *An Act to increase the jurisdiction and independence of the Anti-Corruption Commissioner and the Bureau des enquêtes indépendantes and expand the power of the Director of Criminal and Penal Prosecutions to grant certain benefits to cooperating witnesses*. In fact, the Member had tabled the Committee’s report, following these consultations, the day he was arrested.

Far from a routine piece of legislation, Bill 107 primarily amends primarily the *Anti-Corruption Act*,¹ proposing changes to the mission of the Anti-Corruption Commissioner, who heads UPAC, and the procedure for his or her appointment and dismissal.

On October 19, 2017, less than one week before the Member’s arrest, the Anti-Corruption Commissioner had appeared before the Committee on Institutions, then chaired by the Member, to answer parliamentarians’ questions.

This unique context, coupled with the lack of charges against the Member, led me to reflect at length on these events. I had to ask myself the following questions: Did the police proceed appropriately, in light of the privileges and principles specific to our institution? Do Members—who, like any other citizen, are not immune before the law—enjoy a certain protection regarding the documents and electronic devices used in exercising their parliamentary duties? What would happen next, not only where the National Assembly was concerned but also regarding the Member who had been arrested?

My main concern at this point was to ensure that the National Assembly would not be undermined in its ability to debate the various issues in question and that the independence of the Members, who must be shielded from all forms of threat or pressure, would be protected.

Although I was unable to put my finger on it, something seemed amiss. I had an uneasy feeling and, above all, serious questions as to how our justice system works with regard to our duties as Members of the National Assembly. One thing was clear: my instincts as a Member and as President were telling me to act.

So, I decided to draft a statement to express my views on the subject. For once, circumstances demanded that I set aside my obligation to exercise reserve—I generally refrain from commenting on political news so that I can perform my duties as President with complete neutrality. However, in this case, the issue exceeded the realm of “current events”. It involved the very essence of a Parliament’s purpose, namely to enable the Members to debate issues and perform their duties unimpeded. As the representative of the State’s highest-ranking democratic institution, I had to react.

Consequently, at the beginning of the October 31, 2017 sitting, I read a statement before the Assembly. The following excerpt became the focal point: “Let charges be brought or public apologies be proffered: either accuse or excuse...”.



Speaker Jacques Chagnon reads a decision on whether police could arrest or search a member of the legislature in Quebec City on November 16, 2017.

In issuing this statement, I did not claim to put to rest the many questions raised by these unusual events. In fact, I knew that I had opened the door to the many questions on parliamentary law that I would inevitably be asked. However, I was firmly convinced that I had truly played my role as the protector of our institution and the Members and as the guardian of parliamentary privilege.

After my statement, the Member, who was in the House, chose to comment on his arrest in keeping with the “Personal Explanations” procedure provided for in our Standing Orders, saying that he had been the victim of a set-up designed to intimidate him. He added that a number of irregularities in the application of certain governance rules had been reported to members of the Committee on Institutions in past weeks and that the Committee had been about to hear the heads of public bodies to question them on the subject. He said he was well aware that elected officials are accountable to the public, but quickly added that those in high-ranking positions in Québec’s key institutions are also accountable for their actions. He concluded, saying that preventing the Members of the National Assembly from exercising the mandate conferred on them by the public constitutes an extremely serious attack on the democratic process—to be condemned in no uncertain

terms—and invited his National Assembly colleagues and Quebecers as a whole to remain vigilant in this regard.

The Official Opposition House Leader then submitted several requests to me for a directive on parliamentarians’ rights and privileges where police work is concerned.

Just over two weeks later, after my team of advisers and I had considered these requests at length—a task that required a great deal of research—and looked at the practices of other British-style parliaments, I addressed these requests in the November 16, 2017 sitting.

I should point out that I had not been asked to rule on a point of privilege or contempt but rather to clarify current Québec law as it applies to a number of aspects that had never before been addressed by our Assembly from this viewpoint. I had to look at the principles of separation of the powers of the State and of Members’ independence, as well as the need for police forces to take the implications of these principles into account in terms of how to proceed in a parliamentary context. In other words, I needed to examine the meaning of parliamentary privilege, for the Assembly and the Members, in the context of police work.

The following is an abridged version of the main findings and conclusions contained in the directive I issued to address each question asked by the Official Opposition House Leader.

“Was the President always notified by police authorities when a Member was arrested?”

Understandably, some assemblies have a practice requiring the House to be notified when a Member is arrested. The reasons for this practice are easy to imagine. It is normal, when a legislative assembly is sitting, that it be notified of the arrest and detention of one of the Members, given that this prevents the Member from taking part in parliamentary proceedings. This requirement is justified by the Assembly’s paramount right to the presence of its Members. The same logic underlies the exemption from jury duty, exemption from being subpoenaed as a witness and freedom from arrest in civil cases that Members enjoy, and that are codified in Québec law.

Although not exempt from the application of justice, Members enjoy a special status so that the necessary balance in state workings is ensured, witness this quote from author Joseph Maingot on the need to protect Members’ ability to take part in parliamentary proceedings:

No impediment should be placed on the Member in going about his parliamentary business, whether in the House, on his way to the House, or while on his way home. On the contrary, Members are “to have free and unimpeded access to the Parliament buildings”.²

That said, at the National Assembly, the practice of informing the House of a Member’s arrest as not consistent in the past. Sometimes, the President or Secretary General was notified of such arrests, and sometimes they were not. However, the Assembly clearly should be informed of the arrest of one of its Members, particularly if the arrest prevents the Member from participating in parliamentary proceedings. This is why I asked that, in future, police forces systematically inform the Chair in such cases.

“Have the legal authorities violated a Member’s privileges if they do not promptly lay charges following the Member’s arrest?”

It is not the President of the National Assembly’s place to set deadlines in such matters. I have enough respect for our police and judicial authorities not to tell

them how to do their job. However, as the guardian of the rights and privileges of the Assembly and the Members, I asked that police work be done in a manner that upholds Members’ rights, that it disrupt parliamentary proceedings as little as possible and that it raise no questions as to whether an arrest might be related to a Member’s parliamentary duties.

I also expressed concerns regarding the potential political consequences for a Member when too much goes by between an arrest and charges being laid. Given that the next Québec general election will be held in October 2018, a long time lapse before charges are brought against a Member whose integrity has been assailed could be harmful. In a political context where image and public perception are paramount, it is difficult to imagine that a Member against whom such charges are pending could participate in the democratic process without paying the political price. Such a situation would, in my view, be unjust and profoundly unfair.

“Is the President’s authorization needed to search Members’ cellphones and computers? Are these devices considered extensions of a Member’s National Assembly office and covered by the same parliamentary privilege?”

As President of the National Assembly, it is not my place to authorize police officers to conduct a search. That is the purview of the courts. Once this authorization has been given—if such searches take place on National Assembly premises—the President must decide whether or not to grant access to the parliamentary precincts. This arises from the fact that legislative assemblies are not accessible as a matter of course and that strangers can be expelled from them.

Although parliamentary privilege does not generally prevent the application of criminal or penal law within the Assembly’s precincts, it does not allow the police automatic access to the Assembly. Because police intervention could hinder the Assembly’s proceedings, police forces may not intervene in Parliament without the President’s prior authorization.

In this context, the President must cooperate in the proper administration of justice, to the extent that such administration respects parliamentary privilege and does not prevent or hinder the proper functioning of the Assembly or the exercise of the Members’ duties. Generally speaking, the President authorizes police forces to enter the Parliament Building to conduct their search when these principles are upheld.



Speaker Jacques Chagnon reads a decision on whether police could arrest or search a member of the legislature in Quebec City on November 16, 2017.

The President must, however, ensure that police officers have a valid search warrant and that only the documents covered by that warrant are seized. This same approach applies when the President receives a request or order from police authorities to disclose documents concerning a Member.

Moreover, when a search is carried out within the parliamentary precincts, the President's role does not stop at the doors of the Parliament Building but extends to protecting the Members' rights by ensuring that a representative of the President accompanies the police officers conducting the search at all times.

What about seizure of documents and material that are outside the parliamentary precincts, whether in a riding office, at a Member's home or elsewhere?

In this context, it is important to know that the fact the police officers seize a document or device does not necessarily mean it can be used as evidence. Certain documents and information accessible via electronic devices may be covered by parliamentary privilege. Consequently, similar to cases involving seizing documents located inside a law office or in the possession of someone else with a confidentiality privilege, a special procedure must be followed when a police investigation concerns documents or material belonging to a Member.

We must remember that the President's responsibility, in such cases, is to ensure that the information contained in the documents or devices seized from a Member remains confidential. In such situations, the documents or material seized must be sealed to avoid violating the Member's privileges. A protocol must then be implemented to ensure that documents covered by privilege are separated from those that are not; only the latter may be used by police authorities. In addition, as the guardian of the Members' rights, the President of the Assembly or a person representing the President must be able to actively participate in this operation. For good reason, there is no exhaustive list of documents covered by parliamentary privilege. It is essential there be no overly rigid definition – unable to evolve over time and preventing the necessary case-by-case analysis – of what they constitute.

To my mind, the way UPAC chose to inform the National Assembly of how it intended to analyze the documents it had seized, that is, via the media, showed limited knowledge of our institutions and of Parliament, in particular.

A parallel can be drawn between this case and one in the United Kingdom dating from 2008. The following is how a high-ranking police officer described the highly sensitive nature of and potentially complex

issues involved in the arrest of a parliamentarian suspected of disclosing confidential information to the media:

It was my judgment that we should in this case exceptionally delay taking action, so that we could take full legal advice from the Metropolitan Police Directorate of Legal Services, and indeed consult the Parliamentary authorities at an early stage, and indeed take further advice from Crown prosecutors.³

As explained by the House of Commons committee asked to shed light on the matter, the view taken by the police in this particular case “was that the risk of losing evidence was outweighed by the need to ensure the legality of any action and to liaise with, and seek guidance from, the parliamentary authorities.”⁴ It seems to me that such wisdom should have guided UPAC in its approach.

“Does the fact that a police force misleads a Member, causing him to be unable to fulfill his parliamentary duties, constitute a breach of the parliamentary privilege applicable to him? Does tricking or misleading a Member to get him out of the parliamentary precincts in order to serve him legal papers constitute contempt of Parliament?”

The day of the Member’s arrest, the Committee on Institutions, which he chaired, was scheduled to meet all day. The Member’s arrest prevented him from returning to Parliament in the afternoon to chair the Committee’s deliberations.

Under the principles mentioned earlier, the police officers clearly could not have arrested the Member during a sitting of the Assembly or a meeting of the Committee he was chairing. To do so, they would have had to obtain my prior authorization.

Using a ploy to get a Member to leave the parliamentary precincts in order to arrest him, as reported, is disturbing at the very least, and virtually amounted to indirectly doing what the police were unable to do directly.

The question we were within our rights to ask, in the case at hand: “Was the procedure employed by UPAC, namely using a ruse to get a Member to leave parliamentary proceedings, really necessary? Moreover, should UPAC not have consulted the parliamentary authorities before arresting the Member, if only to inquire about the specifics to be

respected in relation to his status as a Member of the National Assembly? Although these questions remain unanswered, in my opinion, the methods UPAC used in this case showed a blatant lack of consideration for the Assembly and its Members.

The manner in which UPAC acted may be sufficient to raise doubts about whether the fragile balance that must exist in relations between the various branches of the State was respected. If it was deemed so urgent to arrest a Committee Chair in mid-meeting, why proceed this way? Why was the Member lured outside the parliamentary precincts using a ploy? If the situation was as urgent as UPAC claimed, in order to justify its actions, why did the arrest and seizure not take place at the National Assembly? Was it to avoid having to submit a search warrant to me to allow me to analyze whether it complied with the applicable rules? With regard to these questions, I can only confirm that doubts remain.

“Is electronic surveillance of a Member outside the parliamentary precincts considered a form of harassment, obstruction, harm or intimidation of the Member? What special measures must police forces take in such circumstances to respect the separation of powers between the executive and legislative branches?”

Electronic surveillance, or wiretapping, of a Member of the National Assembly carried out illegally, excessively or to exert undue pressure on the Member would clearly constitute a violation of parliamentary privilege.

In other specific cases, for example, when a court authorizes an electronic surveillance procedure, the communications likely to be recorded during wiretapping would no doubt include many important elements unrelated to the subject of the investigation but pertaining to the Member’s duties. This aspect, which addresses the very essence of the independence of Members’ work, is most troubling.

This ties in with the notion of confidentiality surrounding the documents used by Members in performing their duties and the sources of information that enable them to play their parliamentary oversight role effectively. We want to avoid a situation where, for instance, citizens might refrain from contacting a Member for fear that the confidentiality of what they might tell him or her could not be guaranteed.

Moreover, where electronic surveillance is concerned, a directive from the Attorney General of Québec states that a specific request is required in the case of categories of offices that hold certain privileges (lawyers, judges, senators, Members of Parliament of the House of Commons of Canada and Members of the National Assembly).

In this regard, a parallel can be drawn with the events of November 2016, when we, in Québec, learned that law enforcement officers had placed certain journalists under electronic surveillance. At the time, the Assembly held an urgent debate on the subject, during which all parliamentarians who took the floor expressed concern over the potentially negative effects of such surveillance on democratic life. In my opinion, the confidentiality of Members' communications must enjoy a level of protection that is at least as high as the level we recommended for journalists.

This was the content of my November 16, 2017 directive. As for the aftermath, I must point out that steps had been taken from the very outset to establish lines of communication with UPAC and then with the Director of Criminal and Penal Prosecutions' attorneys.

Negotiations also took place to implement an examination protocol to separate documents that are covered by parliamentary privilege from those that are not. In the unique context in which UPAC arrested the Chair of the parliamentary committee responsible for examining a bill that directly concerns UPAC, this procedure will seek, among other things, to ensure protection of the information related to exercise of the Member's parliamentary duties. The Member, himself returned to the ranks of the parliamentary group forming the Government on November 21, 2017 and now chairs a different parliamentary committee.

Regardless of how this story ends, it will continue to fuel discussions among aficionados of politics and parliamentary privilege for a long time to come. One thing is certain, this case illustrates the complexity of the questions to be asked with respect to interactions between police forces and the work of parliamentarians. The increasing use of technology and, consequently, the new questions that arise, make the situation even more complex. Seizing mobile devices (smart phones, tablets, etc.) henceforth provides access to a wealth of information and documents stored in cyberspace

that would previously have been found physically in a Member's briefcase or filing cabinet. This new state of affairs impacts the oversight traditionally exercised by the President when a search was carried out in the parliamentary precincts. The issue is important, because the President's analysis of the warrant in such a context always sought to ensure that only the items covered by the warrant could be seized so as to avoid situations tantamount to "fishing for information". Clearly, parliaments are not the only institutions dealing with the reality of new technologies, and the question of the access these tools offer is very topical. These new technologies must not permit greater access than what was previously allowed. It will be extremely interesting to see how the courts will try to limit abuse in the future.

These events will also have made it possible to raise police forces' awareness of the issues related to arresting a Member of the National Assembly and seizing materials belonging to him or her. Let us hope that my call for the need to take the specifics inherent in elected officials' role in our society into consideration will have been heard.

In concluding, it is important to reiterate that, throughout this situation, the Chair has been committed to ensuring the sound administration of justice. My directive must not be interpreted otherwise. Its purpose is not to put parliamentarians above the law, since Members of the National Assembly enjoy no immunity with regard to penal or criminal offences they may commit as citizens. However, it was essential to clearly reassert a fundamental principle on which our political system is based, namely that for our legislative assembly to operate effectively and for the Members to be able to fully play the role entrusted to them by the citizenry, it is imperative that parliamentary privilege be protected.

Notes

- 1 CQLR, c. L-6.1.
- 2 Joseph Maingot, *Parliamentary Privilege in Canada*, 2nd ed., Montréal, McGill-Queen's University Press, 1997, p. 183.
- 3 House of Commons Committee on Issue of Privilege, *Police Searches on the Parliamentary Estate: First Report*, London, Parliament of the United Kingdom, 2010, par. 67.
- 4 *Ibid.*

“Legal Aid for Stuff You Can’t Get Legal Aid For”: Constituency Role Orientations among MLAs in Nova Scotia

The role of elected members who serve in Westminster Parliaments is contested. While there is an assumption among some academics that the role of elected members is to hold government accountable,¹ elected members do not necessarily share this view or act in ways that conform to this role orientation. This article enters the discussion of parliamentary role orientations by addressing the prominence of constituency service work among the attitudes and behavior of Members of the Nova Scotia Legislative Assembly. The author draws on a series of interviews with former MLAs in Nova Scotia where constituency service work emerged as a major theme in the careers of elected members.

Louise Cockram

Do we elect parliamentarians primarily to hold government accountable or to serve their constituency in other ways? The answer to this question depends greatly on whether you’re posing it to academics or parliamentarians themselves. Drawing on 35 semi-structured interviews conducted with former Nova Scotia MLAs in the summer and fall of 2015, in this article I explore how constituency service work is often considered one of the most significant aspects of their role.

The interviews were conducted on behalf of a project entitled “On the Record, Off-Script,” facilitated by Springtide.² The methodology for Off-Script drew heavily from Samara Canada’s MP exit interview project, where the findings were published into the best-selling book *Tragedy in the Commons*.

Initially, the Off-Script project had broader research questions than finding out about the role orientations of MLAs. The prominence of constituency service work among MLAs in Nova Scotia was just an incidental finding. The Off-Script team was originally interested in why MLAs make certain decisions. For example, we asked about the context behind some of the things many Nova Scotians find objectionable, such as heckling in the House and the lack of collaboration between parties.

Then there were questions about the decision-making spaces such as cabinet, caucus, and the premier’s office. These places are like black boxes; researchers and members of the public have little knowledge of what goes on in there. The Off-Script team also asked why the tone of the House seems so toxic? What are the experiences of women and racialized minorities in the House? And, are backbenchers as powerless in Nova Scotia as they seem to be in Ottawa?

The Off-Script team interviewed MLAs from the three parties with representation in Nova Scotia’s Assembly: 7 Liberal members, 15 New Democratic Party members and 13 Progressive Conservative members. We also interviewed MLAs who served in a variety of positions in the House, including a mix of former backbenchers, cabinet ministers, premiers, and opposition and government MLAs). Due to the lack of former female MLAs, the ratio of male to female interviewees for our project (23 per cent female and 77 per cent male) had a gender distribution that was similar to that of the Nova Scotia Assembly over the past decade. Most of our interviewees had served within the past 20 years, in both the government and opposition, under different premiers and opposition leaders. Our team was very fortunate to have access to a large number of former MLAs who served during Darrell Dexter’s NDP government from 2009-2013. These interviews provided more recent insights into the state of the Nova Scotia Legislative Assembly and the attitudes and behavior of the MLAs who serve the people of Nova Scotia.

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The most surprising finding from the interviews was the emphasis that the respondents placed on constituency service work, a term that refers to front-end service provision conducted for constituents by elected representatives or their staff. Constituency service work is conducted through the MLAs' constituency office and is facilitated by staff, but MLAs are often very involved in constituency service work. As one Nova Scotia MLA remarked: "you set up an office, you hire a constituency assistant, and he or she is on the front line dealing with the public, but, in reality, it all comes back to the MLA to, you know, to find a solution for somebody."

The respondents regaled us with stories about the services they provided to constituents, from the tale about the constituent who requested help from their MLA to heat their budgie's cage during the winter to the MLA who received a call from a woman about a blocked toilet. There were also more desperate concerns from constituents to which our respondents attended. For instance – there was a story of a low-income single mother who requested help from her MLA to feed her children. Another MLA spoke of helping to fast-track a constituent's mother to the top of a nursing home waiting list.

Perhaps an even more surprising finding was the proportion of MLAs who felt that constituency service work was the most important aspect of their role. During the interviews, the respondents were asked to describe what they considered to be the primary role of an MLA in Nova Scotia. In response, around 43 per cent of the MLAs we interviewed either told us that the most important role of an MLA is constituency service work or told us that constituency service work took up the majority of their time as an MLA. The 57 per cent of MLAs who did not consider constituency service work to be their primary role typically defined their work as one of balance between representing constituents and ensuring the well-being of the province as a whole. Others told us that there is no defined role of an MLA and that the job description is nebulous.³ However, even MLAs who did not identify constituency service work as being their primary role recounted several instances where they were involved in constituency service work. The frequency of these anecdotes suggest that even though some MLAs did not consider constituency service work to be the primary role of an MLA, serving constituents directly seemed to be an important element of their role in practice. For instance, one MLA who told us that there is no job description for an MLA and that the role is very nebulous, also recounted stories of helping constituents with student loan applications and dealing with potholes on a constituent's local road.

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The constituency service work performed by MLAs was divided into two parts: an ombudsperson role and a direct service provision role. The MLAs we interviewed performed both ombudsperson activities and direct service provision, depending on the particular problem the constituents presented them with. The ombudsperson role entailed helping constituents to navigate government services or advocating for constituents within the bureaucracy, whereas the direct service provision role entailed solving the problems of individual constituents through direct intervention by the MLA. As ombudspersons in their constituency, MLAs helped constituents to navigate provincial government services, often by acting as advocates for their constituents in the bureaucracy. The MLAs we spoke with felt that they had the ability to do “marvelous things” by intervening on their constituents’ behalf. For instance, one MLA phoned Nova Scotia Power⁴ to negotiate a payment plan for a constituent who was unable to afford their power bill and had their power cut off. The MLA’s phone call to Nova Scotia Power ensured that the constituent retained power in their home. The second role, direct service provision, involved a medley of tasks for MLAs. These ranged from helping constituents to write resumes to providing constituents with space heaters from the MLA’s own residence. One MLA went into detail about the types of direct service work he performed: “I had a group of volunteers and people would come to the MLA office and drop off their income tax returns. It was part of a national program but we set it up so that it was through the MLA office. We help[ed] people with letter writing, a lot of your time is spent with things like workers compensation, community service issues take a tremendous amount of time. Things like the snow plow hit my mailbox, the bushes on the side of the road aren’t being cut, how come my road didn’t get graded this summer?”

Many respondents compared their role as an MLA to other occupations – for example, social work – where the job entails front-end service provision or ombudsperson-style advocacy. Two of the respondents had been Church ministers prior to entering provincial politics and told us that the process of delivering services to constituents was similar to looking after parishioners. One of them said that constituency work was “[a] lot of what you did in Ministry but without being able to work at writing a sermon and dealing with ideas, it was more just sort of problem after problem, trying to solve it.” Four respondents compared the role of an MLA to running a legal aid office where clients (or in this

case, constituents) were treated as separate cases. A case file was opened, constituents had to complete an intake form, and the case was then dealt with through the expertise of those in the MLA’s office. The assistance could come from staff in the constituency office, direct help from the MLA or through the MLA’s real or perceived clout in navigating the bureaucracy of the Nova Scotia government. As one respondent explained, he considered his constituency office to be a “legal aid [office] for stuff you can’t get legal aid for.” Constituents would often arrive at his constituency office to request help on a variety of issues. The respondent explained that “people come to a constituency office very commonly with these sorrowful brown envelopes of stuff that they’ve got – maybe it’s got to do with an EI appeal or a compensation appeal or something.... And they’re swamped and overwhelmed by it. [They] take it to [their MLA]. There’s a tradition in some areas, where there have been strong constituency workers, you would take it to your MLA.”

The prioritization of constituency service work among MLAs suggests that in Nova Scotia the relationship between elected members and their constituency goes beyond representation. In other words, MLAs do not just represent their constituents by taking their constituents’ concerns to the Assembly; MLAs occupy another role in the riding by serving their constituents as ombudspersons and service providers. From listening to the respondents, it was unclear how the service work in the constituency related to the MLA’s duties as a legislator. The job of serving constituents in the riding (both by advocating on behalf of constituents and also providing them with services directly) seemed to be separate from the job of representing constituents in the Assembly. Direct services and advocacy were provided by MLAs to constituents on an individual basis, instead of discussing the issues that befall these constituents or groups of constituents in the Assembly. In other words, it was not clear from the interviews that the MLAs translated the problems of individual constituents to broader policy concerns that might affect the constituency or the province as a whole. The only exception to this was that some respondents who had served as backbench MLAs told us that they would sometimes approach a minister on the floor of the Assembly or in caucus to request help for one of their constituents. However, MLAs typically requested help for individual constituents, not the constituency as a whole or communities within the constituency. One respondent who was a former cabinet minister told us about how members of the

opposition approached him to request services for their constituents: “they [opposition MLAs] will berate you in public on a whole range of issues but after they’ve made their speech, they’ll walk over the floor and say ‘could you help this person out?’ and you know here’s a file on them and after you’ve heard them speak, you’ll say ‘you know, why don’t we talk after about this?’ So there’s a lot of personal exchange between the MLAs across the floor on a case by case basis.”

There was a mixed response among the respondents regarding the question of whether or not MLAs felt that constituency service work was beneficial or worthwhile to political life in Nova Scotia. Some MLAs considered the focus on constituency work to be too parochial and took the view that it prevented the MLAs from looking at broader issues that could be addressed by MLAs in the Assembly. One respondent admitted that he questioned why MLAs perform so much constituency service work:

A question I hold, arguably a concern that I have, [is that MLAs] become advocate ombudsman and they continue to get caught – their efforts get caught in the small picture, instead of going up to the big picture. If...so many of our MLAs are actually doing appeals for their constituents in, you know, Residential Tenancies and, you know, and CPP work and all the rest. I wonder, if we were to free them up to actually look at the larger challenges that face us as a province, then I think we would have more meaningful debate in the Legislature and we’d have a clearer vision about where we want to take the province around our big challenges.

This argument – that elected representatives focus too much on the individual problems brought to them by constituents instead of issues that befall the constituency as a whole – is echoed by Franks⁵ in his discussion of constituency service work at the federal level. Stilborn⁶ explains further that, at the federal level, focusing on constituency work competes with other pressing items on Members’ already busy schedules. By performing constituency service work MLAs solve problems that are experienced by individual constituents. Through focusing their time on aiding an individual constituent through his or her problem, the MLA may neglect the possibility of legislative changes to solve wider issues. After all, anyone with a background in social work or community organization can help to run a constituency office as staff. However, only MLAs elected to the Assembly

can pass or amend legislation to solve the broader problems that arise at the constituency office as individual cases of poverty or cases of constituents who have trouble navigating government services. For instance, the MLA who phoned Nova Scotia power to help develop a payment plan for their constituent only told us about that individual instance of helping a constituent and did not mention broader efforts to aid Nova Scotians in poverty or to decrease energy costs in the province.

While some MLAs questioned the usefulness of constituency service work, other MLAs felt proud of their constituency service work and indicated that it was a highlight of their career as an MLA. One respondent spoke of his regret that his constituency office closed when he did not get elected for a second term: “it’s very painful to me that [the constituency office] was lost when I lost the election and the people that worked there had to go to other lines of work which are not as socially useful as what they were able to when we had that project [of developing an effective constituency office].” Another MLA told us in an excited tone that she “loved [constituency work], it was really like rubbing my hands together and being like ‘yes let’s find a solution to this.’”

Despite the mixed reaction to the question of whether or not constituency work is useful, it nevertheless loomed large in the careers of the MLAs we interviewed. An inevitable question that came up in the background of this research was - why do MLAs perform constituency service work to the extent they do? Why did 43 per cent of the MLAs we spoke to consider constituency work to be their primary role in the House? In our interviews, some of the respondents considered the question of why MLAs find constituency work to be so important. The respondents came up with a number of answers. These included:

- constituents expect to be provided services by their MLAs
- performing good constituency service work increases an MLA’s chances of being re-elected
- constituency service work brings meaning to the role of backbench MLAs

The expectations of constituents

Many respondents told us that constituents have very high expectations of MLAs with respect to constituency service work. The MLAs we spoke with told us that it is hard to refuse service requests from

constituents as a precedence had been set in their constituency where MLAs were expected to provide services to constituents. As one MLA explained: "People come to you with things that you've never heard of before and they want your help and they expect [it] ...Well you're the MLA so you're supposed to be an expert on this, you're supposed to snap your fingers and tell them how to solve their problem. [It] might be something like, I don't know, nursing home waitlist or some problem to do with social assistance that you've never dealt with before."

Electability

There was a sense among the MLAs that performing constituency work increased their chances of getting re-elected. In other words, attention to constituency service work plays well with voters, whereas inattention to the constituency decreases the chance of successful electoral prospects. Throughout the interviews we often heard the refrain "there are no votes in Halifax" from MLAs representing constituencies out of the capital. Indeed, some respondents claimed that cabinet ministers had a lower chance of getting re-elected because they are not able to devote as much time to constituency work.

Rural/urban divide

Some respondents also suggested that MLAs in rural areas perform constituency service work simply because there are fewer ways for constituents to access government services outside of urban centres. These same respondents noted that government services are lacking in rural areas in comparison to urban municipalities. Constituents in urban centres (Halifax and Sydney) are able to seek help from municipal councillors, whereas constituents in rural areas do not have access to a municipal layer of government so must request help from their MLA.

One MLA told us:

I've often said that, you know, rural MLAs have a larger workload than urban MLAs because of the road issue and, in some respects, it makes sense to have rural ridings perhaps smaller in population so they can deal with all that extra work. In an urban environment, roads are looked after by the city or by the town, by the municipality. So those calls go to the municipal councillor in Cape Breton Regional Municipality or Halifax Regional Municipality or even a town like Kentville or Bridgewater.

But, in a rural riding like Pictou-West or King's-West or, you know, any rural riding out there, that's an extra responsibility that MLAs have in those ridings that takes a lot of their time and effort.

In response to this lack of services, rural MLAs told us that they felt compelled to act as advocates in their riding because they felt that no one else was looking out for the constituents. However, this explanation only accounts for why rural MLAs perform constituency work; urban MLAs performed constituency work as well. It is likely that rural and urban MLAs perform different types of constituency work. For example, rural MLAs concentrate more on ensuring that roads in the constituency are safe, whereas urban MLAs concentrate more on solving social issues specific to urban settings.

Lack of a meaningful role in the Legislature

Some respondents pondered whether the lack of a meaningful role in the House for MLAs prompted them to seek a larger, more involved, role through their constituency work. It was difficult to pinpoint exactly how the constituency service work that MLAs performed translated into the MLAs' work in the Assembly. The prioritization of constituency work was in contrast to how backbench MLAs (and some ministers) perceived their work in the House. Many MLAs told us they felt they made a larger difference back in their riding than on the floor of Province House. In the constituency, MLAs felt that they had an "affirming presence" but in the Assembly, they felt lost and powerless. As one MLA told us: "Trudeau is famous for saying is that an MP is a nobody outside the Hill... but what I found was that we're [MLAs] nobodies on the Hill. We're actually [somebodies] outside the Hill and you know in your riding where you still think you have some clout." Another MLA asked:

why do MLAs spend their time on casework so much?...Down at the legislature it's so hard to see sometimes what difference you're making. You're just another bum in the chair down at the legislature, you vote the way you're supposed to vote, you go home. ...But back at the constituency office when you've fixed somebody's problem, it makes you feel good. You've helped somebody; you've done a good thing and that becomes kind of addictive after a while. It becomes the meaning that MLAs find in their jobs. Down at the legislature, you

realise pretty fast that things go exactly the same, whether you read the bills or not, right?

To illustrate the extent to which many MLAs prioritized constituency work versus their role in the Assembly, one MLA even suggested that the Assembly's timetable should be changed to accommodate more time for MLAs to perform constituency work:

We wanted to look at a number of things and maybe possibly change hours, or the way the hours when you're in the legislature start Monday afternoon and leave Friday morning, so that people could get to Cape Breton and Yarmouth from their constituencies or get in. We floated that, let's talk about that, and there was no interest from the other two parties at the time.

Conclusion

Based on our interviews with 35 former MLAs, we found that elected members in the Nova Scotia Assembly put a high priority on constituency service work. Our findings at the provincial level in Nova Scotia share similarities with work that explores the roles of MPs at the federal level. We know that MPs also provide services to constituents, either by taking an advocacy role or through providing services directly. However there is still the question of whether or not MPs at the federal level prioritise constituency

work as much as their provincial counterparts in Nova Scotia. Future research on constituency service work should be comparative between provinces and regions in Canada and address the following questions: is the prioritisation of constituency roles in Nova Scotia unique to that province? Is the prioritisation of constituency work a feature of Atlantic Canadian political culture or do provincial representatives from legislatures across Canada conduct constituency work to the same extent? What are the differences between constituency service work at the federal level versus the provincial level?

Notes

- 1 Lori Turnbull, "Minority Government in Nova Scotia: does it empower private members?" *Journal of Parliamentary and Political Law* 4, No.2, (2010), pp. 181-192.
- 2 An organization in Nova Scotia that promotes political leadership
- 3 This attitude was similar to Loat and MacMillan's findings in their exit interviews with federal MPs. See: Allison Loat and MacMillan, Michael, *Tragedy in the Commons*, Toronto: Random House, 2014.
- 4 The main power company in Nova Scotia
- 5 C.E.S Franks, "Members and Constituency Roles in the Canadian Federal System", *Regional and Federal Studies*, 17, No.1. (2007), pp. 23-45.
- 6 Jack Stillborn, "The Roles of the Member of Parliament in Canada: Are They Changing?", Library of Parliament Research Service, (2002), URL: <http://www.parl.gc.ca/Content/LOP/researchpublications/prb0204-e.htm>.

Parliamentary Rules Concerning Private Members' Bills

A recent trend in Canada's Parliament has seen an increase in the number and complexity of private Members' bills (PMBs) that have received Royal Assent. These PMBs frequently go beyond changing the name of a riding or declaring a commemorative day to amend such complex pieces of legislation as the *Criminal Code*. Given the rise in the number and importance of PMBs, this article poses the question as to whether the rules of Parliament concerning PMBs are fit for the task. Those rules give the government of the day a great deal of control over the progress of its legislation but do not do the same when it comes to a PMB. The relatively few resources allocated to a PMB raises the question as to whether it is taking on more weight than its institutional structure can bear. Some suggestions are offered to ensure that PMBs receive the full and frank discussion they deserve.

Robin MacKay

A recent trend in Canada's Parliament has seen an important change in the way public policy is debated and then enacted. This is due to an increase in the number and complexity of private Members' bills (PMBs) that have received Royal Assent. In the two Parliaments of Brian Mulroney's tenure as Prime Minister (1984-1993), 32 PMBs received Royal Assent, with 18 of these changing the name of an electoral district.¹ By comparison, in the three Parliaments of Stephen Harper's tenure as Prime Minister (2006-2015), 63 PMBs received Royal Assent, none of which dealt with riding name changes. Not only have the raw numbers of PMBs increased, but they now deal more frequently with amendments to such complex pieces of legislation as the *Criminal Code*.² From 1910 to 2005, 13 PMBs were adopted that dealt with criminal justice policy. From 2007 to 2015, this number increased by 20.³ The number that took almost a century to reach was exceeded in less than a decade. Given the rise in the number and importance of PMBs, this article poses the question as to whether the rules of Parliament concerning PMBs are fit for the task.

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The Treatment of Private Members' Business

The parliamentary rules that govern the treatment of PMBs have evolved throughout Canada's history. In the early years of Confederation, a large proportion of the time of the House of Commons was devoted to private bills or to private Members. Governments, however, found that the amount of House time given over to the conduct of their own legislative programs was not sufficient, and over the years, changes were made to the Standing Orders to give more House time to the government for its own business.⁴ Private Members' Business⁵ was then given greater prominence due to the recommendations of the Special Committee on the Reform of the House of Commons (the "McGrath Committee"), established in December 1984.

In its final report to the House in June 1985, the McGrath Committee summarized the problem with Private Members' Business in the following terms:

The House does not attach any great importance to private members' business as it is now organized. This is evident from the fact that members are seldom greatly concerned to claim the priorities they have drawn in the ballot governing the use of private members' time, and this is largely because private members' bills and motions rarely come to a vote.⁶

The Committee made the case for giving greater prominence to individual Members of Parliament as legislators by saying: "Private members must once again become instruments through which citizens can contribute to shaping the laws under which they live."⁷ Enhancing the role of the private Member was seen as being a key part of restoring confidence in the House of Commons as the central democratic institution in Canada. The recommendations of the McGrath Committee supported the amendments to the Standing Orders that now form the basis for the modern rules relating to Private Members' Business, including the establishment of the order of precedence and the manner in which items are debated.⁸

The report of the McGrath Committee acknowledged the importance of PMBs, and rightly so. A PMB affords a Member of Parliament the opportunity to strike out on his or her own and to focus the attention of Parliament on an issue of particular importance to the MP personally or to his or her riding. It also provides a vehicle to distinguish an MP as an individual, as opposed to being just another member of what may be a large caucus. Furthermore, a PMB may serve as a means of encouraging the government of the day to adopt the issue in question as its own. Thus, an effective PMB system can contribute to legitimating Parliament in the eyes of an electorate which casts votes for a specific individual, not an abstract idea of a legislature.

We need here to distinguish between different types of PMBs.⁹ Some serve to call attention to an issue by proclaiming a special day in commemoration.¹⁰ The parliamentary rules governing PMBs seem to be entirely adequate to deal with this type of legislation. There are other PMBs, however, that have much greater legal implications, such as those that amend the *Criminal Code*. If a PMB is creating a new criminal offence, for example, then, in addition to any general societal impact, there will be widespread effects on the police, Crown and defence attorneys, judges, and the correctional and parole systems. All of these actors in the criminal justice system will require training concerning the new offence. The recent increase in the volume of PMBs and their use to make important changes in the criminal justice area calls into question whether the practices of the House of Commons and the Senate governing them need further amendment to ensure that they are given the parliamentary scrutiny they warrant.

Control of the Legislative Process

One of the most important tasks imposed upon Parliament by the *Constitution Act, 1867* is that of making the criminal law.¹¹ This task is primarily carried out through the *Criminal Code*, but dozens of other statutes, such as the *Controlled Drugs and Substances Act*,¹² define criminal activity and impose fines and/or imprisonment for its commission. Depriving Canadians of their liberty or property should be treated with the highest degree of seriousness and the federal government can ensure that its own criminal law bills are debated in the order it chooses. As a former law clerk and parliamentary counsel has written: "Policy decision-making is primarily the preserve of the Government which closely guides the schedule of the House of Commons to ensure the passage of its programmes."¹³ This, however, is not the case with PMBs, which are called according to their place in the Order of Precedence, which, in turn, is based on a Member of Parliament's position on the List for the Consideration of Private Members' Business.

Individual MPs cannot change their place on the List for Consideration acting alone, as it is determined by a random draw at the beginning of the first session of a Parliament;¹⁴ unanimous consent of the House of Commons would be required. Furthermore, exchanges of position between Members in the List for the Consideration of Private Members' Business are not permitted.¹⁵ Nor do MPs have much control over the amount of time Parliament allots to the consideration of their bill. Standing Order 93 states that PMBs at the second reading stage (debate on the principle of the bill) shall receive no more than two hours of consideration, with at least ten sitting days elapsing between the first and second hour of debate. Standing Order 97.1 then states that a committee to which a PMB is referred has 60 sitting days to report it back, with one 30-day extension possible. This deadline can become problematic as committees routinely make any government bill referred to them a priority over any PMB. When a committee does report a PMB back to the House of Commons or is deemed to have reported a bill back, the order for consideration of the bill at report stage is placed at the bottom of the Order of Precedence. Then only two hours, one on each of two separate sitting days, are allotted for combined report stage and third reading consideration.¹⁶ The one hour per sitting day set aside for Private Members' Business may also be cancelled, delayed, or interrupted for such things as consideration of urgent matters, a statement by a minister, or a recorded division (vote).¹⁷ If a serious

issue of criminal law needs to be addressed in a timely fashion, a PMB would not be the means to do so.

Furthermore, government bills on a particular subject matter are given precedence over PMBs dealing with the same subject matter in that a PMB may be designated “non-votable” (i.e., it should not proceed) if it concerns a question that is currently on the *Order Paper* or *Notice Paper* as an item of government business.¹⁸

Rules Governing Private Members’ Bills vs. Government Bills

A PMB is also distinguished from government legislation by its inability to initiate taxation. Legislation seeking to increase taxes must be preceded by a ways and means motion.¹⁹ Only a minister can bring a ways and means motion.²⁰ Therefore, private Members cannot introduce bills that impose taxes. Private Members’ bills that reduce taxes, reduce the incidence of a tax, or impose or increase an exemption from taxation are, however, admissible.

Private Members’ bills (as well as Senate bills) are also restricted in their ability to call for spending from the public purse. Section 54 of the *Constitution Act, 1867* has been summarized by Eugene Forsey in the following terms: “It [the cabinet] has the sole power to prepare and introduce bills providing for the expenditure of public money.”²¹ This is known as the Royal Recommendation as the purpose behind the appropriation of public funds is recommended to the House of Commons by Message of the Governor General. Two types of bills confer the authority to spend and require a Royal Recommendation:

- appropriation acts, or supply bills, that authorize charges against the Consolidated Revenue Fund up to the amounts approved in the Estimates; and
- bills that authorize new charges for purposes not anticipated in the Estimates. These charges must be “new and distinct” and not covered elsewhere by some more general authorization.²²

The Speaker determines whether a Royal Recommendation is required by considering whether the bill in question directly appropriates money, authorizes a novel expenditure not already authorized in law, broadens the purpose of an expenditure already authorized, or extends benefits. A bill which simply restructures the functions of a department, or imposes minor administrative expenses might not require a

Royal Recommendation.²³ The rationale behind the requirement for a Royal Recommendation is found in the definition of a “responsible” government, whereby such a government is obliged to demonstrate to the representatives of the electorate how public funds are allocated in the carrying out of its legislative agenda.

The question then arises as to whether PMBs follow the same responsible government rules as those applied to government bills. If there is no Royal Recommendation being considered, a PMB proceeds on the premise that there will be no “new and distinct” charge on the public purse. In other words, either there will be little financial cost to the bill (such as those naming a particular day in honour of someone) or any cost is already covered by some general authorization.²⁴ As a result, the question “How much will this bill cost to implement?” is rarely posed publicly.²⁵ Yet this very question was asked in relation to Bill C-483, *An Act to amend the Corrections and Conditional Release Act* (escorted temporary absence).²⁶ The goal of this PMB was to transfer authority for certain escorted temporary absences of federal prison inmates from the head of the prison to the Parole Board of Canada. During hearings on this bill before the Standing Senate Committee on Legal and Constitutional Affairs, the head of the Parole Board was asked how much it would cost to implement this bill. He replied that it would cost approximately \$750,000 to \$800,000 per year.²⁷

Few bills that seek to amend the *Criminal Code* or to change prison or parole rules in a substantive manner could do so without funding. In the case of Bill C-483, increasing the duties of the Parole Board of Canada would obviously increase its costs. It is, of course, a policy decision of the Government of Canada as to how, if at all, these costs will be met. It can make any PMB more or less effective by its funding decision. But the fact remains that, if the PMB in issue is to be more than symbolic in nature, there will be a call upon the public treasury, perhaps at the expense of other measures the government may have taken. Quantifying the amount of this call may be difficult, but it is an exercise governments undertake constantly.

PMBs and government bills also differ in the amount of resources allocated to their creation. When a government bill is contemplated, “The minister is encouraged, but not required, to allow departmental officials to proceed with policy consultations. These consultations allow stakeholders, other departments, provincial governments and others to provide input into the legislation before it is drafted.”²⁸ Individual Members of Parliament do not have the resources to

do this. The impetus for a PMB may be an incident that was of great importance in an MP's riding. The PMB, though, can take the form of an amendment to the *Criminal Code* that will apply to all Canadians in all circumstances. Is a single incident sufficient justification to change permanently the criminal law? Perhaps it is, but it is generally beyond the capacities of a single MP to reach this conclusion with the evidence necessary to support it. The Government of Canada can gather evidence to support a bill simply by consulting within its own sprawling ranks. The sponsor of a PMB, however, cannot be expected to know the national or even international scope of the problem his or her bill addresses. Nor, therefore, can he or she be expected to know how much the implementation of his or her bill will cost.

The intertwining of consultations and costs is an especially acute issue in the area of criminal law. The *Constitution Act, 1867* does an unusual thing in that it grants to Parliament the authority to make the criminal law (in section 91(27)) but then gives the power to enforce that same law to the provinces (in section 92(14)). This has a number of implications. One is that the introduction of any legislation making amendments to the *Criminal Code* is likely to be preceded by a period of consultation with the provinces, which will be called upon to enforce the new provisions. It also means that there is often a delay before a government bill is proclaimed in force. This delay can provide the time required for the federal government that adopted the legislation to explain its implications to provincial governments and for the provinces to prepare administratively. Thirdly, the financial burden for a change in the criminal law can fall mainly upon a level of government that perhaps did not even support the policy change in question. This may entail financial arrangements between the federal and provincial governments.

Pre-introduction consultations and financial arrangements are unlikely to be part of the PMB process. If a PMB is silent on when it comes into force, then it comes into force whenever Royal Assent is granted; the government will have to step in and amend the coming into force provisions if it needs some time to get ready to implement it.²⁹

One of the advantages for parliamentary committees in dealing with government legislation is that officials from the relevant ministry can come to explain the background to a bill, including the need for it. They can place the bill in the context of other government initiatives or simply afford a wider perspective on a

narrow piece of legislation. In the case of a criminal law bill, officials from the federal Department of Justice are often called upon to explain the legal position of the Government of Canada in relation to it. This can include an indication of how the bill being studied fits within the larger framework of the criminal justice system.³⁰

A good example of such contextualizing is in the area of sentencing. Section 718.1 of the *Criminal Code* states that a sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. The only way to know if a proposed sentence is proportionate is to compare it to other offences and their sentences. This is valuable information that is routinely provided to a committee by Justice Department officials for a government bill but may not necessarily be done in the case of a PMB. If a PMB proposes an enhanced or a mandatory sentence, how is a parliamentary committee to know that it is what is called for? It may be that the sentence is entirely appropriate, but the onus rests with a parliamentary committee to seek out expert legal advice on PMBs so that this result is not reached simply by happenstance.

Another important role played by the Department of Justice vis-à-vis government bills relates to the obligation imposed on the Minister of Justice by section 4.1 of the *Department of Justice Act*.³¹ This section states that the minister is to examine every bill introduced in the House of Commons by a minister of the Crown and to report to the House any inconsistency with the provisions of the *Canadian Charter of Rights and Freedoms (Charter)*.³² A PMB is not introduced by a minister of the Crown and so there is no need to report any inconsistencies related to the *Charter*.³³ The responsibility of Department of Justice lawyers is to answer technical questions at the parliamentary committee stage; they are not to comment on constitutional questions concerning PMBs as they are only to provide constitutional advice on government bills.³⁴ The lack of constitutional advice in the case of a PMB was the subject of comment in the case of Bill C-309, *An Act to amend the Criminal Code (concealment of identity)*. This bill raised issues concerning the limits on freedom of expression but, as it was a PMB, the Minister of Justice was not called in to report on its possible inconsistencies with the *Charter*. At third reading, Senator Joyal commented: "We cannot be sure that the bill before us is constitutional. We cannot assume that the Department of Justice vetted it in accordance with the minister's statutory obligation."³⁵ While witnesses may testify that a PMB is inconsistent with the *Charter*, its sponsor may decide to proceed with it anyway,

judging that the political considerations of the bill outweigh the legal ones.

One means of addressing any constitutional or other shortcomings in a PMB is to have the Senate exercise, in Sir John A. Macdonald's words, "sober second thought." This can take the form of the Senate noticing any technical oversights or errors in bills that were initiated in the House of Commons and then proposing amendments to fix these flaws. When the Senate amends either a government bill or a PMB, a message is sent to the House of Commons to this effect. The House must then decide whether it accepts or rejects the amendments proposed by the Senate. Communication between the two Houses continues until they ultimately agree on a text.³⁶

The Standing Orders do not specify any time limit for the consideration of a motion respecting Senate amendments. Such a motion could, in theory, be debated *ad infinitum*. In this way, a PMB (as well as a government bill) amended by the Senate could be delayed until it dies on the *Order Paper* at the next dissolution of Parliament. Such a scenario was alluded to during consideration of Bill C-525³⁷ by the Standing Senate Committee on Legal and Constitutional Affairs. A drafting error was noticed during the committee's deliberations but the bill was not amended.³⁸ One Senator described the amending procedure for PMBs as being "fraught with danger" and said that sending an amended bill back to the House of Commons would "kill the bill."³⁹ Motions for time allocation (Standing Order 78) and for closure (Standing Order 57) may be moved to limit or close debate, including on Senate amendments. Crucially, however, these time-limiting motions may only be brought by a minister of the Crown; such motions cannot be moved by the sponsor of a PMB since such a sponsor cannot be a minister.

Conclusion

The PMB may be taking on more weight than its institutional structure can bear. It is not at all clear that the time and resources currently devoted to PMBs contemplated them being used to make substantial changes to an important area of law such as criminal justice. Fortunately, Canadian history has amply demonstrated how flexibly the country's institutions can respond to changing times. As Eugene Forsey has pointed out, the Constitution has been added to by legislation (e.g., the *Parliament of Canada Act*), by custom (the powers of the Prime Minister, responsible government, political parties), by court judgments, and

by agreements between the national and provincial governments.⁴⁰ The House has adopted Standing Orders to govern its own procedure and these are under constant review.

There are many possible responses to the change in the use made of the private Members' bill, should there be the will to do so. Such changes should start with the understanding that bills changing the criminal justice system, to take one of the more serious examples, require a dedication of resources and attention commensurate with their importance. Measures to implement a greater focus on PMBs could include:

- Making legal experts available to individual Members of Parliament to perform the same function for PMBs as Department of Justice lawyers do for government bills. This could include researching such things as the need for the bill and its constitutionality as well as drafting it;
- Providing individual MPs with the personnel and expertise required to fully research their bill and, therefore, be better prepared to make arguments in its favour. There are resources available to Canadian MPs, such as the Library of Parliament, caucus researchers, and the Office of the Law Clerk and Parliamentary Counsel. But the number of staff assigned specifically to an individual MP and his or her PMB is small, especially in comparison to those assigned to their American colleagues. Each member of the House of Representatives may hire up to 18 permanent employees, a level of support far beyond that which Canadian MPs can call upon, even taking into account the fact that members of Congress represent more constituents.⁴¹ If we expect Canadian MPs to propose legislation affecting public policy then we need to invest in them at something approaching the American level;
- Considering amendments to the Standing Orders to afford more time in Parliament to PMBs. This could mean extending the time in which Private Members' Business has precedence beyond its current one hour per sitting day or reconsidering the number of ways in which private Members' Business can be suspended.

Whatever method it chooses to respond to the increased significance of PMBs, Parliament would be doing itself and, thereby, the country as a whole a good service by affording private Members' bills the full and frank discussion that these important pieces of legislation deserve.

Notes

- 1 Parliament of Canada, Parlinfo, *Private Members' Public Bills Passed by Parliament*. This list does not include divorce bills.
- 2 *Criminal Code*, R.S.C. 1985, c. C-46.
- 3 James B. Kelly and Kate Puddister, "Privatizing the *Criminal Code*? Private Members' Bills and Criminal Justice policy amendments under the Harper Conservatives," Canadian Political Science Association, 88th Annual Conference, University of Calgary, May 31 – June 2, 2016, p. 5.
- 4 Audrey O'Brien and Marc Bosc, eds., *House of Commons Procedure and Practice*, 2nd ed., (Cowansville: Yvon Blais, 2009), Chapter 21. Private Members' Business, Historical Perspective.
- 5 'Private members' are generally defined as Members of the House of Commons who are not part of the Ministry. For the purposes of Private Members' Business, the Standing Orders also specifically exclude the Speaker, the Deputy Speaker and Parliamentary Secretaries.
- 6 See the Special Committee on Reform of the House of Commons (the "McGrath Committee"), Third Report, p. 40. The Report was presented to the House of Commons on June 18, 1985.
- 7 *Ibid.*, p. 2.
- 8 Permanent Standing Order changes were adopted on May 11, 2005 when the House of Commons concurred in the Thirty-Seventh Report of the Standing Committee on Procedure and House Affairs.
- 9 This discussion only deals with public bills which concern matters of public policy under federal jurisdiction. Private bills concern matters of a private or special interest to specific corporations and individuals.
- 10 One example of such a bill was Bill C-227, *An Act respecting a national day of remembrance of the Battle of Vimy Ridge*, introduced by Brent St. Denis (Algoma-Manitoulin), 37th Parliament, 1st Session. This bill came into force on April 3, 2003.
- 11 *Constitution Act, 1867*, 30 & 31 Victoria, c. 3 (U.K.), s. 91(27) gives Parliament exclusive jurisdiction over "The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters."
- 12 *Controlled Drugs and Substances Act*, S.C. 1996, c. 19.
- 13 Rob Walsh, "By the Numbers: A Statistical Survey of Private Member's Bills," *Canadian Parliamentary Review*, Vol. 25, No. 1, Spring 2002.
- 14 *Standing Orders of the House of Commons*, consolidated as of September 18, 2017, Order 87.
- 15 House of Commons, *Private Members' Business: A Practical Guide*, Step Three: Establishing the List for the Consideration of Private Members' Business and the Order of Precedence [*Standing Order 87*].
- 16 See Standing Order 98(2). The time provided for the consideration of a PMB at report stage and third reading may be extended by up to five hours on the second day of debate. If a bill is not disposed of within the first 30 minutes of debate on the first day of consideration, during any time remaining on that day, any Member may propose a motion to extend the debate on the second day for a period not to exceed five consecutive hours. This non-debatable, non-amendable motion is deemed withdrawn if fewer than 20 Members rise to support it as per Standing Order 98(3)(a).
- 17 See Note 15, Step Five: Cancellations, Delays and Interruptions [*Standing Orders 30(7), 53, 91 and 99*].
- 18 The list of criteria for making items of Private Members' Business non-votable is as follows:
 - Bills and motions must not concern questions that are outside federal jurisdiction.
 - Bills and motions must not clearly violate the *Constitution Acts, 1867 to 1982*, including the *Canadian Charter of Rights and Freedoms*.
 - Bills and motions must not concern questions that are substantially the same as ones already voted on by the House of Commons in the current session of Parliament, or as ones preceding them in the order of precedence.
 - Bills and motions must not concern questions that are currently on the *Order Paper* or *Notice Paper* as items of government business.
 - These criteria are excerpted from the 49th Report of the Standing Committee on Procedure and House Affairs, concurred in by the House on May 9, 2007.
- 19 O'Brien and Bosc, Chapter 18. Financial Procedures, The Business of Ways and Means.
- 20 See Standing Order 83(1).
- 21 Eugene A. Forsey, *How Canadians Govern Themselves*, 9th ed., Minister of Public Works and Government Services Canada, Ottawa, 2016, p. 6. See also *Rules of the Senate*, Rule 10-7, and *Standing Orders of the House of Commons*, Standing Order 79(1).
- 22 House of Commons, *Compendium of Procedure*, October 2015, Financial Procedures, Royal Recommendation for a Bill.
- 23 Senate, *Journals*, 2nd Session, 40th Parliament, February 24, 2009, pp. 125–126 (Speaker's Ruling). Cited in Senate of Canada, *Senate Procedure in Practice*, June 2015, p. 154.
- 24 Bill C-377, *An Act to amend the Income Tax Act* (requirements for labour organizations), S.C. 2015, c. 41, imposed new filing requirements upon labour organizations in their reports to the Canada Revenue Agency. The argument was made that the increased cost to the CRA in administering this new statutory requirement meant that the bill required a Royal Recommendation. The Speaker rejected this argument in the following terms: "In carefully reviewing this matter, it seems to the Chair that the provisions of the bill, namely the requirements for the agency to administer

- new filing requirements for labour organizations and making information available to the public, may result in an increased workload or operating costs but do not require spending for a new function per se. In other words, the agency, as part of its ongoing mandate, already administers filing requirements and makes information available to the public. The requirements contained in Bill C-377 can thus be said to fall within the existing spending authorization of the agency." See House of Commons Debates, December 6, 2012, 10:05.
- 25 Every PMB that advances in the House is the subject of a Memorandum to Cabinet, which is to include an "analysis of costs" as well as "any assumptions on which the costing is based".
- 26 An Act to amend the Corrections and Conditional Release Act (escorted temporary absence), S.C. 2014, c. 36.
- 27 Standing Senate Committee on Legal and Constitutional Affairs, Evidence, December 4, 2014, Harvey Cenaiko, Chairperson, Parole Board of Canada.
- 28 Andre Barnes, *The Legislative Process: From Government Policy to Proclamation*, Library of Parliament, Ottawa, Publication No. 2008-64-E, revised September 14, 2009, p. 1.
- 29 Section 5(2) of the *Interpretation Act*, R.S.C. 1985, c. I-21 states: "If no date of commencement is provided for in an Act, the date of commencement of that Act is the date of assent to the Act."
- 30 The introduction of amendments to the *Criminal Code* can also provide the occasion to update the language of the Code and strive for greater uniformity of expression.
- 31 *Department of Justice Act*, R.S.C. 1985, c. J-2.
- 32 There are, therefore, two different constitutional standards for government versus private Members' bills. A government bill must not be 'inconsistent' with the *Charter*. A PMB, however, will only be deemed non-votable if it "clearly violate[s] ... the *Charter*" (see note 18).
- 33 It is unclear whether the Office of the Law Clerk and Parliamentary Counsel, which assists in the drafting of PMBs, vets PMBs for *Charter*-compliance. See Kelly and Puddister, note 3, p. 14.
- 34 Kelly and Puddister, p. 3.
- 35 Debates of the Senate, 23 May 2013, Senator Joyal.
- 36 O'Brien and Bosc, Chapter 16. *The Legislative Process, Stages in the Legislative Process*.
- 37 An Act to amend the Canada Labour Code, the Parliamentary Employment and Staff Relations Act and the Public Service Labour Relations Act (certification and revocation - bargaining agent), S.C. 2014, c. 40.
- 38 While Bill C-525 was not amended by the Standing Senate Committee on Legal and Constitutional Affairs, in its Twenty-First Report, presented in the Senate on December 12, 2014, the Committee appended Observations, noting that it was aware of a "minor drafting error" that should be corrected in future legislation prior to Bill C-525 coming into force.
- 39 Standing Senate Committee on Legal and Constitutional Affairs, Evidence, December 12, 2014, Senator Tannas.
- 40 Forsey, p. 10.
- 41 Ida A. Brudnick, *Congressional Salaries and Allowances: In Brief*, Congressional Research Service, July 14, 2016.

The Canadian Scene

New Ontario Speaker

On July 11, 2018, Ontario MPPs elected Progressive Conservative MPP **Ted Arnott** as the Speaker of the Legislative Assembly. Elected on the first ballot, Arnott sought the role alongside Progressive Conservative MPPs **Randy Hillier**, **Jane McKenna** and **Rick Nicholls**.

The MPP for Wellington-Halton Hills was first elected to the Assembly in 1990 and has served continuously since. A former Deputy Speaker, Arnott has been on the Assembly's Presiding Officers team for 13 of the past 15 years.

In remarks to MPPs prior to the vote, Arnott noted he had past experience in the Chair and had sat in the House as a government member, an opposition member, and a third-party member. "I have 'seen it from all sides,'" he said. "I have sought to be fair and impartial and demonstrate appropriate respect for all members while seeking to maintain decorum in the chamber."

Replacing outgoing Speaker **Dave Levac**, who did not run for re-election in the recent general election, Arnott told his colleagues he looks forward to serving the House just as he has served his constituents. "I'm well aware of the challenges and the responsibility that's entailed by being the Speaker and I truly want to be fair and impartial as I discharge the duties of this office," he said.

A graduate of Wilfrid Laurier University in Waterloo, prior to his own election Arnott served as executive assistant to former Waterloo MPP Jack Johnson from 1987-1990.

CPA Canadian Regional Meeting

From July 22-27, 2018, parliamentarians from across the country gathered in Ottawa for the Commonwealth Parliamentary Association's 56th Canadian Regional Conference.

Commonwealth Women Parliamentarians (CWP) Meeting

On July 22, the CWP Canada steering committee met to participate in a half-day strategic action workshop.



Hon. Ted Arnott

Guided by strategic planning facilitator **Vicki Lass**, CWP chair **Laura Ross** said the workshop was necessary to help the organization focus on turning its discussions into action. The goal was to build a list of action items so that each delegate could work on one to help the CWP fulfill its mission to "assist Canadian women and girls to discover their political potential experience the fulfillment of a career in public service and create a better society."

Among the participants, goals included: creating a digital campaign school to help women in rural or remote communities, changing media portrayals of women leaders, focussing on economic barriers that discourage or prevent women from participating in politics, and preventing partisanship from diluting what CWP wants to achieve.

Although CWP envisions women as equal partners in the Canadian Parliament and provincial and territorial legislatures, participants noted that 'equal



CWP Canada Chair Laura Ross and CPA Executive Committee Chair Emilia Monjowa Lifaka officially launch CWP Canada's new web site as CWP Canada secretary Remi Bourgault looks on.

partners' does not just mean 'equal numbers.' There has to be respect, engagement, and meaningful collaboration.

Ms. Lass talked about the concept of a tipping point when creating a movement – the point where there's a critical mass and the movement doesn't take as much effort to sustain itself. She advocated mentoring one woman to help expand the movement. Saskatchewan MLA **Nadine Wilson** noted it's also important to mentor boys to help them become good men who support women.

Ms. Lass explained that in transforming words into action it is important to share success stories in your constituency, participate in networking activities, and broaden outreach efforts. She led participants in a goal choosing activity which looked at ease of implementation and impact. In order to get some 'quick wins' to build a movement, immediate goals should be ones with high impact and high ease.

She concluded by suggesting the CWP "create a repository" to share stories and wins with all women, while being careful about over-emphasizing 'war stories' regarding things like social media trolls or discrimination that can discourage people. Ms. Lass highlighted that when using social media to share success stories, visual media (such as Instagram) are especially effective. "People remember 80 per cent of what they see, 20 per cent of what they read, and only about 10 per cent of what they hear," she said,

adding that visual posts produce 650 per cent higher engagement than text only posts.

A business meeting in the afternoon included a report on a Regional Outreach program in Yukon by MLA **Geraldine Van Bibber**, a presentation on the new CWP Canada web site, and reports on the chair's visit to CPA International events.

On July 23, following opening remarks by the Chair, the CWP business session began. Ms. Ross, CPA Executive Committee Chair **Emilia Monjowa Lifaka** and CWP Canada secretary **Remi Bourgault** officially launched the group's new web site. Other notable business included:

- Northwest Territories MLA **Julie Green** volunteering to head up CWP Canada's social media accounts
- A review of how CWP Canada used strengthening funding from 2017-2018 to create banners for all provinces and territories to bring to events and the new website
- Reports from Ms. Ross and Ontario MP **Yasmin Ratansi** on news coming out of international meetings they attended on behalf of CWP Canada

In the day's first session, Ms. Lifaka spoke of her mandate as CPA Chair to increase the number of women parliamentarians in the Commonwealth. In order to promote women's leadership, she said it is imperative to continue using successful strategies (leadership training programs, promoting women's economic empowerment, implementing or expanding a successful quota system, education) and encouraging new innovative strategies. She also mentioned plans to create a CPA and CWP Awareness Week in March each year. In a Q&A session following her presentation, Ms. Lifaka was asked about best practices to encourage women's participation in parliamentary politics. She explained that while there are plenty of promises for new conventions and supports, instruments of implementation are lacking. She also contended that a quota system is important when women do not have the same resources as men (seats reserved for only women to compete).

In a second session, Red Deer Mayor **Tara Veer** spoke of how #MeToo and social media are affecting municipal politics. Ms. Veer recounted Sheldon Kennedy's story of abuse because it had become Red Deer's community story and greatly influenced how the city has responded to #MeToo. She suggested that social media offers opportunities and challenges



CWP Canada delegates to the 2018 conference in Ottawa.

simultaneously. She was not an early adopter, but she has increasingly used it to deliver information as mayor in a timely way. Greater accessibility of officials means there is greater accountability. However, it also removes the formality of government. Ms. Veer explained that some people think a tweet is a formal request. She also noted how sometimes it can give credibility to what would otherwise be coffee shop gossip.

Part of the challenge of #MeToo for legislators is that it can undermine rule of law (the burden of proof). It is also nearly impossible to both take all accusations seriously while still providing due process. Red Deer's community response has been built around several principles: supporting individuals who disclose; establishing a culture of respect; adopting (and enforcing) a code of conduct; establishing whistleblower legislation and/or ethical protective mechanisms; and empowering the bystander. This final principle is attributed to Sheldon Kennedy's story and requires a cultural response (everyone suspected the abuse, but no one said anything that could have stopped it.)

During a Q&A session, Ms. Veer outlined how she handles abuse on social media by explaining the use of a tiered response. If there are egregiously offensive posts by a user, she blocks them – especially if there's a pattern. For lesser offenses, she will respond, note her objections to the language or tone used and say

she will not comment on the post or thread further. Instead she encourages the user to contact her office formally if they want to discuss it further. Usually other thread readers will support her. In a third tier of posts, she will respond to misinformation (particularly in cases of public safety) even if it's disrespectful.

During a third session on "Evolution of Ethics in Parliament," Senator **Raynell Andreychuk** noted that parliamentary privilege is an important concept to understand when examining ethics within parliament. Parliamentary privilege in Canada dates from 1867, but ethics and conflicts of interest were not talked about much then. Respectability was assumed by genteel gentlemen: "My word is my honour."

Senator Andreychuk suggested that context (time and culture) is important in defining conflict of interest and ethics. It depends on the people you're serving and their value judgments/expectations. These must be constantly reviewed, she added. Should parliamentarians be held to a higher standard? The senator contended that debate is ongoing and unfinished. She says many parliamentarians are in awe and humble when first elected, but over time they can lose the ability for self-criticism that's needed to evaluate their actions.

Turning to the Senate's Conflict of Interest Code, created in the early 2000s, Senator Andreychuk

explained that much of the code focussed on money and influence, but there was little emphasis on harassment and in terms of ethics there was some weakness.

In a fourth session, on advocacy after #MeToo, presenter **Mari Murariu** offered an interesting perspective of how the #MeToo movement is presenting some challenges for the women involved in advocacy and lobbying activities with parliamentarians.

A lot of the work they do is based on relationships, but elected officials have started to take some steps to insulate themselves. Referring to the “Mike Pence example,” (the U.S. vice-president has said he will not have dinner with women, other than his wife, to prevent a situation where a harassment charge could be made), Ms. Murariu said both federally and provincially, she has learned there has been a re-emergence in Canada of unwritten rules about male parliamentarians who only meet with doors open and who will not socialize or meet at receptions due to fear of accusations. This makes the jobs of women lobbyists that much more difficult when they need to discuss things off-the-record or sensitive topics, she explained. A strong, knee-jerk reaction is not the best way to address this issue, she offered.

Lobbyists aren’t allowed to put politicians in a position of conflict of interest, but the reverse is not true. If an untoward move is made on a lobbyist, the only option is the courts – and according to Ms. Murariu, that would be career suicide. Young women lobbyists have addressed concerns about inappropriate behaviour from male politicians to her in the past. Because there is really no place to formally address this outside of the courts, her advice has been for them to talk to their employers, explain what they need, and provide some options for how to move forward. She also told attendees about the European Union system where you must pro-actively register as a lobbyist. The EU then allows them to book meeting rooms and this, in turn, provides more legitimacy to the position.

A final session on #MeToo and the Media, featured **Adrienne Batra**, editor-in-chief of the *Toronto Sun*. Ms. Batra asked ‘how do you balance due process with swift condemnation?’ She said Canada has had several brushes with this, but the **Patrick Brown** case was a particularly instructive example of what not to do. She says as a journalist, she would rather be right than first and noted that she couldn’t have gone to print with the allegations against Brown based on the work

and sources the journalists had gathered. Ms. Batra referenced a current story on allegations made against the prime minister from years ago. She explained that it is the news media’s responsibility to hold him to account, while still being careful not to report details or rumours without corroboration. She stated that media must be introspective – what is the public good versus potentially destroying someone publicly? Ms. Batra also drew distinctions between traditional news media that have codes of ethics and rules for reporting and social media and new media sources without procedures to protect against false reports or giving public persons the ability to respond to reports.

CPA Canadian Regional Conference

The main conference opened on July 24 with welcoming remarks by Senate Speaker **George Furey** and CPA Canadian Regional Chair **Yasmin Ratansi**. Speaker Furey noted the conference would tackle topics that dealt with disrespect of rule of law, manipulation of social media, and cyber attacks. With democracy under threat by these actions, he said we must be vigilant. Ms. Ratansi added that these conferences allow parliamentarians to discuss how to exchange best practices so that the Westminster style of parliamentary government survives.

Prior to the first sessions, CPA Chairperson **Emilia Lifaka** provided an overview of the road ahead for the organization. Ms. Lifaka is the first CPA chair to have visited a Canadian regional conference, and attendees expressed gratitude for her appearance at sessions throughout the week-long event.

Ms. Lifaka thanked the Canadian Branch for their collaboration and commitment to her work at CPA HQ. She said her work with various branches of the CPA reminds her of an old African adage: if you want to go fast, walk alone, but if you want to go far, walk with others. She reported on plans to reconstitute the CPA from charity status to a new organization, noted that CPA master classes and digital education initiatives will continue, and announced her intentions to launch new programs to support changing times.

Session 1: Parliament and the #MeToo Movement

Samara Canada’s **Jane Hilderman** explained that the issue of harassment has been creeping into her organization’s lens and used her time to summarize some recent research. With women disproportionately affected by harassment, Samara’s exit interviews revealed many former women MPs, especially



CPA Canadian Regional Conference attendees participated in seven sessions discussing matters relating to work-life balance, foreign interference in the domestic democratic system and inter-parliamentary relations.

young women MPs, felt their credibility was often in question and their views were not as respected as men's views. The organization's heckling research found that despite sitting in the same room, MPs heard very different types of heckling. Sixty-seven percent of female MPs reported hearing gendered heckling versus 20 per cent of male MPs.

When the Canadian Press/Samara surveyed Hill staffers, 266 people (including 122 women) responded to 1,500 surveys issued. Just over one quarter of respondents stated they had experienced sexual harassment on Parliament Hill. Ms. Hilderman explained that while some people may question whether this statistic is an overestimation of its prevalence on the Hill, based on people responding to the survey because they wanted to talk about the issue, the survey also misses responses from staff who may have left their job as a result of harassment. According to the research, the perpetrator was usually not the staffer's own MP, but rather their peers or other MPs.

Ms. Hilderman noted that **Rose St. Pierre**, a researcher on the Hill, has interviewed 25 MPs and one Senator on the topic and found they are overwhelmingly very afraid of false accusations. She noted concerns from young women staffers about job prospects if this climate continues.

In terms of a possible path forward, Ms. Hilderman suggested that to combat the problem of underreporting of these abuses, an independent ombudsperson role might be created to counsel people who come forward and track complaints to see if there are patterns of misbehaviour that warrant intervention. To tackle poor management culture on the Hill, where every MP and Senator is essentially a small business, she advocated for more training and supports to educate people.

Julie S. Lalonde, a feminist educator who has spoken on issues of sexual violence in many workplaces and workspaces, told attendees that she would provide five things for participants to do to help solve this problem. Above all, she encouraged the audience to stop reacting to incidents and to think about prevention. Although many people she's presented to have deep cynicism about whether things can change, she says this is a false belief and much can be done to improve the situation.

First, she told parliamentarians they are "not special." She added: "It is not 'different' for you. Don't circle the wagon and talk about it internally. There are unique dynamics, but ultimately it's a workplace." Second, she said we must define the terms. "What are the characteristics of a safe and

equitable workplace?” she asked. Although we must allow different viewpoints, the definition of consent should not be unfamiliar. “We need to have concrete conversations about what we’re fighting for, not just what we’re against,” she counselled.

Third, she said it’s important to remember sexual violence is not just a legal issue, it’s a moral issue. Ms. Lalonde said if “legal” is the bar for deciding what is and is not appropriate, the bar is set much too low. Moreover, if this conversation creates tension in the workplace, participants should ask themselves why there is tension. “You need to trust women,” she stated. “If you can’t trust women, you think women are lying or exaggerating. Trust that the women coming forward are telling the truth. Statistically you are as likely to set your own house on fire for insurance purposes as you are to make a false accusation of rape. But do we say the house ‘allegedly’ caught on fire? No.”

Fourth, determine what we want out of this discussion. Do people want an apology? What if the person is not sincere? Do they want restitution? Or is it just hush money? Ms. Lalonde said the fundamental questions are whether we believe people can change, and what are we doing to create the conditions to let women come forward?

Fifth, Ms. Lalonde explained that “survivors are listening to you. What is your reaction? Are you cynical? Are you dismissive?” In her opinion, there needs to be significant consequences for bad behaviour, because without these consequences it will not change.

Session 2: Foreign Interference in the Democratic Process

In this session, two presenters outlined some questions to consider when thinking about how foreign actors may be interfering with the democratic process.

Presenter **Fenwick McKelvey**, an associate professor in Communication Studies at Concordia University, began his presentation by recounting the story of how CBC’s Great Canadian Wishlist project was undermined by well-organized interest groups. Among the top wishes were: 1. That Canada would abolish abortion 2. That Canada would remain pro-choice 3. That there would be a spiritual revival in our nation, and 4. That Canada would restore the traditional definition of marriage. Advocacy groups

had pushed their issues via digital campaigns, but was there foreign interference in this survey?

Among the enduring lessons from this story, Mr. McKelvey noted that platforms matter, attribution and enforcement are difficult, and foreignness is a problematic way to judge political legitimacy (as these campaigns likely required domestic accomplices). But these lessons apply more broadly when thinking of how to combat state sponsored disinformation campaigns, and illiberal and extremist views that undermine liberal democracies. He suggested that an ensuing policy agenda should include efforts to address attribution issues and the enforcement lag, develop better governance for social media platforms, supporting high-quality journalism and other political information, and discuss a possible code of conduct for political parties to alert others to possible foreign interference.

Michael Peirce, the assistant director of intelligence at CSIS asked if anyone had tweeted that day. When multiple hands went up, he joked that he wouldn’t give the top-secret version of his presentation that included a threat assessment. Mr. Peirce focused on foreign influence that is clandestine and detrimental to Canada. In Canada, he noted, most of this activity is not social media based – it’s human interaction. Using examples drawn from published media reports rather than internal CSIS intelligence of other threats, Mr. Peirce highlighted how clandestine Russian activity tends to be nihilist (destructive, focussing on disrupting democracies and sowing chaos or amplifying domestic extremist sentiment), while the Chinese focus is regime stability (tackling the five poisons, including Falun Gong activities, and supporters of Taiwan). But, he noted, there is also a threat of influence/dominance in certain sectors.

Mr. Peirce flagged three periods open to clandestine foreign influence: before elections (when the nominating process is targeted, during an election (when election finances and regulations are the targets) and following elections (when influence targets political staffers or officials). He agreed with Mr. McKelvey that a Code of Conduct for political parties should be investigated, contending that foreign influence in Canadian elections is not a partisan issue and it is not likely to target individual parties. Tightening loopholes in electoral financing and third-party spending limits (particularly those that were designed when traditional media was dominant and may no longer be adequate) is important, while education and media literacy is also key.

Session 3: Balancing Work and Family Time During the Parliamentary Schedule

In a panel discussion on work-life balance, federal and provincial parliamentarians discussed how they sought to ensure their health and relationships were maintained while managing a busy work schedule. Newfoundland and Labrador MP **Nick Whalen** spoke of how health had become a priority for him, his children and his wife (who has secondary progressive MS). He explained that his friendships with whips and colleagues helped him to cover times when he prioritized family. Mr. Whalen also warned the audience that when you push yourself, your own health can suffer; and, staff won't necessarily know how to help. He contended it's important for parliamentarians to set their own limits.

Ontario MPP **Catherine Fife** suggested that reconciling ambition with family can be very challenging and the immediacy of social media and email has changed things. Her coping strategy has been to intentionally shut down and disconnect for period of time. Ms. Fife described how politicians carry 'emotional labour' around with them all the time and highlighted that divorce rates for politicians are twice the national average. When her husband once asked, "How was your week?" Her response ("You could save me a lot of time if you just follow me on Twitter") didn't go over well. However, she encouraged parliamentarians to remember the value of the work they do. She noted that her daughter, when interviewed for a 'women in politics' project, called her a 'difference maker.' "That's a powerful statement that makes the sacrifices worth it," she concluded.

Yukon MLA **Nils Clarke** explained how life changes when you're a public figure. He said even something as straightforward as shopping for groceries can become such a lengthy process as he stops to speak with constituents, he often encourages his teenage sons to take a separate car in case they want to leave early. While he does have great talks about political issues with his sons, he also tries to make time for regular discussions about music and celebrities. However, Clarke notes that carving out "quality time" with older children doesn't always work as they don't always want to spend that time with you.

Manitoba MP **Daniel Blaikie** has a unique perspective as the son of a parliamentarian and now a parliamentarian himself with children. He said

politics is really a family enterprise/business (not just for a partner/spouse, but also for kids). Mr. Blaikie said politicians need for their family to understand why they're in politics. "They don't want to live it, but they want to know why you're missing a school event or birthday party. Kids need to know the sacrifice they are making is worth it, that the work is important," he said. "The quality of time you spend with your family is important. We don't have much control over the quantity of time with our family, but we do have control over the quality of time."

During a Q&A period, participants described how changes to an assembly's sitting schedule can make their work more family-friendly. Others mentioned that eldercare of relatives is a topic that's often missed in these discussions. Ms. Fife stressed the importance of self-care and revealed that her staff is now scheduling time for her to ensure she takes time off to rest. She noted that while she was resentful of this at first, now it's become part of her workplace culture. An MLA from Nova Scotia reported that his adult children will actually book time through his constituency office to reserve time for important events. "When they're in the book, nothing else competes," he said. A delegate from British Columbia noted that the province's assembly has recently changed the rules about 'strangers in the house' to allow infants to be in the house.

Session 4: Underrepresentation of Women in Parliament

Although it's been 30 years since the CPA conference recognized the underrepresentation of women – an event that led to the creation of the CWP – there has only been a marginal increase in representation federally since that time. The Senate and some provinces have passed the 30 per cent benchmark set, but presenters contended it is still a low threshold.

Former Quebec MP **Eleni Bakopanos** and Equal Voice (EV) Director **Nancy Peckford** updated attendees on their work to promote more representation of women. Ms. Bakopanos made special mention of the concurrent family program at the conference being enormously helpful to her when in Parliament. As a young mother looking to spend time with her kids during the summers, it allowed her to participate in these types of conferences.

Ms. Peckford noted the success of Daughters of the Vote, and how a Status of Women grant to EV has allowed them to work on projects to bring about

systemic change. Ms. Bakopanos explained that EV is looking to encourage long, sustainable change to encourage more women in politics. Recommendations include providing childcare, permitting remote attendance of committee meetings (not only for those with kids, but also with elderly parents), limiting the need to travel, creating predictability by fixing election dates, and making Fridays optional days for MPs (the Quebec Assembly has done this already). Ms. Peckford also contended that elected officials need more staff to make political service more sustainable. She said Equal Voice can be that voice on behalf of politicians since they will not be seen to be self-serving.

Northwest Territories MLA **Julie Green** presented on “Temporary Special Measures in NWT to increase representation of women.” She informed the audience that there is a persistent underrepresentation of women members in NWT: a maximum of three at any one time since 1995, and currently only two. To challenge the status quo, a special motion will be put forth to increase representation to 20 percent by 2023 and 30 percent by 2027. While these are modest goals, Ms. Green said she believes she talks about different things than her male colleagues and additional women MLAs will better reflect the diversity of the territory.

Ms. Green pointed to the Samoan Experience as an example the territory may follow. Samoa, also suffering from longstanding underrepresentation of women, created temporary measures to guarantee seats for women. If fewer than five women were elected, special seats were created, but only for the life of that assembly. She summarized some of the pros and cons of this type of system. Some people have expressed concerns about a two-tier system or argued that quotas create an artificial ceiling. However, others argue that if these measures jump-started women’s participation (the idea of ‘see it, be it’), it would diminish barriers. If these women elected as special representatives performed well, they would likely receive more support in the future.

Manitoba MLA **Colleen Meyer**, who noted that her province currently has 25 per cent representation, stated that men needed to be at the table with women to push for change. She said confidence-building through engagement should be key to help encourage women, and that age should not be a barrier. Ms. Meyer noted that common themes from new and veteran women parliamentarians include aversion to negativity in media and self-doubt about managing

it all. She said networks to support women overcome these obstacles and fears are an important tool.

Ontario MP **Anita Vandenberg** echoed Ms. Green’s comments by highlighting that while Canada is slowly seeing more women in politics, other countries (especially in sub-Saharan Africa) are improving at faster rates than we are. She suggested that countries with quotas/temporary measures or proportional representation elect more women than those without.

Ms. Vandenberg noted that the power of incumbency means that during ‘change’ elections or after an event like a war, more women tend to get elected because they are seen to be ‘change-makers.’ However, even when this occurs there are barriers, including: 1) gender stereotypes and gender norms, (she asked why she was always referred to as a ‘young woman candidate’ or was described with diminutive adjectives?) 2) money networks, 3) lack of reparation and training/capacity building, 4) safety/security, 5) the nomination process. (She revealed that Equal Voice has done studies indicating that when a woman is on the ballot, they are elected about half the time. Canadians, therefore, are comfortable electing women; but at the nomination level party members wonder ‘who will people vote for’). She added that studies suggest 80 per cent of Canadians would vote for a woman, but 80 per cent also believe most people would not.

Ms. Vandenberg said that women are also less likely to think of running for politics. It is not that they are rejecting politics, but simply that they are not even thinking of it. She stated that often women will consider politics when asked by a party, but they will not seek out a nomination until they learn that other are interested in their candidacy. She concluded by ruefully noting that women are sometimes their own worst enemy in this process, and part of the reason they try to block other women is because they see limited space.

During a Q&A period, one participant explained that while it’s important to recruit women, trans people, racialized people and other groups that may be marginalized, parties must give them the infrastructure and support to do well once they’re recruited; otherwise it’s just tokenism.

Session 5 – Inter-Parliamentary Relations (part 1)

Colin Robertson, vice-president and fellow at the Canadian Global Affairs Institute, opened this session



CPA Canadian Regional conference attendees pose beneath the Peace Tower before attending a reception jointly hosted by Senate Speaker George Furey and House of Commons Speaker Geoff Regan.

by stating that supporting a rules-based liberal trading order is necessary for our survival. “Canada draws most of its annual income from trade,” he said. “Without trade we would not be where we are today.” Mr. Robertson added that Canadians have earned a place in the global supply chain and one in six jobs in Canada are related to exports.

Laura Dawson, Director of the Wilson Center’s Canada Institute, said bluntly that in terms of trade agreements, the current situation with NAFTA “is as bad as it has ever been.” Ms. Dawson explained that “you just can’t come up with an economic solution to a political problem.” She explained that of 32 NAFTA chapters, nine have been settled, there are issues in other chapters that she believes can be settled, but there are five to six deal-killing issues the White House proposed that we can not get over.

NAFTA issues have also been mixed with American security measures (known as the ‘232 Tariffs’). Ms. Dawson said she doesn’t anticipate these tariffs will be removed until beyond the congressional elections. However, she explained that Canada does have a unique ability to promote itself during these negotiations. “We are not particularly important to US foreign policy,” she stated, “but we are very important to American domestic policy. No other country has the local connections that we have.” She encouraged delegates to use their connections to local representatives, bring business leaders to speak to American officials, and to fan out to show how well the relationship has worked in the past and how it can work well in the future. “There has never been a more dire time in this relationship,” she admitted. Ms. Dawson advocated not taking “yes” for an answer when parliamentarians or business leaders interact or meet their American counterparts. “You have to

practice the directness, the quid pro quo politics," she advised. "Get beyond the meetings."

Session 6: Inter-Parliamentary Relations (part 2)

Ontario Senator **Salma Atallahjan**, who serves as vice-president of the Canadian Group of the International Parliamentary Union (IPU), highlighted the importance of trust-building engagement within inter-parliamentary unions. The IPU was created nearly 130 years ago for the peaceful resolution of international disputes. Her work on the IPU's Committee for Middle East Questions has shown her the true extent of this potential. "These interactions may not be pretty. They can be heated, there can be yelling, but dialogue happens," she said. "While often dismissed as talk shops where nothing happens, we parliamentarians know how important talk can be."

Jacques Chagnon, President of Quebec's National Assembly and President of the Assemblée parlementaire de la Francophonie (APF), spoke of the recent Quebec-Newfoundland Speaker's bilateral agreement and added that the Speaker's position often allows occupants of the Chair to form special connections with other Speakers in the international community. Mr. Chagnon also explained how the professional development programs for parliamentarians and staff that have been created by these organizations have proven extremely successful.

During a Q&A period, one parliamentarian asked the panel how representatives sent to these organizations can convince their colleagues of their value and change the perception that trips to these meetings are junkets. Mr. Chagnon explained that the relationships built through these interactions may not have an easily demonstrable direct and immediate benefit, but the secondary benefits are immense. He also noted that when Canada hosts these meetings the economic benefits, tourism, and other spin-offs are a boon to local communities. Moreover, Mr. Chagnon said that when parliamentarians frame their participation as being 'hosted' by other countries, it can take the sting out of populist attacks about 'junkets.' Another audience member spoke of how a former Senator who was involved in the IPU was frequently called to mediate disputes elsewhere and to advocate on behalf of parliamentarians who have been jailed or may be about to be executed for their political activities. He contended that these are very important organizations for diplomacy and for protecting political freedoms.

Session 7 – Balancing Public and Private Life in the Age of Social Media

In the final conference session, panelists described the ways social media has transformed how politicians are expected to communicate. **Tamara Small**, an associate professor at the University of Guelph, spoke of how academic research has identified trends involving the personalization of social media which can supplant the party's influence at times in messaging. On the personalization spectrum, one side contains posts about personal aspects and non-political activities, a middle ground provides personal opinions and interests on issues that are political but not a party focus, and at the other end there is partisan messaging and communications. Ms. Small indicated that where there is personalization among politics, it provides a greater sense of connection with politician and provides better recall. Interestingly, message personalization backfired amongst strong partisans. She concludes that parliamentarians should keep their audience in mind when publishing on various platforms and also recognize that about two-thirds of Canadians do not follow politicians online. As a result, the audience may be skewed towards journalists, opponents and your own partisans, which may amplify conflict.

Alberta MP **Michelle Rempel** has cultivated a very large following on multiple social media platforms and is recognized by the news media and other parliamentarians as being one of the most successful politicians in the country in terms of online presence and reach. She disagreed with Ms. Small that the audience for social media amongst the general population is small and explained that she tracks statistics in terms of audience impressions that suggest much engagement. Moreover, she stated it's generally more valuable for her to be speaking into her phone than to news media such as the CBC because she can reach more people in an individual way.

Ms. Rempel described her social media content as being related to her work as a parliamentarian. Although she likes the concept of individualization, she described it as more of a sense of 'authenticity.' She noted that, based on her impression, politicians who let staff manage their social media messaging are much less successful in generating followers than those who develop a voice of their own. She does not mention her private life at all online and suggests that Canadian media will keep that off limits unless 1) you're a hypocrite or 2) you make it public. Finally, she

encouraged attendees to distinguish between trolling (inflammatory posts and unfounded criticism) and abuse (threats to your person). Her advice is to block accounts engaging in the former, report the latter to authorities.

Alberta MLA **Thomas Dang** explained that politicians have been using these types of tools for 20-25 years now. While the names of the media are different, the desire to connect remains the same. He suggested that social media simply allows parliamentarians to contact with constituents and other members of the public faster. Mr. Dang also stated that social media can be an enormous benefit to politicians in terms of keeping in connect with their families while in session or travelling on business. For example, livestreaming and video sharing can help them to be 'present' during important events they would otherwise miss.

Quebec MP **Alexandra Mendès** explained how Quebec's parliamentarians navigated posting in more than one language. This dual function can lead to a heavier social media footprint but can make interactions more difficult. She said she uses her Facebook Politician page to advocate for issues that are of a concern to her and her constituents (for example, animal welfare). Ms. Mendès also told the audience a story of how social media can skew what a politician hears. In 2016, she planned to have her Canada Day event in the parking lot of the local Islamic Community and Cultural Centre. A constituent posted a mailing she had sent advertising the event online and questioned why the event was connected to a religious and cultural organization. Although the event was using the parking lot and not

the facility, it created a firestorm and generated many Islamophobic comments and threats; the RCMP became involved. But, aside from the initial poster, Ms. Mendès noted that none of these social media posters were from her riding. She says despite this incident, her experience with social media has been positive.

In a question and answer period, one audience member asked how politicians, as public figure, could accept 'blocking' members of the public from following them. Ms. Rempel reported that she had developed a flow chart that is posted on her website and Facebook to explain how she makes her decision, but ultimately if people aren't being civil, she said she does not entertain it. "I don't have to accept abuse," she stated. She also distinguished between the block and mute functions on social media. While one audience member noted that 'muting' an objectionable poster prevents a politician from seeing notifications of their posts without alerting the poster, Ms. Rempel explained that muting a poster still allows them to use the parliamentarian's social media platform to spew their abusive or hateful messaging.

Ms. Rempel also noted that, in her opinion, parliamentarians are not being as careful as they could be or should be in terms of collecting data and respecting privacy. She explained that she always clearly divides the data she collects from parliamentary and political activities and she always obtains consent. She does this because the conversation on data collecting is still early in terms of privacy rights and she doesn't ever want to have to separate it if new laws are put in place.

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*As of September 30, 2018

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New and Notable Titles

A selection of recent publications relating to parliamentary studies prepared with the assistance of the Library of Parliament (May 2018-July 2018)

Berthier, A. and H.M. Bochel. "Changing Times?: The Shifting Gender Balance of Scottish Parliament Committee Witnesses." PSA Parliaments Group blog, 5p, March 1, 2018.

- The authors discuss their research into the diversity of witnesses to committees in the Scottish Parliament.

Bergman, G. and E. Macfarlane. "The Impact and Role of Officers of Parliament: Canada's Conflict of Interest and Ethics Commissioner." *Canadian Public Administration* 61.1 (2018): 5-25.

- Officers of Parliament play a vital role in providing parliamentarians with access to critical information and resources that allow them to hold the government of the day to account. Critics have argued officers have exceeded their mandates and even threaten to supplant the opposition.

White, H. "MPs should not be their own judge and jury when accused of harassment." Institute for Government blog, 2 p, March 12, 2018.

- The UK House of Commons must hand over the investigation and sanction of bullying and harassment to an independent body, argues the author.

Anderson, M., & Gillies, J. "There for the moment: Extra-legislative windows of opportunity for women's social movements in politics, a comparison of Canada and Northern Ireland." *Commonwealth & Comparative Politics*, 56(2), 157-176, April 2018.

- This article considers the role and influence of women's groups and larger national women's social movements during two different constitutional moments: the lead-up to the finalisation of the 1982 patriation of the Canadian Constitution and the lead-up to the 1998 Good Friday agreement in Northern Ireland.

Tugendhat, T. (Chair). "Global Britain and the 2018 Commonwealth Summit". House of Commons. Foreign Affairs Committee, 24p, April 5, 2018.

- The Commonwealth Summit takes place in London from April 16-20. It will be the first time in more than 20 years that the UK has hosted this biennial gathering of the Commonwealth Heads of Government. This is a once-in-a-generation event.

Ireton, E. "How public is a public inquiry?" *Public Law* 2: 277-298, April 2018.

- 'Public inquiry' is a term often used to refer to a wide range of types of inquiry held by public or private bodies or persons. Such investigations range from planning and highways inquiries, investigations into industrial accidents, to inquiries dealing more broadly with issues of public policy reform. This article is concerned specifically with those public inquiries that are convened by a minister into matters of public concern.

Greenberg, D. "Editorial: standards of drafting of primary legislation in the United Kingdom." *Statute Law Review* 39(1): v-vii, 2018.

- An egregiously poor piece of statutory drafting would doubtless have attracted considerable concern and caused considerable confusion had it not mercifully escaped from the statute book as a result of the last General Election. The Prisons and Courts Bill introduced into the House of Commons in the 2016-17 Session of Parliament was dropped as a result of the sudden call of a General Election and has not been reintroduced in the current Session. It was a Government Bill and there is no reason to believe that it was not drafted in the normal way by the UK Government's Parliamentary Counsel.

Taflaga, M. "Does it really matter if we call Australian politics 'semi-parliamentary'?" *Democratic Audit UK* 2018, 4p, April 26, 2018.

- Would choosing the second chamber by sortition be an effective way to achieve a 50:50 balance between men and women? The author argues that the upper chamber – in Australia as in the UK, a deliberative forum – would be a good place to start, and looks at ways to ensure women sitting in deliberative assemblies get an equal voice and hearing.

Busfield-Birch, D. "The politics of polling: The report of the Committee on Polling and Digital Media". *The Constitution Unit Blog*, 5p, April 26, 2018.

- On April 17, the House of Lords' ad hoc Committee on Political Polling and Digital Media published a report, following its inquiry into the effects of political polling and digital media on politics. At an event organised by The Constitution Unit, Lord Lipsey, who chaired the Committee, discussed the report.

Craig, R. "Restoring confidence: replacing the Fixed-term Parliaments Act 2011." *Modern Law Review* 81(3): 480-508, May 2018.

- This article considers both the Fixed-term Parliaments Act 2011 (FTPA) and the political constitution, to place the former in its political and constitutional context. It begins by setting out the background to the FTPA – which was a part of a Coalition agreement [...] The second part of the article considers the impact and potential practical legal consequences if the FTPA is repealed without any replacement [...] The final part of the article addresses the question of whether the prerogative should be revived.

----- "Independent and accountable: Modernizing the role of agents of parliament and legislatures." *Public Policy Forum*, 34p, April 2018.

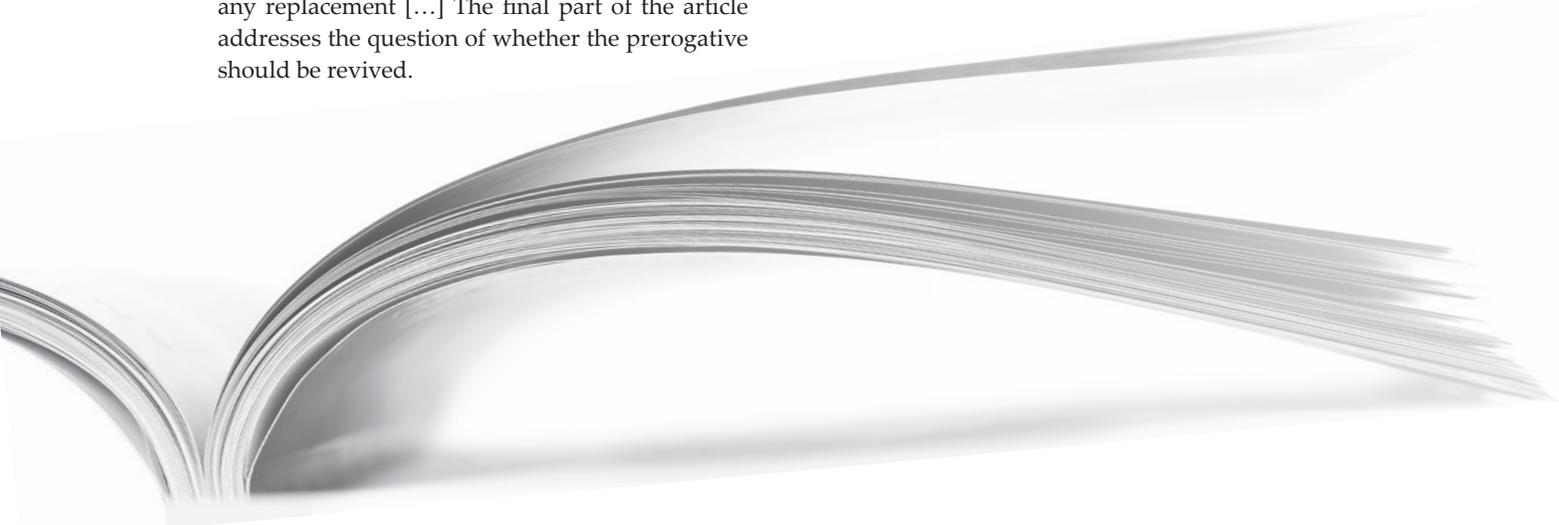
- This report analyzes the current and evolving role of agents at the federal and provincial levels to provide recommendations on how oversight and guidance in the administration of policies can be improved while maintaining their autonomy within Canada's Westminster system.

Maer, L., Priddy, S. "The Parliamentary Ombudsman: Role and proposals for reform." *UK House of Commons Library*, 24p, June 21, 2018.

- "The Parliamentary Ombudsman investigates complaints from members of the public who believe that they have suffered injustice because a government department or certain public bodies have not acted properly or fairly, or have given a poor service and not put things right..."

Smith, G. "Why we need a Committee for Future Generations in the House of Lords." *The Constitution Unit Blog*, 3p, June 15, 2018.

- The Foundation for Democracy and Sustainable Development has proposed that the House of Lords establish a Committee for Future Generations to review legislation. It is hoped that such a body would reduce the short-termism that can creep into legislative and executive decision-making. The author explains why this Committee is needed and how it could work in practice.





Senate

Legislation

The recent trend towards increased numbers of amendments to bills in the Senate, and consequential exchanges of messages between the houses, continued during this period. In April, the Commons agreed to three Senate amendments to Bill C-25, *An Act to amend the Canada Business Corporations Act and other Acts*. In May, the Senate agreed to 15 Commons amendments to Bill S-5, *An Act to amend the Tobacco Act and other Acts*.

Also in May, the Commons agreed with three Senate amendments to Bill C-49, *the Transportation Modernization Act*, amended three others and disagreed with another seven. On May 9, the Senate adopted a motion authorizing the Transport and Communications Committee to prepare the reasons for the Senate's insistence on two of its amendments, bringing into play the rarely-used provisions of rule 16-3, which requires that if the Senate insists on its amendments to a C-bill, a committee must develop the reasons for the insistence. The reasons were contained in the committee's 11th report, which the Senate adopted on May 10. The adoption of the report triggered the message returning the bill to the Commons, indicating that the Senate agreed to the

three Commons amendments, did not insist on five of its own amendments and insisted on two of them. When the Commons again disagreed with the two amendments, the Senate did not further insist on them.

During this quarter, the Senate continued to give considerable attention to Bill C-45, *the Cannabis Act*. The Social Affairs Committee proposed 34 amendments in a report that was presented and adopted on May 30. The following day, the Senate adopted a motion that structured debate at third reading. Proceedings on each of five specific sitting days were limited to a particular theme, with speeches or amendments not generally relating to a day's theme being out of order. Senators could speak on each of these days and propose amendments, although shorter speaking times were established. These thematic debates were followed by a general debate, with normal rules applying, on June 7. During these proceedings at third reading five additional amendments were agreed. In June, the Commons agreed to 23 Senate amendments and parts of two others, amended one amendment, and disagreed with 11 and parts of two other Senate amendments. The Senate agreed with the Commons amendment and did not insist on its amendments.

The following bills received Royal Assent by written declaration during this quarter: S-5, C-25 and C-49. In addition, several bills received Royal Assent during a

traditional ceremony on June 21: S-210 – amending *An Act to amend the Immigration and Refugee Protection Act and other Acts*; S-218 – the *Latin American Heritage Month Act*; C-24 – *An Act to amend the Salaries Act and another Act*; C-45 – the *Cannabis Act*; C-46 – *An Act to amend the Criminal Code (offences relating to conveyances) and other Acts*; C-50 – *An Act to amend the Canada Elections Act (political financing)*; C-66 – the *Expungement of Historically Unjust Convictions Act*; C-74 – the *Budget Implementation Act, 2018, No. 1*; C-80 – the *Appropriation Act No. 2, 2018-19*; C-211 – the *Federal Framework on Post-Traumatic Stress Disorder Act*; and C-309 – the *Gender Equality Week Act*.

Chamber, Procedure and Speaker’s Rulings

On April 26, the Speaker made a statement reminding senators of a previous ruling establishing that a member who moves a motion to adjourn debate that is then rejected can no longer speak to the item in question. The senator whose attempt to speak led to this reminder requested and received leave to speak, and was, therefore, able to participate in debate.

A quite unusual – for the Senate – event took place on June 20, when, after consultation among the leaderships of the recognized parties and parliamentary groups, several committee-related items were ordered adopted as a package. These included one committee report on the Order Paper and four motions that were on the Notice Paper.

Committees

On April 24, the Senate adopted a motion to refer the subject-matter of different elements of Bill C-74, *An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures*, to seven standing and special committees (Arctic; Banking, Trade and Commerce; Foreign Affairs and International Trade; Legal and Constitutional Affairs; National Security and Defence; Energy, the Environment and Natural Resources; and Agriculture and Forestry), in advance of the bill coming before the Senate. In addition, the National Finance committee was authorized to examine the subject matter of all of the bill. Each of the committees examining parts of the bill was to report to the Senate no later than May 31, 2018. The National Finance committee was authorized to take any of those reports into consideration during its study of the subject matter of all of Bill C-74.

On June 14, the Standing Joint Committee on the Library of Parliament presented its second report

to the Senate, recommending the approval of the appointment of **Heather Lank** as Parliamentary Librarian. The two houses adopted the report, and Ms. Lank’s appointment took effect on June 21. She had previously worked with the Senate for 27 years, most recently as Principal Clerk of Chamber Operations and Procedure.

Committee of the Whole

On June 20, the Senate resolved itself into Committee of the Whole to receive **Yves Giroux**, the nominee for the position of Parliamentary Budget Officer, and subsequently adopted a motion to approve his appointment.

Senators

On May 11, Senator **Nancy Greene Raine** retired from the Senate. She was appointed by Prime Minister Stephen Harper on January 2, 2009. Senator Raine was the Olympic gold medalist in downhill skiing at the 1968 Winter Olympics. She was named Canada’s female athlete of the 20th Century by the Canadian Press and Broadcast News. During her time at the Senate, she was an active member of many committees, including Aboriginal Peoples; Fisheries and Oceans; Legal and Constitutional Affairs; and Social Affairs, Science and Technology.

During this quarter, the Senate welcomed five new senators. **Mohamed-Iqbal Ravalia** was appointed on June 1, and represents the province of Newfoundland and Labrador. Senator Ravalia comes to the Senate with a background in medicine as a family physician, a senior medical officer at the Notre Dame Bay Memorial Health Centre and an associate professor of family medicine and the assistant dean of the Rural Medical Education Network at Memorial University.

Donna Dasko and **Pierre J. Dalphond** were appointed to the Senate on June 6 and represent the provinces of Ontario and Québec, respectively. Senator Dasko comes to the Senate following a career as a national pollster and a champion of women’s rights as a member of the board of directors of the Women’s Legal Education and Action Fund and former national chair of Equal Voice. Senator Dalphond devoted more than 30 years of his life to the public service as a lawyer, educator and former senior judge with the Court of Appeal of Quebec.

Colin Deacon was appointed on June 15 to represent the province of Nova Scotia. He spent his career

turning ideas into products and services that make life better for Canadians as founder of BlueLight Analytics and CEO of SpellRead.

Finally, on June 20, **Julie Miville-Dechêne** was appointed to represent the province of Québec. Senator Miville-Dechêne spent 25 years as an award-winning news and public affairs correspondent for Radio-Canada, following which she was appointed ombudsman for Radio-Canada and later served as chair of the Quebec government's *Conseil du statut de la femme*.

Max Hollins
Procedural Clerk



Ontario

Condolences

During the Third Session of the 41st Parliament, the House expressed its condolences on the passing of several former Members: **Ronald Van Horne**, Member for the electoral district of London North from June 9, 1977 to December 31, 1987; **Chris Stockwell**, former Speaker and Member for the electoral districts of Etobicoke West and Etobicoke Centre from September 6, 1990 to September 2, 2003; and **Peter L. Preston**, Member for the electoral district of Brant-Haldimand from June 8, 1995 to June 2, 1999.

New Parliamentary Officer

On April 18, 2018, an Order in Council was tabled appointing **Peter Weltman** as Financial Accountability Officer of Ontario for a fixed term of five years, effective May 7, 2018. Mr. Weltman brings several years of experience working at the Parliamentary Budget Office in Ottawa to his new role.

J. David Wake had held the position previously on a temporary basis since September 26, 2017, concurrently with his permanent role as the Integrity Commissioner of Ontario.

Dissolution and 2018 Ontario Election

The Ontario Legislature was dissolved by Proclamation on May 8, 2018, with the electoral writs being issued the following day.

With the passage of Bill 45, *Election Statute Law Amendment Act, 2016* in December of 2016, Ontario's election date is affixed to the first Thursday in June in the fourth calendar year following polling day in the most recent general election. Accordingly, Ontario's 42nd general election occurred on Thursday, June 7, 2018.

The election returned 76 Progressive Conservatives, 40 New Democrats, seven Liberals and one Green Party member to Ontario's newly expanded 124-seat Legislature. Of note is that **Mike Schreiner's** victory in Guelph represents the first seat won by a Green Party candidate in Ontario's history.

Committee Updates

Standing Committee on Social Policy

The Standing Committee on Social Policy met in April to consider Bill 3, *An Act respecting transparency of pay in employment*. The Bill establishes requirements relating to the disclosure of information about the compensation of employees and prospective employees. The Committee held two days of public hearings on the Bill, followed by one day of clause-by-clause consideration. The Bill was reported back to the House, as amended, and went on to receive Royal Assent on May 7, 2018.

Standing Committee on Justice Policy

The Standing Committee on Justice Policy met in April to consider Bill 6, *An Act to enact the Ministry of Community Safety and Correctional Services Act, 2018 and the Correctional Services and Reintegration Act, 2018, to make related amendments to other Acts, to repeal an Act and to revoke a regulation*. The Bill outlines the powers of the Minister and sets out parameters for the admittance and living conditions of inmates in correctional facilities. The Bill further codifies rules surrounding segregation, discipline, searches and investigations in those facilities, as well as setting out guidelines for the granting of parole and the appointment process and

duties of parole officers. The Committee held one day of public hearings, followed by one day of clause-by-clause consideration of the Bill. The Bill was reported back to the House as amended, went on to pass Third Reading and received Royal Assent on May 7, 2018.

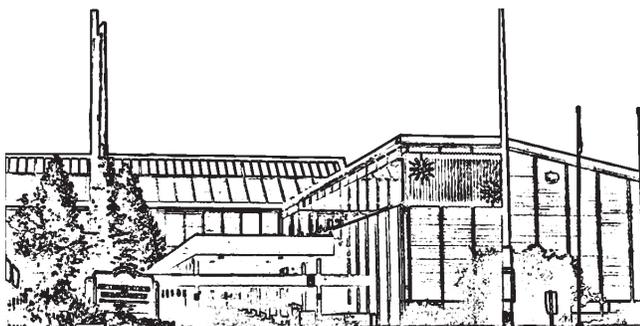
Standing Committee on General Government

The Standing Committee on General Government met to consider Bill 8, *An Act to amend the Consumer Reporting Act and the Technical Standards and Safety Act, 2000*. Among other initiatives, the Bill gives consumers a right to obtain disclosure of consumer scores and provides for the rules respecting such disclosures. It also allows regulations to be made which set out guidelines for the timely maintenance of elevating devices. Following one day of public hearings and one day of clause-by-clause consideration, the Committee reported the Bill back to the House with certain amendments. The Bill passed Third Reading on May 2, and received Royal Assent on May 7, 2018.

Standing Committee on Finance and Economic Affairs

The Standing Committee on Finance and Economic Affairs met to consider Bill 31, *An Act to implement Budget measures and to enact and amend various statutes*. Following one day of public hearings and one day of clause-by-clause consideration, the Committee reported the Bill back to the House with certain amendments. The Bill passed Third Reading and received Royal Assent on May 8, 2018.

Christopher Tyrell
Committee Clerk



Yukon

Spring Sitting

The 2018 Spring Sitting of the Second Session of the 34th Legislative Assembly began on March 1, and concluded on the 30th sitting day, April 24.

Government bills

During the 2018 Spring Sitting, the following government bills were introduced, passed by the House and assented to by Yukon Commissioner **Angélique Bernard**:

Bill No. 15, *Cannabis Control and Regulation Act*

Bill No. 16, *Technical Amendments Act, 2018*

Bill No. 17, *Gender Diversity and Related Amendments Act*

Bill No. 18, *Order of Yukon Act*

Bill No. 204, *Third Appropriation Act 2017-18*

Bill No. 205, *Interim Supply Appropriation Act 2018-19*

Bill No. 206, *First Appropriation Act 2018-19*

Private Member's bill

On April 24, a private member's bill – Bill No. 300, *Act to Amend the Taxpayer Protection Act* – was introduced by **Brad Cathers**, the Official Opposition's Finance Critic.

Final Report of the Electoral District Boundaries Commission

As noted in Yukon's preceding Legislative Report, on November 21, Speaker **Nils Clarke** tabled the *Interim Report of the Yukon Electoral District Boundaries Commission*, which proposed changing the boundaries of nine of the territory's 19 electoral districts, and the names of five ridings.

In order to receive Yukoners' views on the interim report's proposals, the Commission accepted written submissions and held public meetings across the territory. In the course of these travels the Commission held public hearings in 12 communities, including Whitehorse. Given feedback the Commission received on its interim report, the final report featured significant revisions. Most notably, the Commission's final report recommended a redistribution that would add a new rural riding, for a new total of 20 electoral districts in the territory.

The Commission's non-binding final report was submitted to the Legislative Assembly on April 19.

That day, Yukon Liberal Caucus Chair **Paolo Gallina** issued a statement indicating that the caucus had done a preliminary review of the final report, and expressing concerns about its proposed addition of a 20th riding.

Legislation regarding the boundaries recommended by the Commission must be introduced by the government during the 2018 Fall Sitting.

The Electoral Boundaries Commission was chaired by Senior Judge of the Supreme Court of Yukon, Justice **Ron Veale**. The other four members comprising the Commission were Yukon's Chief Electoral Officer, **Lori McKee**, one individual selected by the Liberal Party, one individual selected by the Yukon Party, and one individual selected by the NDP.

Chief Electoral Officer

On May 31, 2017, Ms. McKee, Yukon's Chief Electoral Officer since July 2014, gave the all-party Members' Services Board (MSB) of the Legislative Assembly notice that her final day in the position would be May 31, 2018.

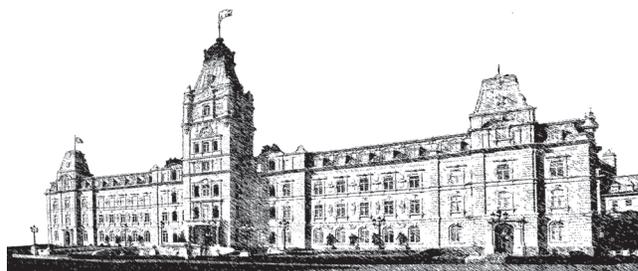
On May 31, 2018, the MSB issued a news release to announce its recommendation for Yukon's fourth Chief Electoral Officer. The release stated that the MSB had accepted the recommendation of a subcommittee tasked with recruiting a nominee for the position. The MSB recommended that **H. Maxwell Harvey** be appointed the next Chief Electoral Officer. The MSB is chaired by Speaker Clarke; the other members of the MSB are Premier **Sandy Silver**, Minister and Government House Leader **Tracy-Anne McPhee**, Official Opposition representative Mr. Cathers, and Third Party Leader **Liz Hanson**.

On June 26, Mr. Harvey joined Elections Yukon. His experience includes over 10 years with Elections Canada, initially as a returning officer and later as the federal liaison officer in Newfoundland and Labrador. Over the course of his career, Mr. Harvey had also served as an Assistant Deputy Minister of Marine Services and Transportation in the government of Newfoundland and Labrador, and as a senior officer in the Royal Canadian Navy.

Yukon's *Elections Act* requires that the Chief Electoral Officer be appointed by the Commissioner in Executive Council, on the recommendation of the Legislative Assembly made by at least two-thirds of all MLAs. The requisite motion will be considered by the Assembly during the 2018 Fall Sitting.

The Chief Electoral Officer is an independent officer of the Assembly who is responsible, per the provisions of the *Elections Act* and the *Education Act*, for the management of general elections and by-elections of MLAs, and of trustees of school boards and members of school councils.

Linda Kolody
Deputy Clerk



Québec

National Assembly proceedings

Extraordinary sitting

On June 14, 2018, at the request of Premier **Philippe Couillard**, the Assembly held an extraordinary sitting to conclude the consideration of Bill 400, *An Act to amend the Act respecting the estate of the Honourable Trefflé Berthiaume and La Compagnie de Publication de La Presse, Limitée*. After a five-hour sitting, the bill was passed on the following division: Yeas 76, Nays 24, Abstentions 0.

Composition of the National Assembly

On April 8, 2018, owing to the prolonged convalescence of **Pascal Bérubé**, Official Opposition House Leader (Parti Québécois) and Member for Matane-Matapédia, the Leader of the Official Opposition, **Jean-François Lisée**, named **Carole Poirier**, Member for Hochelaga-Maisonneuve, as Official Opposition House Leader and **Mathieu Traversy**, Member for Terrebonne, as Deputy Opposition House Leader. These Members were reappointed to their previous offices upon Mr. Bérubé's return, on May 9, 2018.

In the spring, the Chair was informed that **Yves St-Denis**, Member for Argenteuil, and **Paul Busque**, Member for Beauce-Sud, were no longer members of the caucus of the parliamentary group forming

the Government (Québec Liberal Party), respectively since April 17 and May 10, 2018, and that they would henceforth sit as independent Members. Then, on June 15, 2018, the Chair was informed that the Member for Beauce-Sud had rejoined the Government caucus.

On June 15, 2018, the composition of the National Assembly was as follows: Québec Liberal Party, 67 Members; Parti Québécois, 28 Members; Coalition Avenir Québec, 21 Members; three Members sitting under the Québec Solidaire banner and six independent Members.

Estimates of expenditure and passage of Appropriation Act No. 2, 2018-2019

On April 17, 2018, the debate on the budget speech ended with recorded divisions on the Government's budgetary policy and on the motions stating a grievance moved within the framework of this debate. On May 3, 2018, following the committees' consideration of the estimates of expenditure, the Assembly examined the estimates of the National Assembly in Committee of the Whole and, at the sitting of May 8, adopted the 2018-2019 estimates and Bill 180, *Appropriation Act No. 2, 2018-2019*.

Bills passed

From April to June 2018, the National Assembly passed 28 bills, including seven private bills and one private Member's public bill. Of particular note are the following:

- Bill 128, *An Act to promote the protection of persons by establishing a framework with regard to dogs;*
- Bill 141, *An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions;*
- Bill 157, *An Act to constitute the Société québécoise du cannabis, to enact the Cannabis Regulation Act and to amend various highway safety-related provisions;*
- Bill 165, *An Act to amend the Highway Safety Code and other provisions;*
- Bill 171, *An Act to enact the Act respecting the implementation of the Canadian Free Trade Agreement and to bring measures relating to contracting by public bodies into compliance with that agreement, the Trade and Cooperation Agreement between Ontario and Québec and the Comprehensive Economic and Trade Agreement between Canada and the European Union and its Member States;*
- Bill 173, *An Act mainly to introduce a basic income for persons with a severely limited capacity for employment;*

- Bill 176, *An Act to amend the Act respecting labour standards and other legislative provisions mainly to facilitate family-work balance;*
- Bill 187, *An Act to protect the confidentiality of journalistic sources;*
- Bill 1094, *An Act to proclaim Hispanic Heritage Month.*

Reports from the Ethics Commissioner for the Members of the National Assembly

On April 19, 2018, the Member for Groulx raised a matter of breach of privilege or contempt in which he alleged that the *ad hoc* Ethics Commissioner for the Members of the National Assembly, **Jacques Saint-Laurent**, had violated his rights and privileges in the report he tabled on November 30, 2017 regarding the Member. Note that on December 6, 2017, the Assembly concurred in the *ad hoc* Commissioner's report, which recommended that a sanction be imposed on the Member for Groulx.

The Chair having declared the point of privilege to be *prima facie* admissible (see ruling of May 10, 2018 under the heading "Rulings and directives from the Chair"), the Member for Groulx availed himself of his right to move a motion, pursuant to Standing Orders 324 to 327, impugning the *ad hoc* Commissioner's conduct. On May 16, during the debate on this motion, the Assembly carried a motion to mandate the Committee on the National Assembly (CNA) to investigate whether the *ad hoc* Ethics Commissioner stated that he wanted to scapegoat the Member for Groulx. The CNA thus mandated the National Assembly's juriconsult to investigate the matter and, in a report tabled in the Assembly on June 11, it concluded that the *ad hoc* Commissioner had not violated the rights and privileges of the Member for Groulx and recommended that the Member publicly apologize.

On June 13, 2018, following a debate in the House, the Assembly concurred in the CNA's report (Yeas: 108, Nays: 0, Abstentions: 2), thus disposing of the motion on the breach of privilege or contempt standing in the name of the Member for Groulx.

On June 4, 2018, the President tabled the Ethics Commissioner's investigation report concerning the Member for Brome-Missisquoi with regard to a violation of the *Code of ethics and conduct of the Members of the National Assembly*. In this report, the Commissioner concluded that the Member had violated certain provisions of the *Code* pertaining to the use of the

allowance for accommodation expenses paid by the National Assembly and recommended that a sanction be imposed on the Member. On June 14, the report was negated on the following vote (Yeas: 45, Nays: 60, Abstentions: 2). The Member for Brome-Missisquoi had availed himself, pursuant to section 102 of the *Code of ethics and conduct*, of his right to make a statement in the Assembly after the tabling of the investigation report concerning him. Exceptionally, and stemming from a ruling from the Chair, this statement had been made in writing and tabled in the House on June 13 (see ruling of June 13, 2018 in the section “Rulings and directives from the Chair”).

Special events

Cancellation of an Assembly sitting

Owing to the activities surrounding the G7 Summit and so as to take a precautionary and responsible approach, the parliamentary proceedings schedule was changed to allow the Assembly and the committees to adjourn their proceedings earlier on June 7, and cancel their sittings on June 8, 2018. In return, the Assembly and committees sat on June 11, and the schedule of proceedings was changed on June 12, so that the total number of sitting hours for the period was maintained.

Rulings and directives from the Chair

Several rulings were handed down by the Chair of the National Assembly during the period covered by this article, a selection of which will be presented in more detail.

April 12, 2018 – Committing public funds and legislative authorization

On April 12, 2018, the Chair ruled on the point of privilege or contempt raised by the Official Opposition House Leader, in which the latter alleged that several ministers acted in contempt of Parliament by committing public funds without prior legislative authorization by foreseeing new expenditures for the fiscal year underway in the Québec Economic Plan of March 2017. The Chair recalled that it was not its role to determine whether Government expenditures were made in compliance with the law, which is the role of the courts, but rather to ensure that the Assembly’s role in the budgetary process was not ignored. The elements before the Chair did not *prima facie* show that this role had been bypassed. Consequently, the question was declared out of order.

However, the Chair recalled the importance of the role conferred on the Assembly and its Members to oversee the Government’s actions. It further expressed that, in this context, the more information the Government makes available to the Members, the more likely it is that debates and decision-making will be carried out in an informed manner. It therefore recalled that, although the communication of documents is at the Government’s discretion, it was desirable and even necessary that the Government cooperate so as to ensure that Members have the most complete information possible in order to exercise their parliamentary oversight role.

May 10, 2018 – Report from the ad hoc Ethics Commissioner regarding the Member for Groulx

On May 10, 2018, the President ruled on the point of privilege or contempt raised by the Member for Groulx on April 19, 2018, in which the latter alleged that the *ad hoc* Ethics Commissioner for the Members of the National Assembly, **Jacques Saint-Laurent**, had violated his rights and privileges during the investigation in his regard. The point of contempt concerns the content and conclusions of the *ad hoc* Commissioner’s report about the Member for Groulx as well as remarks the *ad hoc* Commissioner allegedly made to the Member affirming the Commissioner’s wish to scapegoat him.

With regard to the first aspect of the point of privilege or contempt, concerning the content and conclusions of the *ad hoc* Commissioner’s report, the Chair recalled that, in matters of ethics and professional conduct, the procedure adopted by the National Assembly under its *Code of ethics and conduct of the Members of the National Assembly* is clear: When the Commissioner receives a request for an investigation, he investigates, his report is tabled in the Assembly and, if he recommends the imposition of sanctions, the matter is put to a vote. The parliamentarians may not amend the report. Their power is limited to adopting or rejecting the report; they cannot modify the conclusions or sanctions it proposes.

Consequently, no Member can request review of a report produced by the Ethics Commissioner. The Chair cannot, therefore, rule on the allegations made by the Member for Groulx that relate directly to the factual elements of the *ad hoc* Commissioner’s investigation and their assessment.

The Chair then addressed the second aspect of the question, concerning the Member for Groulx’s

allegations that the *ad hoc* Commissioner told him he wanted to make the Member a scapegoat. This aspect of the point of privilege does not concern the report's content or conclusions but rather how the *ad hoc* Commissioner acted with regard to the Member for Groulx.

The Chair had to assess whether the facts submitted by the Member, which are supported by an affidavit from a lawyer, constituted a violation of section 55, paragraph 7 of the *Act respecting the National Assembly*. Unfortunately, the fact that the Member for Groulx did not bring these facts to the House's attention before the latter ruled on the report could not discredit the process and, alone, justify rejecting this point of privilege.

Despite the passage of the *Code of ethics* and the independence conferred on the Commissioner, there has never been any question of the Assembly waiving its rights and privileges. Moreover, no one is above a point of privilege from the Assembly.

Whether the Chair could, under these special circumstances, have called on individuals qualified in the area of investigations in order to determine whether the point raised by the Member for Groulx could, in fact, be considered *prima facie* admissible was not provided for in the procedure. The Chair specified that when Members decided to avail themselves of a point of privilege, no other recourse than that provided for in the Standing Orders could apply.

Given the state of parliamentary jurisprudence in matters involving threatening a Member that oblige the Chair to take the Member's word, as well as the sworn statement from a lawyer that appeared to corroborate the Member's word, the Chair declared the point of privilege to be *prima facie* admissible.

June 12, 2018 - Distribution of copies of a bill before its introduction in the Assembly

On June 12, 2018, the President ruled on the point of privilege or contempt raised by the Official Opposition House Leader, in which the latter alleged that the Minister responsible for Access to Information and the Reform of Democratic Institutions acted in contempt of Parliament, during a technical briefing session, by giving journalists copies of a bill with the mention "SOUS EMBARGO (under embargo)" on each page, almost one hour before the bill was introduced in the Assembly.

The Chair recalled that technical briefing sessions are held at other times in order to privately communicate information that is not yet officially tabled in the Assembly, for example, when reports from persons designated by the National Assembly are about to be tabled. This is another example of a practice where information is given to Members, who accept the procedure, allowing them to become aware of the key aspects of sometimes very lengthy documents before they are made public, thus enabling the Members to do their job properly.

In the past, the Chair has stated that, despite the fundamental role journalists play in our democracy, parliamentarians must be the first to receive all information needed to perform their legislative duties. The Chair has also recalled the importance of respecting this principle by calling on all parliamentarians, especially Cabinet Members and their staff, to be very careful when communicating information intended first and foremost for the Assembly, out of deference to the Assembly and its Members.

The Chair did not deny the Government's recognized right to inform the public about its policies and programs, or about the measures it intends to adopt. The Government may also hold technical briefing sessions to explain measures contained in a bill not only to journalists, but also to the Members. However, as indicated by the Chair, this briefing should take place after the bill has been introduced in the Assembly, not before, out of respect for the Members' role in the legislative process.

Contempt of Parliament is any act or omission that discredits or hinders the proceedings of the Assembly or its committees or the duties of its Members. In the case at hand, disclosing the bill before it was tabled in the Assembly discredited the Members' legislative role and could have hindered the Members' ability to do their job properly.

In the case in question, the Minister herself admitted that the bill's content had been disclosed before the Members could be informed and expressed her most sincere regrets regarding this situation in the Assembly.

Under the circumstances, despite the regret expressed by the Minister, the Chair had no choice but to conclude that the point raised by the Official Opposition House Leader constituted *prima facie* contempt of Parliament.

June 13, 2018 – Report from the Ethics Commissioner regarding the Member for Brome-Missisquoi

Lastly, on June 13, 2018, the President gave a ruling regarding a letter he had received from the Member for Brome-Missisquoi in reference to the report from the Ethics Commissioner in his regard, asking that he be permitted to be heard by means of a written argument, rather than in person, given that his health did not allow him to attend National Assembly proceedings. In his ruling, the President recalled that, when they passed the *Code of ethics and conduct of the Members of the National Assembly*, the legislators' intention was to allow a person targeted by an Ethics Commissioner's report to be heard, whether or not the person is a Member. That being said, when a Member targeted by an Ethics Commissioner's report is unable to attend Assembly proceedings, yet wishes to exercise his or her right to be heard by sending a written argument, the Chair deems its role to include ensuring that the Member's rights are respected and allowing the Member to do so. Consequently, the President tabled the document transmitted by the Member for Brome-Missisquoi as argument.

Retirement from politics

On June 15, 2018, at the last Oral Question Period of the 41st Legislature's parliamentary calendar, the President of the National Assembly, **Jacques Chagnon**, announced his retirement from politics.

Mr. Chagnon has been President of the National Assembly since 2011 and Member for the electoral division of Westmount–Saint-Louis (formerly Saint-Louis) since 1985. During his political career, he held the offices of Minister of Education and Minister of Public Security. He currently chairs the *Assemblée parlementaire de la Francophonie*.

At this last sitting of the 41st Legislature, 17 parliamentarians among those who had announced their retirement from politics at the end of the current term addressed the Assembly.

Committee proceedings

From April to June 2018, the committees carried out several mandates received by order of reference from the Assembly and many other types of mandates. It should be noted that two important periods of parliamentary work took place during these three months: the examination of the estimates of expenditure and the 41st Legislature's last period of extended hours of meeting.

Clause-by-clause consideration of bills

Over the course of this three-month period, seven committees gave clause-by-clause consideration to 13 public bills. Consideration of these bills took place during 52 sittings totalling over 180 hours of work. Among these bills, the Committee on Health and Social Services (CHSS) concluded, on May 30, 2018, the clause-by-clause consideration of Bill 157, *An Act to constitute the Société québécoise du cannabis, to enact the Cannabis Regulation Act and to amend various highway safety-related provisions*. Thirty-two sittings and over 136 hours were set aside for the consideration of this bill, which had begun in February 2018. This was the most hours set aside for this type of mandate during the 41st Legislature.

The Committee on Public Finance (CPF), for its part, concluded the clause-by-clause consideration of Bill 141, *An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions*, after having held 20 sittings representing close to 60 hours of work. This bill, among other things, enacts two new acts: the *Insurers Act* to replace the *Act respecting insurance*, and the *Trust Companies and Savings Companies Act* to replace the *Act respecting trust companies and savings companies*, which will be repealed.

The Committee on Labour and the Economy (CLE) concluded the clause-by-clause consideration of Bill 176, *An Act to amend the Act respecting labour standards and other legislative provisions mainly to facilitate family-work balance*, after four sittings and over 15 hours of work. This bill provides for several changes regarding employees' working conditions and an increase in the number of days of absence for family and parental responsibilities.

Statutory orders

Moreover, two committees initiated the examination of regulations. Certain legislative provisions provide for the examination of regulations or other documents by the competent committee. Thus, on April 12, 2018, the Committee on Culture and Education (CCE) examined the draft regulation on homeschooling, pursuant to section 36 of the *Act to amend the Education Act and other legislative provisions concerning mainly free educational services and compulsory school attendance*, adopted in November 2017. Under the *Act*, the examination of this regulation, lasting no more than three hours, was to be carried out before June 1, 2018.

On May 16, 2018, the Committee on Institutions (CI) examined the guidelines for dealing with requests for accommodations on religious grounds, as provided for in section 18 of the *Act to foster adherence to State religious neutrality and, in particular, to provide a framework for requests for accommodations on religious grounds in certain bodies*. This Act, passed in October 2017, provides that the first guidelines must be examined by the competent committee of the National Assembly within 60 days of their publication. The members discussed the content of this document intended for bodies so that the *Act* may be consistently applied.

Orders of initiative

During this period, the CPF, the Committee on Citizen Relations (CCR) and the Committee on Planning and the Public Domain (CPP) tabled four reports stemming from orders of initiative. In order to be carried out, this type of mandate must be adopted by a majority of the members from each parliamentary group. Once the mandate has been adopted, the committee itself organizes the proceedings so the duration of the mandate may vary. At the end of the mandate, the committee tables its report in the Assembly, which report contains the minutes of its proceedings and its observations, conclusions and recommendations, if any. If recommendations are made, a two-hour debate on the report must be held in the Assembly, pursuant to Standing Order 94. This was the case for three of these reports, namely those of the CCR and that of the CPP.

More specifically, on April 26, 2018, the CFP tabled in the Assembly its report on the document entitled: “Tax Havens: Tax Fairness Action Plan” following the joint hearing with the Ministère des Finances du Québec and the Agence du revenu du Québec in February 2018. The Committee had initiated the examination of the document produced by both organizations in response to the recommendations contained in its previous report on the tax havens phenomenon tabled in the Assembly in April 2017. The most recent report proposes several actions to be implemented by the CPF in the next legislature.

The CCR tabled two reports in relation to two orders of initiative: a report on Aboriginal women’s living conditions as affected by sexual assault and domestic violence and a report on women’s place in politics. The first report was tabled on May 15, 2018 and contains five recommendations. During this mandate, the members travelled to Aboriginal communities to

get a better understanding of their reality. The CCR subsequently tabled its report, on May 31, 2018, on women’s place in politics. This report, which contains seven recommendations, stems from public consultations. Indeed, in addition to having heard several individuals and organizations, the Committee members also based their reflection on the results of an online questionnaire filled out by 507 individuals.

Finally, on June 11, 2018, the CPP tabled in the National Assembly its report on access to local financial services in the regions. After having heard four individuals and organizations, including Mouvement Desjardins, the members issued three recommendations including one aiming to ask Québec’s financial institutions to transmit to the Committee members, before August 31, 2018, the methods these institutions intend to use to increase access to local financial services as well as a protocol regarding the possible closing of points of service.

Tabling of the report from the Committee on Public Administration

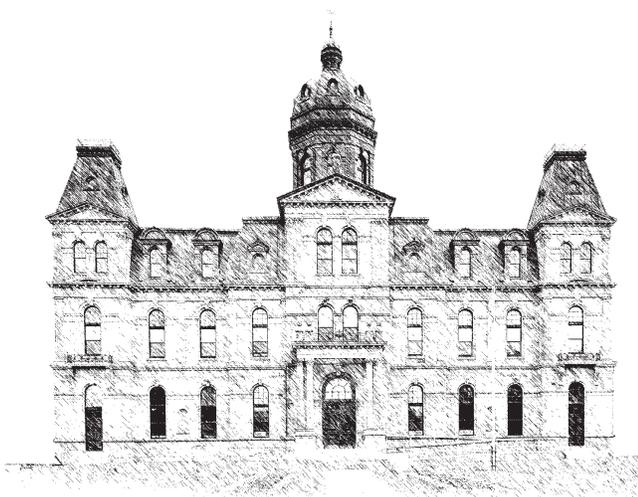
On June 12, 2018, the Committee on Public Administration (CPA) tabled its 38th report on the accountability of deputy ministers and chief executive officers of public bodies. This document details the seven public hearings held between February and May 2018. It also contains 16 recommendations to improve the administrative management of these departments and bodies. This report reflects the implementation of the new follow-up procedure for this Committee’s recommendations that was adopted in fall 2017. The steering committee thus examined the documents received from the departments and bodies as a follow-up to the Committee’s recommendations and their findings were forwarded to these entities.

Sylvia Ford

General Directorate for Parliamentary Affairs
Sittings Service

Sabine Mekki

General Directorate for Parliamentary Affairs
Committees Service



New Brunswick

Committees

The fourth session of the 58th Legislative Assembly adjourned on March 16. Dissolution of the Assembly is expected to occur in August, prior to the scheduled September 24 provincial general election. During the adjournment, certain committees were active.

On June 6 and 7, the Select Committee on Public Universities, chaired by **Chuck Chiasson**, held public hearings with the four publicly funded universities in New Brunswick (Mount Allison University, Université de Moncton, University of New Brunswick, and St. Thomas University) to discuss university administration, programming, performance measurement, accountability and transparency.

A joint meeting of the Standing Committee on Public Accounts, chaired by **Trevor Holder**, and the Standing Committee on Crown Corporations, chaired by Mr. Chiasson, was held on June 12. The committees considered Auditor General **Kim MacPherson's** *Report of the Auditor General of New Brunswick 2018, Volume I*. The volume presented performance audit reports on WorkSafeNB governance, and addiction and mental health services in provincial adult correctional institutions. The volume also presented concerns on the province's continuing fiscal decline and the Auditor General's eroding independence due to a lack of resources.

On June 20, the Commissioner of Official Languages for New Brunswick, **Katherine d'Entremont**, presented her 2017-2018 annual report to the Standing Committee on Procedure, Privileges and Legislative Officers, which is chaired by **Hédard Albert**. The report

recommended establishing an Official Languages Secretariat to support the Premier in carrying out the administration of the *Official Languages Act*. The report also presented the highlights of a study on the vitality of French and English in New Brunswick.

Webcast and Archive of Proceedings

In March, with the assistance of ISILive, the Legislature transferred its online webcasts to a more modern service with improved technical support. In addition, all House and committee proceedings are now permanently archived online.

Speaker

In April, Premier **Brian Gallant** announced that Speaker **Chris Collins** was suspended from the Liberal caucus pending an investigation into allegations of harassment. In response, Speaker Collins advised the Assembly's Legislative Administration Committee that he was relinquishing his administrative duties as Speaker pending the outcome of the investigation.

Student Parliament

The 28th Annual Student Legislative Seminar was held April 13 to 15. A total of 49 students from various high schools participated, representing all areas of the province. The seminar is a non-partisan program open to grade 11 and 12 students. The students were welcomed to the Assembly by Deputy Speaker **Bernard LeBlanc**. Throughout the weekend, the students attended various lectures. Former Lieutenant-Governor and Judge **Graydon Nicholas** spoke on his career; political science professor **Thomas Bateman** spoke on political parties and parliamentary government; Assistant Chief Electoral Officer **David Owens** spoke on the electoral process; and former Chief Judge **Leslie Jackson** spoke on the judicial branch.

Cabinet Shuffle

As a result of **Serge Rousselle's** decision not to reoffer in the next provincial general election, Premier Gallant allocated his ministerial responsibilities on May 11 as follows: **Andrew Harvey** became Minister of Environment and Local Government, Premier Gallant assumed the role of Attorney General, and **Benoît Bourque** was given the additional responsibility of Service New Brunswick. As well, **Wilfred Roussel** joined cabinet as Minister of Agriculture, Mines and Rural Affairs, which was Mr. Harvey's former portfolio.

Resignation

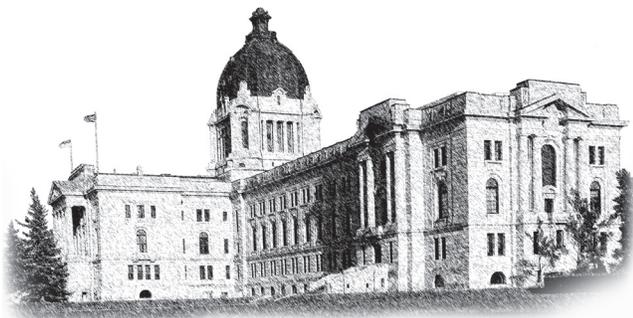
On July 1, **Madeleine (Mado) Dubé** resigned as the MLA for Edmundston-Madawaska Centre. First elected in the 1999 general election, Ms. Dubé was re-elected in 2003, 2006, 2010 and 2014. Ms. Dubé was the first person to win five consecutive elections in the Edmundston area riding, as well as the first Francophone woman in the history of the province to win as many consecutive elections. During her time at the Legislature, she served as Minister of Education, Minister of Family and Community Services, Minister of Health, and Minister of Social Development. Ms. Dubé was the first Francophone woman to serve as Minister of Education and Minister of Health. After the general election in 2014, she was appointed Opposition House Leader, the first woman to hold that position.

Standings

The standings in the House are 24 Liberals, 21 Progressive Conservatives, 1 Green, 1 Independent, and 2 vacancies.

Shayne Davies

Assistant Clerk and Clerk of Committees



Saskatchewan

Second Session of the Twenty-Eighth Legislature

Lieutenant Governor **W. Thomas Molloy** gave Royal Assent to 32 bills on May 30, 2018, and the spring sitting of the 28th legislature's second session concluded on May 31. To this date, 60 bills have received Royal Assent during the second session of the 28th legislature.

Humboldt Broncos Bus Tragedy

On April 6, 2018, a bus carrying the members of the Humboldt Broncos junior A hockey team was struck

by a tractor trailer, leaving 16 individuals deceased and 13 more injured. In light of the tragedy, motions of condolence were moved on April 9 and April 11, 2018. The Legislative Assembly of Saskatchewan is very grateful for the outpouring of support shown from across the country.

Budget Presentation

The 2018-19 budget, titled *On Track*, was tabled on April 10, 2018, by Finance Minister **Donna Harpauer**. "This budget sets the stage for a new decade of growth by keeping Saskatchewan's finances and our economy on track," she said. Highlights include a 2.5 per cent increase in funding for health care, including coverage of HIV drugs, hearing loss screening for infants, and supports for autistic children. Increased funding for social services and education, investments in infrastructure, and new business incentives are also of note. According to Ms. Harpauer, the budget keeps Saskatchewan on track in its second year of a three-year plan to reduce reliance on resource revenues and return to a balanced budget by 2019.

Finance critic **Cathy Sproule** countered that Saskatchewan's debt was on track to triple since 2008 and that the increases in education funding did not restore the cuts to education introduced in the previous budget. She cited citizens' struggle to keep up with the increased costs of living due to tax increases and cuts introduced in the previous year's budget, and she criticized the current budget's lack of hope and direction to create long-term growth. On April 11, 2018, she moved an amendment to the budget motion that the Assembly "... disagrees with the government for tabling a budget that fails to make smart investments to grow the economy, create jobs, prioritize education, and protect the most vulnerable."

The budgetary motion was passed by the Assembly on April 18, 2018.

Significant Legislation

Debate time devoted to each of three bills tripled the average time spent on debate per piece of legislation this session: *The Cannabis Control (Saskatchewan) Act*; *The Animal Protection Act, 2017*; and *The Vehicles for Hire Act*. Each of these bills received Royal Assent on May 30, 2018.

The Vehicles for Hire Act provides the framework for ridesharing services, such as Lyft and Uber, to operate in Saskatchewan. *The Animal Protection Act, 2017*

strengthens Saskatchewan's existing animal protection laws and expands the authority of animal protection officers. As a response to the federal government's decision to legalize cannabis, *The Cannabis Control (Saskatchewan) Act*, with nearly five hours of debate time, provides the framework for the legal distribution, sale, and use of cannabis in Saskatchewan.

In support of the Kinder Morgan Trans Mountain pipeline expansion, the Legislative Assembly passed *The Energy Export Act*. At the discretion of the minister, permits may be required for individuals or companies to import, export, or transport gas, oil, and refined fuel through Saskatchewan, and limits may be placed on the amount of gas, oil, or refined fuel to be moved.

Portrait Hanging

On July 28, former Speaker **Corey Tochor's** portrait will join the collection of 29 portraits of former Speakers hanging in the Speaker's Gallery. The portraits date back to the 1800s with the oldest being that of **Herbert Charles Wilson** who served as Speaker of the North-West Territories from 1880 to 1890. Mr. Tochor, MLA for Saskatoon Eastview, was elected to serve as Speaker in May 2016 but resigned the role in January 2018 to seek a federal Conservative Party nomination.

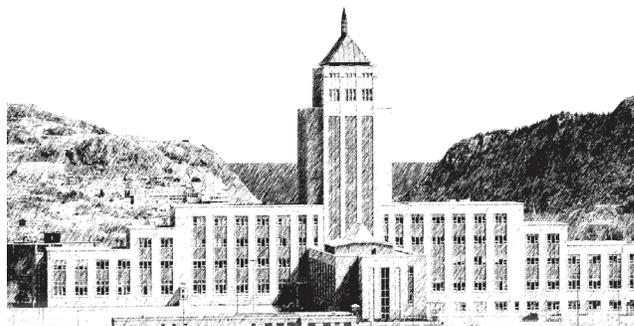
Candidates for Federal Election

Two Saskatchewan MLAs will run for the federal Conservative Party in the next federal election. Mr. Tochor was nominated as the candidate for the riding of Saskatoon-University on March 10, 2018, and **Warren Steinley**, MLA for Regina Walsh Acres, was nominated as the candidate for the riding of Regina-Lewvan on April 23. Both will continue their MLA responsibilities until the federal election expected in October 2019.

Sensitivity Training

As a result of the Board of Internal Economy directive passed in November 2017 to conduct a review of its existing anti-harassment policies and develop a best-practices framework, the Board has asked the Assembly administration to provide sensitivity training for members. Sensitivity training will begin in the fall, and sessions will include a special module for caucus staff. Work on the anti-harassment best-practices framework is ongoing.

Anne Drake
Committee Coordinator



Newfoundland and Labrador

The House reconvened, following the Easter break, on April 16 when they resumed debate on the Budget Speech which concluded on May 14. The Supply Bill and the total amount in the estimates of \$7,817,543,600 were carried on May 22.

On April 8 the New Democratic Party elected **Gerry Rogers**, MHA as their leader. Ms. Rogers represents the District of St. John's Centre in the House of Assembly.

On April 28 the Progressive Conservative Party elected **Chesley Crosbie** as their leader. Mr. Crosbie is not a Member of the House of Assembly.

On May 12th **Paul Davis**, MHA, former Leader of the Official Opposition, announced that he was stepping down from the position but would continue to represent the District of Topsail-Paradise. **David Brazil**, MHA for Conception Bay East – Bell Island was designated Leader of the Official Opposition in the House of Assembly.

During the Spring sitting two Cabinet Members were suspended from the Liberal caucus and now sit on the opposition side of the House as unaffiliated Members. Both Members have been accused of harassment by other Members and are under investigation by the Commissioner of Legislative Standards in accordance with the provisions of the Code of Conduct.

On May 2, **Tracey Perry**, MHA for Fortune Bay Cape - La Hune proposed a Private Member's motion calling on the House of Assembly to develop through the Privileges and Elections Committee a legislature-specific harassment policy, similar to that of the Nova Scotia House of Assembly. The Resolution was

passed unanimously. The Committee is charged with consulting Members and employees of the House, and independent groups having expertise in handling such complaints, as it carries out its mandate. The Committee comprising Members representing all parliamentary groups in the House has been meeting with the groups and individuals specified in the Resolution and expects to report to the House upon resumption of the Session in the Fall.

During the Spring sitting the House passed 24 Bills, including: *An Act Respecting Children And Families*, *An Act Respecting Tenancies Of Residential Premises* and *An Act Respecting The Control And Sale Of Cannabis* along with consequential amendments to the *Highway Traffic Act*, the *Smoke -Free Environment Act* and the *Liquor Control Act*

For the Spring sitting, the House instituted a provisional standing order permitting replies to Petitions. The practice appeared to be well received. The Standing Orders Committee will determine before the next sitting whether or not to recommend that the House adopt the practice permanently.

On May 3 the House adjourned following the granting of Royal Assent by the Lieutenant Governor **Judy Foote**. The House will resume sitting on November in accordance with the parliamentary calendar.

Elizabeth Murphy
Clerk Assistant



Manitoba

3rd Session of the 41st Legislature – Spring Sitting

The Third Session of the 41st Legislature resumed on March 7, 2018 with adjournment scheduled for June 4,

2018. During the Spring sittings, the House considered Specified Government Bills, Departmental Estimates in the Committee of Supply, and other steps of the budgetary process.

On June 4, the Premier sent the Speaker notice that, in accordance to the Rules of the Legislative Assembly of Manitoba, the House was recalled starting June 6 for an emergency session to consider financial matters. The Rules state that the Government can recall the House at any time for 21 calendar days.

On June 4, 18 Government Bills and five Private Members' Bills received Royal Assent, including:

- Bill 4 – *The Legislative Assembly Amendment Act (Member Changing Parties)*, repealing the provision of *The Legislative Assembly Act* that requires a Member of the Assembly elected as a member of a political party to sit as an independent if they cease to belong to that party;
- Bill 11 – *The Safe and Responsible Retailing of Cannabis Act (Liquor and Gaming Control Act and Manitoba Liquor and Lotteries Corporation Act Amended)* to authorize and regulate the retail sale of cannabis in Manitoba when such sales are permitted by the federal government;
- Bill 18 – *The Child and Family Services Amendment Act (Taking Care of Our Children)* to establish a legislative basis for supporting the provision of customary care to Indigenous children through agreements and living arrangements;
- Bill 20 – *The Employment Standards Code Amendment Act (2)*, which makes several changes to *The Employment Standards Code* including extending parental leave from 37 weeks to 63 weeks and raising the minimum age for employment to 13 years of age;
- Bill 25 – *The Non-Smokers Health Protection and Vapour Products Amendment Act (Prohibiting Cannabis Consumption in Outdoor Public Places)*, to prohibit the smoking or vaping of cannabis in outdoor public places and other places specified by regulation;
- Bill 300 – *The University of Manitoba Students' Union Amendment Act* which amends *The University of Manitoba Students' Union Act*.

Sessional Order

On June 25, two days prior to the scheduled ending of the emergency session, the House passed a Sessional Order requiring the Legislature to adjourn for the summer on that day instead of on June 27. The

Sessional Order also stipulated that certain actions happen in subsequent months.

The various provisions of the Sessional Order include:

- On June 25, 2018, all remaining questions necessary to conclude certain steps of the Main and Capital Supply Procedure had to be put;
- The Standing Committee on Rules of the House shall meet on September 6, 2018, to consider amendments to the Rules, Orders and Forms of Proceeding of the Legislative Assembly of Manitoba;
- *The Budget Implementation and Tax Statutes Amendment Act* is to be distributed intersessionally on August 15 and will be debated starting October 3 in accordance with the guidelines contained in the Sessional Order;
- The remaining steps to complete the Main and Capital Supply Procedure are to be concluded on October 11.

Committee of Supply

The Committee of Supply began consideration of the Estimates of the Departmental Expenditures on April 4th, completing the process on May 17th. On the last sitting day before the summer, the Committee completed consideration and adopted the motion to concur in all of the resolutions relating to the Estimates of Expenditure for the fiscal year ending March 31, 2019.

Before the House rose for the summer, the Committee of Supply also considered and passed supply resolutions dealing with temporary funding for operating and capital expenditures until the main supply bills are completed in the fall. The House also dealt with passing all stages of a second Interim Supply bill. As a result, Bill 19 – The Interim Appropriation Act, 2018 (2) received Royal Assent on June 20, 2018.

Standing Committees

During the Spring sittings, the Standing Committees on Social and Economic Development, Legislative Affairs, Private Bills, Human Resources, and Justice held a total of eight meetings receiving public presentations on legislation and completing consideration of clause-by clause of several bills. In addition, the Standing Committee on Public Accounts met twice to consider several Auditor General's Reports covering issues relating to Manitoba Hydro Corporation and the

department of Finance, including the Public Accounts for the previous fiscal year.

Finally, after the House adjourned for the summer, the Standing Committee on Public Accounts met to consider annual reports of the Manitoba Hydro-Electric Board.

Award for the Chamber renovation project

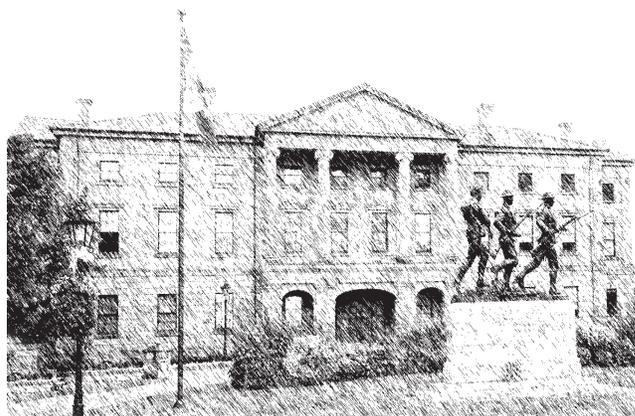
As noted in previous submissions, the Manitoba Chamber has undergone extensive renovations for two years to improve accessibility. Last February Heritage Winnipeg has awarded the renovation project with the 2018 Preservation Award for Excellence for sensitively adding barrier-free accessibility within the Chamber, including the restoration of character defining element such as marble flooring, bronze railings, the historic desks, and curtains.

Current Party Standings

The current party standings in the Manitoba Legislature are: Progressive Conservatives 39, New Democratic Party 12, five Independent Members, and one vacancy.

Andrea Signorelli

Clerk Assistant/Clerk of Committees



Prince Edward Island

Third Session, 65th General Assembly

The Third Session of the 65th General Assembly resumed on April 5, 2018, and adjourned to the call of the Speaker on June 12, 2018. This was an unusually long spring sitting; at 39 sitting days, it equaled the previous record set in 1999.

House Business

During the spring sitting, Government tabled a total of 18 bills. At adjournment, 15 Government bills had passed all stages and received Royal Assent; several of these were notable new pieces of legislation or significant amendments to existing Acts. Bill 29, *An Act to Respond to the Legalization of Cannabis*, made changes in the areas of cannabis control; established the Cannabis Management Corporation to manage the distribution and sale of cannabis and promote its responsible consumption; and updated the *Highway Traffic Act* and *Smoke-free Places Act*. The authority to enter into a cannabis taxation agreement with the Government of Canada was established through Bill 31, *Cannabis Taxation Agreement Act*. The *Freedom of Information and Protection of Privacy Act* received significant amendments through Bill 39, including making PEI's post-secondary institutions and major municipalities subject to the provisions of the *Act*. Bill 37 amended the *Election Expenses Act* to allow candidate and political party contributions to come only from individuals ordinarily resident in the province (whereas unions and corporations could previously make contributions) and set an individual's contribution limit at \$3,000 per calendar year. Finally, Bill 38, *Electoral System Referendum Act* established the referendum question on whether to move to a Mixed Member Proportional electoral system. This referendum will coincide with the next provincial general election. The bill also provides for public funding and advertising rules for proponents and opponents of MMP, which shall be overseen by a Referendum Commissioner in the lead up to the referendum. Debate on Bill 38 included debate on the principle of the bill at second reading, which is uncommon, and stretched over nine days in Committee of the Whole House, during which many sections of the bill were amended.

Eleven Private Members' Bills were introduced during the spring sitting by members of the Official Opposition, the Third Party, the independent member, and a private member of the governing party. Four Private Members' Bills passed all stages and received Royal Assent. Bill 116, *An Act to Amend the Employment Standards Act (No. 3)* provides for paid and unpaid leaves of absence for employees whom have been subjected to domestic violence, intimate partner violence or sexual violence. Bill 114, *Plastic Bag Reduction Act*, aims to reduce waste and environmental damage by prohibiting businesses from providing single-use plastic checkout bags to customers. It is believed to be the first such prohibition by a Canadian province. Bill 113, *An Act to Amend the*

Provincial Emblems and Honours Act, named the red fox (*Vulpes vulpes*) as the animal emblem of the province. The push for this designation started with elementary students at Montague Consolidated School, who first convinced the Standing Committee on Education and Economic Development through artwork, persuasive writing and testimony to recommend this designation to the Legislative Assembly. Finally, Bill 108, *An Act to Amend the Island Investment Development Act*, amended the parent *Act* to require that four members of the Island Investment Development Corporation's Board of Directors be representatives of the private sector chosen from PEI's business community.

Budget

Minister of Finance **Heath MacDonald** gave the Budget Address on April 6, 2018. Major investments in the 2018-2019 operating budget include a \$32.48 million increase in the health budget, with new measures such as student well-being teams and an increase of 100 long-term care beds over the next two years; and an additional \$17 million in education to be used for additional teachers and educational assistants, and new childcare spaces. The budget also entailed a 0.5 per cent decrease in the small business tax rate, and a \$1,000 increase to the Basic Personal Amount over two years. All told, revenues are estimated at \$1.985 billion, and expenditures just under \$1.984 billion.

Speaker's Rulings

During the spring sitting Speaker **Francis (Buck) Watts** made several rulings in response to Points of Order, addressing matters such as the *sub judice* convention, the admissibility of questions put to ministers outside their areas of responsibility, parliamentary language, whether misrepresentation or factual disagreement between members violates the rules of the Assembly, proper use of the routine "Responses to Questions Taken as Notice", and the means by which disorder in committee ought to be dealt with and reported.

On two occasions Speaker Watts issued rulings on matters raised as Points of Privilege. On April 11, 2018, Minister of Education, Early Learning and Culture and Justice and Public Safety **Jordan Brown** raised a Point of Privilege alleging that **S. Forrest (Bush) Dumville**, in questions posed during Oral Question Period, breached caucus confidentiality by referring to the content of confidential meetings. In his ruling on April 17, 2018, Speaker Watts found that the alleged breach of caucus confidentiality did not meet the

prima facie test of privilege as the meetings in question were, as reported by Mr. Dumville, meetings of a few members from the same caucus who were also members of a standing committee. As such they were not parliamentary proceedings to which privilege applies, and neither the Speaker nor the Assembly has a role in upholding any expectations that they remain confidential.

On April 20, 2018, **Darlene Compton** (Belfast-Murray River) and **Steven Myers** (Georgetown-St. Peters) both rose on Points of Privilege to assert that their privileges had been infringed upon after having received threats of legal action in response to questions asked in Oral Question Period by the former member and statements made by the latter member. Both members tabled social media comments from members of the public that were relevant to these Points of Privilege. The Speaker reviewed the matter, and on April 26 issued a ruling, in which he found that the social media comments were opinions, not threats that actually impinged on the ability of either member to do their jobs properly, and thus there was not a breach of privilege. The Speaker assured all members that he would defend the privileges of all members if an attempt were made to file a lawsuit based on the conduct of any member during parliamentary proceedings. He also reminded members that the protection of the privilege of freedom of speech in debate does not necessarily extend beyond parliamentary proceedings, and that this privilege also confers upon them a responsibility to avoid harming the reputations of individuals who have no legal redress available to them.

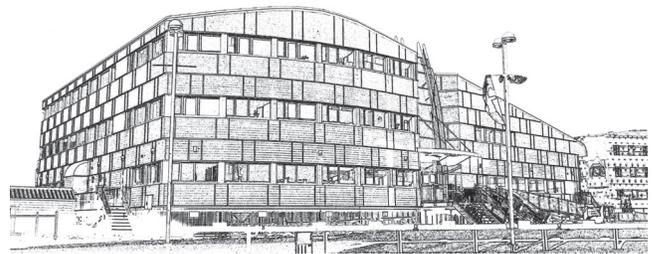
Report of the Standing Committee on Rules, Regulations, Private Bills and Privileges

On April 26, 2018, **Kathleen Casey** (Charlottetown-Lewis Point), Chair of the Standing Committee on Rules, Regulations, Private Bills and Privileges, tabled the committee's report entitled "Recommendations Regarding Rules Changes". The committee proposed rule changes to omit an outdated requirement that members participate in debate with "head uncovered"; to clarify the notice requirement for referring a matter to a committee; to discontinue a notice requirement for leave to introduce a Private Member's Bill; to require that the motion to adopt a committee report be moved on the sitting day following the day the report was tabled; and to require that written executive responses to committee reports be tabled during the next seasonal sitting. The committee also indicated its intention to publish a White Paper on the review of the Rules of the Legislative Assembly. This will

include suggestions for modernization of the rules in areas such as updates to the legislative process, the function of committees, petitions, sitting hours, and the parliamentary calendar. The committee intends to publish the White Paper and seek input from the public as well as Members of the Legislative Assembly. The Assembly adopted the committee's report.

Ryan Reddin

Clerk Assistant – Research and Committees



Nunavut

House Proceedings

The spring 2018 sitting of the 2nd Session of the 5th Legislative Assembly convened on May 24 and concluded on June 14.

The proceedings of the Committee of the Whole during the spring 2018 sitting were dominated by the consideration of the government's proposed 2018-2019 main estimates and departmental business plans.

On June 12, 2018, Chairperson of the Regular Members' Caucus and Arviat North-Whale Cove MLA **John Main** gave notice of a motion of non-confidence in Premier **Paul Quassa**. The motion was seconded by Gjoa Haven MLA **Tony Akoak**. The terms of the motion called for Mr. Quassa to be removed from the Executive Council. Under the *Legislative Assembly and Executive Council Act*, the Premier and other members of the Executive Council "hold office during the pleasure of the Legislative Assembly."

The motion was formally considered on June 14, 2018. All Members of the Legislative Assembly were present in the House for consideration of the motion. A total of nine Members spoke to the motion during debate. Sixteen Members, including six out of eight Ministers, voted in favour of the motion. Three Members, including one Regular Member, voted against the motion. Two Members abstained. The Speaker did not vote.

Immediately following passage of the motion, the House recessed at 12:40pm to allow for the convening of the Nunavut Leadership Forum, which consists of all Members of the Legislative Assembly. The Forum is used to conduct the selection process for the Speaker, Premier and members of the Executive Council of Nunavut. The Forum's proceedings were open to the public to observe from the Visitors' Gallery and were televised live across the territory.

Three Members accepted nominations to serve as Premier: Rankin Inlet South MLA **Lorne Kusugak**, Aivilik MLA **Patterk Netser** and Arviat South MLA **Joe Savikataaq**. Messrs. Kusugak and Savikataaq were both serving Ministers at the time of nomination. Each candidate was permitted to deliver a 10-minute speech. Members not standing for Premier were permitted to ask up to two questions to the candidates. In a secret ballot vote, Mr. Savikataaq was elected as Premier on the second round of balloting.

Iqaluit-Tasiluk MLA **George Hickes** was subsequently acclaimed to fill the vacancy on the Executive Council. Mr. Hickes, who had previously served as both a Regular MLA and a Minister during the 4th Legislative Assembly (2013-2017), was later appointed Minister of Finance by Premier Savikataaq.

Following the conclusion of the proceedings of the Nunavut Leadership Forum, the sitting of the House reconvened at 8:00pm. Formal motions to confirm the results of the leadership selection process were unanimously adopted.

Five bills received Assent during the spring 2018 sitting:

- Bill 3, *Cannabis Statutes Amendment Act*;
- Bill 4, *Appropriation (Operations and Maintenance) Act, 2018-2019*;
- Bill 5, *Supplementary Appropriation (Capital) Act, No. 1, 2018-2019*;
- Bill 6, *An Act to Amend the Judicature Act and Other Acts in Relation to Judges, 2018*; and
- Bill 7, *Cannabis Act*.

The fall 2018 sitting of the 2nd Session of the 5th Legislative Assembly is scheduled to convene on October 23, 2018.

Committee Activities

From April 30, 2018, to May 1, 2018, the Legislative Assembly's Standing Committee on Oversight of

Government Operations and Public Accounts held a televised hearing on the Auditor General of Canada's *Report to the Legislative Assembly on Climate Change in Nunavut*. The committee's report on its hearing was subsequently presented to the House during its spring 2018 sitting.

Order of Nunavut

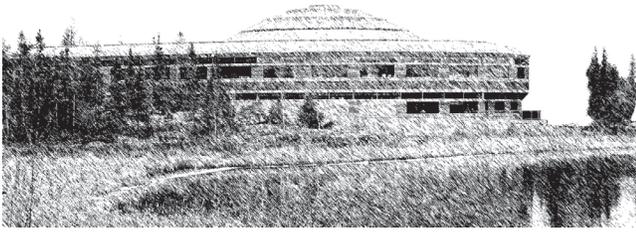
On March 19, 2018, the Order of Nunavut Advisory Council, which is chaired by Speaker of the Legislative Assembly **Joe Enook**, announced that the 2017 appointments to the Order would be **Betty Brewster** and **Ludy Pudluk**. Ms. Brewster is a renowned interpreter-translator whose career has spanned several decades. In 2016, she was recognized by her peers for her lifetime of contributions to the profession with an Inuit Uqausinginnik Taiguusiliuqtiit Language Award. Mr. Pudluk served as a Member of the Legislative Assembly of the Northwest Territories from 1975 to 1995. During his many years of public service, Mr. Pudluk represented the communities of the High Arctic and was instrumental in the movement that led to the creation of Nunavut. The investiture ceremony for the recipients was held in the Chamber of the Legislative Assembly on June 5, 2018. The ceremony was televised live across the territory. Commissioner of Nunavut **Nellie Kusugak** presided over the ceremony in her capacity as Chancellor of the Order. Official tributes to the recipients were provided by Justice **Susan Cooper** of the Nunavut Court of Justice and Senator for Nunavut **Dennis Patterson**.

Recognition of Former Sergeant-at-Arms

On June 12, 2018, Speaker Enook presided over a ceremony held in the Chamber of the Legislative Assembly to honour recently-retired Sergeant-at-Arms **Simanek Kilabuk**. The ceremony was televised live across the territory. Speaker Enook's remarks noted that Mr. Simanek first carried the Mace into the Chamber on the occasion of the November 14, 2001, sitting of the House. Mr. Kilabuk officially retired from service at the dissolution of the 4th Legislative Assembly. At the conclusion of the ceremony, Speaker Enook presented Mr. Kilabuk with a commemorative gift incorporating a miniature rendition of the Legislative Assembly's Mace that was created by master artist **Jose Pitseolak** of Pond Inlet.

Alex Baldwin

Office of the Legislative Assembly of Nunavut



Northwest Territories

Mid Term Review

Early in the 18th Assembly, Members decided to hold a public mid-term review to demonstrate their commitment to greater transparency and accountability, to evaluate progress on the implementation of the Assembly's priorities and to provide a mechanism to evaluate the performance of the Executive Council. By way of motion, the matter was referred to the Standing Committee on Rules and Procedures for further consideration and to recommend a process, including terms of reference, for the mid-term review. The Standing Committee reported back to the Assembly in October of 2016.

On October 5, 2017 all 19 members of the Legislative Assembly participated in the Midterm Review process. The Premier was permitted 10 minutes to make a statement on the leadership and performance of Cabinet, and each Minister was permitted to make a statement up to five minutes on their leadership and performance. Following the statements by all Ministers, each Member was permitted two questions to each Minister, no longer than two minutes each. Once questions to Ministers were complete, Members were permitted up to two questions no longer than two minutes to the Premier. When all questions were concluded, the Members then cast a secret ballot vote of confidence or non-confidence in an open forum in the Chamber of the Legislative Assembly.

The outcome of the review: five Ministers and the Premier received a majority vote of confidence, and one Minister received a majority vote of non-confidence. When the third session convened on October 17, there was a notice of motion to revoke the appointment of Minister **Louis Sebert**. The motion was defeated on October 18 with a recorded vote of 7 in favour, 11 against, 0 abstentions.

October Sitting

On October 17, 2017, **Margaret M. Thom**, Commissioner of the Northwest Territories, gave her opening address for the third session of the 18th Legislative Assembly. Ms. Thom's focused on the Mandate of the Government of the Northwest Territories, as the 18th Assembly was the first to formally adopt a Mandate for improved transparency and accountability for the people it serves. The short four day sitting adjourned on October 20, 2017.

Legislation

On October 19, Bill 1: *Western Canada Lottery Act* received first reading, and Bill 2: *Supplementary Appropriation Act (Infrastructure Expenditures)*, No. 3, 2017-2018 received first, second, and third reading.

On October 20, Bill 1: *Western Canada Lottery Act* received second reading and was referred to standing committee for review. Bill 3: *Supplementary Appropriation Act (Operations Expenditures)*, No. 3, 2017-2018 and Bill 4: *Supplementary Appropriation Act (Infrastructure Expenditures)*, No. 1, 2018-2019 received first, second, and third reading. All three *Supplementary Appropriation Acts* received Royal Assent that same day.

Committee Activity

Three substantive Committee Reports were presented during this sitting:

On October 17, 2017 the Standing Committee on Government Operations, chaired by **Kieron Testart**, presented its Report on the Review of the 2015-2016 Public Accounts of the Government of the Northwest Territories. The Standing Committee on Rules and Procedures, chaired by **Kevin O'Reilly** presented its Report on the Chief Electoral Officer's Report on the Administration of the 2015 Territorial General Election, Supplementary Recommendations and the White Paper on the Independence and Accountability of Election Administration in the NWT. The Standing Committee on Social Development, chaired by **Shane Thompson**, presented its Report on Motion 32-18(2) Referral of Petition 6-18(2): Elimination of Time Change in the Northwest Territories to the Standing Committee on Social Development on October 19.

Retirement

On October 20, 2017, **Robert C. McLeod** presented a motion in the House: Expression of Gratitude to Deputy Clerk **Douglas Schauerte** for Dedicated and Exemplary Service. Mr. Schauerte provided devoted and exemplary public service to the Legislative Assembly for over 30 years, serving as Deputy Clerk since 1995. The members voted unanimously in favour of this motion to designate Douglas Schauerte as an honorary officer of this Legislative Assembly with entry into the Chamber and a seat at the Clerk's table. During his closing remarks, Speaker **Jackson Lafferty** said "Throughout his career, Doug has served this institution, our Legislative Assembly, all Members, and committees with dedication and professionalism. He has developed a wealth of knowledge that is second to none."

February-March Sitting

The Third Session resumed on February 7, when Premier **Robert R. McLeod** delivered a sessional statement with an emphasis on growing a strong and sustainable economy for the future of the Northwest Territories, which includes more jobs and financial security in all the communities and regions.

The next day, Finance Minister Robert C. McLeod, delivered the third budget address of the 18th Assembly. The 2018-2019 budget proposed operating expenditures of \$1.713 billion and \$1.75 billion in estimated revenues, leaving an overall surplus of \$23 million. The 2018-2019 budget continued the efforts set out at the beginning of the 18th Assembly by enhancing existing programs, while providing resources to update land and resource management alongside Indigenous governments and to work on a long-term energy and climate change plan. Over the next 12 sitting days, seven of the 11 regular Members delivered Replies to the Budget Address in which they offered their views on the budget, and some concerns such as a lack of increased investment on renewable or alternative energy, reductions in funding to the department of Education, Culture, and Employment, and the need to put more funding into addictions treatment, to name a few.

Over the next four weeks the budget was thoroughly discussed in Committee of the Whole, and on March 15 the Finance Minister presented Bill 12: *Supplementary Appropriation Act (Operations Expenditures)*, No. 1, 2018-2019 which increased the operations budget by \$1.1 million. This included an

increase for funding for the Arts Council, two new government service officer positions in Jean Marie River and Sambaa K'e, and two new land specialist positions.

Legislation

During this sitting, the following legislation was considered:

- Bill 1: *Western Canada Lottery Act*
- Bill 5: *An Act to Amend the Summary Conviction Procedures Act*
- Bill 6: *Cannabis Legalization and Regulation Implementation Act*
- Bill 7: *Chartered Professional Accountants Act*
- Bill 8: *Emergency Management Act*
- Bill 9: *Appropriation Act (Operational Expenditures)*, 2018-2019
- Bill 10: *Supplementary Appropriation Act (Infrastructure Expenditures)*, No. 4, 2017-2018
- Bill 11: *Supplementary Appropriation Act (Operations Expenditures)*, No. 4, 2017-2018
- Bill 12: *Supplementary Appropriation Act (Operations Expenditures)*, No. 1, 2018-2019

Bill 1 was reported to the House on March 1, had third reading on March 6, and received Royal Assent on March 13.

Bills 5, 6, 7 and 8 received first and second reading and were referred to Standing Committee for review. Bill 9 received first, second and third reading and received Royal Assent on March 13. Bills 10, 11 and 12 received first, second, and third reading and received Royal Assent on March 15.

Committee Activity

Two substantive Committee Reports were read in the House on February 27:

The Standing Committee on Social Development, chaired by Mr. Thompson presented its Report on Adult Residential Addictions Treatment Facilities Tour 2017. The Government of the Northwest Territories contracts with four adult residential treatment facilities in Alberta and British Columbia. The committee visited these four facilities from December 3-8, 2017 to better understand the options available to Northerners and develop recommendations for better addictions treatment in the territories. The report contained four recommendations:

- The Department of Health and Social Services (HSS) enhance its public communications on addictions treatment;
- HSS enhance community-based aftercare;
- HSS partner with its fellow social envelope departments and community governments to ensure Northerners are not discharged from programs into homelessness;

The Government of the Northwest Territories provide a comprehensive response to the report within 120 days.

The Standing Committee on Government Operations, chaired by Mr. Testart, presented its report on the Review of Bill 1: *Western Canada Lottery Act*. Bill 1 garnered much public feedback on the allocation of funding, mainly that there should be more funding for the arts as opposed to being allocated solely to physical activity/recreation. The report contained two recommendations:

- The Minister of Municipal and Community Affairs develop a funding policy which provides clear guidance as to funding eligibility requirements, to guide the disbursement of lottery funding under the new *Western Canada Lottery Act*; and
- The Minister of Municipal and Community Affairs make a submission to the Financial Management Board (FMB) requesting that the FMB establish a limit on any accumulated deficit or surplus in the fund, and that the limit be made public, shared with committee, and reported annually in the year-end report on the fund.

On March 14 the Standing Committee on Government Operations also presented its Report on the Review of the *2017 Report of the Auditor General of Canada on Climate Change in the Northwest Territories*. The report contained 11 recommendations including endorsing the eight recommendations made by the Office of the Auditor General in its report. Among the recommendations, the Government of the Northwest Territories should: provide a copy of their action or implementation plan at the earliest opportunity, bring forward a draft of the Climate Change Strategic Framework, and provide a response to the report within 120 days.

May Sitting

The Third session of the 18th Legislative Assembly reconvened on May 24, 2018 for a short, but very

busy, seven-day sitting. Premier McLeod delivered a sessional statement emphasizing the importance of strategic engagement with the Government of Canada to help advance northern priorities and interests, particularly the Pan-Territorial vision for sustainable Development issued by the three Territories which forms the basis for the Arctic Policy Framework. Premier McLeod also spoke of the several pieces of proposed legislation being introduced, and the progress of the government's mandate commitments with two significant additions: a foundational review of Aurora College; and the legalization of cannabis in the Northwest Territories.

Legislation

During this seven-day sitting, the following legislation was considered:

- Bill 5: *An Act to Amend the Summary Convictions Procedures Act* which amends the *Act* to provide that the *Act* does not apply to the contravention of a municipal parking bylaw for which an administrative monetary penalty has been established;
- Bill 6: *Cannabis Legalization and Regulation Implementation Act* enacts two new statutes relating to the legalization and regulation of cannabis: the *Cannabis Products Act* and the *Cannabis Smoking Control Act*. The Bill also amends the *Motor Vehicles Act* to provide for prohibitions and enforcement measures related to persons who operate motor vehicles while their ability to do so is impaired by alcohol or a drug or by a combination of both, and to ensure consistency with the proposed amendments to the *Criminal Code* included in Federal Bill C-46, *An Act to amend the Criminal Code (offences relating to conveyances)*;
- Bill 19: *An Act to Amend the Revolving Funds Act* to increase the authorized limit of the Liquor Revolving Fund;
- Bill 21: *An Act to Amend the Northwest Territories Business Development and Investment Corporation Act* which allows the NWTBDIC to use money received by the Corporation in interest in a financial year if certain conditions are met; and correct an outdated reference to federal legislation in the definition of a "business enterprise";
- Bill 22: *Supplementary Appropriation Act (Infrastructure Expenditures)*, No. 2, 2018-2019
- Bill 23: *Supplementary Appropriation Act (Operations Expenditures)*, No. 2, 2018-2019

All of the aforementioned Bills received Royal Assent on June 1, 2018.

The following legislation was introduced, received second reading and referred to their respective Standing Committee for review:

- Bill 13: *An Act to Amend the Securities Act*
- Bill 14: *Miscellaneous Statute Amendment Law Act, 2018*
- Bill 15: *Document Formalization, Service and Notice Reform Statute Law Amendment Act*
- Bill 16: *An Act to Amend the Social Assistance Act*
- Bill 17: *An Act to Amend the Student Financial Assistance Act*
- Bill 18: *An Act to Amend the Cities, Towns and Villages Act*
- Bill 20: *Ombudsperson Act*

Committee Activity

The Government of the Northwest Territories decided to adopt its own framework for the upcoming federal legalization of Cannabis. Bill 6: *Cannabis Legalization and Regulation Implementation Act* creates two new Acts and makes amendments to the existing *Motor Vehicles Act*. Bill 6 had its first reading on February 28, 2018, second reading on March 1, and was referred to Standing Committee for review. The bill touches on many different areas, from cannabis control to road safety, and thus overlapped the mandates of multiple standing committees. To that end, both the Standing Committee on Government Operations and the Standing Committee on Social Development decided to work collaboratively to review of the bill.

Between April 23 and May 4, the committees travelled to 16 communities in the Northwest Territories to hold public meetings and to receive public feedback on the proposed legislation. The public clause-by-clause review was held on May 28, where the committee moved 22 motions, including nine developed by the Department of Justice and two developed by the Member for Frame Lake. The Minister concurred with 18 of these motions to amend the Bill during the clause-by-clause review. The four motions that the Minister did not concur with were moved on the floor of the House during consideration of the Bill in Committee of the Whole on May 31. Of the four motions presented, one was carried and three were defeated.

The substantive report on the Bill considered in Committee of the Whole on May 30 contained eight

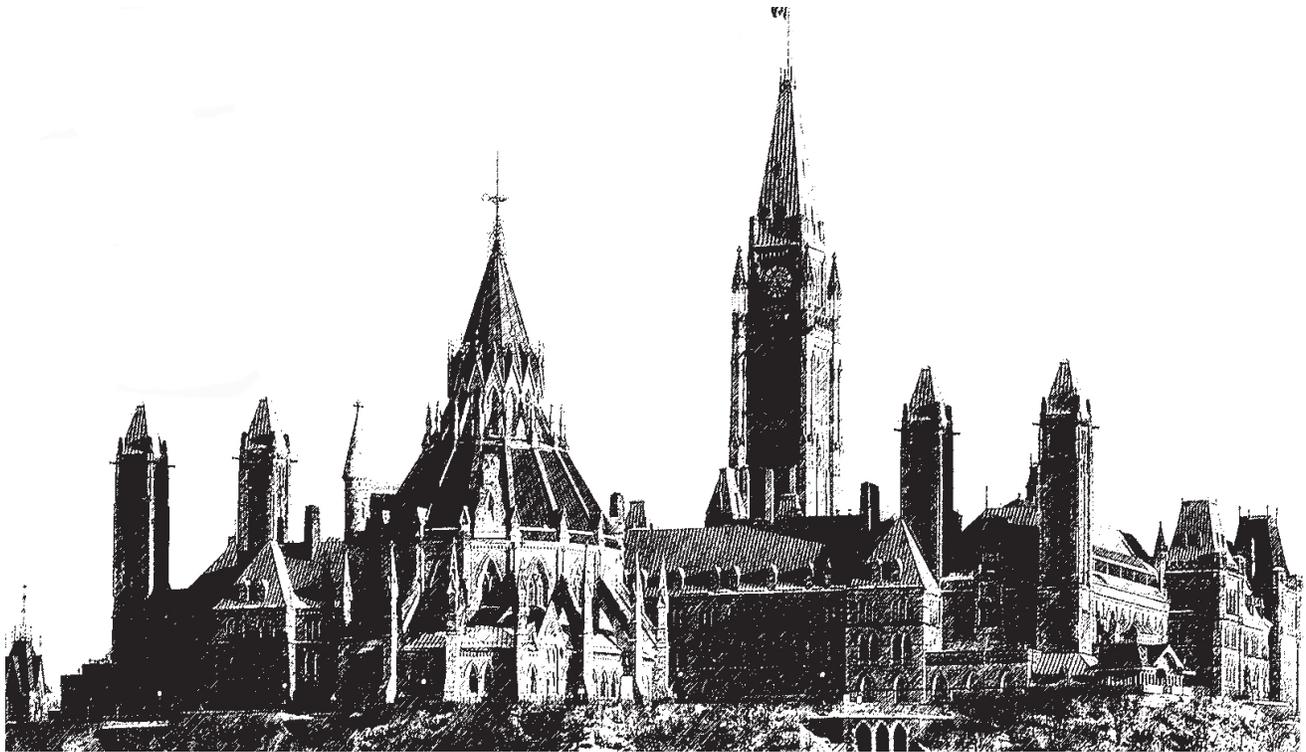
recommendations to the Government of the Northwest Territories, which included the development of a fully-costed implementation plan, development of curricula to deliver evidence-based health and safety education, consider specific targets for the disbursement of cannabis-related revenue, and to provide a response to the report in 120 days, to name a few.

In addition to the Bills referred to Standing Committee during this sitting, the Standing Committee on Government Operations is currently reviewing Bill 7: *Chartered Professional Accountants Act* and Bill 8: *Emergency Management Act*. Bill 7, which has a parallel statute to be introduced in Nunavut, establishes the Organization of Chartered Professional Accountants, which will be responsible for regulating the profession of accounting in Northwest Territories and Nunavut. Bill 8 repeals and replaces a former Act and reflects a new emergency management structure consistent with current operational territorial realities. The committee also presented its *Report on the Review of the 2016-2017 Public Accounts of the Government of the Northwest Territories* to the House on May 31. The report included eight recommendations to the Government of the Northwest Territories.

Live Streaming of Committee Meetings

Due to the remote nature of many communities in the Northwest Territories, the Assembly has undertaken to broadcast proceedings on available social media platforms to improve access by all residents of the Territories. Facebook Live streaming of committee meetings at the Legislative Assembly has been ongoing since early 2017. In November 2017, the Assembly began live streaming on Facebook, YouTube, Twitter and the Legislative Assembly Website simultaneously. The emphasis placed upon public engagement and transparency by the 18th Assembly has enabled the meetings to reach a broader audience. Outside of the Legislative Assembly based meetings, extensive public meetings on Bill 6: *Cannabis Legalization and Regulation Implementation Act* were conducted throughout the Northwest Territories. For the first time, meetings held in remote communities, such as Ulukhaktok and Deline (accessible only by plane and ice road), were broadcast via Video and/or Audio web streaming making the discussions available to other regions of the Northwest Territories and Canada.

Jennifer Franki-Smith
Committee Clerk Trainee



House of Commons

The First Session of the 42nd Parliament continued through the spring with the House adjourning for the summer break on June 20, 2018. The information below covers the period of March 28 to June 21, 2018.

Financial Procedures

On June 14, 2018, the final supply day in the period ending June 23, the House considered motions to concur in the Main Estimates for the fiscal year ending March 31, 2019. In an effort to encourage the Government to release a breakdown of the cost of carbon pricing to Canadians, the opposition parties put on notice no fewer than 197 opposed items in the Estimates. Similar to the events that transpired on March 22, 2018, the House continued sitting over two calendar days until such time that **Mark Strahl** (Chilliwack—Hope) sought and obtained unanimous consent that the remaining motions to concur in all opposed items be deemed adopted on division, and that the motion to concur in the unopposed Votes be deemed adopted on division. As per the usual practice, the House adopted the supply bill for the Main Estimates.

Legislation

In early 2018, Bill C-49, *An Act to amend the Canada Transportation Act and other Acts respecting transportation and to make related and consequential amendments to other Acts*, originally introduced in the House by the Minister of Transportation, **Marc Garneau** (Notre-Dame-de-Grâce—Westmount) on May 16, 2017, continued its passage through the Senate. The Bill, that proposes changes to the *Canada Transportation Act* and the Canadian Transportation Agency, gave rise to a volley of messages between the two Chambers. On April 16, 2018, a message was received from the Senate informing the House that the Senate had passed the Bill with amendments. Following debate on the Senate amendments on May 3, 2018, the House voted to accept certain amendments to the Bill, respectfully disagreed with 12 amendments and made a few further amendments to the Senate's original amendments. The Senate responded in kind with another message to the House insisting on two amendments. On May 22, 2018, the House agreed, by a vote of 163 to 123, to send a message to the Senate that the House respectfully rejected the Senate's amendments. Later that same day, the House was notified that the Senate did not insist on its amendments to which the House had

earlier disagreed. The Bill received Royal Assent on May 23, 2018.

Procedure and Privilege

Procedure

On May 29, 2018, the House adopted a motion which temporarily managed the business of the House until June 22, 2018. Amongst other provisions, the motion had the effect of extending the sitting hours of the House so that the hour of daily adjournment from Monday to Thursday would be 12 midnight, except in relation to a debate pursuant to Standing Order 52 or 53.1. As an outcome, a number of bills received Royal Assent before the House adjourned for the summer including Bill C-45, *An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts* and Bill C-50, *An Act to amend the Canada Elections Act (political financing)*.

Points of Order

On April 23, 2018, **Peter Julian** (New Westminster—Burnaby) rose on a point of order to request the application of Standing Order 69.1 to Bill C-74, *An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures*. Mr. Julian maintained that the Bill was an omnibus bill that should be split for the purposes of voting on the motion at second reading, particularly as it relates to the section on carbon pricing which represents 215 of the 566 pages in the Bill. Immediately following Mr. Julian's intervention, a motion for time allocation in relation to Bill C-74 was moved by the Leader of the Government in the House of Commons, **Bardish Chagger** (Waterloo) and agreed to by the House in a vote of 164 to 114. The Parliamentary Secretary to the Leader of the Government in the House of Commons, **Kevin Lamoureux** (Winnipeg North), addressed the point of order by stating that the section in dispute was contained in the budget tabled in the House on February 27, 2018, and thereby the Standing Order would not apply. The same day, the Speaker reviewed the relevant sections of the Bill and the budget document to confirm that the provisions identified in the Bill related to carbon pricing were indeed announced in the budget. Given this, the Speaker concluded that Bill C-74 would not be divided.

On June 18, 2018, the Deputy Speaker ruled on a point of order raised on June 11, 2018, by **Matthew Dubé** (Beloeil—Chambly), regarding the applicability of Standing Order 69.1 in relation to the third reading

of Bill C-59, *An Act respecting national security matters*. Mr. Dubé argued that the omnibus bill contained different initiatives that, for the purpose of voting, should be divided. While the Chair was in agreement with Mr. Lamoureux that all measures contained within the Bill relate to national security, the Deputy Speaker concluded that the initiatives were sufficiently distinct to warrant dividing the question on the motion at third reading. It is worth noting that Mr. Dubé originally requested the application of Standing Order 69.1 on November 20, 2017, during debate of the motion to refer Bill C-59 to a committee before second reading. On that same date, the Speaker ruled that the Chair could not invoke the Standing Order as it can only be applied in relation to motions for second and third reading of a bill.

Questions of Privilege

On April 17, 2018, **Rob Nicholson** (Niagara Falls) rose on a question of privilege regarding the alleged premature disclosure of the contents of Bill C-75, *An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts*. Mr. Nicholson argued that within eight minutes of Bill C-75 being introduced in the House, the CBC published an article on the Bill, suggesting that journalists were given advanced access to the contents of the Bill. Mr. Nicholson further argued that the details contained in the news article demonstrated that a leak had occurred and that the government had thus breached the privileges of the House. On April 23, 2018, Mr. Lamoureux intervened on the question of privilege to reaffirm that there was no advance disclosure of the Bill. In his ruling of May 7, 2018, the Speaker reminded Members that the right of the House to first access bills must be balanced with other considerations, such as the complex policy development process that accompanies the drafting of a piece of legislation. In this particular case there was a lack of irrefutable evidence to suggest that details regarding Bill C-75 were divulged before it was introduced, particularly since certain details of the article in question could have come from the summary of the Bill or from background information during the consultation process. After careful review of the arguments presented to the Chair, and assurance that the Government had not divulged the contents of the Bill before it was introduced in the House, the Speaker could not find a *prima facie* case of privilege in this matter.

On May 25, 2018, **Daniel Blaikie** (Elmwood—Transcona) rose on a question of privilege regarding

the rights of Members of Parliament to raise points of order if they suspect that proceedings of the House have been breached. Earlier the same day, Mr. Blaikie rose on a point of order concerning Vote 40 of the Main Estimates 2018-19 during which the Speaker, after some time, interrupted the Member to indicate that he had heard enough and would take the matter under consideration. In his question of privilege, Mr. Blaikie argued that the Speaker abrogated his privileges as a Member of Parliament by not being granted the opportunity to complete his discourse, despite repeated efforts to be recognized in the House. On the same question of privilege, **Candice Bergen** (Portage—Lisgar), noted that Mr. Blaikie had five points to his point of order of which only one was heard by the Chair before advancing to the next order of business. In his ruling of June 4, 2018, the Speaker explained that it is well established that Members, in their interventions on points of privilege or points of order, are expected to make brief presentations on the issue being raised. It is not the practice of the House to raise new points of orders once the Speaker has ruled or determined that sufficient information has been given and the Member has been informed accordingly. Moreover, the Speaker reminded the House that Members may not raise a point of order to discuss a ruling on a question of privilege or a point of order to ensure that the authority of the Chair is not casually nor repeatedly challenged.

On June 19, 2018, the Speaker ruled on a question of privilege raised on May 29, 2018, by **Glen Motz** (Medicine Hat—Cardston—Warner) concerning documents published on the website of the Royal Canadian Mounted Police (RCMP) in relation to Bill C-71, *An Act to amend certain acts and regulations in relation to firearms*. Mr. Motz contended that information published on the RCMP website would lead the public to believe that Bill C-71 had already been enacted because it omitted information regarding the parliamentary process and the fact that the Bill remained subject to parliamentary approval. The Member returned to the House the next day to argue that the RCMP had admitted its fault by updating its website to include a disclaimer regarding the proposed law. On June 1, 2018, Mr. Lamoureux responded to the question of privilege by stating that in his view the matter raised was simply one of debate as the RCMP made no presumption on its website respecting the Bill. In his ruling, the Speaker noted that while the Chair identified instances where some provisions of the Bill were in fact framed as legislative proposals, the vast majority of the information presented on the RCMP website, prior

to the addition of the disclaimer, suggested the new provisions of the Bill will definitely be coming into force or are already enacted. The Speaker added that he was disappointed by the oversight of the RCMP regarding the absolute authority of Parliament in the scrutiny and adoption of legislative proposals; “any hint of this parliamentary role and authority being passed or usurped is not acceptable.” Concluding that the matter constituted a *prima facie* question of privilege, the Speaker invited Mr. Motz to move a motion. Mr. Motz moved that the matter be referred to the Standing Committee on Procedure and House Affairs. After a short intervention, the motion was agreed to by unanimous consent.

Private Members’ Business

On March 19, 2018, the Standing Committee on Procedure and House Affairs presented its 56th Report to the House recommending that Bill C-385, *An Act to amend the Navigation Protection Act (certain lakes and rivers in British Columbia)*, standing in the name of **Wayne Stetski** (Kootenay—Columbia), be designated non-votable. On March 20, 2018, Bill C-281, *An Act to establish a National Local Food Day* was placed in the Order of Precedence in substitution of Bill C-385.

Other Matters

Emergency Debates

On April 16, 2018, the House held an emergency debate on the Trans Mountain Pipeline Expansion project.

Royal Assent

On June 21, 2018, the House was recalled for the sole purpose of granting Royal Assent to certain bills. Royal Assent was granted in Her Majesty’s name by Her Excellency the Governor General to 10 bills including two Private Members’ Bills, one appropriation bill and the budget implementation bill.

Time Allocation

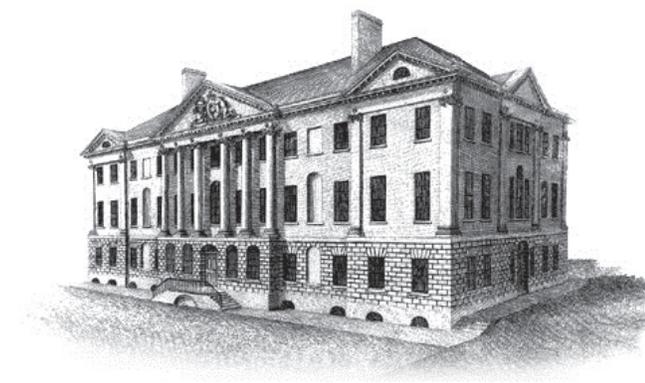
Time allocation was moved and adopted 11 times on 10 different bills during the period of March 28 to June 20, 2018; four times at second reading stage of a bill, six times at report stage of a bill, and once at third reading of a bill.

Resolutions

On May 31 and June 11, 2018, the House adopted resolutions to strongly oppose the illegitimate tariffs imposed by the U.S. government against Canadian workers and communities that directly or indirectly depend on trading relationships with the United States of America including the Canadian steel and aluminum workers and Canadian farmers and supply management.

Danielle Widmer

Table Research Branch



Nova Scotia

Resignation of Leader of the Official Opposition

On January 24, 2018, **Jamie Baillie** resigned as the MLA for Cumberland South and as the leader of the Official Opposition. A by-election for the constituency of Cumberland South was held on June 19, 2018 and the PC party retained the seat by electing **Tory Rushton** as the new MLA.

Spring sitting 2018

The Spring sitting commenced on February 27, 2018 and continued until April 18, 2018.

Twenty bills and the budget were passed during the sitting, including the *Education Reform (2018) Act*. The bill reforms the education system on many levels, including the elimination of all the English language school boards in the province and the removal of school principals and vice-principals as members of the Nova Scotia Teachers Union.

Government Motion 1082 and amendments to the House of Assembly Act

On March 27, 2018, the Legislature adopted a Government Notice of Motion constituting a select committee of the House of Assembly to determine the composition of an independent electoral boundaries commission and to determine the terms of reference for the commission. The *House of Assembly Act* requires the appointment at least once every 10 years of an independent electoral boundaries commission.

The last commission was created in 2011 and issued its report on September 24, 2012; however, a reference to the Nova Scotia Court of Appeal regarding the legislation passed subsequent to the commission's report was the subject of a court decision rendered on January 24, 2017. In response to the court decision on April 28, 2017, an Order in Council (OIC 2017-158) was issued establishing a commission to inquire into certain matters concerning effective electoral representation for Acadian and African Nova Scotians in Nova Scotia. The Commission on Effective Electoral Representation of Acadians and African Nova Scotians issued its report on November 1, 2017 (more information is available at <https://novascotia.ca/representation/>) On establishing the Commission, the Government indicated that it would take steps to establish a Select Committee necessary to set the terms of reference for the appointment of an Electoral Boundary Commission by January 31, 2018. This date was extended by OIC 2018-8 to the end of the first sitting of the House of Assembly in 2018.

The bill amending the *House of Assembly Act* legislates the terms of reference for the future boundary commission in keeping with the recommendations of the Commission on Effective Electoral Representation of Acadians and African Nova Scotians.

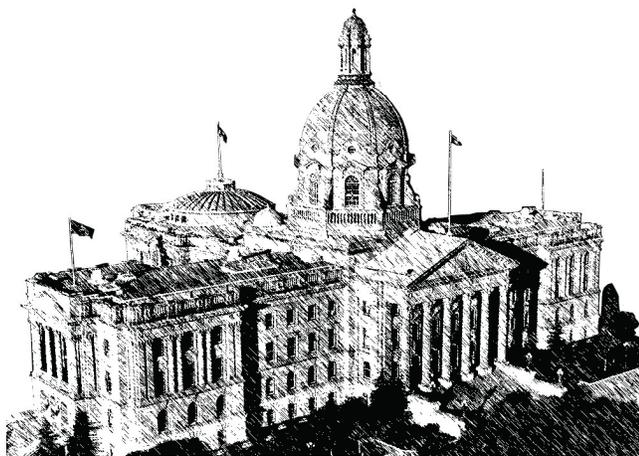
The Acadian Federation objected to the amendments giving the select committee the ability to include in the terms of reference for the boundary commission: 1) the possibility of having non-contiguous electoral districts, and 2) determining the minimum and maximum number of electoral districts that the commission may consider in formulating its recommendations. The Federation presented these concerns to the Law Amendments Committee; however the bill was not amended.

Resolution 1157

On April 6, 2018, Resolution 1157 was made and received the unanimous endorsement of the House without debate. The Resolution enacts a new Rule 14 (1) and (2) in the *Rules and Forms of Procedure* of the House of Assembly. These rules excuse an MLA from attending the services of the House when the member is taking pregnancy leave, parental leave, leave for illness or leave for a similar purpose if notice of the nature and expected length of the leave is given to the House or the Speaker within 10 days of commencing the leave.

Under the former Rule, the permission of the Speaker was necessary before the leave could be taken. However, Rule 14(2) clearly states that if an MLA is absent without first obtaining permission of the House or the Speaker or notice has not been given as required in the previous paragraph, the MLA may be subject to censure of the House.

Annette M. Boucher
Assistant Clerk



Alberta

Fourth Session of the 29th Legislature

The Fourth Session of the 29th Legislature, which commenced on March 8, 2018, adjourned on June 7, 2018. During the spring sitting 18 Bills received Third Reading and one was referred to a Legislative Policy Committee for review.

Among the Bills debated was Bill 12, *Preserving Canada's Economic Prosperity Act*, which received Royal Assent on May 18, 2018. The new legislation arose within the context of the debate over the construction of the Trans Mountain pipeline extension project. It

empowers the Minister of Energy to require energy exporters to obtain a licence and meet a variety of terms and conditions prior to sending products such as natural gas, crude oil or refined fuel out of Alberta. The new legislation contains a “sunset provision” under which it will cease to have effect after two years. The Attorney General of British Columbia has filed a Statement of Claim in Alberta’s Court of Queen’s Bench challenging the constitutional validity of the legislation.

Bill 9, *Protecting Choice for Women Accessing Health Care Act* was also passed by the Assembly and received Royal Assent on June 11, 2018. The Bill authorizes the creation of “no-protest zones” around abortion clinics and other offices or homes of clinic doctors and staff. During deliberations on the Bill, nine amendments were proposed, of which two were accepted, including one introduced by Independent Conservative Member **Derek Fildebrandt**, MLA (Strathmore-Brooks). Members requested a recorded vote on most votes pertaining to the Bill, including the motion for Second Reading, all proposed amendments, and the motion for Third Reading. Following an initial statement by **Angela Pitt**, MLA (Airdrie), the Official Opposition (United Conservative Party) chose not to participate in the debate on the Bill and were not present in the Chamber for any of the recorded votes.

Governor General Visit

Her Excellency the Right Honourable **Julie Payette**, visited the Alberta Legislature on May 15, 2018, and was welcomed with a public ceremony on the Legislature Grounds during which she received military honours, including a 100-person guard of honour, the Vice-Regal salute and a 21-gun salute. Later in the day she addressed the Assembly, becoming only the third Governor General to do so. During her remarks she shared personal anecdotes about her previous visits to the province, noted the province’s contributions as “the economic powerhouse of Canada” and commented on the role of a strong Alberta in the country’s future.

By-Elections

Two by-elections were held in Alberta on July 12, 2018. In Innisfail-Sylvan Lake the United Conservative Party (UCP) candidate **Devin Dreeshen** won by a significant margin, and in Fort McMurray-Conklin the UCP candidate, **Laila Goodridge**, was also victorious. If the results of the by-elections are not challenged, the composition of the Legislative Assembly will be

54 seats for the New Democratic Party, 27 seats for the United Conservative Party, three seats for the Alberta Party, and one seat each for the Alberta Liberal Party and the Progressive Conservative Party; there is also one Independent Conservative Member.

New Officer of the Legislature

Bill 32, *An Act to Strengthen and Protect Democracy in Alberta*, which was passed during the fall 2017 session, included a number of amendments to election legislation in Alberta. The *Act* also established the position of Election Commissioner, a new Officer of the Legislature, and provided that the Standing Committee on Legislative Offices be tasked with identifying a suitable candidate to recommend for the position. The Committee completed the recruitment process and tabled its report on April 10, 2018, recommending that **Lorne Gibson** be appointed as Election Commissioner effective May 15, 2018. Mr. Gibson previously served as the Chief Electoral Officer in Alberta for a single term from 2006 to 2009. The committee members representing the Official Opposition expressed concern about the recruitment process and the final recommendation. For the first time in Alberta, a minority report was submitted following completion of a committee's search process. In the Assembly, Government Motion 16 to concur in the recommendation of the Committee was debated over several days and three amendments were introduced but defeated. Ultimately, time allocation was used to limit all remaining debate on the motion to one hour, and on May 10, 2018, the Assembly agreed to the Motion through a recorded vote.

Committee Activity

On March 19, 2018, the Legislative Assembly referred Bill 201, *Employment Standards (Firefighter Leave) Amendment Act, 2018*, to the Standing Committee on Alberta's Economic Future for review. If passed, Bill 201 would provide employment protection for part-time firefighters. The Committee has received a presentation from **Wayne Anderson**, MLA (Highwood), sponsor of the Bill, a technical briefing on the province's *Employment Standards Code* and 40

written submissions on the proposed legislation. The Committee has agreed to invite oral presentations as the next stage of the review process.

The Standing Committee on Families and Communities completed its review of the *Missing Persons Act* and tabled its report on May 9, 2018. The Committee made 17 recommendations to amend the *Act* and update related regulations, and to improve its administration including: clarifying the standards required to produce records, streamlining the application process, interjurisdictional cooperation, and improving education regarding information disclosure under all privacy legislation.

On April 16, 2018, the Assembly referred consideration of a Private Member's motion ("Motion 501") by Wayne Anderson, MLA (Highwood), to the Standing Committee on Privileges and Elections, Standing Orders and Printing. Motion 501 proposes a change to the Standing Orders to permit Legislative Policy Committees to undertake "a hearing or inquiry during the same period of time that a matter stands referred to the Committee by the Assembly if the hearing or inquiry does not interfere with the work of the Committee on the matter referred to it." At a meeting of the Standing Committee on Privileges and Elections, Standing Orders and Printing on June 11, 2018, after considering written submissions on the matter, a motion recommending the implementation of Motion 501 was defeated. The Committee released its report on June 18, 2018.

Auditor General of Alberta

Merwan Saher completed his term and retired as Auditor General on April 28, 2018. His successor, **Doug Wylie**, has been sworn in as Alberta's 11th Auditor General. Mr. Wylie has 28 years of experience working in the Office of the Auditor General and has served as Assistant Auditor General for the past 14 years.

Jody Rempel
Committee Clerk

The Pink Palace and Parliamentary Green

Associations with royalty, the ‘common man,’ or life and fertility; the demands of television; and personal (or partisan) preference. There are many reasons why Canadian legislatures are decorated with certain shades and hues. In this article, the authors explain why Ontario’s Pink Palace is filled with parliamentary green and how some other Assemblies have used the colour wheel when decorating.

Laura Anthony and Nick Ruderman

What lies beneath the feet of elected officials is sometimes just as interesting as the legislation on their desks. Despite the symbolic value and high visibility of legislative chambers in the era of televised broadcasts, surprisingly little has been written about the factors that inform the colours used to decorate a chamber, or about the reasons for the (sometimes dramatic) changes that are made. In many provinces even the colour of the carpeting on the floor of the legislature has undergone significant alterations.

The Pink (And Green) Palace

Colour has always played a central role in identifying Queen’s Park. Known to many as the “Pink Palace,” the name refers to the hue of its exterior since 1893.

The Chamber’s interior has been altered on more than one occasion. In 1893 the chamber was predominately green with a series of hand-painted murals, which were subsequently covered for acoustical reasons. Between 1930 and 1940 the Chamber was renovated twice: first the desks were arranged in a horseshoe pattern, only to be switched back to the traditional two-sided style in the 1940s. During the 1970s the seats were blue and the carpets and drapes red.

The most recent change dates from the late 1990s when a decision was made to restore the Chamber’s original décor to the greatest extent possible and return

its colouring to parliamentary green. The restoration of the Legislative Building began in 1992, with a five-year project to repair the exterior of the building. Subsequent work focussed on the building’s interior including the wood wainscoting, the terrazzo floor, and the slate steps of the grand staircase. The impetus for these changes began in the 1980s, in part due to the transfer of the responsibility for the Legislature from the Ministry of Government Services to the Office of the Assembly.¹

Parliamentary Green

Parliamentary green has long been the colour of the House of Commons in Westminster though its origins and symbolism is still debated. In the Middle Ages, when all men were obligated to practice archery, green was the colour of archers’ clothing. Green was associated with the countryman and ‘common’ man – it was the colour of the pasture and the greenwood, used by all in the village.² Green may also have been chosen as a representation of life and fertility, because of its use by medieval kings and associations with service to one’s state. Perhaps it was selected for the more mundane reason that it was cheaper than other colours, such as red.³ Regardless of its origins, parliamentary green is the traditional colour of Westminster-style lower houses. Red, however, has been linked with upper houses because of its long history as a royal colour.

The Use of Colour in Canadian Legislatures

While parliamentary green features prominently in most provincial legislatures there are several notable exceptions. British Columbia’s legislature (the “Marble Palace”) appropriately features a great deal of marble in various shades in the chamber, but red carpeting predominates.⁴ Manitoba and Quebec’s legislatures both feature blue carpeting and Quebec’s National Assembly also has light blue walls.

Laura Anthony and Nick Ruderman are research officers with the Ontario Assembly’s Legislative Library and Research Services. The authors of this article gratefully acknowledge the research assistance of Rebecca Kolisnyk and the provincial legislative libraries who responded to their request



Photos courtesy of the
Legislative Assembly of Ontario

Changes over the years to the colour choices made in Canada's provincial legislatures offer some insight into the types of considerations that inform these design decisions. Beyond Ontario, at least five other provincial legislatures have seen large-scale changes to their chamber colour schemes: Alberta, British Columbia, Nova Scotia, Quebec and Saskatchewan.

In some cases, including Nova Scotia and Quebec, changes were made to the colour of the walls at least in part due to the move to televise legislative proceedings. Officials attribute the change from green to light grey and light blue walls, respectively, to those considerations.⁵

Political factors also come into play when decisions about the design of legislative chambers are made. Saskatchewan's history is particularly interesting in this regard. The builder originally proposed a parliamentary green scheme for the carpeting, matching the green marble featured in other parts of the legislative precinct. The Province's first Premier, however, preferred red, and that was the colour chosen. In 2011, the Legislature's Board of Internal Economy unanimously decided to change the red carpet to green, putting the choice regarding the shade of green in the hands of the architect both "to avoid any partisan considerations" and to respect the "intended original design plans of 1908."⁶ However, in many cases, official reasons for a change in colour are not well known or even recorded.

Conclusion

Ontario's change of colour in the legislative chamber was highly visible; it was not, however, unique among Canadian provinces. Practical imperatives, such as the advent of televised legislative broadcasts or costs, as well as political considerations, can all affect the choice of colour. While parliamentary green is perhaps the best-known colour of lower chambers, provincial legislatures in Canada have often coloured outside the lines.

Notes

1. A Memorandum of Understanding transferred responsibility of the legislature from the Ministry of Government Services to the Office of the Legislative Assembly, as recommended in the Ontario Commission on the Legislature's Second Report.
2. "House of Commons Green," *House of Commons Information Office*, August 2010, p. 2.
3. See J.M. Davies, "Red and Green," *The Table* v. 37 (1968), pp. 33-40, and "House of Commons Green," *House of Commons Information Office*, August 2010, pp. 2-7.
4. Alan Hodgson, "Restoring British Columbia's 'Marble Palace'" *Canadian Parliamentary Review*, (Summer 1991).
5. "Its walls were once green, a colour probably associated with the people, like those of the House of Commons of the British Parliament in Westminster but were painted blue in 1978, a colour better suited to televised broadcasts of the debates." (*Assemblée Nationale Québec, Traditions and Symbols: The National Assembly Chamber*, 2013).
6. Dan D'Autremont, "Unveiling the Green Carpet in the Saskatchewan Legislature," *Canadian Parliamentary Review* (Spring 2013); CBC News, "Saskatchewan Legislature Replacing Red Carpet with Green," (April 2, 2012).

