Canadian Parliamentary Review

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Dress Guidelines in British Columbia's Legislative Assembly p. 6

Yukon's Cable-Edelman Family

There are many examples of family members sitting in parliaments at the same time. However, the first father-daughter team to sit together in a legislative assembly did not happen in Canada until 1996. That is when Sue Edelman was elected to the 29th Yukon Legislative Assembly, joining her re-elected father, Ivan John "Jack" Cable.

Mr. Cable moved to the North in 1970 after obtaining degrees in Chemical Engineering, a Master's in Business Administration and a Bachelor of Laws in Ontario. He practiced law in Whitehorse for 21 years, and went on to serve as President of the Yukon Chamber of Commerce, President of the Yukon Energy Corporation and Director of the Northern Canada Power Commission. He is also a founding member of the Recycle Organics Together Society and the Boreal Alternate Energy Centre. Mr. Cable's entry into electoral politics came in 1992, when he successfully won the riding of Riverdale in East Whitehorse to take his seat in the Yukon Legislative Assembly.

Ms. Edelman's political presence had already been established by the time her father began his term as an MLA. In 1988, she became a Whitehorse city councillor, a position she held until 1994. In her 1991 reelection, she received more votes for her council seat than mayor Bill Weigand received. Following her time on city council, she was elected to the Selkirk Elementary School council. In the 1996 territorial election, she ran and won in the Riverdale South riding.

Continuted on page 2

Photo: Government of Yukon

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Photo: Government of Yukon

Continued

Ms. Edelman and Mr. Cable were two of only three Liberals to win seats in the 17 seat legislature that election, the third being future Liberal Leader, Premier and Senator Pat Duncan. Both Mr. Cable and Ms. Edelman held the position of House Leader during the course of the Legislature, and notable critic roles included Justice for Mr. Cable and Health for Ms. Edelman. The duo raised issues pertaining to the environment, poverty and care for seniors. In 1998, Ms. Edelman introduced legislation to amend the *Children's Act* in order to acknowledge the rights of grandparents during custody hearings. With unanimous consent, on a single day, the bill was called for second reading, considered in Committee of the Whole, and called for third reading. Upon receiving third reading that same day, the bill was assented to. The passage of this private member's bill was viewed as a great example of the legislature working well together beyond party lines.

Mr. Cable opted not to seek re-election in 2000, an election where the Liberals won ten seats and formed government. In that government, Ms. Edelman became the Minister of Tourism before moving to the Health and Social Services and the workers' compensation board portfolio and the Minister responsible for women's issues. Her time in government was not without controversy, as she had to offer her resignation from the women's issues portfolio after labelling some groups as extremists in an email to cabinet staff.

After leaving electoral politics, both Mr. Cable and Ms. Edelman went on to serve Yukon in successful post-partisan positions. While Mr. Cable was rumored to be considered for a seat in the Senate of Canada, he expressed his preference to stay closer to home. In October 2000, Mr. Cable was appointed as the Commissioner of Yukon, a position similar to provincial Lieutenant Governors, and held the post for a five-year term.

Ms. Edelman was drawn back into municipal politics after her MLA career, but failed in her attempt to defeat an incumbent for Mayor of Whitehorse in 2003. In 2007, she was selected as Yukon's election returning officer, a position she would hold until 2018. In explaining why she applied for the non-partisan position, she described her interest in the procedural elements of the legislature, the process of government and her respect for the democratic institutions.

The family's contribution to parliament and public service continues well beyond Mr. Cable and Ms. Edelman. In early 2018, the Clerk of the Legislative Assembly, Dr. Floyd McCormick, announced he would be retiring at the end of the 2019 Spring Sitting. The candidate selected to replace Dr. McCormick was Dan Cable, Ms. Edelman's brother. With another family member in the Yukon Legislative Assembly chamber, it is clear the story of this family's service to parliament, Yukon and Canada is far from over.

David Cumming
Collections and Acquisitions Librarian
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Feature

Women Achieve Parity in NWT Legislative Assembly Without Guaranteed Seats

In just one general election the Northwest Territories went from having the least representation by women in its Assembly to the most in the country. Moreover, women MLAs were elected to fill four of six cabinet positions and to be the premier. In this article, the author suggests these dramatic changes are a response, in part, to a significant discussion and debate members of the previous legislative assembly undertook to improve women's participation and representation in the territory. She reviews the proposal for temporary special measures as a way to build representation, outlines other recommendations MLAs made to encourage more women to participate in territorial politics, and explains why this environment ultimately led many more women to put their names on the ballot in 2019.

Julie Green, MLA

When the revolution finally began, it was swift and decisive. On October 1, the Northwest Territories moved from having the least representation by women (11 per cent) to the most (47 per cent) in a Canadian legislature. The 19 Members of the 19th Assembly then elected a woman premier (the only one in Canada at the moment) and four women to Cabinet (out of six Members). The territorial legislature has no parties. Each candidate runs as an independent. Once elected, Members self-nominate for Executive Council positions; they are then elected by secret ballot by all Members.

"Women in power have made a difference in the North and in our communities."

Julia Cockney, Tuktoyaktuk NWT

The women elected are diverse. Six of the nine are Indigenous; two have small children and two have teenagers; one was chief of her First Nation; one is an engineer, another is a lawyer; one is a nurse, another is a self-government negotiator; two come from the non-profit sector, and two were part of the territorial civil service. The women MLAs come from constituencies across the Northwest Territories from Inuvik above the Arctic Circle, to Fort Smith on the Alberta border.

This change, from being behind to being ahead in women's representation at the territorial government level, was not a fluke but the result of a consistent effort of Members of the 18th Assembly to improve the representation of women.

One of the priorities of the 18th Legislative Assembly of the Northwest Territories was "supporting initiatives designed to increase the number of women running for elected office." The previous Speaker of the Legislative Assembly took up this challenge, along with our MLA colleagues. On International Women's Day 2018, Jackson Lafferty shared his vision: "We, as elected leaders of this territory, have the ability to act as role models and also supporters to change the status quo. We must encourage female participation in all aspects of work and life, but especially within our own legislature."

That day, Members unanimously adopted a motion to give that aspiration meaning by establishing a goal of increasing the representation of women in the Legislative Assembly to 20 per cent by 2023 (four Members) and 30 per cent (six Members) by 2027. The rationale for the targets is provided by the United Nations which determined that 30 per cent is the threshold at which elected women can bring about lasting and significant policy changes.

Julie Green is MLA for Yellowknife Centre in the Northwest Territories.

The women of the 19th Assembly of the NWT are; Back row: Premier Caroline Cochrane (Range Lake), Caitlin Cleveland (Kam Lake), Paulie Chinna (Sahtu), Caroline Wawzonek (YK South). Front row: Katrina Nokleby (Great Slave), Frieda Martselos (Thebacha), Lesa Semmler (Inuvik Twin Lakes), Diane Thom (Inuvik Boot Lake) and Julie Green (YK Centre).

Our challenge was to figure out how to meet these targets. The Speaker had attended the Commonwealth Parliamentary Association conference in 2017 and took note of how the South Pacific island nation of Samoa, in partnership with the United Nations Development Program, addressed this issue by introducing guaranteed seats for women in a cultural context that was similar to our own.

The Speaker tabled a discussion paper during the Spring 2018 sitting of the Legislative Assembly "in the hopes that it will initiate a public discussion about the role of women in public office in the Northwest Territories, particularly leading up to the next general election."

The paper describes how temporary special measures would work in the Northwest Territories. Members of the Legislative Assembly would agree to allocate a set number of seats for women, using the goals already agreed on – four in 2023 and six in 2027. During these elections, all the work that goes into getting women to become candidates and then campaigning for support would continue in the same way that it does now. After the ballots were counted, if the number of women elected didn't meet our goal, a temporary seat would be created. The woman candidate who finished best across the territory (based on the percentage of votes earned) but who *didn't* get elected would be appointed to a seat for the duration of the Assembly. (Note: the additional seat(s) would be in addition to the permanent 19 seats in the Assembly.)

Temporary special measures are exactly what they say they are. They are an immediate, extraordinary and short-term way to shake off the stubborn underrepresentation of women in our legislature. The experience in Samoa and elsewhere is that these measures are, by their nature, self-fulfilling. The strongest determinant of the number of women who are elected to political office is the numbers who actually run. By encouraging more women to enter political life, these measures quickly become unnecessary. This is why they are called "temporary." The discussion paper proposed that the legislation to create temporary special measures in the NWT would automatically sunset after two general elections.

The Assembly created a special committee of MLAs in October 2018 with me as chair to identify and recommend ways to move us toward our goal, including testing temporary special measures with the public as a possible solution. The committee travelled to 10 communities and met with women who held leadership positions in the community, Indigenous governments as well as former MLAs and those who were curious about our work.

The interim report tabled in March 2019 made seven recommendations to remove the barriers we heard about most often. We recommended child care be an allowable election expense as well as an eligible expense from our constituency work allowance. We asked the Legislative Assembly to make our workplace more family friendly by allowing for a four-month parental leave, by installing infant change tables and creating a family room. We also requested funding to ramp up campaign schools and increase education about the work of MLAs. Members endorsed all the recommendations and most have now been implemented.

The special committee's final report, tabled in June 2019 discussed legislative changes, including whether to move forward with a plebiscite on temporary special measures. The idea wasn't well received by most of the women who appeared before the committee even though they might have benefitted from guaranteed seats. We heard that this approach represented tokenism and ensured that appointed women would be treated as second best by the public and colleagues alike. Nor were committee Members themselves fully in support of temporary special measures to address women's underrepresentation. Our compromise position was to recommend that if women's representation didn't change in the 2019 election, we would revisit the issue.

The discussion of temporary special measures was not a waste of time. Some of the women we met with decided to become candidates and were elected. Others helped with campaigns and otherwise increased their knowledge of politics. I believe there is a direct connection between the committee's work and the record number of women who decided to run: 22 in 2019 versus 10 in 2015. Women on the ballot equal women in the House.

Another reason so many women ran and succeeded relates to a number of training and education efforts. The Status of Women Council of the NWT has been offering campaign schools for women for years. In 2015 Caroline Cochrane (now Premier) and I attended the Yellowknife school. Once elected, we taught at campaign schools in Hay River, Fort Simpson, Inuvik and Yellowknife. I hosted a young women's leadership development workshop called Daughters of the Vote in February 2017, building on the Equal Voice initiative that year. I received a small grant to offer a series of election-readiness workshops called Women on the Ballot last winter. Many volunteers have spent hours talking to women about issues ranging from developing confidence and managing family responsibilities while away from home, to the substantive issues of governance, in addition to many private mentoring efforts.

All of these initiatives have paid off with the largest number of women ever elected to the Northwest Territories Legislative Assembly in October. We have established a new threshold of participation to equal and expand in coming elections. We have demonstrated that offering women skill development in politics and campaigning, and accommodating them in the House as caregivers, makes public service a viable career choice. We have recommended an election rebate policy to offset the costs of running for office. We have removed most of the barriers women said prevented them from running for office. l am confident that having more women in the House will encourage more women to run based on the diversity of role models. I believe that Members will demonstrate their competence, initiative and tenacity so that any remaining doubts that women belong in the House are put to rest. Together we will bring real and lasting change to represent all Northerners.

Feature

The "Right To Bare Arms" Drama: Dress Guidelines in British Columbia's Legislative Assembly

Following a Legislative Press Gallery protest – about whether clothing that revealed bare arms was appropriate work attire in British Columbia's Legislative Assembly – BC's Speaker Darryl Plecas asked the Acting Clerk Kate Ryan-Lloyd to explore and update the institution's largely unwritten dress guidelines. In this article, the author recounts the "Right To Bare Arms" drama, outlines the steps the Acting Clerk took to create new guidelines, and explains what kind of input her colleagues offered during the process. She concludes that revisiting the Assembly's dress code and guidelines – especially in light of an increasingly diverse workplace and contemporary ideas about gender identity – was a valuable endeavour and encourages other parliamentarians to consider similar issues if they engage in a similar process.

Janet Routledge, MLA

Earlier this year, I was asked to present on a panel about dress codes in parliament at the Commonwealth Parliamentary Association's Canadian Regional conference. A parliamentarian from another province at this event expressed incredulity that such a topic would be on the agenda in 2019.

Indeed, if I had been asked a year ago whether this was something we needed to address, I would have had a similar reaction. But, of course, that would have been before I and other members of the Legislative Assembly of British Columbia found ourselves involved in a "right to bare arms" drama.

In this article I will explain why the parliamentary dress code recently became a flash point in BC's Assembly, how we chose to address a controversy, and what we learned from this episode.

First, it's important to provide some context. As a first-term MLA, when I arrived at the legislature to begin representing my constituents, I received a thorough and detailed orientation to what was expected of me as an MLA. Never was I briefed about what to wear or not to wear. I simply observed women on both sides of the aisle and made my choices accordingly.

Janet Routledge

First elected in 2017, Janet Routledge is MLA for Burnaby North in British Columbia. She serves as the Government Caucus Deputy Whip.

I started wearing brighter jackets and avoided busy patterns. I had heard rumours about not being allowed to wear orange (my party's colour) or open toed shoes, but if it weren't for the drama that occurred in March 2019, I wouldn't have known about Standing Order 36.

Standing Order 36

In the Legislative Assembly of British Columbia, the dress code for Members is not explicitly set out in the Standing Orders. Instead, it's relied on administrative practices and memoranda issued by Speakers over many years to outline what is appropriate dress.

Our Standing Orders don't offer much guidance in this respect. Standing Order 36 simply states, "Every Member desiring to speak is to rise in his or her place uncovered, and address the Speaker." This Standing Order originates from the colonial Standing Orders of the Legislative Council of British Columbia that became the Standing Orders of the Legislative Assembly when BC joined Confederation in 1871. The provision of rising uncovered refers to men at that time, who could not wear their hats when participating in debate.

Outside of the Standing Order, *Parliamentary Practice in British Columbia*, 4th edition, our procedural guide in the Legislative Assembly, states, "In relation to Members' dress, apart from the usual 'jacket and tie' requirement for male members, there is little authority." It also notes a June 1980 Speaker's decision where the guidelines used in Beauchesne – "conservative contemporary standards" – is adopted. It is perhaps of note that, since the last publication of the 4th edition of our procedural guide in 2008, the requirement for ties in the U.K. House of Commons has been done away with.

Aside from this guidance, Speakers provided occasional administrative guidance, including guidance for various staff in the hallways adjacent to the Legislative Chamber. These guidelines have been enforced by Sergeant-at-Arms staff for many years. "Conservative contemporary standards" appears to be quite vague to me, however, and I don't envy the Sergeant-at-Arms staff whose job it has been to interpret and enforce what that means.

Right to Bare Arms Movement

BC had an interesting experience with dress code modernization earlier this year. On March 28, 2019, members of the Legislative Press Gallery raised concerns about the dress expectations enforced in the Parliament Buildings, specifically in the Speaker's Corridor and in particular as they related to women. This was done through what members of the Press Gallery called the "Right to Bare Arms Movement".

I'd like to share the experience as recounted by Bhinder Sajan, a journalist with CTV News and a member of the Legislative Press Gallery, who was one of the individuals involved in the Right to Bare Arms Movement. In a series of tweets, Ms. Sajan said:

> A staffer told us she was told to put on a jacket or leave the hallway. She was dressed in dress pants and a blouse. The blouse had short sleeves. From what I remember, her shoulders were covered, at least partially. She then challenged the rule and was told she needed to have sleeves.
>
> For those of us in the gallery, we had been through this a few times. And the last time we were told there was no dress code per se, as long as we dressed professionally. So [my press gallery colleagues and I] talked about this, and we decided we were sick of this.
>
> We decided we would wear something that showed arms. Sleeveless, different lengths, etc. to make a point. Last year, I remember women wearing sleeveless clothes with no issue. So [my press gallery colleagues and I] showed up and took a picture. It was weird to be 'protesting' a dress code. […] The picture was then tweeted out.
>
> One person in the picture was told her top wasn't appropriate. She was told to speak to the Acting Sergeant-at-Arms. A bunch of us went up and asked questions. He admitted the rules were old and maybe needed another look. A gallery member showed us a card that had been handed out recently that spoke about media conduct in the hallways. It said nothing about women. But apparently there was a dress code for women that said professional attire was needed. We hadn't seen the policy at this point.
>
> Then Deputy Premier Carole James spoke to reporters and said it was ridiculous that this was being policed. She said she'd been around a long time and was not concerned about how women dressed and didn't think others should be. A review of the policy was underway she said.

Dirk Meissner/CP

Shannon Waters (second from the right) shared this photo on her Twitter account (@sobittersosweet) with the following caption: "Do we look unprofessional to you? Women in the @BCLegislature are being told our bare arms are unprofessional, do not constitute proper business attire for the halls of the House" #bcpoli

> We spoke to Sonia Furstenau with the Greens who said one of their staffers was told once to wear a slip under her skirt because it was clingy. She also said she's heard directly from women who were told to wear tights and cross their legs while sitting. […]
>
> We often hear stories about women feeling invisible in the workplace, except when it comes to dress codes. That's when it seems we are more visible than the men. Men can wear the same suit and switch up their ties or shirts, with no one noticing (remember the story about the Australian broadcaster who wore the same suit for a year?!). I don't think a woman could get away with that.
>
> Maybe I'm wrong, but don't think so. I'm not blaming the staff who are enforcing the policy. I mean the focus on what women wear goes beyond the Legislature. The recent debate around school dress codes in Chilliwack was an example of this.

The Review

Following this incident, Speaker Darryl Plecas issued a memorandum confirming that a "conservative contemporary approach" had been applied in the Legislative Assembly and announced that a review of modern parliamentary dress expectations would be undertaken by Acting Clerk Kate Ryan-Lloyd.

On April 1, 2019, the Acting Clerk provided the Speaker with initial recommendations which were accepted by the Speaker. These interim recommendations were:

- That any dress guidance at the Legislative Assembly should be principle-driven and not overly prescriptive. We recognize and respect the good judgment of all Members, staff, and Press Gallery members. All Members, staff, and press are encouraged to continue to wear professional business attire. Recognizing that the Legislature is a formal business environment, we are confident good judgment will be shown by all.
- That for women, professional business attire includes a range of contemporary conventional options, which may include sleeveless dresses, sleeveless shirts, and blouses. For men, jackets, collared shirts, and ties will continue to be the expected standard of dress.
- That Assembly dress guidelines will not be a responsibility of Sergeant-at-Arms or other Assembly staff to enforce. Each individual is capable of choosing appropriate professional business attire.

The Speaker asked the Acting Clerk to undertake further consultations and provide a fulsome report on this matter to him, as he is not in a position to unilaterally change dress code expectations himself without input from Members.

Fit to be tied

I was charged with consulting with my colleagues in the government caucus. I was surprised to discover that many of my male colleagues were passionately committed to getting rid of the requirement to wear ties.

More to the point, a primary criticism with the interim dress guidelines issued by the Speaker on the Acting Clerk's recommendation were that they were not gender-neutral at a time where gender nonconformity must be taken into account.

As a caucus we strongly endorsed the recommendation that the dress code should be self-policed. Apparently, no one was happier about this change than the Sergeant-at-Arms staff!

Acting Clerk's Report on Dress Guidelines

The final report by the Acting Clerk to the Speaker was released on May 28, 2019. It included 14 recommendations, and separated dress guidelines into four categories:

- Expectations for Members during proceedings of the House.
- Expectations for Members during proceedings of parliamentary committees.
- Expectations for employees within the Parliament Buildings.
- Expectations for visitors.

These categories are an important acknowledgement of the many expectations that may exist within a single work environment. To summarize at a high level across the four categories, the Acting Clerk's report includes recommendations that:

- Professional contemporary business attire should be expected for Members while participating in parliamentary proceedings in the House, and that this requirement should be formalized in an amendment to the Standing Orders.
- Indigenous attire, traditional cultural attire, and religious attire should continue to be considered acceptable dress.
- Religious headdress, coverings and other objects symbolizing faith, such as kirpans and ceremonial daggers should continue to be permitted.
- For MLAs who identify as a woman, professional contemporary business attire may include sleeveless dresses, sleeveless shirts and blouses.
- For MLAs who identify as a man, professional contemporary business attire may include jackets and collared shirts. Neckties are not required.
- For MLAs who do not gender identify, appropriate professional contemporary business attire shall reflect a range of acceptable options, including examples noted above.
- Clothing and badges with brand names, slogans, advertising or political messages should not be permitted in the Chamber.
- Each Assembly department, caucus or work group should enforce dress guidelines in their respective responsibility area.
- The Speaker should continue to have oversight of dress guidelines in the Chamber and formally retain discretion to authorize exceptions in appropriate circumstances.
- Professional contemporary business attire should also be expected of other individuals who work in the Parliament Buildings.
- Visitors to the Parliament Buildings or the public galleries should wear informal, casual or business attire, including footwear.

British Columbia's Successes

While the Legislative Assembly of British Columbia has learned a lot in reviewing dress guidelines and expectations over the past year, I do believe that we have had some successes, specifically as it pertains to Members and their dress during proceedings of the House.

For example, traditional cultural, Indigenous, and religious attire have long been deemed accepted dress without objection raised. This has, however, been a matter of accepted practice, and it may be good for the Assembly to consider formalizing this by way of an amendment to the Standing Orders.

Another success is the discretion that the Speaker has been allowed to maintain during proceedings of the House. For example, from time to time, in upholding a friendly wager or bet, a Member will wear a sports team jersey in the House while delivering a brief statement. Such diversions from dress code expectations have long been deemed acceptable as long as the Member has taken the time to seek the Speaker's permission in advance.

A strength of these guidelines is the focus on principles as opposed to strict rules. Providing the Speaker discretion to be flexible, affirming the need to be culturally sensitivity, and acknowledging the growing diversity of the Assembly community and its visitors have led to guidelines which better reflect contemporary needs and values.

Conclusion

I suspect many legislatures will revisit the topic of dress codes and guidelines in the coming years. Demographic shifts within a legislature's membership have prompted us to explore other gendered aspects of our workplaces.

If the rules are to be silent on dress expectations, then we should perhaps not be surprised to see a greater expression of individuality through attire. If, however, expectations still exist – as they should in any workplace – then those expectations should be made known and communicated to all those to whom they apply.

British Columbia is moving in a direction where dress guidelines are not prescribed but basic expectations are communicated, and where we are sensitive to considerations that involve gender and gender nonconformity. In my view, this is a move in the right direction. I encourage other parliamentarians who may be having similar discussions in the coming years to consider gender nonconformity and sensitivity within your legislatures, if it makes sense within your jurisdiction.

Addendum

In the fall of 2019, the Speaker formally accepted all of the recommendations contained in the Acting Clerk's report. In October 2019, the Legislative Assembly of British Columbia unanimously adopted an amendment to Standing Order 36 to remove the word "uncovered", and also unanimously adopted a new Standing Order 17B, which provides certainty to Members with respect to dress guidelines and expectations. The new Standing Order 17B states:

(1) Members shall dress in professional contemporary business attire for all proceedings of the House.

(2) Indigenous attire, traditional cultural attire and religious attire are appropriate dress for Members.

(3) Headdress must not be worn during proceedings of the House, except when worn under the provision of subsection (2).

(4) Clothing and badges with brand names, slogans, advertising or messages of a political nature are not permitted to be worn during proceedings of the House.

(5) The Speaker shall oversee dress expectations for Members, may provide guidance, and may authorize exceptions to dress guidelines in appropriate circumstances.

Feature

Take off those Olympic mittens, but the goldfish bowl is in order:
Props, exhibits and displays in parliaments

Maintaining order is an important part of the Speaker's responsibility in parliament. In order to protect speech within a chamber, Speakers have long referred to written and unwritten rules and precedents which have limited non-verbal expression to communicate a message – namely props, decorations, displays, exhibits, and certain clothing. However, Speakers in different jurisdictions have opted to make some allowances provided these items do not fundamentally alter the desired decorum. In this article, the author traces the history of such rulings, beginning in Westminster, before surveying Canada's federal, provincial and territorial parliaments. He concludes by highlighting practices in Australia and New Zealand. The author would like to thank the Association of Parliamentary Libraries in Canada for conducting a survey of Canadian jurisdictions for this paper. He is also grateful for the research assistance provided by the Ontario Legislative Library.

Ray McLellan

The Speaker's role in parliament and legislative assemblies is to maintain order, relying on precedents and procedures to promote the dignity of the chamber during proceedings. Westminster is commonly referred to as the fount of democracy and mother of parliaments—the origin of ancient parliamentary traditions and precedents.

The use of exhibits, props, and displays by Members during debates is a long-standing but controversial practice that has been frowned on by Westminster-style legislatures over the years. Today, in the era of legislative broadcasts and social media, the benefit of visual exhibits during debates has an enhanced appeal. This article addresses parliamentary precedents and Speakers' rulings restricting the use of exhibits at Westminster, as well as in legislatures across Canada, and in Australia and New Zealand.

Ray McLellan is a retired Research Officer from Ontario's Legislative Library and Research Services.

Westminster – The First Parliament

The first parliament was established in England in 1265 with the election of representatives. This fledgling institution was to become the United Kingdom's modern House of Commons. The term "parliament" refers to "an enlarged meeting of the King's council, attended by barons, bishops and prominent royal servants, called together to attend the King, advise him on law-making and administrative matters and hear and assist with his judicial decisions."[1] During the thirteenth century, the Palace of Westminster became the formal meeting place of the English Parliament.[2]

The endurance of this ancient parliament and similar bodies in countries throughout the Commonwealth is a testament to the principle of free speech in open debate enshrined in the United Kingdom's *Bill of Rights* in 1689. This legislation set out "That the Freedom of Speech and Debates or Proceedings in Parlyament ought not to be impeached or questioned in any Court or Place out of Parlyament." It has endured in part due to Speaker's rulings establishing decorum-based rules of free debate. This freedom is held to be the most important parliamentary privilege and the cornerstone of parliamentary democracy.[3] Speaker's rulings limiting the use of exhibits and props are not seen as impinging on freedom of speech in debate.

Speaker's Procession, 1884 by Francis Wilfred Lawson. Courtesy of the Parliamentary Art Collection, House of Commons, Westminster, U.K.

The Speaker's 1952 Ruling

In 1952, Speaker Morrison ruled that exhibits ancillary to a debate—intended for illustrative purposes—are not permitted in the House. Accordingly, he found that

> an hon. Member is quite in order in bringing into the Chamber any books or papers which he may require to consult or to refer to in the course of debate; but with the exception of Ministers, whose despatch cases and official wallets are under a special dispensation, despatch cases should not be brought in.[4]

In addition to despatch cases, the Speaker noted that prohibited exhibits included weapons, decorations, sticks and umbrellas. A restriction on ladies' handbags, however, was deemed unreasonable.[5]

In making this ruling, the Speaker explained that it was based on "usage," rather than written precedent:

> There is nothing to be found in writing on this subject. It is all governed by the ancient usage of the House, and according to that usage there are certain articles which it is out of order for hon. Members to bring into the Chamber.[6]

At that time, reference was made to "a very old precedent going back to the time of Mr. Burke for the introduction of exhibits into the House;" however, the publisher of *Parliamentary Practice* advises that "there is no extant evidence of any ruling prior to that date [1952] other than Speaker Morrison's assertion that it had long been accepted practice."[7] As the publisher notes, records of debate, verbatim or otherwise, during [MP] Edmund Burke's time in the House [1765-1794] are of course extremely scant.[8]

Modern Practice

Proceedings in the House in the 21st century are influenced by the rise of a new style of political communication that favours images, branding and marketing, largely through social media. The advent of televised broadcasts of the House has had an impact on framing the political discourse given the 24/7 exposure to the public.

Members of the House of Commons today are subject to the *Rules of behaviour and courtesies in the House of Commons* (2018) and the *Members Handbook* (2010). The *Rules of behaviour and courtesies in the House of Commons* is a guidance document to maintain decorum during the proceedings in the Chamber of the House of Commons and Westminster Hall.[9] The 2019 edition of *Parliamentary Practice* addresses the use of articles to illustrate speeches. It restates interesting points addressed previously in *Hansard*, specifically that Members should not require an exhibit to present their position during a debate, and second, that such items cannot be recorded by *Hansard*:

> The rules of the House of Commons forbid bringing certain articles, notably weapons, into the Chamber. Members have been permitted to display articles (but not weapons) to illustrate an argument in a speech, but the Speaker has said that all Members should be sufficiently articulate to express what they want to say without diagrams and the same principle applies to articles. It is relevant that an article or diagram cannot be effectively recorded in the Official Report.[10]

Erskine May's section on the *Rules of Behaviour for Members in the Chamber* addresses the prohibition on the reading of books, newspapers or letters not related to the debate, and the preparation of correspondence. Further guidelines set out in *Parliamentary Practice* prescribe the limited use of electronic devices, phones, and cameras and the required dress code for business attire.[11] "Wearing scarves, T-shirts, or large badges displaying brand names or slogans, or other forms of advertising of either commercial or non-commercial causes, is not in order. The tradition of the House is that decorations (medals, etc.) of any kind and uniforms are not worn in the Chamber."[12]

Changes governing conduct have been introduced over time and become settled practices through various initiatives. As noted in the 2009 Report of the Select Committee on Reform of the House of Commons what constitutes acceptable conduct and deportment on the part of Members is evolutionary.[13]

Canada

The federal Parliament and provincial legislatures were asked for information on Speaker's rulings and precedents pertaining to the use of exhibits by Members.

In general, the responses we received indicated that Speakers across Canada are guided by the *House of Commons Procedure and Practice*. In particular, responses cited the chapter on *Rules of Order and Decorum*, which makes reference to precedents on the use of "displays, exhibits and props," and on Members' attire while in the Chamber:

> Speakers have consistently ruled that visual displays or demonstrations of any kind used by Members to illustrate their remarks or emphasize their positions are out of order. Similarly, props of any kind have always been found to be unacceptable in the Chamber. Members may hold notes in their hands, but they will be interrupted and reprimanded by the Speaker if they use papers, documents or other objects to illustrate their remarks. Exhibits have also been ruled inadmissible.[14]

Political buttons and lapel pins are not considered to be exhibits; however, Speakers have on occasion requested that they be removed.

House of Commons

Props, displays, or exhibits are not addressed in the *Standing Orders of the House of Commons*. According to the *House of Commons Procedure and Practice* (Third Edition, 2017) their use in the Chamber has been ruled to be unacceptable by Speakers, as noted in the chapter entitled *Rules of Order and Decorum - Manner of Speaking*.

There are numerous examples of Speakers' rulings on this issue. In 2009 the Speaker asked Members, who were wearing mittens in support of athletes participating in the winter Olympics, to "show proper restraint." In 2000 the Deputy Speaker ruled against a Member holding a sign with a message during a vote. The display of various flag designs in the House during the "Flag Debate" in 1964 was ruled out of order. Other examples of restricted items that were deemed to be "exhibits" included a detergent

box, grain, and a petition in the form of a birthday card. The *Standing Orders* do not prescribe a dress code for Members; nevertheless, Speakers have ruled that Members desiring to be recognized must wear contemporary business attire.

British Columbia

The *Members' Guide to Policy and Resources* instructs Members not to use displays or props or wear certain attire. These prohibitions are not addressed in the *Standing Orders.* Over the years, MLAs have been reminded that such items, including an apple and construction footwear, are not allowed.

Alberta

Speakers' rulings, based largely on the *House of Commons Procedure and Practice*, have consistently indicated that props are out of order in the House. Although exhibits are not permitted under *Standing Order* 37(4), there have been occasions when they were introduced during debates. Items ruled to be unacceptable include a piece of the Calgary LRT track and a sample of tar sand. The definition of a prop has been extended to include certain items of clothing.

Saskatchewan

Saskatchewan's *Rules and Procedures of the Legislative Assembly* state that exhibits of a non-parliamentary nature are prohibited on Members' desks or in the Chamber, and provide that Members must be dressed in business attire or ethnic dress. Further, when a motion is under discussion, Members may not use any display, prop, demonstration, or exhibit of any kind to illustrate their remarks. The Speaker has reminded Members of the long-standing rule against the use of props and exhibits, citing the *House of Commons Procedure and Practice*. Over the years, the Speaker has asked that various props be removed, which have included a container of soil, and responses from a questionnaire.

Manitoba

The restrictions on props in the Manitoba Chamber are based on Speakers' rulings rather than specific procedural rules. The focus has been on limiting any item that may contribute to a disruption of proceedings. The Speaker has ruled that objects that could be used as props should be placed in Members' desks or on the Chamber floor. The Speaker has cited the *Rules and Forms of the House of Commons of Canada* as the basis for exempting political buttons and similar lapel pins from the general prohibition; however, badges with a protest intent are not permitted. Speakers have ruled that Members are required to wear contemporary business attire, although the matter is not addressed in the *Standing Orders.*

Ontario

The 2019 edition of *Rules of Respect and Courtesy in the Chamber* addresses the restrictions placed on the use of props in the Legislative Assembly, while the *Procedural Handbook for Members* sets out the expectations on general conduct.

Props are prohibited. For example, a Member holding an item and placing it on a desk would be construed as attempting to convey a silent message supplementing the Member's speech. An exception to this convention would be permitted with the prior unanimous consent of the House. Members are expected to wear business attire with the prohibition on props extending to clothing. Unanimous consent is required to wear such clothing as t-shirts, ribbons, and pins that are seen to make a deliberate statement. Electronic devices, including cellular telephones and portable computers, are allowed if used unobtrusively.

The Speaker has ruled against the use of props, including score cards, items to highlight global warming (i.e., a thermometer, coal), an Ottawa Senators shirt, signage (e.g., "Call Police" and "Change for the Better"), Halloween treat bags, a copy of a personalized licence plate, fruit on Lyme Disease Awareness Day, a carbon tax sticker, an organ donation registration form, and images to depict government waste.

Québec

Parliamentary Procedure in Québec sets out the rules of conduct for Members in the National Assembly. The protocol on use of exhibits and props has caveats that are explained in the Section "Order and Decorum," as follows:

> When addressing the Assembly, Members may use pictures, photos or other objects to illustrate their point, as long as certain rules are respected. Exhibiting objects of any kind used to be prohibited during Question Period, since the President [Speaker] felt doing so might provoke a debate, and debates are not permitted during that stage of the proceedings. Members

were nevertheless allowed to use visual aids in certain instances, but the President emphasized this was not a right but a privilege granted on a case-by-case basis. The situation has evolved and the President may now allow Members to use pictures to illustrate their comments even during Question Period, provided they do not do so excessively. Other types of objects may or may not be permitted, depending on the circumstances. The President has allowed a Member to show photos that were directly related to a bill being studied, but denied permission to a Member who wished to display a photo of another Member.[15]

The President [Speaker] has stated that wearing a badge or a pin is an established democratic tradition in Québec, allowing Members to indicate support for a cause or a social, humanitarian or political movement which falls within freedom of expression. The President has ruled that the *Standing Orders* ensure respect for order and decorum. "Educational boards" are allowed for illustrative purposes while photographs are not permitted.

While buttons and pins are allowed, Members are not permitted to wear clothing or accessories in support of a given cause, which could constitute a breach of decorum or encroach on freedom of expression. The Members' dress code requires "business casual" attire.

New Brunswick

Although not addressed in the *Standing Orders*, precedent has established that the use of props, displays or exhibits is not permitted in the New Brunswick legislature. During a recent debate, a Member who held documents while speaking was asked to table them with the Speaker, reminding the House that props are not permitted. The restrictions on exhibits has also been applied to clothing.

Prince Edward Island

"Institutional custom" has established that Members may not use props, exhibits, or displays during proceedings of the House. The Speaker has not had to rule on this matter.

Members are expected to comply with the business attire dress code convention. To date there have been no instances of clothing/costumes being ruled out of order in the Chamber. On one occasion, a request to wear hockey jerseys for commemorative purposes was denied. Traditional clothing has been permitted in the form of kilts, tartan scarfs, and Scottish regalia to celebrate Tartan Day. Members may wear lapel pins commemorating various causes and occasions.

Nova Scotia

The use of props and exhibits is not addressed in Nova Scotia's *Rules and Forms of Procedure of the House Assembly* or the *Members' Manual*. Although there are no recorded rulings on the matter, it is an established convention that exhibits are not permitted in the House. *Hansard* has reported acknowledgements on the requirement to wear contemporary business attire.

Newfoundland and Labrador

The *Standing Orders* do not address the use of props. As a matter of convention, the House of Assembly refers to the *House of Commons Procedure and Practice*, and in particular, the rules on decorum, which stipulate that props are unacceptable in the Chamber. The *Members' Parliamentary Guide* (2019) also states that "Members may not use displays or props to illustrate their remarks." Speakers' rulings have disallowed props such as an oversized calculator, a fish (on behalf of the fishing industry), a bottle of water, and lapel buttons promoting a cause or conveying a message. The Speaker has not ruled on Members' attire.

Northwest Territories

The *Rules of the Legislative Assembly of the Northwest Territories* (2019) prohibit the use of a display, prop, demonstration, or exhibit for illustrative purposes. The Speaker has reminded Members to dress appropriately, permitting traditional aboriginal clothing. On one occasion, a Member commented that a Member wearing a Dene jacket should show respect for both the assembly and the occasion, and the Dene tradition. The Speaker opined that corrective action should be taken to respect the general public and aboriginal people. The Speaker requested that the Member remove his cartoon-inspired tie while wearing a Dene jacket.

Nunavut

The Legislative Assembly has not explicitly codified rules on the use of props, displays or exhibits; however, the Speaker has discouraged their use. Two notable examples of props being ruled out-of-order involved a container of contaminated drinking water and fouled spark plugs. Members, government

officials, and attending witnesses generally comply with the business attire requirement.

Yukon

The Legislative Assembly's *Standing Orders* are silent on the use of props, displays, and exhibits; however, there are guiding practices and precedents, as well as Speakers' rulings and statements on the subject. Examples of items ruled out-of-order include the following:

- when a member sent a phone book to the Premier to assist in the selection of individuals for a government-appointed board, the Speaker instructed the attending Page not to deliver the item; and
- the Yukon Legislative Assembly lapel pins and road fragments from the Dawson Dome Road were ruled not to be "documents," and therefore could not be placed with the Assembly's working papers.

An exception was made for a First Nations MLA to hold an eagle feather when speaking in the Legislative Assembly. On another occasion the Speaker did not rule as out-of-order the tabling of a goldfish as a gift for the Minister of Renewable Resources.

Although concern has been expressed by Speakers on the matter of Members' attire, to date clothing items have not been ruled out-of-order. In 2019 the Speaker granted a request for unanimous consent for Members to be permitted to wear denim in the House, to mark Denim Day.

Australia and New Zealand

The Australian Parliament's *House of Representative Practice* addresses the incorporation of *unread material* into *Hansard*:

> The modern practice of the House on the incorporation of other material, defined by successive Speakers in statements on the practice, is based on the premise that *Hansard*, as an accurate as possible a record of what is said in the House, should not incorporate unspoken material other than items such as tables which need to be available in visual form for comprehension.[16]

The inclusion of unread matter is seen to compromise the integrity of the record of the proceedings and departures from this rule are not regarded as precedent setting. The Chair's position remains that visual props are "tolerated but not encouraged." Items that have been permitted as legitimate visual aids during a speech include a flag, photographs and journals, plants, a gold nugget, and a silicon chip.[17] Items that have been ruled out-of-order include placards and signs.

New Zealand's House of Representatives allows visual aids "to illustrate a point being made during the Member's speech, provided that the aid does not inconvenience other members or obstruct the proceedings of the House."[18] Exhibits must be removed at the conclusion of the Member's comments.

Notes

1 Sir David Natzler and Mark Hutton (eds), Erskine May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, (Twenty-fifth edition), 2019, p. 3.

2 Ibid.

3 Ibid., pp. 242-244.

4 United Kingdom, Parliament, House of Commons Debates, *Hansard,* 9 April 1952.

5 Ibid.

6 Ibid.

7 Email from LNG-UK Group Companies (LexisNexis publisher of *Erskine May: Parliamentary Practice*, 2019), September 17, 2019.

8 Ibid.

9 Speaker and the Deputy Speakers, House of Commons, *Rules of behaviour and courtesies in the House of Commons* (November 2018), p. 1.

10 Erskine May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, (Twenty-fifth edition), 2019, Chapter 21 (21.29), p. 501.

11 Ibid., pp. 503 and 505.

12 Speaker and the Deputy Speakers, House of Commons, *Rules of behaviour and courtesies in the House of Commons* (November 2018), p. 10.

13 Erskine May, p. vii.

14 Marc Bosc and André Gagnon (eds), *House of Commons Procedure and Practice* (Third Edition), 2017, pp. 611 and 617-618.

15 Quebec, National Assembly, *Parliamentary Procedure in Québec,* Section: Order and Decorum, 2013, pp. 330-331.

16 Parliament of Australia, *House of Representative Practice*, Chapter 14 Control and Conduct of Debate.

17 Ibid.

18 New Zealand House of Representatives, *Standing Orders,* 2017.

Feature

Ethnoracial Identities and Political Representation in Ontario and British Columbia

Political representation of minority groups is an important aspect of modern societies. Are our parliaments generally reflective of the people they serve? In this article, the authors use the results of two recent Canadian provincial elections (Ontario, 2018 and British Columbia, 2017) to explore whether majority and minority groups are proportionally represented in legislatures and to probe some explanations as to why these groups may be over-represented or under-represented. They address notions of residential concentration and the assumption of ethnic affinity to partially explain where ethnoracial minority candidates are likely to be elected. In contrast to past work which has found a general under-representation of minority groups, this analysis finds some nuance. Some racialized groups, notably Chinese Canadians, appear to be proportionally more under-represented than others. The authors explore a range of arguments to explain this finding. In conclusion, the authors highlight two key findings from this research. First, they suggest it is difficult to make the case that being part of a racialized group has a negative impact on political representation at the provincial level – at least currently in two provinces with large racialized populations – without introducing nuance that subdivides ethnoracial minority groups. The second finding is conceptual: ethnic affinity cannot solely predict voting behaviour. The authors contend that the concept must be broadened to include centripetal ethnic affinity and transversal ethnic affinity.

Pascasie Minani Passy and Abdoulaye Gueye

Political representation for minority groups has proven to be a key aspect of the recent evolution of modern societies. This article specifically examines the political representation of ethnoracial groups in the Ontario and British Columbia legislatures. By discussing various theories about political representation and ethnoracial origin, this article seeks to address the complex notions of residential concentration and especially the assumption of ethnic affinity; the latter concept is based on the idea that members of a given ethnic group are more likely to vote for a candidate from their identity group than from another.

This article introduces a distinction between two concepts: centripetal ethnic affinity and transversal ethnic affinity. The first concept accounts for how members of a given ethnic group are more emotionally disposed to respond positively—through concrete actions—to people who share their ethnic identity than to those who do not. Electorally, these emotional dispositions result in more votes for ingroup candidates, except in cases where there is an irreconcilable opposition between the moral convictions of voters and those of their ingroup candidates. The second accounts for how members of a given ethnic group are more affectively disposed to respond positively to members of another ethnic group when perceived as objective allies who share the same socio-economic conditions and/or the same attitude toward another ethnic entity in society. The importance of transversal ethnic affinity cannot be understated, especially in the discussion of political dynamics in multi-ethnic societies. The majority/minority distinction in these societies has been obscured by the composite nature of these entities, which include a number of ethnic groups whose interests converge or diverge circumstantially. This concept is also a useful tool for determining how meaningful the dichotomy between "the white majority" and the "racialized minority" is in the political space.

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Two theoretical arguments will be challenged in this article. The first is that racialized candidates are far more likely to be elected in constituencies where whites form a significant minority; this would be indicative of an ethnoracialization of the political space. The second is that racialized individuals make rational political investments in candidates from their ingroup to improve their limited access to resources in the economic space. The implicit component of this argument is that the most vulnerable racialized groups are the most likely to seek out political representation as they are cognizant of its effectiveness in determining the rules of access to and distribution of resources (in the economic space like in any other space). This argument appears to be at odds with Bourdieu,[1] whose influential theory states that control over resources, including money, educational capital and free time, determines political participation. But the contradiction is only apparent because even the most vulnerable racialized groups include members or allies who have these resources and whom those groups can count on to defend their interests.

In terms of methodology, this article will pore over the results of the Ontario and British Columbia provincial elections, in 2018 and 2017 respectively, with a focus on two criteria: (a) the ethnoracial identification of the elected candidates; and (b) the ethnic distribution of the constituents who elected racialized candidates. Given the extremely complex and fluid nature of ethnoracial identity[2] in an era of generational multiracialism (i.e. biracial children born to biracial parents), this concept is unquestionably problematic. In light of this, we have opted for a crossover design that incorporates both self-definition (the racial identities as assigned by the candidates themselves) and exo-definition (the racial identities as assigned to candidates by the media or other agents of the political space) into the methodology. Elected candidates are considered racialized if they identify as such on their party's website or in Canadian media. Institutionally recognized official categories of racialized groups include "South Asian," "Black," "Chinese" and "other visible minorities."

In the social sciences, there is a considerable amount of literature dedicated to analyzing the relationship between ethnoracial minority groups and politics in Canada's extremely diversified society. By examining the political participation of members of different social groups, Black[3] found that immigrants have the same degree of political participation as Canadians who were born here. In their study on the political participation of Muslim Canadians, Munawar et al. reveal that context plays an interestingly significant role.[4] According to the authors, the participation rate and political representation of Muslim Canadians increased in the aftermath of the attacks of September 11, 2001, during which Muslims faced a considerable amount of negative stigma. Bird argues that the high number of racialized MPs elected in the 2005 federal election is due to the generosity of Canada's citizenship regime, affirmative action in the candidates' nomination process and the residential concentration of ethnoracial minorities.[5]

Political representation in Ontario: Inequality for racialized minorities

Ontario and British Columbia are two of the most ethnoracially diverse provinces in Canada. According to the 2016 census, Ontario had a population of 13,242,160, with 3,885,885 (or 29.3 per cent) identifying as non-white.[6] There are 124 members (MPPs) in the Ontario legislature, or one for every 106,792 residents.[7] Canadians of European descent form a clear majority in Ontario (70.7 per cent). At 8.7 per cent, South-Asian Ontarians are the largest minority, but they do not considerably outweigh the other racialized groups. Chinese and Black Ontarians follow with 5.7 per cent and 4.7 per cent of the population, respectively.[8] If parliamentary membership was proportional to ethnoracial representation, the seat counts would be 11 for South-Asian Ontarians, 7 for Chinese Ontarians, 6 for Black Ontarians, 13 for the other racialized groups and 87 for European Ontarians. However, current representation differs significantly from this proportional projection. With 96 out of 124 seats, European Ontarians are overrepresented in the current legislature, while ethnoracial minorities are collectively underrepresented with 28 seats. This creates discrepancies where the representation by demographic weight favours European Ontarians by a factor of 1.1 and disadvantages ethnoracial minorities by a factor of 1.3.

This data reveals further inequality regarding the representation of various ethnoracial minorities in the Ontario legislature. In fact, this political space is far from being equally unfavourable to all racialized groups. South-Asian Ontarians would have 11 MPPs in an ethnoracially proportional legislature, and there are in fact 11 South-Asian MPPs in the current Ontario legislature. Similarly, Chinese Ontarians would have seven MPPs, yet there are only three; this group is proportionally under-represented by a factor of 2.3. As for Black Ontarians, ethnoracially proportional projections give them six MPPs; currently, there

are eight, meaning that Black Ontarians are over-represented by a factor of 1.36, making them the only ethnoracial minority group overrepresented in the Ontario legislature.

Different votes for similar folks?

Most democratic countries, including Canada, delineate electoral districts and determine political representation based on constituency and not ethnoracial group membership. That is why evaluating the political representation of racialized groups in legislatures of democratic countries may seem fundamentally illogical. However, in Canada and elsewhere, societies are historically crossed by ethnic, racial, class-based and religious lines.[9] Therefore, geographical territories are never neutral[10] in terms of class, race and religion; the study of ethnoracial political representation is not as illogical as it would appear. Territory is often an expression of race or class: immigrants will collectively settle in the same areas and eventually become totally absorbed by the demo-ethnic majority, at which point they will adamantly seek out common ground to ensure that their cultural identities are preserved. Studying the characteristics of constituencies where racialized candidates are elected is a useful exercise.

A closer analysis of election results in these constituencies shows how the success of racialized candidates is influenced by the demographic weight of minorities. Of the 28 constituencies won by Ontarians who identify as part of a racialized group, 21 have a racialized population equal or greater to 40 per cent of the constituency's total population. Additionally, in 19 of these constituencies, at least 50 per cent of the population belong to racialized minority groups. At first glance, this data confirms the theory of residential concentration, which argues that nonEuropeans' odds of political representation depend on whether they have a strong presence in electoral districts, as proven by Simard[11] in her research on the Montreal area and by other authors such as Siemiatycki and Matheson[12] in their analysis of the Ontario election results for the Toronto area and their findings regarding constituency population distribution by ethnoracial identity. Without rejecting the relevance of the theory of residential concentration, we must ask ourselves why is it that constituencies where white Canadians form a significant minority have not been able to elect racialized candidates to the legislature. Many academics agree that electoral competition is based on candidates' personalities and party reputation.[13] It would therefore be valid to hypothesize that the absence of racialized candidates in constituencies where ethnoracial groups form the demographic majority is the result of internal party politics. And, if this hypothesis is true, it is still important to identify which of the two factors (party politics and residential concentration) prevails in determining the probability of racialized-minority representation in the legislature. However, we are unable to answer this question because we were not able to gather a large amount of data on all the political parties' policies regarding the ethnoracial minorities' representation in the legislature. Ethnoracial inclusiveness is a prevalent discourse in Canadian politics, but only some Canadian parties appear to have set up specific policies and rules to strive for a slate of candidates which more proportionately reflects the number of women, ethnoracial minorities and other equity-seeking groups in society.[14]

It is certainly tempting to think of Canadian society as a demographic binary of one white entity and another racialized one, but we must not lose sight that the latter is eminently diverse owing to its subdivision into 12 racialized groups. This diversity is unique because it inspires researchers to ask whether the effects of residential concentration on political representation occur solely in a competitive framework between the white demographic entity and that of all racialized groups. Is it also a factor for competition between ethnic groups? The first observation from this methodological approach is that Black candidates are overwhelmingly elected in constituencies where Black Canadians are not the largest racialized minority. Of the eight Black candidates elected, only two won in constituencies where Black Canadians are the largest racialized group. The remaining six were elected in constituencies where SouthAsian Canadians are the largest racialized group. In comparison, the two Chinese candidates who were elected won in constituencies where the demographic weight of their group surpasses that of any other racialized community. South-Asian Canadians overwhelmingly elected candidates from their ingroup (nine times out of 11) in constituencies where they were the largest racialized group. The other two candidates were elected in Chinese- and Black-majority constituencies. These numbers preliminarily indicate that Black Ontarians' political representation, in comparison with that of the other largest racialized minorities, aligns the least with the concept of centripetal ethnic affinity and gravitates the most toward transversal ethnic affinity, or electoral indifference toward race. Chinese Canadians' political representation, on the other hand, closely aligns with centripetal ethnic

affinity, because it would appear – at least on the basis of the 2018 general election – that this group can only elects candidates in constituencies with very large Chinese populations. In fact, Markham–Unionville and Richmond, two constituencies won by candidates who identify as Chinese, are 64.2 per cent and 51.7 per cent Chinese, respectively. Furthermore, in Don Valley North, the third constituency where a Chinese-Canadian candidate was elected, 31 per cent of residents identify as Chinese. Voting data for this racialized group therefore appears to confirm the theories of centripetal ethnic affinity and residential concentration.

However, voting data on Black Canadians contradicts these theories. It is hard to provide a definitive explanation for this contrast; political representation is influenced by a myriad of overlapping structural, conjunctural, individual and collective factors, as well as political party dynamics and voter choice. The contrast does, however, raise the issue of the history of inter-racial/ethnic relations and their current impact on Canadian political representation. Without naively subscribing to an anti-historicist or psychologistic approach, it is valid to point out that Chinese and Black Canadians have been treated differently in Canadian society and politics. While Black Canadians have had the right to vote ever since Canada was founded and have relied on national leaders as eminent as John Alexander McDonald every time this right was threatened by tiny racist enclaves, Chinese Canadians had to fight legislative measures openly barring their participation in Ontario politics up until 1915. During the time they faced institutional exclusion, is it possible that part of Chinese community developed their own residential foothold and became selfreliant? Could they have lost interest in politics in all constituencies where their racialized community is not the largest? Are they doubtful as to whether other ethnoracialized groups and white Ontarians are likely to support Chinese candidates in constituencies where Chinese Ontarians are not the largest racialized minority? Incidentally, MPPs elected in three of the six constituencies where the white population, owing to its (almost) overwhelming demographic weight—a minimum of 51% of the population—had the power to determine the results of the election, identified as being part of groups that were not the largest minority in the constituency. However, none of the candidates elected were Chinese. Bhutila Karpoche, a Nepalese Canadian, was elected in Parkdale–High Park, where 72.2 per cent of constituents identified as white and where Black Ontarians were the largest racialized minority. Similarly, Goldie Ghamari, an Iranian Canadian, was elected in Carleton Place, where 94.04 per cent of constituents identified as white and where Black Ontarians were the largest racialized minority. Last, Belinda Karaholios, a multiracial candidate of African and Trinidadian descent, was elected in Cambridge where 93.5 per cent of constituents identified as white and where South-Asian Ontarians were the largest racialized minority. These figures indicate a certain Chinese exceptionalism with regard to political representation. Chinese Ontarians are, in fact, the only racialized community to be subject to what we call imperative minority prevalence; this means their political representation in Ontario is predicated on whether or not they are the largest demographic minority in their constituency. In no other group is imperative minority prevalence so systemically entrenched. Explorations of past and future elections in Ontario will be needed to affirm this finding; however, a contemporary comparison with British Columbia can also provide an opportunity to text this theory.

British Columbia and the confirmed political insignificance of Chinese Canadians

Although British Columbia's population is three times smaller than Ontario's, its population is just as ethnoracially diverse. Indeed, 30.3 per cent of British Columbia's population identify as being part of non-European ethnic groups. Chinese Canadians are the largest racialized minority with 11.2 per cent of the total population, followed by South-Asian Canadians with eight per cent and Filipino Canadians with 3.2 per cent. Unlike Ontario, British Columbia is home to very few Black Canadians, who make up only one per cent of the total population.[15] Both provinces' similar ethnoracial diversity present a clear opportunity to challenge this article's previous analyses. This similarity can not only confirm or refute the systematic effects of residential concentration on the political representation of racialized groups, but it can also measure the degree to which various racialized minorities depend on either transversal ethnic affinity or centripetal ethnic affinity to ensure that they are represented in the provincial legislature.

Ethnoracial representation in British Columbia

Given British Columbia's total population of 4,560,240 in 2016, one elected candidate represents approximately 52,416 residents. There are 508,480 Chinese Canadians in British Columbia, which would give them 10 members of the legislative assembly (MLAs) based on an ethnoracially representative

projection. There are 365,705 South-Asian Canadians in British Columbia, which would similarly give them approximately seven MLAs.[16] In contrast with Ontario, there are only 43,500 Black Canadians in British Columbia. Currently, none of these ethnoracial groups have perfect proportional representation. South-Asian Canadians have elected seven candidates in total, a few decimal points above their projected figure. The Chinese community, however, are much more under-represented since they only have four elected candidates –less than half of their projected figure.

Chinese Canadians in British Columbia therefore share the same exceptionalism and distance from politics as Chinese Ontarians. Are they distancing themselves from Canadian parliamentary politics, or are they being kept at a distance? This question could certainly be answered if there was solid data on the opinions of the Chinese community vis-à-vis active political involvement. Past research, which has traditionally examined the different levels of political representation of various ethnoracial groups, indicates that representation in the Chinese community is low and relatively high in the South-Asian and Black communities owing to a variety of sociocultural factors. For some authors, including Simard,[17] the absence of political culture within an ethnic group could explain its under-representation. In this case, Chinese Canadians, many of whom have historically endured an oppressive communist dictatorship, are not as politically invested as SouthAsian Canadians, who have experienced more than a century of democracy in their countries of origin. A comparison of the political environment in the People's Republic of China (PRC) and that of the main countries in Southern Asia (India, Pakistan and Bangladesh) would indicate that this analysis is plausible. This is particularly plausible because it is recognized—although rarely discussed by the aforementioned authors—that there is an over-representation of Chinese Canadians born outside Canada; 45 per cent of whom were born in the PRC.[18] Furthermore, according to the 2016 census, 199,990 British Columbia immigrants were born in China, placing it at the top of the country of origin list. If we were to suppose—with all the racialist undertones it entails—that all these Chinese-born immigrants are ethnically Chinese, it would be legitimate to posit that the political authoritarianism in the PRC, reflected by its stateenforced deprivation of citizens' political opinions, could partially explain how the Chinese community views the value of participating in Canadian politics. A second factor often discussed in the literature—and which relates to the first one—is the condition for material survival imposed on immigrants. This idea refers to an intentional distancing of themselves from politics for their first few years in the country in order to focus exclusively on succeeding in the job market. Last, the third factor is linguistic deficit.[19] The Chinese community in Canada still renews itself largely through waves of immigrants from the PRC, where English is a second language. With a linguistic deficit, they cannot be held to master the codes, rules and symbols at play in Canadian politics. South-Asian Canadians, on the other hand, potentially have a much better understanding of these concepts because they come from countries where English is an official language and the local political system is largely modelled on that of Great Britain, their former colonial power. Furthermore, Siemiatycki argues that divisions based on "language and nationality" explain Chinese Canadians' low representation.[20]

Beyond any one factor

Each of these factors could certainly contribute to explaining the difference in political representation between Chinese and South-Asian Canadians. But does it explain it entirely? The available data indicates that a degree of caution is needed and that it is important to compare and contrast the two communities. In fact, both include a large number of members who were born abroad—keeping in mind the racialist presumptions raised earlier. In British Columbia, 39.3 per cent of Chinese Canadians were born in China and 44.5 per cent of South-Asian Canadians were born in India. The necessity for material survival would logically have a similar impact on Chinese and South-Asian Canadians, and language deficiency cannot solely explain this phenomenon, according to the information available. In studies where this factor is central to the analysis, there is an explicit presumption that ethnoracial groups are to be attributed the official language of the country with which they are identified. None of this research examines the degree of English proficiency of ethnoracialized Canadians in Canada; rather it is inferred based on their country of origin. Last, the argument of the divisions based on language and nationality in the Chinese community at large, where some speak Mandarin and others Cantonese, is also not immune from criticism. There are some objections in this regard.

The first, and perhaps the most obvious, with regard to the above figures is that not all Canadians of "Chinese" or "South-Asian" descent are born outside Canada.

The second is that language has been one of the main admission criteria of the immigrant selection process, ever since the removal of its racial—if not racist—component. Insofar as this criterion is enforced across the board, or at least for the vast majority of immigrants, regardless of nationality or ethnoracial identity, language deficiency could not possibly explain the political underrepresentation of any ethnoracial group.

The third is that attributing English-language proficiency to South-Asian Canadians based on their country of origin is ideologically biased. Assuming that the level of English-language proficiency of an immigrant community in Canada accurately reflects that of the entire nation with which it is identified, and that it must determine its degree of political representation, South Asian Canadians should have an extremely low representation in British Columbia, only slightly higher than Chinese Canadians. Furthermore, although English is an official language in India, the largest country in southern Asia, Indian census data from 2011 indicates that 10.6 per cent of Indians speak English, compared to one per cent in China, according to 2018 data.[21] If only 10.6 per cent of South-Asian Canadians (or 36,570.5) were eligible to vote in British Columbia, they would not have any representatives in the Legislature, given the previously calculated ratio of one MLA for 52,416 residents.

Last, Chinese Canadians do not have any greater linguistic or national diversity than do South-Asian Canadians, since the latter include Indians, Pakistanis and Bengalis, who speak a variety of languages such as Hindi, Gujarati, Tamil and Bengali. Furthermore, South-Asian Canadians are more religiously diverse (Hinduism, Sikhism, Christianity and Islam).

Assuming that immigrants, regardless of how long they have lived in Canada, are likely display behaviour similar to that of the residents of the countries with which they are identified, the only factor that seems to pass muster is prior exposure to democracy. In light of this, South-Asian Canadians have an observable advantage over their Chinese counterparts. Not only is India the largest country in southern Asia and comparable to China in terms of population, it has also been an unprecedented proving ground for democracy. There are approximately 900 million eligible voters in India, which has a high voter participation rate, even though voting is not compulsory. In fact, a little more than 67 per cent of eligible voters cast ballots in the most recent election of April 2019.[22] In comparison, China (Hong Kong, Taiwan and Macau excluded) does not hold multi-party elections; as a whole, Chinese Canadians are less likely to have experienced democracy. And this explanation would be perfectly satisfactory if not for one key fact. Chinese Canadians possess one characteristic that could explain their desire to free themselves from China's political environment; and the decision to leave China, for those born there, and move to Canada is somewhat symptomatic of that quest for emancipation. This characteristic is none other than the community's relatively high level of general education. According to the 2016 census, 21.7 per cent of Chinese Canadians in British Columbia have a degree equivalent to a bachelor's, versus 13.1 per cent of South-Asian Canadians. Moreover, 10.6 per cent of Black Canadians have a degree.[23] In addition, Chinese Canadians have slightly higher levels of graduate education than the other main racialized groups in British Columbia: 9.3 per cent of Chinese Canadians have a graduate-level degree, versus 8.1 per cent of South-Asian Canadians and 6.3 per cent of Black Canadians.[24]

Assuming that the exercise of political rights stems from the faculty of Reason,[25] which all university programs seek to impart upon graduates, Chinese Canadians should have the same degree of political representation in the legislature as South-Asian Canadians. But they do not; so we must consider other factors. One, in particular, is the hierarchy created by ethnoracial communities—and perhaps all communities—to identify how they will invest their resources. This idea includes two assumptions. The first is that communities act rationally by dividing society into various spheres of investment and unevenly allocating resources based on their requirements. The second, inferred by the first, is that they do not view all spheres of society as equally important. As a result, communities primarily invest their resources in sectors they believe will be most likely to raise their standing in society. By building businesses and religious institutions, Chinese immigrants have proven their ability to establish a foothold and thrive. Therefore, the assumption that Chinese Canadians do not master the codes and rules of Canadian society, thus explaining their low representation, does not hold water; building these institutions requires them to interact with Canadian lawmakers and officials. Perhaps they are poorly represented because they put politics second, behind social and economic development.

Conclusion

One finding from this article is how difficult it is to make the case that being part of a racialized group has a negative impact on political representation at the provincial level – at least currently in two provinces with large racialized populations. While past research on political representation at the federal, municipal and regional levels has almost unanimously found that racialized minorities are under-represented, this article presents a more nuanced portrait, suggesting that different groups within this broad category of "visible minorities" do not have the same level of political representation. While white European Canadians are over-represented in the Ontario and British Columbia legislatures, visible minorities are not; the exception is the Black community, whose number of elected candidates in Ontario is far greater than its proportional projection. Similarly, South-Asian Canadians in British Columbia elected the same number of candidates as projected. By comparison, Chinese Canadians are the main racialized minority whose representation in the Ontario and British Columbia legislatures supports the thesis of visible minorities' under-representation, since they elected fewer than half of the candidates a proportional projection would have given them.

The second finding is conceptual: ethnic affinity cannot solely predict voting behaviour. The concept must be broadened to include centripetal ethnic affinity and transversal ethnic affinity. With these two concepts, the article further clarifies racialized groups' glaring inequalities in political representation. On the one hand, transversal ethnic affinity is a positive factor for minority representation, because it encourages all ethnoracial minorities to vote for a racialized candidate. Centripetal ethnic affinity, on the other hand, is likely to thin out racialized group representation, because each individual will, in all likelihood, only vote for a candidate from their ingroup.

Notes

1 Bourdieu, Pierre. "La représentation politique: éléments pour une théorie du champs politique," *Actes de la recherche en sciences sociales*, vol. 36-37, February/March, 1981, pp. 3-24.

2 Haine, Renee, Stuart Hall, Su Jhally, Allessio Quarzo-Cerina, and Kanopy Firm. Race: The Floating Signifier, Firm, Media Education Foundation Collection Njcore00000000080, 2014.

3 Black, Jerome. "Immigrant Political Adaptation in Canada: Some Tentative Findings," *Canadian Journal of Political Science*, 15(1), 1982, pp. 3-28; and Black, Jerome. "The Practice of Politics in Two Settings: Political Transferability among Recent Immigrants to Canada," *Canadian Journal of Political Science/Revue Canadienne De Science Politique*, vol. 20, 1987, pp. 731-753.

4 Munawar, Nabila, Kamran Bhatti and Hussein Hamdani. "Muslim Political Participation in Canada: From Marginalization to Empowerment?", *Canadian Issues*, 2005, pp. 27-30.

5 Bird, Karen. "Guess Who's Running For Office? Visible minority representation in the 2004 Canadian election," *Canadian Issues,* 2005, pp. 80-83.

6 Statistics Canada. "Census Profile, 2016 Census. Ontario. Visible minority population," Ottawa, (2019a)https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=PR&Code1=35&Geo2=PR&Code2=01&SearchText=Ontario&SearchType=Begins&SearchPR=01&B1=All&TABID=1&type=0. Accessed on August 7, 2019.

7 This figure is approximative because it assumes that all Ontarians are de facto voters. It does not take into account the number of people who were ineligible to vote because of their nationality or age.

8 Statistics Canada. "Immigration and Ethnocultural Diversity Highlight Tables. Visible minority (visible minority), both sexes, age (total), Canada, provinces and territories, 2016 Census – 25% Sample data. Visible minority (manually add "social group"), Ottawa, (2019b) https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/hlt-fst/imm/Table.cfm?Lang=E&T=41&Geo=00&SP=1&vismin=2&age=1&sex=1. Accessed on August 8, 2019.

9 See: Li, Peter S. (ed.). *Race and ethnic relations in Canada*, Second Edition, Don Mills, Ont., Oxford University Press Canada, 1999, 414 p.; Ralston, Helene. "Redefinitions of South-Asian Women", in Driedger, Leo and Halli, Shiva S. (ed.). *Race and Racism: Canada's Challenge*, Montreal and Kingston/London/Ithaca, published for Carleton University by McGill/Queen's University Press, 2000, pp. 204-234; Henry, Frances, and Carole Tator. *Racial profiling in Toronto: Discourses of Domination, Mediation, and Opposition*, Canadian Race Relations Foundation, Toronto, 2005, 129 p.; Zong, Li. "Recent Mainland Chinese Immigrants and Covert Racism in Canada" in Bolaria, Singh and Hier, Sean P. (ed.). *Race and Racism in 21st-century Canada: Continuity, Complexity, and Change*, Peterborough, Ontario, Broadview Print, 2007, pp. 111-129; James, Carl, David Este, Bernard Thomas Wanda, Benjamin Akua, Lloyd Bethan, and Tana Turner. *Race and Well-Being: The Lives, Hopes and Activism of African Canadians*, Nova Scotia, Fernwood Publishing, 2010, 205 p.; Mensah, Joseph. *Black Canadians history, experiences, social conditions*, Halifax, N.S., Fernwood Pub., 2010, 293 p.; Satzewich, Vic. Racism in Canada, Don Mills, Ont.: Oxford University Press, 2011, 137 p.; Mullings, Delores V. "The institutionalization of Whiteness in Contemporary Canadian Public Policy," in Watson, Veronica T.; Howard-Wagner, Deirdre; Spanierman, Lisa (dir.). *Unveiling Whiteness in the Twenty-first*

Century: Global Manifestations, Transdisciplinary Interventions, Lanham. Boulder. New York. London, Lexington Books, 2015, pp. 115-141; Maynard, Robyn. *Policing Black lives: state violence in Canada from slavery to the present*, Halifax, Fernwood Publishing, 2017, 280 p.

10 Multiple authors have previously developed the concept of territory as synonymous with race, religion and class. The works of Anderson (1980) and Ray et al. (1997) are among the best with regard to its application in Canada.

11 Simard, Carolle. "La représentation des groupes ethnoculturels dans la région montréalaise: vers une participation politique," *Journal of International Migration and Integration*, 3(2), 2002, pp. 275-294.

12 Siemiatycki, Myer, and Ian Matheson. "Suburban Success: Immigrant and Minority Electoral Gains in Suburban Toronto," *Canadian Issues*, 2005 p. 69-72.

13 Manin, Bernard. *Principes du gouvernement représentatif*, Paris, Calmann-Lévy: Fondation Saint-Simon, 1995, pp. 279-285.

14 See: Marieke Walsh, "Parties increase efforts to boost diversity, but NDP leads the charge." The Globe and Mail, October 19, 2019. https://www.theglobeandmail.com/politics/article-parties-increase-efforts-to-boost-diversity-but-ndp-leads-the-charge/ and Alex Ballingall," NDP downplays lack of nominated candidates, says push for diversity explains delay," The Toronto Star, March 30, 2019, https://www.thestar.com/politics/federal/2019/03/30/ndp-downplays-lack-of-nominated-candidates-says-push-for-diversity-explains-delay.html

15 Statistics Canada (2019c). "Census Profile, 2016 Census. British Columbia. Visible minority population," Ottawa, https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=PR&Code1=59&Geo2=PR&Code2=01&SearchText=British%20Columbia&SearchType=Begins&SearchPR=01&B1=All&TABID=1&type=0. Accessed on August 7, 2019.

16 Statistics Canada, 2019c.

17 Simard, 2002.

18 Statistics Canada (2007). "The Chinese Community in Canada," Ottawa, https://www150.statcan.gc.ca/n1/pub/89-621-x/89-621-x2006001-eng.htm. Accessed on August 9, 2019.

19 Simard, 2002.

20 Siemiatycki, Myer "Reputation and Representation: Reaching for Political Inclusion in Toronto," in Andrew, Caroline; Biles, John; Siemiatycki, Myer; Tolley, Erin (ed.). *Electing a Diverse Canada: The Representation of Immigrants, Minorities, and Women*, Vancouver: UBC Press, 2008: pp. 23-45.

21 Smith, Oliver (2017). "Mapped: Where to go if you can't be bothered to learn the language," *The Telegraph*, February 7, 2017, https://www.telegraph.co.uk/travel/maps-and-graphics/mapped-english-speaking-countries/. Accessed on August 7, 2019.

22 Jann, Barthi. "Lock Sabha Elections: At 67.1%, 2019 Turn-out a record, Elections Commission Says," *Times of India*, May 21, 2019. https://timesofindia.indiatimes.com/india/at-67-1-2019-turnouts-a-record-election-commission/articleshow/69419715.cms. Accessed on August 7, 2019.

23 Percentages calculated with data from Statistics Canada (2018). Visible Minority (15), Labour Force Status (8), STEM and BHASE (non-STEM) Groupings, Major Field of Study - Classification of Instructional Programs (CIP) 2016 (16), Highest Certificate, Diploma or Degree (9), Immigrant Status (4), Age (10) and Sex (3) for the Population Aged 15 Years and Over in Private Households of Canada, Provinces and Territories and Census Metropolitan Areas, 2016 Census - 25% Sample Data. Manually added "Geography" and "Highest Certificate, Diploma or Degree (9)", Ottawa, and Statistics Canada, 2019c).

24 Ibid.

25 This notion was historically upheld by Enlightenment philosophers in their writings. It was later on reiterated by ore contemporary authors. Biographers of Thomas Jefferson, one of the founding fathers of the United States have sufficiently highlighted the role that this American political actor and thinker has imparted to the education for the making a great democracy. Williams pointed thus to Jefferson's statement that education is a necessity to democracy's success and, as a result, a true democracy must provide education to its citizens. See John Sharp Williams, *Thomas Jefferson: His Permanent Influence on American Institutions*, New York, AMS Press, 1967, p.286. Besides, though he criticized Jefferson for excluding women and Black people in general from the benefits of education, Carpenter acknowledges that this founding father of America strongly tied the exercise of democratic rights and duties to the acquisition of education. See Carpenter, James, "Thomas Jefferson and the Ideology of Democratic Schooling," *Democracy & Education*, 21(2), 2013.

Feature

Strengthening the Parliamentary Scrutiny of Delegated Legislation: Lessons From Australia

Delegated legislation involves Parliament lending its legislative powers to the executive branch of government, such as to the cabinet or an individual minister. As the ultimate source of legislative power, Parliament has a special responsibility to keep an eye on executive lawmaking. The Australian federal scrutiny committee – formerly called the Senate Standing Committee on Regulations and Ordinances, and now rebadged as the Senate Standing Committee for the Scrutiny of Delegated Legislation – recently carried out an inquiry to consider how it could improve its scrutiny process. In 2019 it published a unanimous report that was endorsed by the Australian Senate in November when it amended its Standing Orders in line with the committee's proposed changes. This article provides an overview of the Australian scrutiny committee and its inquiry. It then considers the committee's report and recommendations, which present an opportunity to consider changes to the parliamentary scrutiny of delegated legislation in other jurisdictions such as Canada.

Lorne Neudorf

Introduction

There exists a tremendous volume of delegated legislation in Canada, which can be seen in the 500-plus pages of the *Consolidated Index of Statutory Instruments* that lists the thousands of federal orders and regulations that have been made over the years.[1] Canada is hardly alone in relying on delegated legislation as a major source of law. In the United Kingdom, delegated legislation has recently been described as the "central form of legislation in the contemporary constitution."[2] In Australia, delegated legislation makes up at least half of all federal law.[3]

Delegated legislation involves Parliament lending its legislative powers to the executive branch of government, such as to the cabinet or an individual minister. As the ultimate source of legislative power, Parliament has a special responsibility to keep an eye on executive lawmaking.[4] Legislative scrutiny helps to maintain important standards of accountability and transparency in lawmaking, essential features of a democratic society founded on the rule of law. Parliamentary oversight is especially critical in the context of delegated legislation, as it is made outside the safeguards of the ordinary parliamentary process. Moreover, broad language is often used in delegation provisions, which have become a routine part of most new bills.[5] In some cases, incomplete legislative schemes are pushed through Parliament with significant matters to be worked out later by way of delegated legislation. The parliamentary scrutiny of delegated legislation therefore provides a vital check on one of the principal sources of executive power. It can identify drafting flaws, infringements of civil and constitutional rights, and the inappropriate use of delegated powers by the executive. Parliamentary scrutiny can also provide powerful incentives for the government to remedy any problems discovered, and to take care in making delegated legislation in the first place.

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The question is how Parliament can effectively scrutinise all new delegated legislation within the constraints of limited time and resources. In common law jurisdictions, this scrutiny work often takes place through one or more parliamentary committees. Over the past two years, I have carried out a comparative study on how such committees scrutinise delegated legislation, which included site visits to the national parliaments of Canada, Australia, New Zealand and the United Kingdom. The research shows that there is a variety of different scrutiny models. While each approach has its own benefits and limitations, there are valuable lessons to be learned from the experience of others that can be applied at home to reform and strengthen existing scrutiny processes.

The Australian federal scrutiny committee – formerly called the Senate Standing Committee on Regulations and Ordinances, and now rebadged as the Senate Standing Committee for the Scrutiny of Delegated Legislation[6] – recently carried out an inquiry to consider how it could improve its scrutiny process. This past June, it published a unanimous report that included 22 recommendations and 11 action items. The report was endorsed by the Australian Senate in November when it amended its Standing Orders in line with the committee's proposed changes. This article provides an overview of the Australian scrutiny committee and its inquiry. It then considers the committee's report and recommendations, which present an opportunity to consider changes to the parliamentary scrutiny of delegated legislation in other jurisdictions such as Canada.

Overview of the Australian Scrutiny Committee

Established in 1932, the Australian scrutiny committee is one of the oldest parliamentary scrutiny committees that examines delegated legislation in the common law world. It is comprised of six Senators, three from the government and three from opposition parties or independents. Its role is to scrutinise all 'legislative instruments' that are tabled in Parliament and which are subject to disallowance.[7]

Under the Australian *Legislation Act 2003*,[8] legislative instruments are those described or registered as such, or which have been made under primary legislation delegating power to determine or alter the content of the law (as opposed to determining cases or circumstances where the law applies).[9] In the latter case, the instrument must also affect a privilege, interest, obligation or right.[10] The idea is that a legislative instrument must be truly *legislative* in character, in the sense of creating or changing the general law, as opposed to the essentially administrative act of making an order or designation. Several exemptions exist.[11]

Disallowable legislative instruments are legislative instruments that are subject to the *Legislation Act 2003*'s disallowance procedure.[12] The procedure allows either House of Parliament to disallow an instrument where a Senator or Member of the House of Representatives places a notice of motion to that effect within 15 sitting days of the instrument first being laid before that House.[13] If the motion is adopted or not taken up within an additional 15 sitting day period, the instrument is repealed and ceases to have any further legal effect.[14] In addition to disallowance, all legislative instruments are subject to sunsetting, being automatically repealed after a period of 10 years, unless exempted.[15]

The Australian scrutiny committee reviews each disallowable legislative instrument on the basis of specified criteria that includes whether it is consistent with applicable legislation, whether it unduly interferes with personal rights or liberties, whether it inappropriately excludes the availability of merits review from important administrative decisions, and whether it includes subject matter that is more appropriate for primary legislation.[16] In practice, the criteria has been applied more broadly than what would be expected from a reading of the relevant Standing Orders alone, although the committee remains focused on scrutinising the technical aspects of instruments as opposed to their underlying policy to maintain the non-partisan nature of its work.

As there is only a 15 sitting day period during which a notice of motion can be placed to disallow a legislative instrument, the committee must complete its work fairly quickly so that it can report back to the Senate and provide it with a meaningful opportunity to consider disallowance. The committee also raises its concerns directly with ministers, agencies and departments, which may be resolved within the disallowance period – in which case, any notice of motion placed by the chair will normally be withdrawn. In cases where there remain significant unresolved concerns and limited time remaining for disallowance, the chair has adopted the practice of placing a 'protective notice of motion' for disallowance, which triggers the additional 15 sitting days for the motion to be considered. The practice can effectively double the time available for the Senate to disallow an instrument and maintains an incentive for concerns to be addressed by the minister, agency or department (as the case may be) as the possibility of disallowance is preserved for this further period.[17]

While the Senate last disallowed an instrument on the recommendation of the committee in 1988, it has always backed its advice.[18] The Senate's consistent support of the committee's work is likely due to its well-deserved reputation as a non-partisan committee that works to maintain the integrity of the delegated lawmaking process and promote quality legislative outcomes.[19] As a parliamentary committee, it also represents the legitimate interests of parliamentarians in maintaining ultimate oversight and control of legislation. Notably, the Houses of Parliament more frequently debate (and occasionally disallow) instruments on a notice of motion for disallowance placed by other Senators or Members of the House of Representatives.[20]

In terms of resourcing, the committee is supported in its work by a secretariat of four staff members in addition to a legal advisor (in recent times, a legal academic has been engaged by the committee). In terms of its productivity, the committee meets each sitting week of the Senate, usually in private. It is to be commended for the quality and frequency of its reporting. First, the committee publishes the *Delegated Legislation Monitor*,[21] a weekly report to the Senate. The *Monitor* provides detailed information on the status of legislative instruments, highlighting concerns identified by the committee and actions that may be required or that have already been taken. Issues of the *Monitor* now focus on instruments with significant scrutiny concerns for which the chair intends to place a notion of motion for disallowance as discussed further below. Formal correspondence between the committee and ministers and agencies is published on the committee's website, which provides considerable transparency.

Second, the committee publishes the online *Disallowance Alert*,[22] which provides an updated status on all legislative instruments subject to a notice of motion for disallowance placed by any Senator or Member of the House of Representatives. The *Alert* facilitates the easy tracking of such instruments. It can also be used to quickly generate insightful information about the disallowance procedure more generally, such as statistical information.

Third, the committee publishes the annual *Index of Instruments*,[23] providing a consolidated list of all legislative instruments for which the committee identified concerns. The *Index* notes what action was taken by the committee and cross-references the list with past issues of the *Monitor* that provide more detailed information on particular instruments.

Fourth, the committee publishes several guidance documents, which provide plain language information to agencies and departments. For instance, the committee's guideline on consultation[24] explains what the committee looks for in each instrument's explanatory statement in relation to consultation – a requirement of the *Legislation Act 2003*.[25] The guidance provides that the explanatory statement should set out the method and purpose of the consultation, include a full list of the names of groups and individuals consulted, describe the issues identified through the consultation process and summarise any changes made in response thereto.

Finally, the committee publishes an annual report, which provides a snapshot of its activities over the year and a statistical overview. The 2018 annual report[26] noted that the committee met 16 times and examined 1570 legislative instruments.[27] The committee raised scrutiny concerns with 262 instruments, mainly under the principle of ensuring that the instrument was consistent with applicable legislation (which is interpreted broadly as including all statutory and constitutional requirements).[28] The chair placed 37 notices of motion to disallow an instrument, all of which were withdrawn except for 2 pending at the end of the year.[29] The report also provides a discussion and thematic overview of the work carried out by the committee, which is a valuable resource to identify persistent scrutiny problems and trends in the making of delegated legislation.

The Inquiry and Subsequent Reforms

The Australian Senate referred an inquiry to the scrutiny committee on November 29, 2018. Under the inquiry terms, the committee was charged with examining its "continuing effectiveness, role and future direction," and reviewing its powers and scrutiny criteria.[30] It was also tasked with considering the framework for the parliamentary control and scrutiny of delegated legislation more generally.[31] Notably, the reference provided that the committee should engage in comparative research by considering "the role, powers and practices of similar parliamentary committees, including those in other jurisdictions."[32] In seeking the inquiry, the committee observed that its scrutiny criteria had not been changed in nearly 40 years, while the volume and complexity of delegated legislation had grown significantly over that time.[33] The committee also noted that other jurisdictions had adopted new practices and innovations that it could learn from.[34]

During a period of consultation, the committee invited written submissions.[35] Fourteen were received, all of which are published in full on the committee's website.[36] Submissions were made by administrative and constitutional law scholars, the Commonwealth Parliamentary Counsel, government agencies and departments, state legislative bodies and committees, a law society and the Attorney-General. The submissions highlighted the importance of the scrutiny work carried out by the committee and included various suggestions to improve or streamline it. During the inquiry period, the chair and deputy chair travelled to New Zealand and the United Kingdom to inform themselves about the scrutiny processes in those jurisdictions.

The inquiry report was published on June 3, 2019. The report begins by providing a brief overview of the scrutiny committee's work.[37] It then considers the future of the committee.[38] Several of the committee's recommendations seek to enlarge the scope of its scrutiny jurisdiction and powers. For instance, the committee recommended that it be permitted to scrutinise other legislative instruments tabled in the Senate, not just those subject to disallowance.[39] In addition, it recommended explicit authorisation for examining draft delegated legislation.[40] Greater inquiry and reporting powers were also recommended.[41] A major part of the report then focuses on the committee's scrutiny criteria.[42] Over the years, the criteria gradually became out of step with the actual scrutiny work carried out by the committee. The report therefore recommends a series of new criteria to capture the committee's actual practice and to respond to different kinds of scrutiny concerns that have since been identified. The report recommends new criteria that includes compliance with relevant legislation, constitutional validity, sufficient delineation of administrative powers, adequate consultation, quality drafting, adequate access, availability of independent review, adequate explanatory materials, and the examination of "any other ground relating to the technical scrutiny of delegated legislation that the committee considers appropriate."[43] Notably, the report considers but ultimately rejects extending scrutiny to policy matters on the basis of maintaining its operation as a non-partisan committee.[44]

As part of the inquiry, the committee reviewed its current work practices to try and make them simpler, quicker and more effective.[45] To resolve the challenge of delayed correspondence with ministers, the committee authorised its secretariat to communicate directly with agencies on minor issues.[46] When necessary, the committee will also call on government officials or ministers to appear before it.[47] In terms of its publications, the committee resolved to streamline its *Delegated Legislation Monitor* to focus on instruments with significant scrutiny concerns.[48] It will also report to the Senate regularly on undertakings given to resolve concerns.[49] Recent issues of the *Monitor* include a list of ministerial undertakings, providing an important record of such commitments by the government and greater accountability.[50] In tabling reports in the Senate, the chair will now make a statement to highlight important matters.[51] In addition, the chair will establish a practice of placing notices of motion to disallow all legislative instruments with significant scrutiny concerns to trigger additional time for the Senate to consider the issues raised.[52]

The report then turns to the framework for parliamentary scrutiny and control of delegated legislation. In relation to bills that delegate legislative power, the report discusses the appropriate scrutiny role of Parliament, the trend of broad delegations and the use of Henry VIII clauses that allow primary legislation to be amended by delegated legislation.[53] Its recommendations include calling on the government to develop an expert advisory body to assist in drafting bills that delegate legislative power[54] and ensuring that bills are not permitted to progress in the Senate before having their delegation provisions scrutinised and reported upon.[55] The report also discusses the use of exemptions to prevent delegated legislation from parliamentary scrutiny and the disallowance procedure.[56] It recommends that the government review the exemption regime to ensure adequate safeguards are in place, along with the development of guidance for when its use is appropriate.[57] In terms of commencement, the report recommends that the government enact a delayed start for legislative instruments from the day after registration to 28 days after registration with exceptions available only in limited circumstances.[58] In relation to sunsetting, the report recommends the establishment of criteria and new limits around exemptions.[59]

Finally, the report discusses how to increase awareness and education of the issues around delegated legislation. It recommends training of Senators and their staff, and other governmental officials, in relation to delegated legislation and the scrutiny roles of the Senate and committee.[60] The report also recommends the creation of new systems to make it easier for parliamentarians to

locate updated and consolidated information about legislative instruments, including concerns raised by the committee.[61] In concluding, the committee also resolved to continue to issue new guidelines to help others better understand its work.[62]

On November 27, 2019, the Senate adopted most of the reforms recommended by the committee that required changes to the Standing Orders. The limited media attention focused on the scrutiny committee's new express power to consider the constitutionality of delegated legislation. The sole ABC report was headlined 'Senate committee goes rogue and gets powers to question constitutional validity of regulations'. It stated that the changes had been "pushed through the Senate" and that they "could prevent … or bring on … a constitutional crisis".[63] The article also repeatedly noted that the expansion of the committee's role to look at constitutional issues was "opposed by the Government".[64] In a recently published academic article, Stephen Argument – a former legal advisor to the committee – points out that the newly expanded scrutiny criteria "would require additional resourcing", which is not discussed in the report.[65]

Lessons To Be Learned

There is much to admire in the Australian scrutiny context. It is clear that the Australian scrutiny committee takes its work seriously because it understands the importance of delegated legislation in the contemporary legal system. For decades, it has carried out high quality scrutiny of delegated legislation that is essential to the integrity of lawmaking in a democratic society founded on the rule of law. Its reports have provided regular and easily accessible information on legislative instruments, highlighting scrutiny concerns and what has been done by agencies, departments and ministers to address them. The committee is not afraid to flex its muscle. It uses its ability to place notices of motion for disallowance of legislative instruments in the Senate to apply pressure to the executive to fix problems. It has created an effective system of incentives and can justify its work by using the requirements of the disallowance procedure to its benefit. There is much that scrutiny committees elsewhere, including Canada's Standing Joint Committee for the Scrutiny of Regulations, can learn from the Australian experience.[66]

The Australian scrutiny committee's recent inquiry is precisely the kind of reflective work that parliamentary committees should engage in from time-to-time. Its published report is the end product of a deliberate and considered process. While one can always find fault with details and identify risks and challenges when it comes to change, the report represents a genuine and bold attempt to strengthen the parliamentary scrutiny of delegated legislation in Australia. It never loses sight of the core principles of accountability and transparency in lawmaking, and the appropriate role that Parliament must play in relation to all forms of legislation. These guiding principles were a touchstone for the committee to assess different potential reforms. The report demonstrates that the committee *wants* to be better and has creatively searched for ways to make that happen. It should also be applauded for considering the work of committees in other jurisdictions, which allowed it to engage in a comparative benchmarking of its effectiveness and learn from both the successes and failures of others. While it remains to be seen how the committee will develop in the future with its greater prominence and expanded mandate, especially in light of pressures from the increasing volume and complexity of delegated legislation, it rests on a solid foundation.

Notes

1 Privy Council Office, *Canada Gazette Part II: Consolidated Index* (vol 153, no 3) <http://www.gazette.gc.ca/rp-pr/p2/2019/2019-09-30-c3/pdf/g2-153c3-eng.pdf>, providing a list of the names and registration numbers of regulations and statutory instruments made from January 1, 1955 to September 30, 2019 (in size eight font with a two column layout).

2 Adam Tucker, "Parliamentary Scrutiny of Delegated Legislation" in Alexander Horne & Gavin Drewry, eds, *Parliament and the Law* (Oxford: Hart, 2018) 347 at 357.

3 Senate Standing Committee on Regulations and Ordinances, *Parliamentary Scrutiny of Delegated Legislation* (Commonwealth of Australia, 2019) <https://www.aph.gov.au/~/media/Committees/Senate/committee/regord_ctte/DelegatedLegislation/report.pdf> at ix ["Inquiry Report"].

4 The availability of parliamentary supervision and scrutiny of the executive in exercising delegated powers has provided a foundation for courts to uphold the constitutionality of delegated legislation: see, *e.g.,* early jurisprudence in *Hodge v The Queen* (1883), 9 App Cas 117 and *In Re Gray,* [1918] SCR 150. I have taken this position further by recently arguing that there should be a constitutional obligation in this regard: Lorne Neudorf, "Reassessing the Constitutional Foundation of Delegated Legislation in Canada" (2018) 41(2) *Dalhousie Law Journal* 519.

5 There are a number of reasons for delegation provisions to be drafted broadly, which include the influence of the executive over Parliament, the desire for legislative drafters to provide maximum flexibility for later circumstances, and the desire for

legislative drafters or policy officers to reduce the risk of judicial review that finds a regulation made thereunder to be declared *ultra vires*.

6 References to the 'Australian scrutiny committee' the 'scrutiny committee' or just the 'committee' are to the Senate Standing Committee on Regulations and Ordinances prior to December 4, 2019 and the Senate Standing Committee for the Scrutiny of Delegated Legislation thereafter.

7 Senate of Australia, *Standing Orders*, s 23(2) (as it read prior to recent reforms discussed below) ["*Standing Orders*"].

8 *Legislation Act 2003* (Cth).

9 *Ibid,* ss 4 "legislative instrument", 7-8.

10 *Ibid,* s 8(4)(b)(ii).

11 See, *e.g., ibid,* ss 8(6)-(8) and 11.

12 *Ibid,* s 42. Note that there are exemptions in s 44. The Australian scrutiny committee has written that such exemptions can undermine the effective parliamentary control of delegated legislation: Inquiry Report, *supra* note 3 at x and 122-24.

13 *Legislation Act 2003, supra* note 8, s 42. A notice of motion to disallow a legislative instrument triggers an additional 15 day sitting period in which the motion can be called on and disposed of. If an instrument is disallowed, it cannot be remade for six months unless by consent of the House that disallowed it: see *Legislation Act 2003, supra* note 8, s 48.

14 By default, legislative instruments come into force the day after their registration: *ibid,* s 12(1).

15 *Ibid,* Part 4. The Australian scrutiny committee has criticised exemptions: *supra*, note 12.

16 *Standing Orders, supra* note 7, s 23(3).

17 The Australian scrutiny committee is a committee of the Senate but as earlier noted, disallowance provisions in the *Legislation Act 2003* provide for a notice of motion for the disallowance of a legislative instrument to be placed by any Senator or a Member of the House of Representatives. In the case of a notice of motion placed by the committee chair, it will normally be withdrawn if the scrutiny concerns raised have been address satisfactorily.

18 Inquiry Report, *supra* note 3 at 117.

19 See also Dennis Pearce, "Rules, Regulations and Red Tape: Parliamentary Scrutiny of Delegated Legislation", *Papers on Parliament* (No 42) December 2004 <www.aph.gov.au/binaries/senate/pubs/pops/pop42/pearce.pdf> at 88, cited in Inquiry Report, *ibid* at 96.

20 All such notice of motions can be seen in the committee's *Disallowance Alert*, discussed below.

21 Senate Standing Committee for the Scrutiny of Delegated Legislation, *Delegated Legislation Monitors* <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regulations_and_Ordinances/Monitor>.

22 Senate Standing Committee for the Scrutiny of Delegated Legislation, *Disallowance Alert 2019* <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regulations_and_Ordinances/Alerts>.

23 Senate Standing Committee for the Scrutiny of Delegated Legislation, *Index of Instruments* <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regulations_and_Ordinances/Index>.

24 Senate Standing Committee for the Scrutiny of Delegated Legislation, *Guideline on Consultation: Addressing Consultation in Explanatory Statements* <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regulations_and_Ordinances/Guidelines/consultation>.

25 See, *e.g., Legislation Act 2003, supra* note 8, ss 15J, 17, 19.

26 Senate Standing Committee for the Scrutiny of Delegated Legislation, *Annual Report 2018* (Commonwealth of Australia, 2019) <https://www.aph.gov.au/~/media/Committees/Senate/committee/regord_ctte/annual/2018_Annual_report.pdf>.

27 *Ibid* at 15.

28 *Ibid* at 16.

29 *Ibid* at 18.

30 Parliament of the Commonwealth of Australia, *Journals of the Senate* vol 113 (November 29, 2018) at 4327.

31 *Ibid* at 4328.

32 *Ibid*.

33 Inquiry Report, *supra* note 3 at 3.

34 *Ibid*.

35 *Ibid* at 4.

36 *Ibid,* listed in Appendix A of the report at 153. Note that the author also made a submission.

37 *Ibid* at 3-12.

38 This section discusses the most salient parts of the report: other aspects include changing the name of the committee (*ibid* at 15-17, Recommendation 1), changes to the appointment of the deputy chair (*ibid* at 19-20, Recommendation 3), further study of a complaints-handling function (*ibid* 29-31, Committee Action 1), changing drafting instructions for using the form of 'regulations' (*ibid* at 93, Recommendation 11), effective scrutiny of Commonwealth expenditure (*ibid* at 107-111, Recommendation 14, Committee Action 10), the usefulness of the disallowance procedure (*ibid* at 113-24), rejection of the affirmative resolution procedure (*ibid* at 124-32, Recommendation 17) and the rejection of direct amendment of delegated legislation by Parliament (*ibid* at 137-140).

39 *Ibid* at 17-19 (Recommendation 2)

40 *Ibid* at 21-2 (Recommendation 4). See also *ibid* at 22 noting its usefulness in the context of 'framework bills' where draft regulations are often made available.

41 *Ibid* at 23-25 (Recommendations 5 & 6)

42 *Ibid*, ch 3 at 33-65.

43 *Ibid* at 33, 64-65 (Recommendation 7). This summary is in addition to, or replaces, the criteria earlier mentioned.

44 *Ibid* at 95-99. See also *ibid* at 99-106 (Recommendations 12-13 and Committee Action 9) for details on how the committee

proposes to deal with "significant issues" or "issues that are likely to be of interest to the Senate": refer them to the Senate and relevant legislation committees for scrutiny.

45 *Ibid* at 67.

46 *Ibid* at 67-71 (Committee Action 2). The committee *ibid* at 71 (Committee Action 3) resolved to list instruments in which it is engaging with the agency or department in its reports in the interest of transparency.

47 *Ibid* at 74-76 (Committee Action 6) (a past practice of the committee).

48 *Ibid* at 72-74 (Committee Action 4).

49 *Ibid* at 76-77 (Committee Action 7).

50 Ministerial undertakings to amend an instrument are often used in the Australian context to avoid disallowance of an instrument, which can provide an efficient resolution of the committee's concerns.

51 Inquiry Report, *supra* note 3 at 78 (Committee Action 8).

52 *Ibid* at 74 (Committee Action 5).

53 *Ibid* at 81-93.

54 *Ibid* at 92 (Recommendation 8).

55 *Ibid* at 92 (Recommendation 9). See also *ibid* at 93 (Recommendation 10).

56 *Ibid* at 122-24.

57 *Ibid* at 124 (Recommendation 15). The committee also seeks better information on which instruments are exempt: *ibid* (Recommendation 16).

58 *Ibid* at 133-37 (Recommendation 18).

59 *Ibid* at 140-43 (Recommendation 19).

60 *Ibid* at 145-48 (Recommendations 20-21).

61 *Ibid* at 148-50 (Recommendation 22).

62 *Ibid* at 150-52 (Committee Action 11).

63 Jack Snape, "Senate committee goes rogue and gets powers to question constitutional validity of regulations" ABC News (28 November 2019) <https://www.abc.net.au/news/2019-11-28/delegated-legislation-committee-blowtorch-ministers-bureaucrats/11744768>.

64 Ibid.

65 Stephen Argument, "Senate Committee Report on Parliamentary Scrutiny of Delegated Legislation" (2019) 30 Public Law Review 178 at 180. In light of recent reforms, it would be entirely appropriate for the committee to request additional resourcing.

66 Although it should be noted that other committees operate under their own procedural and legislative frameworks. Each scrutiny process must therefore be appropriately contextualised. But like the Australian inquiry, it is worth considering whether more holistic change is needed.

CSPG conference – Parliament and the Courts

The Canadian Study of Parliament Group's annual conference explored the important, intricate and evolving relationship between Parliament and the Courts. Increasingly, Courts turn to the parliamentary record to inform their decisions, while parliamentarians cite judicial pronouncements as the reason for action or inaction. Four panels were organized to examine when and how Parliament seeks to inform the Courts, how the Courts understand Parliament, the role each institution plays within Canada's constitutional architecture, and the many facets of this relationship – from reference powers to the notwithstanding clause.

Will Stos

How the Courts Understand Parliament

Vanessa MacDonnell, an associate professor at the University of Ottawa, and Jula Hughes, a professor at the University of New Brunswick co-presented on how the courts have looked at parliament's "duty to consult" Indigenous Peoples prior to enacting legislation affecting them. MacDonnell noted the recent Supreme Court of Canada decision on Mikisew Cree First Nation v. Canada found there is no duty to consult at any stage of the legislative process.

She said that since 1982 there had been an idea that parliamentary sovereignty was now a bounded concept where there are competing interests. However, this case reasserted parliamentary sovereignty. The decision noted the duty to consult only applies to executive action. She views this ruling as a mistake and contends there is a way to separate constitutional principles and reconcile them so we can have a discussion of how the duty to consult is judiciable. However, the Court's mistake means parliamentary sovereignty takes prominence.

Hughes suggested that not all judges think about parliament in the exact same way, but they do agree that ultimately parliament should be treated as a black box (or at least a grey box in the view of some judges) that you can't really look into. She said it was surprising all justices made an attempt to settle the question in the Mikisew Cree case right away when this was a 'first look' case. These actions are not usually how common law works with respect to big questions. Hughes also suggested the judges didn't look at Treaty 8 fully because it imposes positive obligations on the federal government (not just not to interfere, but in the original treaty the government must 'provide munitions and twine'). Hughes concluded by noting some of the practical implications of a duty to consult (for example, limited parliamentary time to consider legislation).

Kareena Williams, a lawyer at Grant Huberman Barristers & Solicitors, represented a northern British Columbia First Nation in the SCC case. They asked to intervene to protect existing agreements and future agreements because there were questions about the value of agreements if one party can make changes without consulting/agreement of others. Williams compared the SCC decision to a line in the movie *Love Actually*. Billy Bob Thornton's character tells Hugh Grant: "I'll give you everything you want, as long as I want to give it."

Williams stated the court should not side with the Crown to assert paternalistic control of Indigenous people because that does not foster reconciliation. She wondered why First Nations are being told to make agreements rather than going to court if those agreements can be changed by the Crown. Although the government is already consulting on legislation, the approach the court has taken is 'wait to see whether your rights are infringed, then come back to court.' William said this decision promotes a 'trust us' philosophy that she finds troubling.

Will Stos is the editor of the Canadian Parliamentary Review.

Panel: How the Courts Understand Parliament

Saleha Hedaraly, a professor in the University of Montreal's Faculty of Law, explored how courts interpret a legislator's intentions. She said the law is a communication activity and the key word to retain is "text". The "text" is a form of communication that is interpreted. The courts must mediate the communication.

Why would courts look at the legislator's intent? Hedaraly explained that while we think the law's intent is clear, the interpretation may not be the same. In other words, the communication is not received the same way and there may be a grey zone. "Interpretation is a game of assumptions," she told the audience, and while some argue we must look at the words, others might suggest we should look at the goal.

Hedaraly concluded by noting that legislative intent must look at the text, the context, and the goal of a law by exploring complementary arguments: historical arguments, authority, jurisprudence, and common sense (for example, is the law absurd?) "What's abstract for you may not be abstract for me.," she said.

Philippe Dufresne, a law clerk and parliamentary counsel at the House of Commons, asked why courts are more or less comfortable with not addressing or settling a matter and why we reach different decisions on parliamentary privilege? He noted a trend of courts reviewing the executive branch. The more an executive decision affects 'strangers' or non-members, the more likely the court is to look at the case.

When a court feels that potential electoral remedies are realistic, they are more inclined to find for the sharing of power. Dufresne explains that privilege is "immunity from judicial review" rather than immunity from the law itself. He concluded by looking at the recent court decision on prorogration and compared the court's reasoning to Canada's Charter test. Does an action cause "irreparable harm" – can you undo it? If not, injunctions could be granted.

Sarah Burton, a doctoral candidate in the University of Ottawa's Faculty of Law, spoke about judicial review when a dispute about democracy arises by looking at the Supreme Court of Canada's recent voting rights decision *Frank v Canada (Attorney General)*. She said the law of democracy is a fascinating context in which to consider the role of deference by Courts because it forces lawyers, judges and other stakeholders to reconsider why we give, or do not give, deference to elected lawmakers.

One approach (rights theory) suggests courts should stick to individual rights and balance them against government interests. A competing view is that politicians cannot be trusted with electoral law because of self-interest. This view calls for judges to step up to be referees, look back from the individual case and look to Canada's communal values (structural theory).

Burton pointed to enfranchisement cases as an interesting site for this debate because they are a location where you can see these competing theories

existing in tension with one another, and they are an area where you can see a clear shift in the direction of a structural approach. She explored the *Frank* case, which asked if the 5-year residency rule was constitutionally valid in a federal election. The majority found that it was not. They believed that derogations from core democratic rights demand strict scrutiny and they are only permissible with concrete evidence of harm. In dissent, two justices argued that lawmakers should be entitled to deference when legislating on matters of political community. In Burton's view the majority in Frank was influenced by structural theory, without acknowledging it as such.

She concluded by stating that the trend toward the structural approach brings a risk of a more American judicial system and major debates over the individual justices, but in the case of democracy rights, if politicians are using parliament for self-interest they don't have a moral leg to stand on.

Comparative Perspectives on the Complex Relationship Between Parliament and the Courts

Paul Daly, chair in Administrative Law and Governance at the University of Ottawa, presented a working paper on how courts protect constitutional principles by acting as guardians of these principles within legislation.

He outlined numerous constitutional principles that are considered carefully by courts, and particularly the Supreme Court of Canada, when evaluating cases. First, there is the principle of participation. In order to make legislation, it must go through the ordinary parliamentary process that opens up opportunities for debate in parliament (ie. parliamentary committees) and in the wider community (calls to MPs, water cooler talk, social media). He noted that MPs are conduits in this regard. Even private members bills, even if they rarely become law, can help set the agenda.

Another constitutional principle is individual or group self-realization. Courts are anxious to protect the rights of individuals (and in administrative law to protect them in managing their own affairs). In the UK there is a hybrid procedure – due process rights are protected when a law specifically applies to a group. There is the principle of electoral legitimacy or representativeness. For example, the elected lower house is seen as having more legitimacy for creating money bills. And finally, he observed there is a principle of federalism which balances regional difference and creates jurisdictional distinctions.

Daly concluded by noting that even if the courts see themselves as protectors of the constitution, there is a protective role within the legislative process. Law clerks and parliamentary clerks have a role in drafting bills and moving them through parliament.

Panel: Comparative Perspectives on the Complex Relationship Between Parliament and the Courts

Panel: A Discussion on the Reference Power

Alexander Horne, a legal advisor at the House of Lords, presented a case study on parliament, human rights and the courts by examining prisoner voting rights. In the UK prisoners are banned from voting in the *Representation of the People Act, 1983*, as amended. There was partial enfranchisement of prisoners convicted of misdemeanors between 1948-1969 and the ban on voting does not apply to prisoners on remand.

Three prisoners brought a legal challenge in 2001 but lost in the High Court. (It didn't reach the House of Lords or what is now the Supreme Court). One prisoner took his case to the Strasbourg Court. The Grand Chamber of the European Court of Human Rights ruled the ban on voting for all serving prisoners contravened Article 3 of Protocol 1. The UK tried to argue there is rational thought in its approach and that its law was not a blunt instrument. Not all people convicted go on to become prisoners; there is a high bar, and the UK government argued that should be enough. The court disagreed and said they saw it as a breach of human rights. European Court rarely brings monetary damages in these types of cases, but with many cases adding up there was a concern that they may start.

Horne outlined the UK government's response. First there was a debate about proposals to remedy the backlog of cases. One proposal was to re-legislate the law and challenge it in Strasbourg as an issue of parliamentary sovereignty. In 2013 Horne was part of a panel that proposed the government should just go back to the pre-1969 situation of limiting the term to under 12 months and possibly letting prisoners within the last six months of a long-term sentence be included too. The government did not respond substantively to this proposal.

Following the 2017 general election, the government proposed to clarify prison service guidance to allow those on temporary licence and home detention curfew to vote. This affects a small minority of prisoners, but the European Court accepted it as enough.

Horne concluded by outlining some consequences of this case. The UK's non-compliance with the judgment for 13 years was a clear violation of the rule of law. But it also sparked a discussion about judicial overreach in the UK which has never been resolved. The UK Government's threat to legislate in 2012 may have encouraged other states (for example, Russia) towards non-compliance with ECHR judgments. The compromise solution leaves open the risk of new cases and new judgments against the UK. And finally, the UK's domestic procedures (supervision by the Joint Committee on Human Rights; remedial orders, cases before the domestic courts, etc.) proved unable to remedy the breach. He noted there is also a potential for a differential approach to rights and the issue of prisoner voting across the UK (for example, Scotland).

Gabrielle Appleby, a professor in the Law Faculty at the University of New South Wales, provided an overview and analysis of the 2018 Australian High Court's constitutional term by considering the 2018 developments with reference to their inter-institutional context; in other words, how the Court's jurisdiction and doctrinal development do and should impact the jurisdiction and behaviour of the other branches of government, including the Australian Parliament. She explored Chapter 3 provisions (separation of powers) and noted that constitutional issues are dominating to the detriment of legislative debate.

Appleby said Australia is "a rights poor jurisdiction" in many respects in terms of the constitution. However, in some areas the court has established a structured proportional test to examine how to balance rights to political communication. She explained that the idea of legislative intent and the context of parliamentary debates have been informing the doctrine of deference. Some observers have even advised the writers of legislation to include discussion on the structured proportionality test in second reading debate to clarify intent for future court cases.

Appleby looked at two cases where parliamentary debate and committee presentations were used heavily in a court ruling and explained she's trying to develop a spectrum of restraint/deference to determine how and when courts intervene and why.

A Discussion on the Reference Power

Kate Puddister, an associate professor at the University of Guelph, used a quirky chicken/egg industry dispute to explain reference powers. She reported that marketing board quotas in Ontario and Quebec had used legislation to prevent other provinces from being competitive in the marketplace. Manitoba passed similar legislation to that found in these provinces in order to bring a reference to the court. The court ruled the legislation *ultra vires*. Puddister observed this resulted in a remarkable situation where in order to win access for its chicken/egg producers, Manitoba had to lose in court.

Puddister noted reference cases involve the Governor in Council referring proposed legislation to the Court for a hearing and consideration of important questions of law or fact. She said there had been notable increases in reference questions during the Great Depression (especially by the federal government), but also in the 1980s (when the provinces used the tool substantially more often).

The vast majority of reference questions deal with division of powers (Section 91 or Section 92), the *Charter* (though not as often), and the *Constitution Act*. There are also many examples of cross government references (a province refers federal legislation for review or vice versa). Alberta and Quebec use this procedure most often.

Panel: The Notwithstanding Clause: When Legislatures Want the Last Word

In most legislation cases, the courts find the legislation is valid (46.4 per cent) but 20.6 per cent and 15.5 per cent are found to be invalid or potentially invalid in full or in part, respectively. About 65 per cent of references are abstract, however, and most references come from majority governments (coming from secure position).

Puddister stated that government would use references because: 1) they provide a solution to a problem, 2) it's a strategic advantage to challenge another government before an actual case in in court. 3) it avoids blame or credit claim, 4) it uses the authority of court to protect a law from further challenges, and 5) it signals displeasure toward another government.

She concluded that courts are powerful because they are seen as independent, but if they are used too often they come to be seen as more politicized.

Radha Persaud, a course director in Political Science at York University, explored the political and legal role and effects of references by focussing on Canada's federal character.

He asked if courts and legislatures respect the basis for the other and wondered if courts have become concerned by how they are being used and the longer-term effects on Canadian constitutional arrangements. He stated that reference cases have become more political in their reason as opposed to questions of law. If the court is being asked for 'opinions' as opposed to 'decisions' about constitutional reform, what will this mean for national stability? In the cases he mentioned in his presentation, the court had been prescriptive and was willing to be constitutionally generative. These included: a 1981 reference on the asymmetrical patriation of the constitution, a 1982 reference where the court ruled it does not have a veto as a matter of convention, a 1990 secession reference, the *Clarity Act* and the recent reference on Senate Reform where the court clarified constitutional terms and the scope of constitution on the Senate.

Persaud concluded by offering that the reference mechanism has freed the supreme court from dealing with the minutae of cases while being able to speak broadly on important matters. Whether this is a good or bad thing depends on your position.

Charlie Feldman, parliamentary counsel for the Senate of Canada, explored other types of references to the courts. There haven't been any private bill references to the Supreme Court of Canada since the 1880s, but of the three references he found, the court dealt with them in as little as two days and didn't offer much or any comment on them. They dealt with incorporations of organizations or businesses.

Feldman said Ontario's Legislative Assembly has a standing order to refer estate bills or part of a bill that contains an estate provision to the Commissioners of Estate Bills after first reading. These justices then provide a report to be considered by parliament. He noted there is a curious circular loop in that if there is disagreement the court refers offending passages for deletion in committee. Is the court dictating to committee? What if committee refused?

He also examined references to Tax Court, federal tribunals, and Attorney General of Canada references, and looked at interesting cases where parts of legislation were deemed not to come into effect until proclaimed by Governor in Council after sections had been referred to the Supreme Court. This latter concept was addressed by a House Speaker's Ruling on October 16, 1975, when he stated: "It seems to me to be repulsive to any act of Parliament that it should contain within it a condition that the Act must be referred in any part or in any particular to any other body for interpretation before it comes into force."

Feldman concluded by providing options for parliamentarians interested in reference power, including raising the matter in debate, introducing the idea in an Opposition Day motion or committee report, or using a hoist to delay the bill and asking that the subject-matter be referred by the Governor in Council to the Supreme Court.

The Notwithstanding Clause: When Legislatures Want the Last Word

Yuvraj Joshi, a doctoral candidate at Yale University, explored the implications of the notwithstanding clause's recent revival for democratic dialogue. The success of constitutional arrangements, he argued, depends not merely on who has the last word, but how that last word is exercised, and whether these arrangements facilitate meaningful dialogue between courts, legislatures, and (crucially) members of a polity. He suggested that by focusing on inter-institutional dialogue between the legislature and the courts, we risk missing the most important piece of the democratic dialogue puzzle: the people, and especially those vulnerable and marginalized people who need both the legislature and the courts to have their rights vindicated and their voices heard.

Joshi explored these concerns about democratic dialogue by discussing instances when the notwithstanding clause was considered in Ontario and Quebec. He stated that the premier's response to a ruling that Ontario's "Better Local Government Act," unjustifiably violated the Charter's guarantees of freedom of expression proposed to discredit the court by making an argument about the democratic illegitimacy of courts to question legislative actions. He noted a change in tone when the higher court ruled in the government's favour.

In Joshi's view, the premier's words suggest the only dialogue of significance is the one between an electoral majority and their elected representatives, and any respect the courts deserve is contingent on their reaching the legislature's preferred outcome.

Turning to Quebec, Joshi explained that Premier François Legault's Bill 21, named *An Act respecting the laicity of the State*, sought to prohibit judges, police officers, teachers, and other public servants from wearing religious symbols at work. Quebec pre-emptively used the notwithstanding clause as a way to "avoid lengthy judicial battles."

Citing the response of some visible religious minorities opposed to the legislation, he observed it evoked a phenomenon that Monica Bell describes as "legal estrangement" — "a marginal and ambivalent relationship with society, the law, and predominant social norms that emanates from institutional and legal failure." He noted that the example of Quebec's Bill 21 shows that neither the ruling nor the opposition parties may give adequate voice to minorities. He contended that where political incentives militate against minorities making their voices heard by the democratic branches of government, courts become indispensable to a democratic dialogue that includes all members of a polity.

He concluded by stating the entire polity loses something of value when an exercise of the last word impedes the ability of minorities to speak up. Through certain exercises of the last word, dialogue reverts to monologue and becomes less democratic.

Benoit Pelletier, a professor in the University of Ottawa's Faculty of Law (Civil law), outlined the roles of parliament and the courts in the Canadian political system. He said there are times when legislatures want the last word, and there are times when legislatures must have the last word. "We all know section 33 was the result of political compromise. The question is, can it be justifiable on grounded principle? And my answer is yes."

Pelletier said the framers of the constitution are clear: parliament and the provincial legislatures are the main architects of our democracy. Three branches of government are distinct and complimentary and the result of this separation of powers and responsibilities has been a strong democracy. Legislatures make laws, the executive applies laws, and the courts interpret laws with respect to the constitution. Pelletier stated each branch must be able to fulfill its role with respect and integrity. He noted that there appear to be differing ideas about when, why, and how often to use the notwithstanding clause in Canada. In essence, he concluded the idea of the two solitudes is still alive and well.

Maxime St-Hilaire, an associate professor at the University of Sherbrooke, spoke about the conditions for Canadian legislators to legitimately derogate from constitutional rights and freedoms. He said when the Lieutenant-Governor of Quebec gave Royal Assent to the *Act respecting the laicity of the State* on June 16, 2019, only five Quebec laws contained provisions derogating from rights in the Canadian Charter of Rights and Freedoms, specifically section 15 rights.

However, he said a meta-myth quickly took root in Quebec claiming that a study had debunked the myth of section 33 of the federal Charter (which allows for derogation from certain of its guaranteed rights and freedoms) being used only in exceptional cases in Canada. In other words, Quebec's legislative practice of derogating from constitutional rights makes standard derogation legitimate. St-Hillaire noted that this is not the case and that it offers an opportunity to reframe this debate, which is also emerging in "the rest of Canada" following the issue of public funding for Catholic schools in Saskatchewan, for example.

He observed that a thorough understanding of the terms of the issue renders implausible the argument that the "standard" or "dialogic" use of section 33 of the federal Charter — in other words, outside exceptional circumstances — is legitimate. He concluded by stating the widespread idea that overriding constitutional rights should only be "curative" rather than "preventive" must also be refuted.

CSPG seminar: The Legislative Role of Parliamentarians

In their legislative role, parliamentarians propose and amend laws, and review regulations. This seminar discussed the practical realities of law-making within the parliamentary context and provided an overview of shifts in Parliament's legislative practices as a result of developments that have seen, among other things, an increase in Senate-initiated legislation and amendments, and the increased consideration of messages in the House of Commons. Whether parliamentarians are experienced lawyers or persons with no legal background, they all participate in the legislative process; this seminar aimed to analyze how they go about that task and what it means for our democracy.

Will Stos

On November 15, the Canadian Study of Parliament Group gathered for the first of a series of three seminars that are part of the 2019-2020 programming year. The seminar, which focused on the legislative role of parliamentarians, began by honouring the late C.E.S. (Ned) Franks, the founding president of the CSPG. Mr. Franks's student and friend, Michael Kaczorowski was called to offer some personal memories of the man, while also putting the day's topic into the context of Mr. Franks's writings and research.

Institutional Perspectives

The first panel examined three groups within parliament that help parliamentarians research and draft bills and motions. Wendy Gordon, Deputy Law Clerk and Parliamentary Counsel, works within the Legislation Services branch of the House of Commons. Her team provides specialized legislative drafting services for all eligible Members – approximately 270 parliamentarians – who are not part of the government or Speakers or Deputy Speakers of the House of Commons. The service is confidential, non-partisan and offered in both official languages. A team of 17 people – 4 specialized drafters, 4 translators, 4 juriliguists, plus support and publications team – assist MPS as they draft Private Members bills (PMBs) or amendments to any bills (government bills or PMBs).

Gordon explained that the process is the same whether it's a bill or an amendment. A proposal comes from a member; sometimes it is detailed, sometimes it is quite raw. The people assigned to the proposal will look at its objective, prepare the text, find the right place for it (whether it should be standalone legislation or in existing legislation) and they always draft as though it will become part of Canadian law – a high standard.

Gordon noted that MPs often don't come with a legislative background and her team must work with them to help put their ideas and zeal into legislative proposals. They flag legal vulnerabilities (constitutional jurisdiction, Charter issues etc.) and use client management to work with them to shape their ideas into something likely consistent with the constitution. The team, which works under significant time constraints – especially for PMBs, but even more so for amendments – also partners with the Library of Parliament.

Gordon explained that not all Members are interested in proposing legislation, but those who are interested are very interested. "We call them 'frequent fliers,'" she laughed. Few PMBs and amendments are passed, however. Still, they provide for vigorous debate because they are provoking, challenging persisting ideas that are important for a participatory democracy. She categorized PMBs as provocative, innovative, platform pushing, or part of a shared jurisdiction. Although legislative context is complicated, Gordon concluded by stressing that knowledge and expertise is available to enterprising MPs and persistence sometimes pays off.

Will Stos is the editor of the Canadian Parliamentary Review.

Panel: Institutional Perspectives

Shaila Anwar, Deputy Principal Clerk in the Senate's Committees Directorate, began by stating the rule of laws is similar to the rule of sausages – you never want to see them being made. Nevertheless, she highlighted aspects of the process by explaining how procedure, practice, politics figure in legislation-making to show us what we can control and what we can't.

Anwar recounted the novel experience of the new government not having Senate representation in 2015. Procedure called for a clearly defined government and opposition, but suddenly this was no longer the case. The Senate used flexibility of practice to make it work. A basic and fundamental role of the Senate is to review legislation. Eventually a small government caucus was created. But the presence of a larger cohort of independents shifted how the traditional government/opposition format worked. And, government bills are now often sponsored by independents.

In terms of how politics plays a role in the legislative process, she rhetorically asked why are amendments moved and why do they pass or fail? First, if there is broad consensus of support, a bill or amendment is likely to pass. Second, if the government in the Commons differs in partisan colours compared to the majority in the Senate, amendments may be more likely. Finally, if a Senator has a particular interest, it may get added to bills.

Based on recent trends, Anwar expects broad consensus will still be very important (and amendments at all stages will be common). She also noted that as Senators come from a wide variety of backgrounds and are less bound to party or group, their subject matter expertise will probably lead to more free agency. Without traditional party structure, Senators may need different supports than in the past.

Commenting on the time constraints noted by Gordon, Anwar explained that these can be even more pressing in the Senate as notice periods are significantly different between the House of Commons and the Senate. With no notice in the Senate, her team has to be ready for a 'napkin amendment,' and she had had to gently remind people that "No, you can't use Google Translate to translate an amendment."

Kristen Douglas, the Acting Director General of the Parliamentary Information and Research Service at the Library of Parliament, explained that in comparison to the drafting teams at the House of Commons and the Senate, the library has a large staff of 150 researchers; however, they must cover every conceivable part of what might interest parliamentarians.

These researchers provide individualized reference and research services, research publications, put on seminars, support parliamentary committees, and synthesize news and current affairs. They do not draft bills or provide legal opinions on feasibility. She said they do get very close to the dividing line between legal advice and suggestions, but ultimately provide a menu of options a parliamentarian can choose from. The parliamentarian must always have a choice of how to proceed and the researchers don't recommend a particular option over another.

Panel: Academic Perspectives

Douglas said that analysts provide feedback on broad ideas for a bill by helping to narrow the scope of a plan, explaining what is possible to accomplish in a bill, and providing suggestions for how it might be accomplished (for example, would creating a motion be more appropriate?). Upon request, they may participate in a dialogue with legislative counsel and the parliamentarian to provide feedback on draft suggestions.

She concluded by listing other services offered by the Library of Parliament including providing legislative summaries of government bills and Private Members Bills written in very plain language, and supporting the House of Commons' subcommittee on Private Members' Business of the Standing Committee on Procedure and House Affairs.

Academic Perspectives

Brian Donald Williams, an Assistant Professor in the Department of Political Science at the State University of New York College at Cortland, outlined quantitative research into whether partisanship matters in passing Senate Public Bills. Using LEGISinfo (public bills) and sencanada.ca (senator info), he included control variables including province, gender and experience in the Commons. Other studies have shown electorally vulnerable MPs tend to be more active in their legislative agenda (New Zealand, and Wales) and government MPs tend to be rewarded for their private bill work.

He wondered if partisan division affects the fate of bills since senators don't campaign for office and have more independence from parties. There is nothing similar to the institutionalized crossbench in the UK, however.

Williams provided logistic regression models (Model 1, Senate Veto, Model 2, Commons Veto, Model 3, Bill Enacted). He found that an opposition majority in the Commons tends to make the terminal stage of bill there, while a senator's previous Commons experience also leads more bills to end there. A number of attempts over several sessions also helps chances of eventually prompting the government into action. Years of Senate service was also found to increase the likelihood in both total public bills attempts and also unique bill attempts.

One of his key findings was the importance of partisanship. Senate public bills were more likely to be vetoed in the chamber controlled by the opposition party. A second important finding was that experience matters: senators with more years of service tend to produce more legislation than newer senators.

Jean-Francois Godbout, a professor of political science at the University of Montreal, detailed his extensive research into partisanship and recorded divisions. He said backbenchers are sometimes described as "loose fishes," "shaky fellows" "trained seals" "voting machines," and "glorified rubber stamps." But he wondered how did we go from "loose fishes" during early Confederation years, to the modern idea of trained seals? Why has there been a shift away from independence?

Panel: Practice Perspectives

Godbout collected 14,725 votes in the House and 1,788 in the Senate. He asked why party discipline is so high today. The 42nd Parliament one of the most polarized since Confederation. What does this mean for political representation? He showed a graph depicting how often members of a caucus vote against a party. Calling the early years the "Golden Age of Parliament" when there were more maverick MPS, he found an exponential increase in party unity in the early 1900s.

But what about distinctions between different types of votes? He has studied this question and it cuts across multiple types of votes. In the 42nd parliament Conservatives voted with the party 0.995 of the time, Liberals voted with the party 0.996 percent of the time, and the NDP voted 0.998 per cent of the time. Of the Top 10 mavericks, all were Liberals or Tories.

Godbout said the most divisive votes in the 42nd parliament among the parties were: Liberal (C-240 Tax Credit First Aid and C-235 Fetal alcohol disorder), Conservative (C-16 Human Rights-Criminal Code and Motion to hear another Member), NDP (both procedural - Motion to hear another member).

Godbout wondered if the growth in partisanship was related to partisan sorting and ideology; career or replacement effects; promotion incentives and rewards; or legislative agenda and parliamentary rules. His argument is that "most of the historical increase in party unity is explained by parliamentary rule changes and the decline of private member influence in the legislative process." With the modernizing state, there is much less need for private legislation but also a decline in non-government private bills. There is also less opportunity to introduce amendments by backbenchers. Rules were tightened up between 1906-1913 and there was a shift in power to the front bench. He notes that changing the number of times amendments can be proposed results in an increase in partisanship discipline. In terms of debates and the amount of speaking time in parliament, government backbenchers speak far less than other MPs. Only the independents are worse off in terms of total words spoken.

Godbout concluded that there has been a general decline in influence by backbenchers, especially government backbenchers.

Practice Perspectives

Paul Thomas, a senior research associate with the Samara Centre for Democracy, began by telling the audience that one MP had described PMBs as "two hours of glory" or what it must feel like to be king or queen for a day. Thomas explained that private member business is a tool of the backbench and research indicates it does have an impact. Even failed bills can influence the agenda and increase likelihood of an MP's re-election.

There is time reserved each sitting day for private member business with order determined by lottery. The lottery creates a list known as the "Order of Precedence." The Senate can also introduce bills or motions, but there are no limits and this business can be debated at any point.

In the last parliament, about half of MPs had the chance to have a piece of business considered and Thomas said with a PMB it is now not a question of when, but if it will be debated. In the House of Commons, it's a highly regimented system, but progress is not affected by prorogation. While drafting support is available from Law Clerk's office, a royal recommendation is required for expenditures.

Thomas said his research has found partisanship plays a role. More bills sponsored by government members are being passed; but there is also another trend where more PMBs are going down to defeat rather than just being left to die. There is also an increase in PMBs being defeated in the Senate. Senate bills don't die, but a motion is required to move them, so some are stopped. However, these are affected by prorogation.

A lot of Commons bills passed tend to be 'symbolic' or ones "asking the government to create a strategy to do something." A few are related to substantive issues. Senators also pass symbolic acts, but generally more substantive ones.

Thomas concluded by outlining some solutions to allow more private member business to be debated over the life of a parliament and ways to ensure PMBs are being created for their intended use as opposed to another way for the government or parties to control the agenda. First, expanding time for PM business in the Commons could be achieved by creating a parallel chamber to expedite consideration in the Commons. He suggests that perhaps MPs may consider adopting a threshold of cross-party support to help substantive bills jump the queue. Finally, he contends that these bills should not be whipped or controlled by parties; rather, MPs should consider creating a system for distinct opposition bills (which would leave space for actual private member business).

Former Senator Wilfred Moore discussed his well-publicized Bill S-203 (To End the Captivity of Whales and Dolphins). It was the longest legislative battle in the history of Canada, with 17 hearings and more than 40 witnesses. Moore said it is important to have a sponsor in the house for Senate PMBs and choosing the wrong person can mean the MP toys around with the bill. He said Senators need a like-minded person who is committed. For example, he sought out Elizabeth May for this bill and immediately her assistant called the clerk to make her sponsorship known.

Another of the bills he worked on, which would have created a visual artist laureate, had a change of sponsor in the Commons due to an MP's promotion to parliamentary secretary. Unanimous consent was required to change the sponsor, but two people voted against this consent without realizing the bill was a non-partisan matter. Although they tried to reverse the error, it went back to the Senate and died.

Moore concluded by calling the Senate a place where Canadians can really be influential if they get Senators to take up their ideas.

Conservative Wellington – Halton Hills MP Michael Chong, whose PMB created the widely known *Reform Act*, discussed how his bill was designed to try to return more power to MPs that had been assumed by party leadership. He noted that political parties have not always been central to our parliamentary democracy and initially they were not formal creatures, but informal associations. Members could be part of multiple parties. For much of our history, Chong said parties were secondary to the individual member.

Today there are two kinds of parties in Canada, he explained. First, there is the registered political party; but that party does not exist in parliament. Second, there is the recognized party (informally called party caucuses). This latter party operates under unwritten rules. The *Reform Act* was designed to say this recognized party is too important not to have written rules, and there was a need to devolve power back to members from registered party leadership.

Ultimately, after some amendments were made to ensure it's passage, Chong's bill created an act which established four rules covering MPs ability to decide on: 1) the expulsion and readmission of an MP from/to caucus, 2) the election and removal of a caucus chair, 3) the review and removal of the party leader, 4) the election of an interim leader.

The event concluded with a keynote address by former prime minister Joe Clark.

The Canadian Region

New NWT Speaker

On October 24, Mackenzie Delta MLA **Frederick Blake Jr.** was acclaimed as Speaker of the Northwest Territories' Legislative Assembly.

Speaker Blake said he planned to promote the value of NWT's consensus style of government by aiming to travel more to smaller communities and particularly by focusing on visiting youth in schools.

"Everyone has a voice in this legislature," Speaker Blake said in an interview with local media. "It's not like parties where you have to toe the line." He contended that a non-partisan system gives members a better position from which to represent community interests and that he hoped to support this system as Speaker.

Mr. Blake vowed that his door would always be open and that he would work to support the Assembly's members any way he could.

First elected in 2011, prior to serving as an MLA, Speaker Blake was the Chief and Mayor of Tsiigehtchic from 2007-2011. He also served as the President of the Gwich'ya Gwich'in Council in Tsiigehtchic, on the Board of Directors for the Gwich'in Tribal Council, and on the Board of Directors for the Gwich'in Development Corporation and the Gwich'in Settlement Corporation.

Frederick Blake Jr.

New Newfoundland and Labrador Speaker

On November 2, St. George's-Humber MHA **Scott Reid** was elected Speaker of the Newfoundland and Labrador Assembly in a secret ballot victory over former Speaker **Perry Trimper**, who was attempting to regain the position after stepping down from cabinet.

Mr. Reid, who had previously vied for the role in 2016, told reporters "it is a great honour to be in this position."

Raised in Jeffrey's on Newfoundland's West Coast, Mr. Reid earned degrees at Memorial University of Newfoundland (MUN), before receiving his PhD at

Scott Reid

the University of Ottawa. He worked as a researcher in the Government Members' Office in 1989, before advancing to senior positions in government including director of communications and director of research. He also worked for the federal government and taught courses at MUN in the Department of Political Science and the Faculty of Business.

First elected in a 2014 by-election, Mr. Reid was re-elected in 2015 and 2019.

Lewisporte-Twillingate MHA Derek Bennett was named deputy speaker in a motion put forward by Premier **Dwight Ball**.

New House of Commons Speaker

Nipissing-Timiskaming Liberal MP Anthony Rota was elected the 37th Speaker of the House of Commons on December 5, 2019. He was selected after achieving majority support in the Commons on a preferential ballot that also included incumbent Speaker Geoff Regan, and MPs Joël Godin, Bruce Stanton, and Carol Hughes.

Noting he is the first MP of Italian descent to hold the position, Speaker Rota told MPs: "I'm here to serve you and make sure that everything runs well for all of us, so that we can conduct the business of Parliament and make sure that it works well. My promise is to be fair... to be nonpartisan, and to do my best in this House, at your service."

First elected in 2004, Speaker Rota noted he had experienced three minority parliaments as an MP and vowed to be available to all his colleagues. He also intends to regularly invite small groups of MPs to meet to better get to know each other and promised to install a suggestion box to encourage members to submit ideas to improve the House of Commons.

Anthony Rota

Prior to his time in Parliament Speaker Rota served as a North Bay city councillor. After being defeated in the 2011 election, he became a sessional lecturer in Nipissing University's political science department and served as Director of Governmental Relations.

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***As of December 30, 2019**

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Parliamentary Bookshelf: Reviews

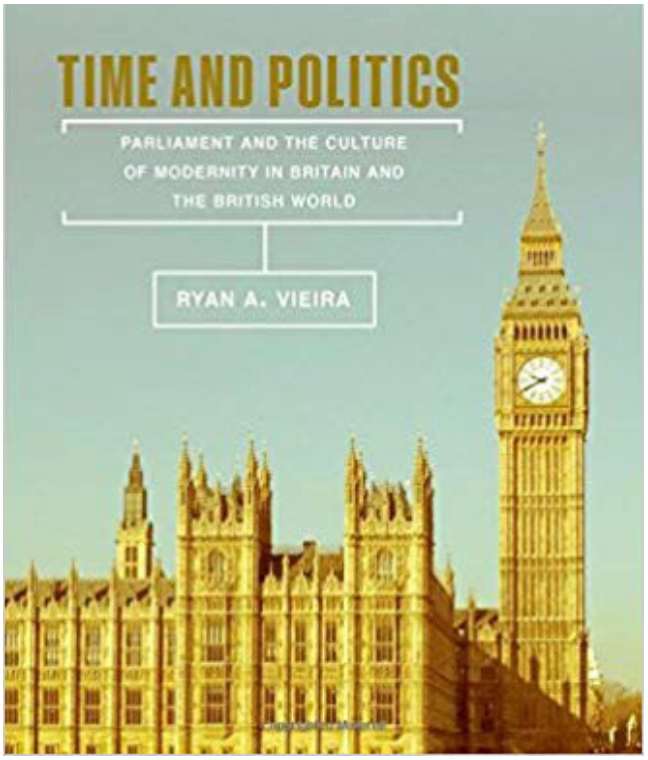
Parliament in the Age of Empire: The Hold of Tradition and the Obligations of Power

Time and Politics: Parliament and the Culture of Modernity in Britain and the British World by Ryan A. Vieira (Oxford University Press) 2015. 199p.

Essays on the History of Parliamentary Procedure in honour of Thomas Erskine May edited by Paul Evans (Hart Publishing) 2017. 347p.

For the past three years Parliament at Westminster has been embroiled by Brexit and the negotiations to take the United Kingdom out of the European Union following the 2016 referendum. The process has been arduous and dramatic. The referendum led to the resignation of David Cameron as Prime Minister. Failed attempts to secure Parliament's support for an EU agreement caused another Prime Minister, Teresa May, to resign. Her successor, Boris Johnson, the third Prime Minister in this drawn out saga, pushed for the adoption of a revised agreement as an October 31 deadline drew near, but he was repeatedly rebuffed by the House of Commons. He lost several crucial votes, expelled almost two dozen dissenting members from his own party, attempted to prorogue Parliament unlawfully, and was forced to seek an extension for further negotiations with the EU before finally succeeding in getting approval for an early general election. It has been a mess. Even the Speaker, John Bercow, became involved. He was variously blamed or praised for allowing backbenchers a greater role and for frustrating the government. Brexit has deeply divided the country and it has raised questions and complaints about Parliament and its capacity to deal with a complex subject sure to determine the social and economic future of the country. These complaints have been amplified through broadcasts and media streaming of the parliamentary proceedings. In ever mounting frustration many simply want "to get Brexit done".

Questions about Parliament and its effectiveness are not new. Throughout much of the 19th century, when Britain ruled a global empire and led the world in industrial production and international trade, Parliament was challenged by numerous issues that revealed persistent tensions. Some of these tensions were similar in nature, if not always in scale, to Brexit. Foremost was Ireland and the struggle for Home Rule.



It was deeply controversial and dominated much of the business of Parliament during the last quarter of the 19th century. Indeed, failure to achieve Home Rule through two attempts in 1886 and 1893 ruined the premiership of Gladstone, wrecked the Liberal Party, and threatened national unity. It also undermined public confidence in Parliament, at least temporarily. It is no small irony that Brexit itself has stumbled because of Ireland and the backstop proposal between Northern Ireland and the Republic. In the end, it may be asking too much to expect Parliament by itself, as the national forum of debate, to resolve such fundamental questions. It is just as likely that debate will be fierce and will expose depths of division that cannot be easily reconciled. Such debates, even in the 19th century, can test the limits of traditional representative democracy and the role of Parliament in arriving at solutions.

It has not always been seen this way. Standard accounts of the Victorian Parliament often tend to be positive and laudatory. Indeed, many of these histories describe Parliament's success and how it managed to fulfil its role at the apex of an empire. These histories focus on features such as the expansion of the franchise,

the development of political parties and modern election campaigns, the rise of leadership personalities, and the implementation of important social policies by the government. Two recent histories of Parliament seek to bridge the gap between the recognition of Parliament's achievements and the effort to overcome impediments to its effectiveness. The first of the two to be published is Ryan Vieira's *Time and Politics*. Vieira's analysis is framed by a context that sees Parliament struggling to adapt its procedures to the pressures of time and the weight of business coming before it. What is striking is the persistent resistance to reform and modernize parliamentary practices that were rooted in the 18th century and earlier. What was appropriate for an era when the House of Commons served as the "grand inquest of the nation" was no longer adequate in dealing with the growing pressures on government and the breadth of issues demanding the attention of the House of Commons. The reforms involved attempts by the government to curb excessive debate and to claim greater control over the management of parliamentary business. Vieira compares this history to the increasing pace of life outside Parliament with massive industrial growth and economic expansion. He notes how modern concepts of time and images of efficient machinery and virtuous masculinity came to be used to explain and justify the need for parliamentary reform. He believes that using such cultural tropes helps to provide a more integrative and complete explanation, a "new story" as he calls it, in this history of reform. This narrative is meant to complement more traditional accounts, the "old story", that prompted parliamentarians and motivated government to pursue more speedy procedures for law-making. Still, despite the increasingly obvious shortcomings of antiquated procedures, members remained reluctant to alter the rules and practices of the House. Through much of the Victorian era, changes were frequently proposed, sparingly adopted, and usually ineffective.

A similar tale is told in the second publication, entitled *Essays on the History of Parliamentary Procedure in Honour of Thomas Erskine May*. A collection written mostly by current and former clerks at Westminster, its major focus is Thomas Erskine May, the foremost parliamentary authority of his day. His career spanned much of the Victorian period. From his early days in the Library of the House of Commons beginning in 1832 to his eventual rise to become Clerk of the House of Commons from 1871 to 1886, the life of Thomas Erskine May seems to capture much of the character of the times. As the author of the *Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, first printed in 1844, he exemplified the growing professionalism and careerism that characterizes what Vieira identifies as the emerging culture of modernity. May's comprehensive manual, still in print, presented a thorough description and history of Parliament's practices based on precedent. Ironically, this had the unintended effect of increasing reverence for Parliament's long history and so reinforced resistance to change. Indeed, May himself seemed sometimes hesitant about reform. While he recognized the need for it and made numerous proposals to advance it, he was nevertheless cautious, often taking a gradualist approach. The weight of history and the inertia of tradition made substantive change difficult. However, the need to introduce tougher measures to improve the ability of the House of Commons to conduct its business more effectively became undeniable when the Irish Nationalists continued to systematically obstruct the work of the House.

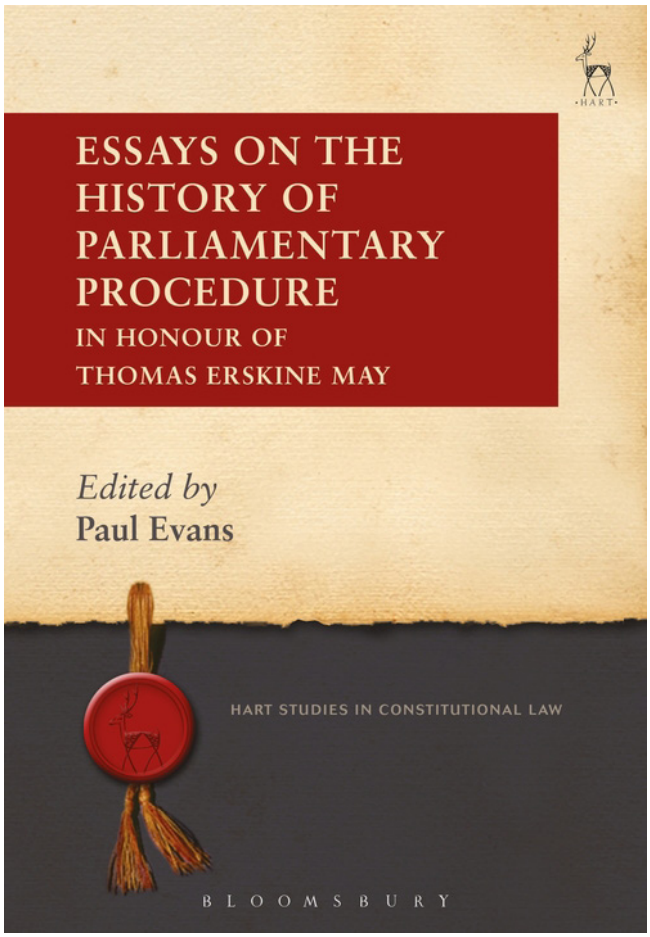
The Irish Parliamentary Party entered Westminster as a third party in 1874. Its goal was to seek, at a minimum, Home Rule for Ireland with the re-establishment of a parliament in Dublin. Resistance to the cause of Home Rule pushed the Irish Nationalists to find ways to demonstrate their determination. With the sessions of 1877 and 1879, obstruction became the tactic of choice and attempts to curb this abuse proved largely ineffective. From 1880, under the leadership of Charles Stewart Parnell, obstruction became even more persistent and crippling. The impact of this obstruction was unmistakable during second reading debate on the Protection of Person and Property in Ireland Bill which was intended to punish agrarian violence and to protect the estates of mostly Protestant landowners. Between January 31 and February 2, 1881, the House sat continuously until Speaker Henry Brand took the initiative to terminate the debate and put the question. It was an unprecedented and radical event: never before had closure been used to stop debate and never before had the Speaker taken such a measure on his own authority.

For Vieira, what is important to note in this event is the firm determination shown by Gladstone and the bold intervention by the Speaker; both attracted much attention well beyond the walls of Westminster. Public interest was intense and the imagery depicting the principal characters was striking. Vieira writes how Gladstone and Brand benefitted from heroic characterization with Gladstone portrayed in strong masculine terms as a "mythic hero … engaging manfully with Irish monsters". In the end, it prompted the most sweeping reforms yet. In February 1882, Gladstone introduced changes that allowed for the

creation of standing committees, improved the supply process and confirmed the use of closure as a tool to end debate. For Vieira, this happened in part because "a cultural context had emerged that provided supporters of this reform plan with a powerful justificatory discourse. In the press and in Parliament, Gladstone came to be represented as a virtuous and masculine hero who was slaying an imperial other; as a labourer who was fixing the people's machine; and as a man who was bringing Parliament into the modern age." This identification with the broad culture of modernity is used to supplement the standard explanations for parliamentary reform. For all his skill, however, the goal of Vieira's synthesis is not entirely convincing. He acknowledges the compelling nature of traditional accounts that focus on the factors that eventually forced government and parliament to restrict debate and to accelerate the process of legislative review. The addition of this gloss of modernity using what he identifies as shifts in the broader culture of time with all its implications does not really change this traditional narrative and does less than he seems to believe to integrate and complete it.

What seems more significant, and Vieira does explain this, is the scale of press coverage of parliamentary deliberations that grew during the Victorian period. This happened for two reasons. First, the House of Commons adopted a resolution in 1803 that finally permitted reporters to openly write about its deliberations. This reporting became a standard feature of the London papers including the penny press. Second, it was also taken up by provincial papers whose numbers expanded massively as the cost of producing papers continued to fall during the century, especially following the repeal of the Stamp Act in 1855. As Vieira records, provincial papers more than doubled from 1820 to 1847 to 230 and, by 1877, there were almost 1,000. This created a broad base of awareness of parliamentary activities and added to the pressure on the House of Commons to meet expectations to debate less and work more. The situation was not without irony since members felt pressured to appear more industrious by talking more; this, in turn, provoked more complaints about the inefficiency of the House. This press coverage also provided the platform for presenting the imagery of accelerating time, powerful machinery, and heroic masculinity that Vieira identifies in his exploration of the culture of modernity.

The difficulties associated with efforts to improve the rules and practices of the House of Commons during the Victorian era are explored in detail in



the different contributions that make up the *Essays*. Its principal purpose is to highlight Erskine May's career at Westminster, both his achievements and shortcomings, within the larger history of procedure. The advantage of this approach is to contextualize Erskine May's contribution as the author of the *Treatise* and a cautious champion of reform. For example, his early experience in the Library gave him knowledge of the newly indexed Journals, providing him with the catalogue of precedents that informed the *Treatise*. This had not been possible before through previous guides and manuals as is explained separately by Martyn Atkins, David Natzler, the former Clerk, and Paul Seaward. William McKay, another former Clerk, writes chapters on May's efforts to promote procedural reform generally while Colin Lee describes his efforts to improve the consideration of the business of Supply. In the language of Vieira, these accounts are compelling and they advance an understanding of some of the personalities and strategies at play in the inner world of the Victorian House of Commons.

Both *Time and Politics* and *Essays on the History of Parliamentary Procedure* go beyond the Victorian Parliament at Westminster. For Vieira, this is done to include accounts of reform efforts in New South Wales and Canada in late 19th century and early 20th. Though these legislatures were proud of their British parliamentary heritage and consciously imitated the practices of Westminster, they too were eventually obliged to adapt their practices to keep up with the pressures on government to deal with greater responsibilities due to a growing population and expanding economy. Again, Vieira presents this brief and useful history in the framework of modernity, the culture of time, and masculine heroism. This is preceded by his analysis of the reforms implemented during the premiership of Arthur Balfour which finally achieved the elimination of much unnecessary debate and provided greater effective control to the Government over the business of the House. For the *Essays,* it means including information that brings the history of procedure through the 20th century and assesses the legacy of Erskine May and his *Treatise*. There is a chapter on the manuals, "the international cousins of the *Treatise*", written in New Zealand, Canada and Australia. Another contribution provides a history of the Standing Orders by Simon Patrick that explains the stages of their development during the career of Erskine May to the present. This discussion is followed by Mark Egan's essay on the role of committees in procedural reform since 1900 as well as contributions written by Jacqy Sharpe and Mark Hutton, among others, on legislative procedure and the work of select committees.

Parliament at Westminster has been the focal point of English and British politics for more than 500 years. During those centuries, Parliament developed rules and practices in keeping with the scale and scope of its responsibilities. The process has often been challenging, involving efforts to overcome established traditions in order to respond effectively to the obligations of power. During the Victorian era, Parliament was obliged to undertake significant transformational change; it did not happen easily or quickly. The process led the Government to assert ever greater control over the business of the House. The need to claim this control became evident as obstruction through lengthy debate and other means was applied to resist the Government. *Time and Politics* and *Essays on the History of Parliamentary Procedure* explain the breadth of these changes and the difficulties of bringing about these reforms to practice. Who knows what, if anything, will happen now in the era of Brexit?

Charles Robert
Clerk of the House of Commons (Canada)

Dave Meslin, Teardown: Rebuilding Democracy From The Ground Up, Toronto: Penguin Canada, 2019, 384 pages

There are many books today about the problems of how politics works, or about how we are straining the limits of representative democracy. *Too Dumb for Democracy* (David Moscrop) *Democracy May Not Exist But We'll Miss it When It's Gone* (Astra Taylor), and *Ill Winds: Saving Democracy from Russian Rage, Chinese Ambition and American Complacency* (Larry Diamond), are but a smattering of 2019 titles alone. But few are as tactical and deep in the solutions they propose (or as hopeful) as Dave Meslin's new book *Teardown: Rebuilding Democracy from the Ground Up.*

While the book's title *Teardown* may prompt you to assume that the author is asking for anarchy and a total rejection of the current systems and institutions of governance, the approach he prescribes actually asks us to take apart each facet of representative democracy, clean it up and then put it back together. And, unlike many books on democracy that tend to focus on the usual suspects – be it elections, or political parties – Meslin takes a much broader view. You'll read about ballots and civics classes, but you'll also reflect on the charity law, workplace decision-making and even block parties.

The author describes himself as a "political biologist," studying our democratic "swamp" over the last 20 years. His tone throughout is refreshingly playful. At heart, he's a democracy activist; but he's also held jobs inside political parties and legislatures as a fundraiser, staffer and campaign strategist for many levels of government and he has worked with many different partisans. He knows every problematic and beautiful aspect of Canadian democracy. This book is certainly not an academic project—though it does occasionally cite academic research. It reads more like an enthusiastic guided tour with a seasoned storyteller. In the process, you are asked to look at our democratic institutions, rules and culture with fresh eyes.

Meslin begins the book by exploring the systemic ways that everyday people are kept out of political decision making—whether through signage that is misleading, poor timing for community engagement events or the lack of inclusion of new voices in political parties. He also explores how the complexity of our political system reinforces the ability of those with the know-how, or the money to pay for lobbyists, to obtain greater influence and access. For example, he illustrates how difficult it is for average people to

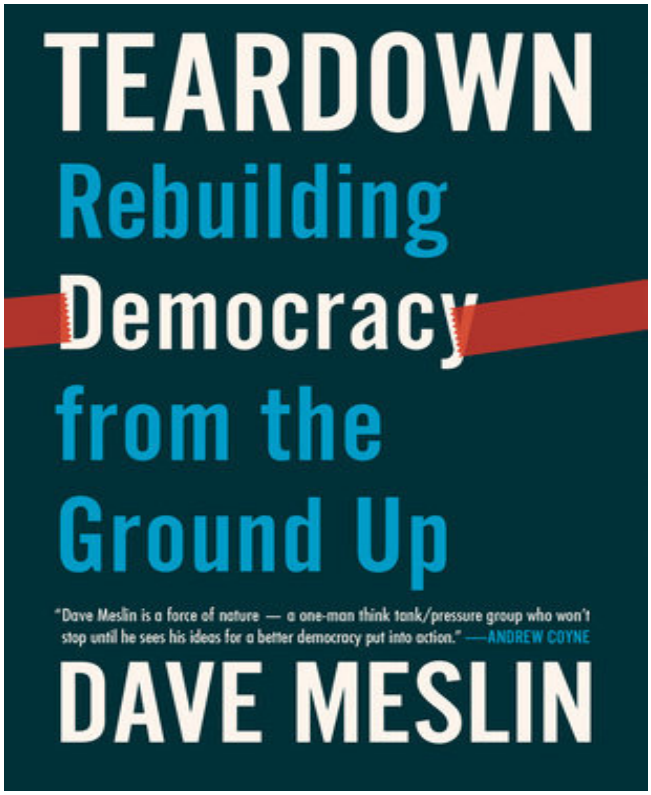
offer input or objections to building developments in their community. Contrasting the engagement notices of a new building with the advertisements offered by corporations, he amusingly offers that cities, building developers and politicians do not actually want the "business" of civic engagement. Given the concerns about describing citizens as "consumers," many readers may find it surprising how frequently lessons from the private sector are applied to democratic engagement. Meslin suggests adopting the Wal-Mart greeter model at City Hall or borrowing the user-design focus of software companies for government.

He builds up to his real beef over the course of the book: our over-reliance on what he terms "pointy leadership"—a single leader at the top of the pyramid that is present in almost all parts of life, including schools and workplaces. This pointy leadership inhibits collaborative decision-making and, in turn, turns citizens off.

Of course, rather than simply bemoaning the facts, Meslin presents a sweeping array of solutions to the problems he has illuminated by profiling organizations, places and people around North America. Readers may be familiar with participatory budgeting or citizen assemblies, but Meslin also departs the well-worn path by visiting democratic schools to find an education model that inspires young people to engage. He suggests we fund "public lobbyists" to level the playing field of corporate lobbyists. He profiles New York City's political finance reforms that incentivize new and small donors. He points to bite-sized democratic opportunities, in sub-city level community governments, where people can exercise their democratic muscle.

Meslin is known in the democracy sector as an expert on electoral processes that could replace First Past the Post. In *Teardown*, Meslin gives an extremely detailed but readable—with hockey references!—explanation for different versions of electoral processes. We could all borrow from his explanation for Mixed Member Proportional Representation the next time we are asked to explain it.

Meslin saves his toughest criticisms for elected leaders and the parties to which they belong. He seems to offer more hope and actionable ideas when it comes to smaller groups, which offer opportunities for people to look each other in the eyes. But, when he turns to the federal or even provincial levels of our system, he finds some of the most intractable problems. How can political parties be big tent, and hear from lots of people, but also maintain control over their narrative? How can parties define themselves, without defining themselves as opposite of another party? Through interviews with elected officials, Meslin explores the challenges of this issue and how it plays out for elected representatives by producing a toxic culture of soundbites where listening to one another is anathema.



His answer to the problems of parties that oppose each other is "a cultural shift from fighting to talking and listening." The idea of trying to get along, rather than trying to oppose, runs contrary to the way our political systems are set up. His solutions to these fundamental problems require a fundamental shift in approach. While he posits some key steps—including many familiar ones like rotational seating, better training and stronger local constituency associations – this section of the book feels less hopeful.

Part biography, part how-to manual, part ideas-generating machine, *Teardown* offers possible solutions to the biggest questions that representative democracy is not ready to answer: How do we live together? How do we make decisions together? How can we make sure everyone is empowered? In the face of prolific political cynicism today, *Teardown* could not have arrived at a better moment.

Kendall Anderson
Executive Director of the Samara Centre for Democracy

New and Notable Titles

A selection of recent publications relating to parliamentary studies prepared with the assistance of the Library of Parliament (September 2019 - November 2019)

"Fighting talk - The threat to MPs from the public is greater than ever." *Economist* 433 (9163), October 5, 2019.

- Women and ethnic-minority MPs suffer the worst abuse.

Bercow, John. "Rules of behaviour and courtesies in the House of Commons." House of Commons - Issued by the Speaker and the Deputy Speakers, November 2019: 18p.

- This pamphlet has been agreed by the Speaker and the Deputy Speakers and is intended to help Members, particularly those new to the House, in understanding the behaviour expected in the Chamber of the House of Commons and in Westminster Hall. While open to change, these rules are important in maintaining the good order of proceedings and the civility of debate – so that all Members are able to participate and be heard with respect.

Feldman, Charlie. "Beyond *Charter* statements: Constitutional communications in the parliamentary context." *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique* - Special Issue – Canada's Constitutional & Governance Challenges After 150 Years / numéro hors-série – Les Défis Constitutionnels et de Gouvernance du Canada Après 150 ans, 2018 : 37-66.

- The parliamentary record is replete with historical and contemporary expressions of concern by federal legislators regarding the constitutionality of proposed enactments. Yet, little research appears to explore how parliamentarians' constitutional knowledge is developed - both generally and in relation to specific enactments - within the parliamentary context.

Finnis, John. "The unconstitutionality of the Supreme Court's prorogation judgment." Policy Exchange, September 28, 2019: 22p.

- The Supreme Court's judgment in *Miller/ Cherry* [2019] UKSC 41 holds that Parliamentary sovereignty needs to be judicially protected against the power of the Government to prorogue Parliament. But the Judgment itself undercuts the genuine sovereignty of Parliament by evading a statutory prohibition – art. 9 of the Bill of Rights 1689 – on judicial questioning of proceedings in Parliament. This paper shows that the Judgment was wholly unjustified by law. It wrongly transfers the conventions about prorogation into the domain of justiciable law. The Judgment is an inept foray into high politics and should be recognised as a historic mistake, not a victory for fundamental principle.

Jenkin, Bernard. "The role of the Speaker is changing." *The House Magazine*. 1665 (42), October 28, 2019: 22-3.

- Speakers now have to consider the impact of their personal public profile and how this relates to their responsibilities.

Girling, Kimberly, Gibbs, Katie. "Evidence in action - An analysis of information gathering and use by Canadian parliamentarians." Evidence for Democracy, November 2019: 48p.

- In the current study, the authors conducted a series of one-on-one interviews with Canadian Members of Parliament (MPs) to investigate how they gather and use information. The study aimed to better understand how MPs use research and evidence in their work, identify potential gaps in the process, and determine new ways that scientists, researchers, and experts could support MPs.

Harman, Harriet (Chair). "Democracy, freedom of expression and freedom of association: Threats to MPs." House of Commons Joint Committee on Human Rights, First Report of Session 2019-20 HC 37, October 18, 2019: 68p.

- Freedom of association and freedom of expression are fiercely protected rights…yet MPs are regularly threatened with physical violence and are subject to harassment and intimidation whilst going about their wider public duties. This undermines our democracy and demands action.

Ie, Kenny William. "Cabinet committees as strategies of prime ministerial leadership in Canada, 2003–2019." *Commonwealth & Comparative Politics*, 57 (4), November 2019: 466-86.

- Cabinet committees are key elements in parliamentary government, yet they are understudied. This article examines recent uses of cabinet committees in Canada as strategic instruments of their chief architects: prime ministers…

Norton, Philip. "Post-legislative scrutiny in the UK Parliament: Adding value." *The Journal of Legislative Studies*, 25 (3) - Committees in Comparative Perspective, September 2019: 340-57.

- Legislatures appoint committees for different purposes. Both Houses of the UK Parliament separate legislative committees from non-legislative, or select, committees. Each is unusual in that it utilises select committees to engage in post-legislative scrutiny. The author examines why each engages in this type of scrutiny, given competing demands for limited resources…

Norton, Philip. "Is the House of Commons too powerful?" The 2019 Bingham Lecture in Constitutional Studies, University of Oxford. *Parliamentary Affairs* 72 (4), October 2019: 996-1013.

- …in this lecture, the author proposes, first, to sketch the development of the Westminster model of government and detail how that determines the relationship of Parliament to the executive and to the people. The author then develops a theses that, in the period from the 1970s to last year, Parliament was stronger than at any time previously in modern British politics in its relationship to the executive, but not to the people, and that over the past 12 months the relationship to both government and the people is threatened in terms of what we expect of the institution within the Westminster model of government.

O'Brien, Gary William. "Discovering the Senate's fundamental nature: Moving beyond the Supreme Court's 2014 opinion." *Canadian Journal of Political Science / Revue canadienne de science politique* 52 (3), September/septembre 2019 : 539-55.

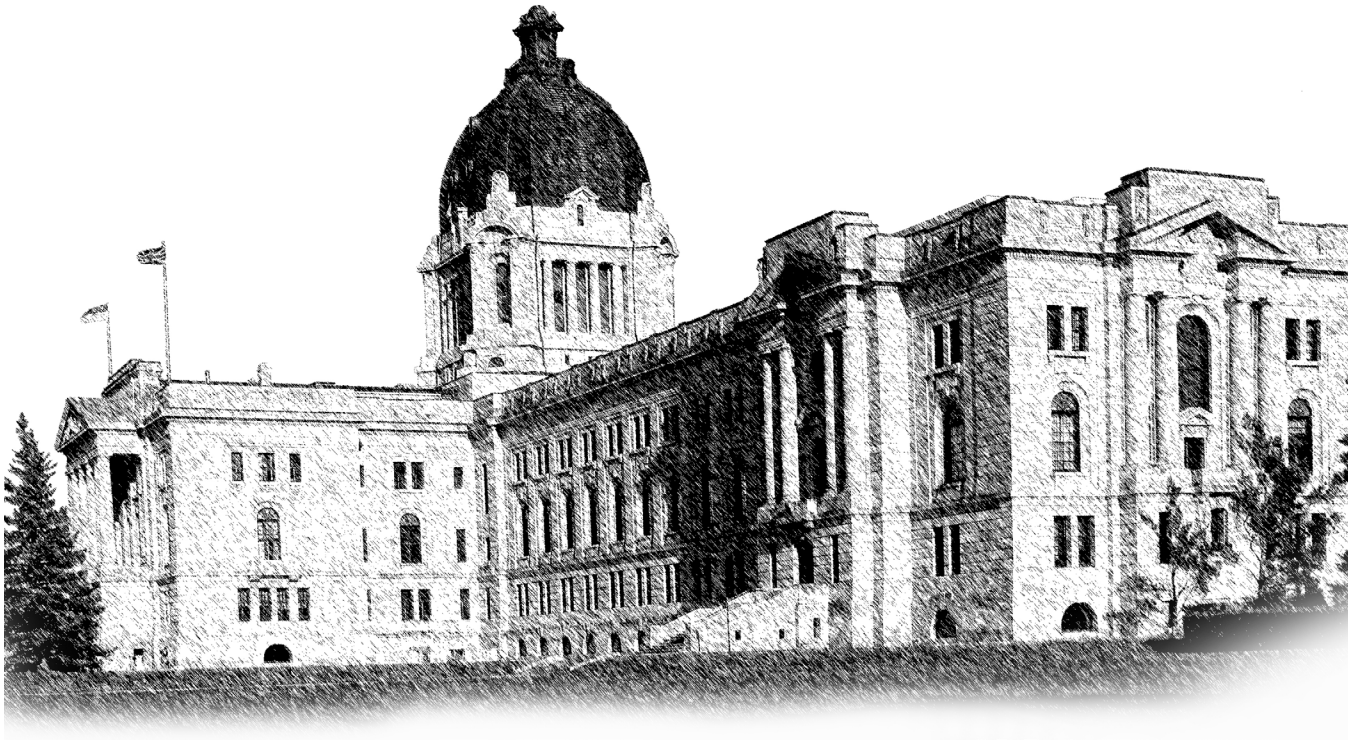
- In the 2014 reference, the Supreme Court sought to discover the Senate's 'essential nature' in order to determine what reforms parliament could legislate unilaterally. Making use of a classification model found in comparative and historical studies, the Court concluded that the Senate was a 'complementary legislative body of sober second thought.' This article re-examines the Court's narrow definition of the Senate's perceived role and presents evidence that its essential characteristics are direct continuations of various pre-Confederation design principles. Limiting a description of its architecture to a single model that eclipses all other roles the Senate may play shifts the debate on Senate reform, which in the recent past has laid emphasis on resolving the conflict among the models embedded in the upper chamber's essential characteristics. The article concludes by reviewing previous constitutional initiatives that aimed at bringing those models more in tune with modern Canada and by making suggestions about how reform proposals could better succeed.

Von Tunzelmann, Alex. "The British Parliament's ultimate weapon." *Foreign Policy* 234, Fall 2019: 72-3.

- Why does the House of Commons fetishize a golden mace?

Walker, Aileen, et al. "How public engagement became a core part of the House of Commons select committees." *Parliamentary Affairs* 72 (4), October 2019: 965-86.

- This article explores the role of public engagement by select committees of the House of Commons. It shows that committees' public engagement activity has been transformed since 1979, when departmental select committees were introduced…



Saskatchewan

Appointment of New Lieutenant Governor

Saskatchewan's 22nd Lieutenant Governor, **W. Thomas Molloy**, passed away on July 2, 2019. Mr. **Russ Mirasty** was sworn in as the 23rd Lieutenant Governor on July 18. An installation ceremony took place in the Legislative Chamber on September 12, 2019.

Mr. Mirasty is Saskatchewan's first Indigenous Lieutenant Governor. He was born and raised in northern Saskatchewan, is a member of the Lac La Ronge Indian Band, and speaks Cree fluently. His swearing-in day featured many Cree and Indigenous elements. On the morning of his swearing-in ceremony, a pipe ceremony was held at Government House. His Honour wore beaded hide moccasins and he began and ended his remarks in Cree. He received an Honour Song performed by the Kawacatoose Boys; gifts from the Federation of Sovereign Indigenous Nations and the Métis Nation of Saskatchewan; and a blessing delivered by Elder Abel Charles of Grandmother's Bay. Prior to his appointment as Lieutenant Governor, Mr. Mirasty had a distinguished career with the Royal Canadian Mounted Police, including serving as Commanding Officer of 'F' Division (Saskatchewan) at the rank of Assistant Commissioner.

Cabinet Shuffle and Changes in the Government Leadership Roles

On August 13, 2019, Premier **Scott Moe**, announced changes to cabinet and to the government house leadership team. Three ministers changed portfolios. **Lori Carr** became the Minister of Government Relations, Minister Responsible for First Nations, Métis and Northern Affairs and Minister Responsible for the Provincial Capital Commission. **Greg Ottenbreit** replaced Ms. Carr as the Minister of Highways and Infrastructure and also became the Minister Responsible for the Water Security Agency. **Warren Kaeding** replaced Mr. Ottenbreit as the Minister Responsible for Rural and Remote Health. He also became the Minister Responsible for Seniors, a new cabinet responsibility.

Jeremy Harrison and **Paul Merriman** were appointed as the Government House Leader and Government Deputy House Leader respectively. **Everett Hindley** was appointed as the new Government Whip and **Todd Goudy** became the Provincial Secretary.

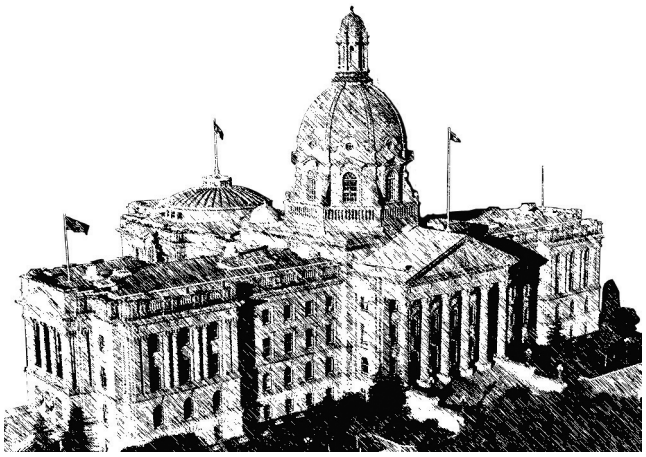
Vacancies

Two seats became vacant when MLAs **Warren Steinley** and **Corey Tochor** resigned their seats on September 11, 2019. Both are candidates in the federal election. The legislation provides that a by-election to fill a vacancy does not need to be held within six months if a seat becomes vacant after the first 40 months following a general election. Saskatchewan's last general election was held on April 4, 2016.

Prorogation and Opening of New Session

At the request of the government and pursuant to the order adopted by the Assembly on May 16, 2019, the third session of the twenty-eighth legislature was prorogued on the morning of October 23, 2019. The fourth session of the twenty-eighth legislature was opened in the afternoon by Lieutenant Governor Russ Mirasty who delivered his first Speech from the Throne.

Stacey Ursulescu
Procedural Clerk



Alberta

1st Session of the 30th Legislature

The first sitting of the 30th Legislature adjourned for the summer on July 3, 2019. In September it was confirmed that the fall sitting would commence, two weeks earlier than anticipated, on October 8, 2019. It has also been announced that the 2019 Budget address will take place on October 24, 2019.

Committee Business

On December 4, 2018, the Legislative Assembly of Alberta referred the review of the *Public Sector Compensation Transparency Act* to the Standing Committee on Families and Communities, pursuant to section 14 of the *Act*. However, when the 29th Legislature was dissolved in March 2019, the Committee had not completed its review. To fulfill the requirements of the legislation, on July 2, 2019, the *Act* was again referred for review, this time to the Standing Committee on Resource Stewardship. The Committee invited the public, identified stakeholders and participants in the previous Committee's review to provide written submissions regarding the *Act* by September 9, 2019.

Following the May 2019 changes to the Standing Orders all Private Members' Public Bills now stand referred to the new Standing Committee on Private Bills and Private Members' Public Bills after first reading. The Committee must consider each bill and report back to the Assembly within eight sitting days with a recommendation of whether a Bill should proceed. During the spring sitting the Committee reviewed three bills: Bill 201, *Protection of Students with Life-threatening Allergies Act*, which has since received Royal Assent; Bill 202, *Child, Youth and Family Enhancement (Protecting Alberta's Children) Amendment Act, 2019*, which is currently in Committee of the Whole; and Bill 203, *An Act to Protect Public Health Care*, which has been reported to the Assembly. The motion to concur in the report for Bill 203, which recommends that the Bill not proceed, will be debated at the earliest opportunity.

On July 3, 2019, the Legislative Assembly referred consideration of the *2017 Annual Report of the Alberta Property Rights Advocate* to the Standing Committee on Alberta's Economic Future. Having met with the Advocate and the ministries affected by the recommendations made in the Advocate's report, the Committee has expressed support for the recommendations of the Advocate. The final report by the Committee on this matter is anticipated in October.

On August 6, 2019, the Special Standing Committee on Members' Services met and reduced the salaries of Members of the Assembly and of Executive Council by five per cent. The Premier's remuneration was reduced by an additional five per cent. The Committee also discontinued the ability of Members to claim for fuel, car washes, etc., but increased the mileage rate available to Members to match the rate for the public service. Finally, the Committee granted Members the discretion to permit staff to be reimbursed for any

portion of the mileage that could be claimed by the Member.

As part of the orientation process, the Standing Committee on Public Accounts invited the Canadian Audit and Accountability Foundation to deliver a training session on effective parliamentary oversight of government expenditures at a meeting on September 10, 2019.

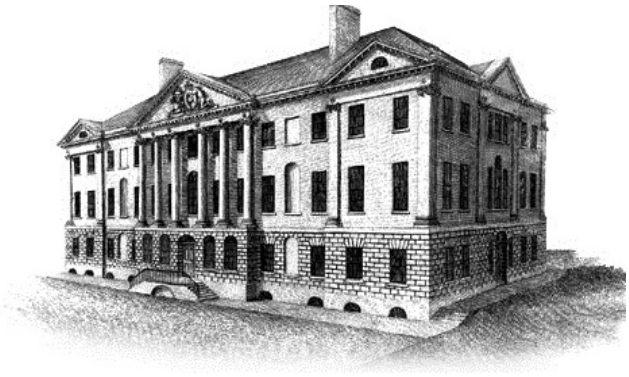
Election Commissioner – First Annual Report

On September 24, 2019, **Mike Ellis**, MLA (Calgary-West), as Chair of the Standing Committee on Legislative Offices, deposited the *2018-2019 Annual Report of the Office of the Election Commissioner*. This is the first annual report released by this Office. The report includes the Office's audited financial statements and an overview of its activities during its first year of operations. It also recommends potential amendments to the province's election legislation.

Sergeant-at-Arms – Retirement

When session resumes in October a familiar face will be absent from the floor of the Chamber. After 27 years as Sergeant-at-Arms for the Legislative Assembly of Alberta, **Brian Hodgson** retired on September 16, 2019. Mr. Hodgson was also the Director of Visitor, Ceremonial and Security Services.

Jody Rempel
Committee Clerk



Nova Scotia

The spring 2019 sitting of the House of Assembly finished on April 12, 2019 when 22 bills received Royal Assent and the Fall 2019 sitting commenced on September 26, 2019 and ended October 30, 2019 when 20 bills received Royal Assent

Distribution of Seats in the House

The distribution of seats in the House of Assembly at the start of the fall 2019 sitting on September 26, 2019 was 27 seats for the Liberal Party, 17 seats for the PC Party, 5 seats for the NDP Party, 1 Independent Member and 1 vacant seat.

Four by-elections were held during the summer of 2019. The seat for the constituency of Sackville-Cobequid was vacated when **Dave Wilson** resigned on November 16, 2017. A by election was held on June 18, 2019 and **Steve Craig** of the PC Party was elected. Three PC Members resigned on July 31, 2019 to run for election as MPs in the October 2019 federal election; **Chris d'Entremont** for Argyle-Barrington, **Alfie MacLeod** for Sydney River-Mira-Louisbourg and **Eddie Orrell** for Northside-Westmount. The three by-elections were held on September 3, 2019 and the PC Party kept all seats by electing **Colton LeBlanc** for Argyle-Barrington; **Brian Comer** for Sydney River-Mira-Louisbourg and **Murray Ryan** for Northside-Westmount.

On June 24, 2019 PC Party member **Alana Paon** who represents Cape Breton-Richmond was removed as a PC member by her caucus and she now sits as an Independent member.

On June 9, 2019 NDP Party member **Lenore Zann** resigned as an NDP member to sit as an Independent while seeking the Liberal nomination to run in the October 2019 federal election. She resigned her seat as an Independent Member on September 12, 2019 leaving her seat vacant in the House of Assembly.

57th Commonwealth Parliamentary Association Canadian Regional Conference

From July 15-19, 2019 the Nova Scotia House of Assembly hosted the 57th Commonwealth Parliamentary Association Canadian Regional Conference in Halifax. More than 100 delegates attended and participated in a full program of business sessions and cultural events.

The Commonwealth Women Parliamentarians (CWP) Canada Region held outreach activities, business sessions and a steering committee meeting in Nova Scotia immediately prior to the CPA conference.

Annette M. Boucher
Assistant Clerk

British Columbia

The spring sitting of the fourth session of the 41st Parliament of the Legislative Assembly of British Columbia adjourned on May 30, 2019. The Legislative Assembly will resume sitting on October 7, 2019. The fall sitting is expected to focus on legislation.

Legislative Assembly Administration

On September 19, 2019, Auditor General **Carol Bellringer** released an audit report titled, *Expense Policies and Practices in the Offices of the Speaker, Clerk and Sergeant-at-Arms*. The performance audit was carried out with the support of the Legislative Assembly Management Committee in response to the issues first raised by Speaker **Darryl Plecas**, in his January 21, 2019 report titled, *Report of Speaker Darryl Plecas to the Legislative Assembly Management Committee Concerning Allegations of Misconduct by Senior Officers of the British Columbia Legislative Assembly*.

Based on a review of expense claims and documentation from the period between April 1, 2016 and December 31, 2018, the audit report found that the expenses in the Offices of the Speaker, Clerk and Sergeant-at-Arms were not adequately governed by policies; where policies were in place, they were not consistently followed. The Auditor General made nine recommendations aimed at guiding the Assembly in developing new policies to address weaknesses and gaps and establishing efficient and effective oversight of its use of public resources, including ensuring that the Legislative Assembly has: a comprehensive policy framework to govern financial practices and authorization; a comprehensive travel policy; appropriate expense authorization and review; and that existing contracts are in compliance with procurement policies. The Auditor General also recommended that the Legislative Assembly provide clear guidelines on what work-related clothing it will pay for and clarify expectations for the purchase of gifts. Finally, the Auditor General recommended formalizing the reporting relationships of the Assembly's Executive Financial Officer with the Speaker, the Legislative Assembly Management Committee, and its advisory subcommittee, the Finance and Audit Committee.

In the formal response to the audit report, the Legislative Assembly acknowledged the Auditor General's key findings and accepted all recommendations. In recent months, the Committee and the Acting Clerk initiated work related to many of the audit report recommendations. The *General Expenditure Policy*, *Corporate Purchasing Card Policy* and *Standards of Conduct Policy* have been updated and new employee policies have been introduced in the areas of travel, uniforms and clothing, liquor control, and gifts and honoraria. In addition, work is currently being undertaken to formalize the responsibilities and accountabilities of the Legislative Assembly's senior management and implement a schedule of policy training sessions for employees.

The Committee will consider the development of a new policy governance framework and establish more effective oversight of Assembly administration to ensure that all audit report recommendations are fully implemented in the months ahead. The Auditor General advised that this audit is the first in a series of upcoming audits on the Legislative Assembly. Future reports will examine purchasing cards, compensation and benefits, capital asset management and overall governance.

Earlier this summer, the Committee approved in principle the Assembly's first comprehensive Respectful Workplace Policy on July 3, 2019. The policy affirms a respectful workplace environment free of bullying, harassment, discrimination and violence and applies to all participants of the Legislative Assembly (including Members, Ministerial staff, Caucus staff and Assembly employees) and their interactions with external parties such as visitors, contractors, and members of the Legislative Press Gallery. The Committee also established a working group to oversee the implementation of the policy, including selecting an individual or firm to operationalize it. The successful proponent will create a framework for an Independent Respectful Workplace Office to coordinate compliance with the policy and conduct investigations. The proponent will also administer the policy on a transitional basis by providing the

services and delivering on the responsibilities of said office and carrying out training on the policy. This work is expected to begin in November.

Parliamentary Committees

The Select Standing Committee on Finance and Government Services is responsible for considering and making recommendations on the budgets of the province's nine statutory offices. The Committee held meetings from May 6 to May 10, 2019 to discuss emerging issues and possible implications for further changes to legislative frameworks and priorities with statutory officers. It released its report titled, *Interim Report on Statutory Offices*, on July 5, 2019. The report underscored the value of ongoing transparency in ensuring accountability to British Columbians for the expenditure of public funds on the important work of statutory offices. Impacts of the rapid pace of technological change were highlighted as was the merit of seeking input from Members in aligning the work of statutory offices with the needs of the Legislative Assembly. Finally, it was noted that some statutory offices do not currently benefit from the opportunity to have their reports considered by the Legislative Assembly or a parliamentary committee. The report indicated that the Committee would continue discussing ways to enhance oversight and accountability, and strengthen opportunities for regular and meaningful reporting relationships with statutory officers.

The Committee also holds an annual budget consultation each year in accordance with the *Budget Transparency and Accountability Act.* It is required to report its findings by November 15. This year, the Committee collaborated with the Ministry of Finance to have the budget consultation paper released earlier than is typical, thereby allowing the budget consultation to be conducted in June instead of during the fall. As a result, the Committee could deliver its report sooner in the budget process, giving government more time to consider its recommendations. After visiting 15 communities and deliberating over the ideas and priorities shared by 1,226 individuals and organizations across the province, the Committee released its unanimous report on August 7, 2019. The report made 106 recommendations regarding areas of concern to British Columbians including supports for youth formerly in care, critical challenges facing the forestry sector, water sustainability, fish and wildlife conservation and climate change. The Committee is currently gathering feedback from participants and evaluating the merits of conducting subsequent annual budget consultations during the summer, as compared to the usual, later fall time period.

Statutory Officers

Fiona Spencer resigned from the position of Acting Merit Commissioner on September 16, after having served as Merit Commissioner from February 2010 to April 2019, and as Acting Merit Commissioner since April 2019. A Special Committee to Appoint a Merit Commissioner, first established on November 27, 2018, is continuing its recruitment process.

On September 24, 2019, Carol Bellringer provided written notice to the Speaker of her resignation as Auditor General effective December 31, 2019. Ms. Bellringer, who had previously served as Auditor General in Manitoba, was appointed by the Legislative Assembly for an eight-year non-renewable term on September 15, 2014. It is expected that a Special Committee to Appoint an Auditor General will be established early in the fall sitting to undertake the task of unanimously recommending an individual for appointment as Ms. Bellringer's successor.

Legislative Lights

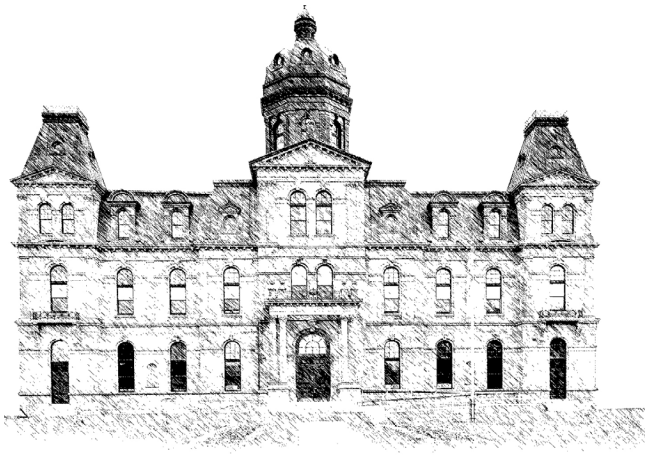
On June 11, 2019, the Legislative Assembly held the 6th annual Legislative Lights Employee Recognition Program event. The event acknowledges the leadership, dedication and service of Assembly staff. Award recipients are selected from nominations submitted by their colleagues. Staff who have worked in the public service for 25 years or more were also honoured with Long Service Awards. Speaker Plecas and **Kate Ryan-Lloyd**, Acting Clerk of the Legislative Assembly, addressed nominees and recipients and congratulated them for their outstanding achievements.

Safety and Emergency Preparedness

The Legislative Assembly hosted an Earthquake Awareness Day for staff on September 17, 2019 to promote safety and emergency preparedness. **John F. Cassidy**, a seismologist with Natural Resources Canada, presented a seminar titled, "Earthquakes of British Columbia: Past, Present, and Future…" and the Quake Cottage simulator was on the precinct to provide an interactive experience of what a major earthquake feels like. The Red Cross Disaster Response Vehicle and Legislative Assembly Sea Container were on display, and representatives from ShakeOut BC, Prepared BC and the Insurance Bureau of Canada

were stationed at booths in various locations to share information and answer questions. The Legislative Library made available books on earthquakes and emergency preparedness and, on September 18, a new video demonstrating earthquake evacuation procedures was shown on the Legislative Assembly internal TV channels throughout the day.

Josée Couture
Committee Researcher



New Brunswick

Standings

Following the summer adjournment, the Legislature is scheduled to resume sitting on November 19, 2019. The current standings in the House are 21 Progressive Conservatives, 21 Liberals, 3 Greens, 3 People's Alliance, and 1 vacancy.

Lieutenant-Governor

Lieutenant-Governor **Jocelyne Roy Vienneau** passed away on August 2 following a courageous battle with cancer. Ms. Roy Vienneau became New Brunswick's 31st Lieutenant-Governor in 2014. She held a Master's in Public Administration and a Bachelor of Applied Science in Industrial Engineering from the Université de Moncton, as well as a teaching certificate from the province of New Brunswick. Ms. Roy Vienneau had an extensive career in education, having served as Assistant Deputy Minister for Post-Secondary Education and having worked at the New Brunswick Community College in Bathurst for 23 years as dean, department head, professor and principal. She was the first woman to occupy a secular position as vice-president of a campus at the Université de Moncton, the first woman to direct a francophone community college in New Brunswick, and one of the first women to graduate from the faculty of engineering at the Université de Moncton.

On September 8, **Brenda Murphy** was sworn-in as the 32nd Lieutenant-Governor of New Brunswick. Ms. Murphy served three terms as a municipal councillor for the Town of Grand Bay–Westfield. She is the former executive director of the Saint John Women's Empowerment Network, an organization she led for more than 20 years. She has volunteered with a variety of organizations, including the Hestia House shelter for women, the Saint John Legal Centre, the Coverdale Centre for Women, and the Economic and Social Inclusion Corporation of New Brunswick. Ms. Murphy commenced her duties immediately and a formal installation ceremony was held in the Legislative Assembly Chamber on October 8.

Committees

The Standing Committee on Public Accounts, chaired by **Roger Melanson**, held a special examination related to the province's funding agreement with the City of Saint John — a topic stemming from the Auditor General's latest report. On August 6 and 7, current and former civil servants, the former Premier and his Chief of Staff, the Mayor of the City of Saint John, and Saint John city officials appeared before the Committee and answered questions on the development and implementation of the agreement.

For three days in late August, the Standing Committee on Law Amendments, chaired by Justice Minister and Attorney General **Andrea Anderson-Mason**, held public hearings on Bill 39, *An Act Respecting Proof of Immunization*, introduced by Education and Early Childhood Development Minister **Dominic Cardy**. The Bill removes the option for non-medical exemptions from the mandatory immunization requirements for public school and licensed early learning and childcare admissions. Including the Education Minister, the Chief Medical Officer of Health, and the Child, Youth and Seniors' Advocate, the Committee listened to 30 presentations on the issues surrounding the Bill. The Committee also received over 250 written submissions, mostly in the form of emails, from individuals and organizations across North America, the majority of whom were opposed to the Bill and the mandatory vaccination of children.

The Law Amendments Committee also held two days of public hearings in early September on whether to reduce or eliminate any property assessment or property taxation exemptions or benefits that apply to heavy industry. The issue was referred to the Committee by way of Motion 31, introduced by **Gerry Lowe**, a Member of the Official Opposition. The Committee heard from Department of Finance and Treasury Board officials and 19 organizations representing independent businesses, large industrial corporations, manufactures and exporters, appraisers, business councils, various chambers of commerce, and other interested stakeholders. The Committee also received over a dozen written submissions. It is expected that the Committee will report back to the House on the issues raised by Bill 39 and Motion 31 when the House resumes sitting in November.

Meetings were held on September 24 and 26 by the Select Committee on Public Universities, chaired by **Glen Savoie**, to hear from the province's four publicly-funded universities (Mount Allison University, Université de Moncton, University of New Brunswick, and St. Thomas University), the Department of Post-Secondary Education, Training and Labour, and the Maritime Provinces Higher Education Commission, to gain insight into university administration, programming, performance measurement, accountability and transparency.

Auditor General **Kim MacPherson** held an orientation session on October 2 and 3 with the Canadian Audit and Accountability Foundation to discuss the principles of an effective Public Accounts Committee. The session, which was open to all Members and the support staff of the various parties, covered such topics as parliamentary oversight, cross-party collaboration, and effective hearings.

Resignation

Brian Gallant, former Premier and current Member for Shediac Bay-Dieppe, announced that he will be resigning his seat in October. Gallant was elected Leader of the New Brunswick Liberal Party in 2012 and became Leader of the Official Opposition after winning a by-election in 2013. He was sworn-in as Premier following the 2014 general election. The September 2018 general election saw the Liberals win a minority government, which eventually lost the confidence of the House and forced Gallant to resign as Premier in November. He continued to serve as Leader of the Official Opposition until an interim leader was chosen in 2019.

Conference

From August 14 to 16, the Legislature was honoured to host the Joint Annual Conference of the Association of Parliamentary Counsel in Canada (APCC) and the Association of Legislative Counsel in Canada (ALCC). Topics of discussion included the following: dialogue theory in section 1 analysis, minority governments, new drafting guides and tools, incorporation by reference, aboriginal consultation, regulatory modernization, Senate review of Bill C-69, and gender-neutral drafting.

Condolences

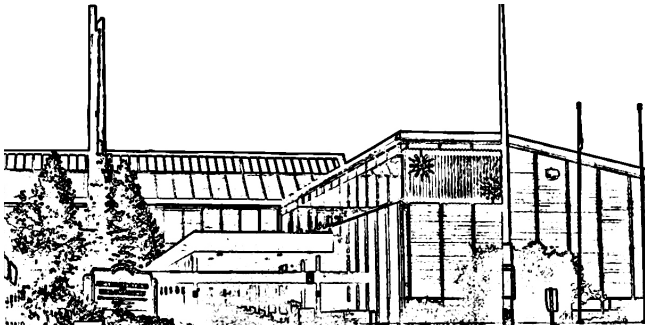
Former Speaker **Eugene McGinley** passed away on July 16. He was first elected in a by-election as the Liberal Member for Bathurst from 1972 to 1978 and Grand Lake (Gagetown) from 2003 to 2010. He served as Speaker in 2007. He was admitted to the New Brunswick Barrister's Society in 1962 and was honoured with the designation of Queen's Counsel in 1985.

Greg Thompson, Progressive Conservative Member for Saint Croix, passed away on September 10. He was first elected to the House of Commons in 1988 and served six terms as a Member of Parliament. He was appointed Minister of Veterans Affairs from 2006 until his retirement from federal politics in 2010. In 2018, he returned to politics and was elected in the provincial general election, serving as Minister of Intergovernmental Affairs.

Chamber Gallery

Upgrades to the Chamber gallery railing were completed in September. The height of the original railing, which contours the overhanging second story gallery, was below an acceptable modern standard and visitors had been prohibited from using the first row due to safety concerns. In cooperation with the Department of Transportation and Infrastructure, an extension to the original railing was fabricated using glass panes encased by a brass tube railing. The upgraded railing was completed in time for the installation ceremony of the Lieutenant-Governor.

John-Patrick McCleave
Clerk Assistant and Committee Clerk



Yukon

The Third Session of the 34th Legislative Assembly will commence at 1:00 pm on October 3, 2019 with the Commissioner of Yukon, **Angélique Bernard**, delivering the Speech from the Throne.

Based on Yukon's Standing Orders (which provide that there be a minimum of 20 and maximum of 40 sitting days for each of the spring and fall Sittings, and a maximum of 60 sitting days per calendar year), it is anticipated that the 2019 fall Sitting will conclude between November 7 and 30 (being the 20th and 30th sitting days of the fall Sitting).

Passing of former Premier Fentie

On August 29, **Dennis Fentie**, the former Yukon Party Leader who served as Yukon's Premier from 2002 to 2011, died of cancer at the age of 68. In a statement released the following day, Premier **Sandy Silver** noted that Mr. Fentie "was a respected leader who served as Yukon's Premier for nearly a decade and passionately represented the people of Watson Lake and southeast Yukon for 15 years in the Yukon Legislative Assembly. As an MLA, he fought hard to ensure rural Yukon communities were at the forefront of decision making in the territory. Mr. Fentie's distinguished career has had an immeasurable impact on the territory and all Yukoners."

In a statement on August 30, Yukon Party Leader **Stacey Hassard** credited Mr. Fentie's efforts with achieving great strides in implementing devolution in the territory. Mr. Hassard further observed that Mr. Fentie "had a tenacious spirit and always fought for his constituents and for Yukoners no matter the issue… he was instrumental in negotiating a better health care funding agreement between the territories and Canada as well as for getting improvements to the territorial formula financing arrangements…..", and that through the late Premier's efforts, "Yukoners now have access to modern hospitals in the communities of Dawson City and Watson Lake."

On August 30, **Liz Hanson**, MLA for Whitehorse Centre and former NDP Leader, tweeted that Mr. Fentie was "a tenacious and vigorous advocate of his vision for Yukon." In a statement issued the same day, the Yukon NDP said that Mr. Fentie had been "a capable and passionate leader in his representation of both his community and the Yukon."

An article in the *Whitehorse Daily Star* the day after the former Premier's passing included a characterization of Mr. Fentie by a friend as "a no-nonsense man of principle, who got things done… 'When Dennis said something, and he said he wanted to do something, he meant it.' He said, "you never left a meeting with Fentie wondering what was on his mind." In an April 27, 2011 interview with CBC News, Mr. Fentie said, "As far as leadership, there's actually only two kinds: passive and aggressive. And guess which one I was?"

A former logger, truck-driver and businessman, Fentie was first elected in 1996 as a member of the NDP. In 2002, he became Leader of the Yukon Party, and led the party to two successive majority governments. Mr. Fentie stepped down as party leader in May 2011;, but remained an MLA until the dissolution of the 32nd Legislative Assembly that September (he did not stand for re-election).

In 2005, Premier Fentie sponsored the *Co-operation in Governance Act*, legislation that established the Yukon Forum – a meeting between Yukon government leaders, Yukon First Nations, and the Council of Yukon First Nations.

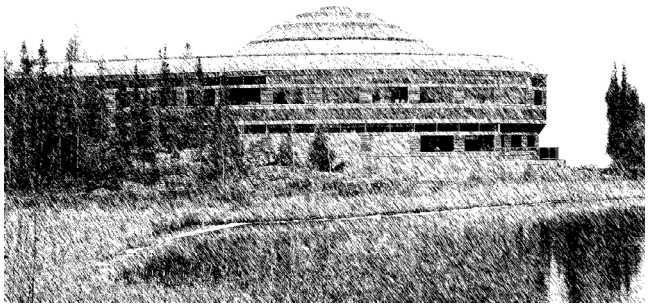
On November 8, a celebration of life for Mr. Fentie was set to be held at the Kwanlin Dün Cultural Centre in Whitehorse.

New Collection of Art on Display

When the 2019 Fall Sitting begins, a different collection of Yukon artwork will be on display in the Chamber. The collection that will be exhibited for the coming year comprises pieces by **Ken Anderson**, **Elizabeth Bosely**, **Fanny Charlie**, **Phyllis Fiendel**, **Kitty Smith**, and **Brian Walker**. The six works, which are drawn from Yukon's permanent art collection, are fashioned from an assortment of media, including copper, abalone, beads, coyote fur, moose hide, beaver fur, poplar and birch.

In October 2018, Speaker **Nils Clarke** delivered a statement in the House regarding the first collection of Yukon art displayed in four new showcases in the Chamber. Speaker Clarke noted that the display came about as a result of a decision by the all-party Members' Services Board to feature more art by Yukon artists in the House. In 1976, when the Assembly held its inaugural meeting in the then-new Chamber, there was no Yukon art in the Chamber.

Linda Kolody
Deputy Clerk



Northwest Territories

May - June Sitting

On May 23, 2019, Speaker **Jackson Lafferty** addressed the Assembly to emphasize the importance of language for the culture and heritage of the Northwest Territories. The Speaker advised Members of the House and the public that throughout the May/June sitting, the proceedings would be interpreted in four languages: Tlicho, North Slavey, Chipewyan, and French. The short, but busy, sitting adjourned June 6, 2019.

Premier **Robert R. McLeod** delivered a sessional statement for the continuation of the third session. The Premier spoke of the efforts of the Government of the Northwest Territories over the past four years, in raising the profile of the territory at the national level, Canada's vision for the Arctic, and Northerners setting the terms about how land, environment, and resources are managed.

Committee Activity

Three substantive Committee Reports were presented during this Sitting. On May 28, the Standing Committee on Government Operations presented its report on Bill 29: *An Act to Amend the Access to Information and Protection of Privacy Act*. The Committee held four public meetings and received several public submissions. Based on the work of the Committee and public feedback received, the Committee moved 25 substantive motions to amend the bill at the Committee stage. All of these motions were carried and received concurrence from the Minister, in accordance with the Rules of the Legislative Assembly of the Northwest Territories.

The Standing Committee on Economic Development and Environment presented its report on Bill 38: *Protected Areas Act.* The Committee held eight public meetings and received submissions from Indigenous Governments, Local Community Governments, and various non-government organizations and individuals. The committee moved 30 separate motions to amend the bill at the Committee stage and all were concurred with by the Minister.

The Special Committee to Increase the Representation of Women in the Legislative Assembly presented its Final Report which included three recommendations: that if the 2019 election does not meet 20 percent women representation, the 19th Legislative Assembly call a plebiscite to determine which of the options set out in a discussion paper on special temporary measures is preferred by the electorate; that the Legislative Assembly create an election rebate for candidates who receive at least 5 per cent of the votes cast in her or his electoral district in the Northwest Territories, reimbursing 50 per cent of eligible personal election expenditures to a maximum of $3,000; and that the Legislative Assembly continue to support the new Northwest Territories Polytechnic University to establish a leadership program designed to assist women to gain the skills and knowledge to take on leadership roles, including territorial, Indigenous, and municipal political positions.

Legislation

Eight bills received Assent in the May/June Sitting:

- Bill 26: *Statistics Act*;
- Bill 29: *An Act to Amend the Access to Information and Protection of Privacy Act;*
- Bill 30: *An Act to Amend the Human Rights Act*;
- Bill 35: *Supply Chain Management Professional Designation Act*;
- Bill 38: *Protected Areas Act*;
- Bill 55: *An Act to Amend the Legislative Assembly;*

- Bill 59: *Supplementary Appropriation Act (Infrastructure Expenditures) No. 2, 2019-2020;* and
- Bill 60: *Supplementary Appropriation Act (Operations Expenditures) No. 2, 2019-2020*

On May 23, a joint news release was sent out on behalf of the Minister of Environment and Natural Resources, **Robert C. McLeod**, and the Chair of the Standing Committee on Economic Development and Environment, **Cory Vanthuyne**, regarding Bill 38: *Protected Areas Act*, and Bill 44: *Forest Act.* The news release announced that in the spirit of consensus government, an agreement had been reached to provide for the expedited review of Bill 38: *Protected Areas Act* during the May-June sitting. Both the Minister and Committee members recognized the importance of the *Act* to the people of the Northwest Territories and the broad support from Indigenous Governments and Organizations. In the review of Bill 44: *Forest Act*, the Minister and Committee came to the mutual conclusion that after many public meetings and submissions, the *Act* required substantive changes and would be reintroduced in the life of the 19th Assembly, in order to re-engage with working group and Indigenous partners. Bill 44 was subsequently withdrawn at Third Reading on June 4, 2019.

Youth Parliament

From May 6 to 10, 2019, 19 youth from across the Northwest Territories attended the annual educational outreach program – Youth Parliament. This weeklong event brings northern youth together to learn about the Northwest Territories' unique form of consensus government and about what the Members of the Legislative Assembly do on a day-to-day basis.

On Thursday, May 9, the students held a model session in the Chamber of the Legislative Assembly where they read their Members' and Ministers' statements and debated three Motions. The Youth discussed and decided on the content of the motions, which related to: Youth Mental Health Support Programs, Increased Student Loans for Nursing and Education, and Forgivable Loans for Students Not Returning to the Northwest Territories. The debates were lively and created some great discussion. The next Youth Parliament is scheduled for May 2020.

August Sitting - Committee Activity

The months leading up to the final August sitting were unprecedented in the Northwest Territories in terms of the number of substantive bills that were before Standing Committees for review. In addition to reviewing legislation, most standing Committees, as well as the Special Committee on Transition Matters, prepared Reports on Transition Matters. In total, Committees presented 20 substantive reports during the August Sitting.

The Special Committee on Transition Matters tabled its report titled "Lessons Learned". The Committee's report intended to offer the best advice and accumulated wisdom of the Members of the 18th Legislative Assembly to the Members of the 19th. The report, which offers incremental improvements to the unique form of consensus government, includes suggestions for planning and staging of new Member orientation; the process to set and report upon priorities; the size, structure, and appointment of Cabinet and standing committees. The Report also included recommendations, including: the need to maintain unity amongst newly-elected and returning Members at the commencement of a new Assembly; the desire to set priorities, mandates and budgets earlier in the term, and requirement to evolve the processes of consensus government to reflect the increasingly complex policy making environment of the post-devolution era.

Six significant bills were before the Standing Committee on Economic Development and Environment, chaired by Mr. Vanthuyne. Five of these bills stemmed from the devolution agreement between the Government of the Northwest Territories and the Federal department of Aboriginal Affairs and Northern Development Canada, including Bill 34: *Mineral Resources Act*; Bill 36: *An Act to Amend the Petroleum Resources Act*; Bill 37: *An Act to Amend the Oil and Gas Operations Act*; Bill 39: *Environmental Rights Act*; and Bill 46: *Public Land Act*. The devolution agreement transferred responsibility for public land, water, and resource management in the Northwest Territories from the federal department of Aboriginal Affairs and Northern Development Canada (AANDC) to the Government of the Northwest Territories on April 1, 2014. The Committee also considered Bill 25: *An Act to Amend the Workers' Compensation Act*.

The Standing Committee on Social Development presented its report on Bill 45: *Corrections Act* which repealed and replaced the previous *Corrections Act.* The Committee, which had many concerns and received several submissions from experts in the field, proposed 32 very substantive amendments to the Bill, with the Minister concurring with all 32 of them.

The Standing Committee on Government Operations provided its report on the Carbon Tax bills: Bill 42: *An Act to Amend the Petroleum Products Tax Act* and Bill 43: *An Act to Amend the Income Tax Act*, which outlined the Committee's concern over the lack of meaningful engagement from the Government of the Northwest Territories and the lack of information on the federal back stop approach. The report contained several recommendations, including: plain language summaries available to the appropriate Standing Committee at the time the Bill is introduced in the Assembly; that the department of Municipal and Community Affairs completes work to assess municipal funding gaps, taking into consideration the increased cost of the carbon tax to all local authorities; and that the Department of Finance table an annual report on the carbon tax, providing details on total carbon taxes collected, carbon taxes collected from large emitters, total rebates provided, the number and nature of grants provided, the cost of administering the carbon tax, among other elements.

Legislation

The House sat for two weeks, August 12 - August 23, and considered 17 bills which all received assent:

- Bill 25: *An Act to Amend the Workers' Compensation Act*;
- Bill 34: *Mineral Resources Act*;
- Bill 36: *An Act to Amend the Petroleum Resources Act*;
- Bill 37: *An Act to Amend the Oil and Gas Operations Act;*
- Bill 39: *Environmental Rights Act;*
- Bill 40: *Smoking Control and Reduction Act*;
- Bill 41: *Tobacco and Vapour Products Tax Act;*
- Bill 42: *An Act to Amend the Petroleum Products Tax Act;*
- Bill 43: *An Act to Amend the Income Tax Act;*
- Bill 45: *Corrections Act;*
- Bill 46: *Public Land Act;*
- Bill 48: *Post-Secondary Education Act;*
- Bill 54: *Standard Interest Rate Statutes Amendment Act;*
- Bill 56: *An Act to Amend the Legislative Assembly and Executive Council Act, No. 2*
- Bill 57: *An Act to Amend the Employment Standards Act*;
- Bill 58: *Justice Administration Statutes Amendment Act*; and
- Bill 61: *Appropriation Act (Infrastructure Expenditures) 2020-2021*

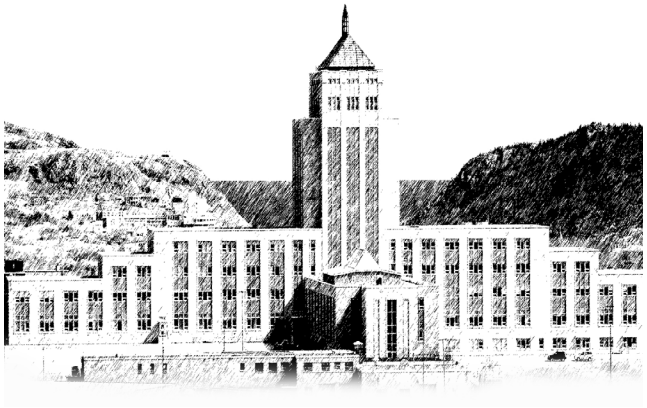
Order of the Northwest Territories

The Order of the Northwest Territories, established in 2013 by the *Territorial Emblems and Honours Act*, recognizes individuals who have served with the greatest distinction and excelled in any field of endeavor that benefits the people of the Northwest Territories or elsewhere. It is the highest honour awarded to Northwest Territories residents. A member of the Order can wear the insignia of the Order as a decoration and use the initials "O.N.W.T." after his or her name. The recipients of the Order of the Northwest Territories inducted on August 20, 2019 are:

Joe McBryan of Yellowknife. Mr. McBryan, fondly known as 'Buffalo Joe', was nominated for his work in business in the aviation field. His generosity has helped families in need, provided sports teams and schools discounted fares, and assisted Elders when they were short on airfare.

Lyda Fuller of Yellowknife is the Executive Director of the YWCA NWT and is an advocate for services and programs that increase the safety for women and families throughout the north.

Jennifer Franki-Smith
Committee Clerk



Newfoundland and Labrador

The Fourth Session of the Forty-Eighth General Assembly convened on April 4.

The House began disseminating the proceedings via closed captioning on that date. Routine Proceedings and special proceedings (e.g. Speech from the Throne, Budget) are available via the House of Assembly webcast and via the House of Assembly television channel for viewers in certain locations.

Privileges and Elections Committee

On April 8, the Chair of the Privileges and Elections Committee tabled the Committee's Final Report to the House of Assembly on the Development of a Legislature-Specific Harassment-Free Workplace Policy.

The report included a proposed policy applicable in cases of complaints against Members of the House of Assembly and recommended changes to the principles of the Code of Conduct for MHAs as well as the Code of Conduct provisions outlined in the *House of Assembly Accountability, Integrity and Administration Act*. The report was not concurred in before dissolution.

On April 15, the Committee tabled a report on a point of privilege raised by the Member for Mount Scio regarding the premature disclosure of a report of the Commissioner for Legislative Standards by the Member for Terra Nova. The Committee found that the circumstances of this case were such that a contempt had not been made out.

On April 16, the Minister of Finance delivered the 2019-2020 Budget.

General Election

A writ of general election was issued on April 17. At dissolution the standings were 27 Liberals, 8 Progressive Conservatives, 2 New Democrats and 3 unaffiliated Members.

The General Election, which took place on May 16, resulted in a minority parliament comprising 20 Liberals, 15 Progressive Conservatives, three New Democrats and two unaffiliated Members.

49th General Assembly

Members of the 49th General Assembly, with the exception of the Member for Labrador West, were sworn on June 10 in the morning. A judicial recount had been held for the District of Labrador West as the difference in outcome between the New Democratic and Liberal candidates was five votes. The final tally was a two-vote majority for the New Democratic candidate, **Jordan Brown**, over the Liberal candidate, former Minister **Graham Letto**. MHA Brown was sworn and took his seat in the House on June 25, 2019.

The First Session of the 49th General Assembly commenced on the afternoon of June 10, 2019. **Perry Trimper**, MHA, Lake Melville, first elected Speaker in August of 2017, was returned by acclamation. **Scott Reid**, MHA, St. George's – Humber was elected Deputy Speaker and unaffiliated MHA, **Paul Lane** (Mount Pearl – Southlands) was elected Deputy Chair of Committees.

The Budget and Supply were passed on June 26. The House then adjourned to July 23 when it re-convened to appoint Information and Privacy Commissioner, **Michael Harvey**. Mr. Harvey succeeds **Donovan Molloy**, who was appointed to the Territorial Court of the North West Territories in February.

Report of Commissioner for Legislative Standards

On June 25, the Speaker tabled a report of the Commissioner for Legislative Standards regarding an allegation by the former MHA for the District of Mount Scio that the MHA for the District of Harbour Grace – Port de Grave had violated a number of the principles of the Code of Conduct. The Commissioner found that the latter Member had not violated the Code. The House will take up the matter when it reconvenes in November.

On September 6, Deputy Speaker Reid assumed the role of interim Speaker following the resignation of **Perry Trimper**, MHA, from the Speakership. The election of a new Speaker will take place on November 4 when the House reconvenes.

The House adjourned on July 23 to November 4.

Elizabeth Murphy
Clerk Assistant

Manitoba

General Election

The 42nd General Election in Manitoba took place on Tuesday, September 10, 2019. Once the polls closed and the ballots were counted, the Progressive Conservatives won 36 seats in the 57 seat Legislature and accordingly they remain in government. The New Democratic Party won 18 seats to retain its status as the Official Opposition, and the Liberals won three seats, losing their status as official party (four seats are required under Manitoba rules and legislation for status as recognized party).

A total of 13 new members took their seats in the Manitoba Legislature when the House met for the first time on September 30 to elect a new Speaker and to hear the Speech from the Throne. Among the new MLAs there are eight men, four female, and one gender nonconforming Member. For the first time in the history of the legislative assembly, three black individuals were elected to serve as MLAs in the upcoming Legislature. Also **Malaya Marcelino**, daughter of former MLA and Minister **Flor Marcelino**, has been elected to represent the newly created constituency of Notre Dame.

First Session of the 42nd Legislature

The House resumed on September 30 with the First Session of the new Legislature with the Speech from the Throne delivered by the Chief Justice of Manitoba in his role as Administrator of the Province. The address highlighted a range of commitments and proposals in different areas, including:

- completing necessary legislative requirements in order to implement the measures outlined in Budget 2019;
- reducing regulatory red tape and encouraging innovation;
- completing the implementation of the New West Partnership Trade Agreement;
- addressing addictions and public safety issues;
- making strategic investments to strengthen front-line health, education and social services.

A very short debate followed the Throne Speech. The Leader of the Official Opposition, **Wab Kinew,** the Member for St. Boniface **Dougald Lamont** (who is also the leader of the Manitoba Liberal Party), as well as Premier **Brian Pallister** spoke to the Address in Reply to the Throne Speech. The motion was then carried.

Sessional Order

After the Throne Speech debate on September 30, the House agreed by leave to consider a Sessional Order to deal with the passage of certain business, including Budget 2019. In accordance to the Sessional Order, all the steps or segments of the financial process introduced and concluded during the 4th Session of the 41st Legislature were reinstated in this new legislature, including the Budget motion and the sequence for consideration of the Departmental Estimates. In addition, the Estimates were reinstated at the same stage they were when the 41st Legislature was dissolved, with 92 hours and 26 minutes left (out of 100 hours) for consideration of same.

The Sessional Order also reinstated Bill 22 – *The Business Registration, Supervision and Ownership Transparency Act* from the previous Legislature. When the Legislature was dissolved, the House was considering Second Reading of the bill.

The Sessional Order also set several deadlines and actions to be taken by the Speaker or Chairpersons in Committee in order to complete this business by Friday, October 11, 2019.

The House is scheduled to rise on October 11, 2019, with the Second Session of the 42nd Legislature set to begin with a new Speech from the Throne on November 19, 2019.

Orientation Sessions for new MLAs

On September 16 and September 23, 2019, Assembly staff offered a series of orientation sessions for all new Members. On the first day, the newly elected MLAs met with staff from the Legislative Assembly Human Resources office, Members' Allowances, Hansard and Legislative Building and Assembly Security. On the

same day, they also met with the Conflict of Interest Commissioner for an information session.

The following week, they were offered a session on the House and Committee Procedure and Practices held by the Table Officers. They then met with members from the media who follow the Legislature, followed by a panel of former members, **Len Derkach**, **Kerri Irvin-Ross**, and **Andrew Swan**. The last session was with information booths with Assembly independent officers; the Advocate for Children and Youth, the Auditor General, the Chief Electoral Officer, the Ombudsman, the Legislative Counsel, and Legislative Library.

Cabinet Changes

Following the elections, Municipal Relations Minister **Jeff Wharton** was also appointed as Minister responsible for Crown Services in addition to his previous duties.

Current Party Standings

The current party standings in the Manitoba Legislature are: Progressive Conservatives 36, New Democratic Party 18, and three Independent Members.

Andrea Signorelli
Clerk Assistant/Clerk of Committees

The Senate

The last sitting of the Senate before the summer adjournment was held on June 21. The Forty-Second Parliament was dissolved by Proclamation of the Governor General on September 11, with the federal general election to occur on October 21.

Committees

On July 15, the nineteenth report of the Standing Senate Committee on Agriculture and Forestry entitled *Made in Canada: Growing Canada's Value-Added Food Sector* was tabled with the Clerk of the Senate.

On July 29, the sixth report of the Standing Committee on Ethics and Conflict of Interest for Senators was tabled with the Clerk of the Senate. It dealt with the committee's consideration of an Inquiry Report concerning a former Senator prepared by the Senate Ethics Officer.

In addition, on August 12, the same committee tabled its seventh report with the Clerk of the Senate. The report is the result of its comprehensive review of the *Ethics and Conflict of Interest Code for Senators* and recommends to the Senate a number of amendments to the Code.

Senators

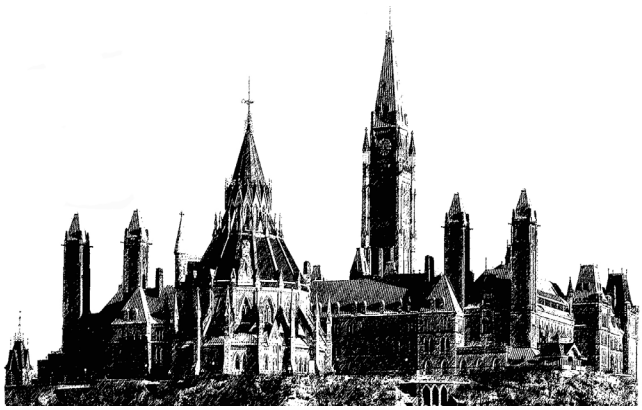
Tony Loffreda was appointed to the Senate on the advice of Prime Minister on July 23. Senator Loffreda (Quebec – Shawinegan) is a certified public accountant with 35 years of experience in the Canadian financial industry and has held numerous positions of increasing responsibility ranging from senior auditor and Regional Vice-President of Commercial Financial Services at the Royal Bank of Canada to the position of Vice-Chairman of Royal Bank of Canada Wealth Management. He has served on various boards and committees, including the Concordia University Board of Governors, the Integrated Health and Social Services University Network for West-Central Montreal and the executive committee of the Chamber of Commerce of Metropolitan Montreal. In addition, Senator Loffreda has been in active service to many communities, having chaired fundraising activities across the province for various causes such as the Giant Steps School, the Montreal Jewish General Hospital and the Montreal Cancer Institute.

Senator **Raynell Andreychuk** retired from the Senate on August 14. She was appointed to the Senate in 1993 on the advice of Prime Minister **Brian Mulroney**. During her 26 years in the Senate, she was instrumental in the creation of the Standing Senate Committee on Human Rights and chaired various committees, notably the Senate Committee

on Ethics and Conflict of Interest for Senators and the Standing Senate Committee on Foreign Affairs and International Trade. Among her legislative achievements, Senator Andreychuk was the driving force behind the *Sergei Magnitsky Law,* identified as Bill S-226 before it became law in October 2017. It allows Canada to freeze the assets of corrupt foreign officials. She also chaired the Ukraine-NATO Inter-Parliamentary Council and co-founded the Canada-Africa Parliamentary Association.

Senator **Jacques Demers** retired from the Senate on August 24. He was appointed to the Senate in 2009 on the advice of Prime Minister **Stephen Harper** to represent the division of Rigaud, Quebec. Senator Demers was a member of several committees during his tenure, including the Standing Senate Committee on Social Affairs, Science and Technology, the Standing Senate Committee on National Finance and the Standing Senate Committee on Agriculture and Forestry. He was particularly committed to defending vulnerable Canadians struggling with issues he dealt with in his youth, such as poverty, child abuse and literacy.

Max Hollins
Procedural Clerk



House of Commons

This account covers the continuing First Session of the 42nd Parliament from July to September 2019.

The House had risen for the summer on June 20, having agreed that it would remain adjourned until September 16. During the adjournment, the Privy Council recommended to the Governor General on September 11, that Parliament be dissolved for the 43rd general election to be held on October 21 and that, after the return of the writs, the House of Commons be summoned to meet on November 18.

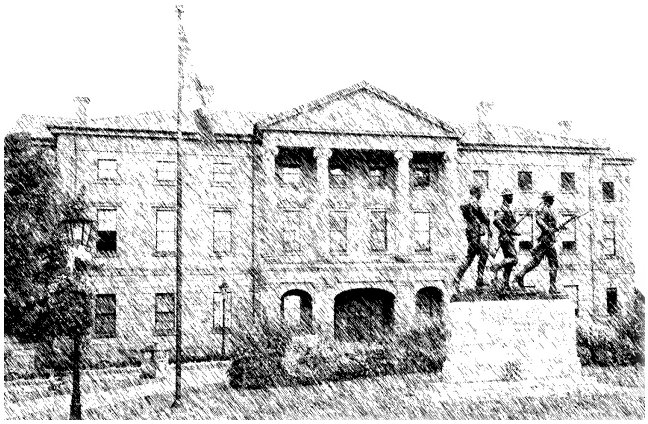
Committees

Pursuant to Standing Order 106(4), four members of the Standing Committee on Public Safety and National Security requested that the Chair call a meeting to consider studying a reported data breach in Desjardins Group. The committee met on July 15, and, after agreeing to study the breach, proceeded immediately to hear witnesses from the Royal Canadian Mounted Police, Communications Security Establishment, Department of Employment and Social Development, Canada Revenue Agency, Office of the Superintendent of Financial Institutions, and Desjardins Group. At dissolution, the committee had not determined how it would proceed further.

The Standing Committee on Justice and Human Rights met on July 25 to consider the nomination of **Nicholas Kasirer** to be a puisne judge of the Supreme Court of Canada. **David Lametti**, Minister of Justice and Attorney General of Canada, and **Kim Campbell**, the Chairperson of the Independent Advisory Board for Supreme Court of Canada Judicial Appointments, appeared as witnesses. At dissolution, the committee had not made any plans to proceed further.

Also pursuant to Standing Order 106(4), four members of the Standing Committee on Foreign Affairs and International Development requested that the Chair convene a meeting to consider a study of undue pressure on former career diplomats by the ministry. The committee met on July 30 to consider a motion to that effect. After an hour's debate, the committee rejected the motion.

Andrew Bartholomew Chaplin
Table Research Branch



Prince Edward Island

**Due to an editing error, Prince Edward Island's Legislative Report for Autumn 2019 was omitted from the previous issue. It is reproduced here along with the Winter 2019 legislative report. The CPR regrets the error.*

General Election Results

On April 23, 2019, Prince Edward Island held a general election in which voters elected candidates in 26 of the province's 27 districts. Candidates ran under the banners of the Green Party, Liberal Party, New Democratic Party, Progressive Conservative Party, and independent candidates ran in three districts. After votes were tallied, Progressive Conservative Party candidates won 12 districts; Green Party candidates won eight districts; and Liberal Party candidates won six districts. No recounts were necessary and the successful candidates were officially declared elected.

The popular vote was distributed as follows: Progress Conservative Party 36.5 per cent; Green Party 30.6 per cent; Liberal Party 29.5 per cent; NDP three per cent; and independent 0.4 per cent. Voter turnout came in at 76.27 per cent, which is a low for Prince Edward Island, where it has frequently surpassed 80 per cent in elections dating back to 1966.

Of the 26 successful candidates, 11 have not been previously elected.

Deferred Election – District 9

On Friday, April 19, just days before the general election, Green Party candidate **Josh Underhay** and his son tragically died in a boating accident. As a result, while the election proceeded in the other 26 districts, Elections PEI deferred voting in District 9, Charlottetown – Hillsborough Park. The date of July 15 was later chosen for the deferred election. The candidates are **John Andrew** (Green Party), **Karen Lavers** (Liberal Party), **Gordon Gay** (New Democratic Party), and **Natalie Jameson** (Progressive Conservative Party); none have previously sat in the Legislative Assembly.

Electoral System Referendum Results

A referendum on PEI's electoral system was held in tandem with the April 23 general election. Voters chose "no" or "yes" in response to the question "Should Prince Edward Island change its voting system to a mixed member proportional voting system?" Under the *Electoral System Referendum Act*, the result would be considered binding if the "no" or "yes" side received a majority of the overall vote and a majority in at least 60% of the 27 districts. Referendum voting proceeded as scheduled in District 9 despite the deferred vote to elect a representative in that district.

In the end, 51.74 per cent of voters chose the "no" option, and 48.26% chose "yes". "No" achieved a majority in 13 districts, and "yes" in 14. As a result, PEI is expected to continue to use the First Past the Post system, though advocates of proportional representation indicate they will continue to push for electoral reform.

New Government, Opposition and Third Party

On May 9, **Antoinette Perry**, Lieutenant Governor of Prince Edward Island, presided over the swearing in of new Premier **Dennis King** and eight Ministers of the Crown. All members of Cabinet are from the Progressive Conservative caucus. With the delivery of a Speech from the Throne on June 14, the new government became the first minority government to seek the confidence of the PEI legislature since the Island joined Confederation in 1873.

With the second largest caucus at eight members, the Green Party has formed the Official Opposition. This is the first time the Green Party has formed the Official Opposition in PEI, and is believed to be a first throughout Canada as well. The new Leader of the Official Opposition is **Peter Bevan-Baker.**

The Liberal Party, which formed the government in the previous legislature, now forms the Third Party with six members. This is the first time in PEI's history that the Liberal Party has formed the Third Party in the legislature. Former Premier **H. Wade MacLauchlan**

resigned the leadership of his party after losing his district of Stanhope-Marshfield. **Robert Mitchell** was subsequently appointed interim leader of the Liberal Party and holds the position of Leader of the Third Party in the legislature.

Opening of 66th General Assembly, New Speaker and Deputy Speaker

Members of the 66th General Assembly were sworn in on June 13, and the new Assembly met for the first time that afternoon. The first order of business was the selection of a new Speaker. This is done via secret ballot election, as required by the Rules of the Legislative Assembly. Two members put their names forward for consideration: **Colin LaVie**, of the Progressive Conservative Party, and **Hal Perry**, of the Liberal Party. Mr. LaVie achieved a majority of votes and was duly elected Speaker. Mr. Perry was appointed Deputy Speaker upon resolution of the House. Mr. LaVie has represented District 1, Souris – Elmira since 2011; he previously served as Opposition Whip and critic for Fisheries and Agriculture, and served on several standing committees. Mr. Perry has represented District 27, Tignish – Palmer Road since 2011. He previously served as Minister of Education, Early Learning and Culture, Government Whip and has also been a member and Chair of several standing committees.

Speech from the Throne

On June 14, the Lieutenant Governor of Prince Edward Island delivered a Speech from the Throne for the 1st Session of the 66th General Assembly. The new Government has emphasized a collaborative approach to governing, and the Opposition and Third Party were consulted for their input toward priorities to be identified in the Throne Speech. The shared priorities of all three groups include housing, poverty elimination, climate change, health care and education. Other notable plans included in the Throne Speech include a panel of citizens and elected members to consider reforms to the Legislative Assembly; a secure-income program pilot; a new bioscience skills and training initiative in partnership with post-secondary institutions; and efforts to deepen reconciliation with First Nations.

Debate on the Draft Address in Reply to the Speech from the Throne took place over several sitting days and concluded with the Assembly unanimously voting to offer humble thanks to the Lieutenant Governor for the gracious speech with which she opened the present session.

Budget

On June 25, the Premier tabled the Estimates of the Revenue and Expenditure for the fiscal year ending March 31, 2020, and Minister of Finance **Darlene Compton** gave the Budget Address. Spending highlights include 100 new long-term care beds; 74 new front-line educational positions; $225,000 toward a secure-income project; $6.6 million toward affordable housing via rent supplements and construction of new units; an increase in the basic personal income tax amount to $10,000; $17.4 million toward the high-speed internet initiative; and a one million trees project to increase reforestation. The budget includes a $1.8 million surplus. As of this writing, the Assembly continues to review the Estimates of Revenue and Expenditure.

Legislation to Date

In the first three weeks of the session, 17 bills have been introduced. The majority of government's 11 bills have been amendatory in nature. These include Bill No. 8, *An Act to Amend the Victims of Crime Act*, which gives courts discretion on whether to impose a victim surcharge on a person convicted of an offense; Bill No. 6, *An Act to Amend the Drug Cost Assistance Act*, which adds specifications and requirements to the management of the provincial drug formulary; and Bill No. 3, *An Act to Amend the Renewable Energy Act*, which establishes an agricultural renewable energy generator class, enhanced net-metering systems, and rules for enhanced net-metering agreements between public utilities and municipal or agricultural renewable energy generators. To date most of Government's bills have completed the committee stage; two have only received first reading; and one, a bill to reorganize government departments, has received Royal Assent.

The Official Opposition has introduced five private member's bills to date, four of which have completed the committee stage. These include Bill No. 101, *Government Advertising Standards Act*, which outlines a process to address partisan advertising by Executive Government; Bill No. 102, *An Act to Amend the Climate Leadership Act*, which aims to lower the province's carbon reduction target to 1.2 megatonnes, instead of 1.4 megatonnes, by 2030; Bill No. 104, *An Act to Amend the Employment Standards Act*, which requires the Employment Standards Board to seek submissions from the public in reviewing its annual Minimum Wage Order and adds criteria for the board to consider on measures of poverty and employees' ability to maintain a suitable standard of living; and Bill No.

105, *An Act to Amend the Rental of Residential Property Act*, which increases the period in which a lessee may apply to the Director of Residential Rental Property for an order to set aside a notice of termination for certain reasons from ten days to twenty days.

The Third Party has introduced Bill No. 103, *An Act to Amend the Highway Traffic Act (No. 2)*, which aims to dispense with the requirement for annual vehicle registration, so that registration will no longer expire. The bill has been read a first time.

Speaker's Ruling

On July 2, Speaker LaVie issued a ruling on related points of order raised by **Sidney MacEwen** (District 7, Morell – Donagh) and Leader of the Opposition Mr. Bevan-Baker on June 28. The Speaker found that Mr. MacEwen's point of order related to statements made during Oral Question Period, did not state which rule or practice was allegedly breached and therefore did not constitute a true point of order. The Leader of the Opposition's point of order sought a ruling from the Speaker on Mr. MacEwen's point of order, which Mr. Speaker provided.

Changes to Committees Structure and Membership

In its June 18 report to the House, the Special Committee on Committees assigned members to the Standing Committee on Rules, Regulations, Private Bills and Privileges and recommended that that committee consider realignment of the mandates of the other standing committees of the Assembly and potential changes to the rules on the method of appointing committee members. The report was adopted.

The Standing Committee on Rules, Regulations, Private Bills and Privileges met accordingly, and tabled its report on June 26. The committee put forward new mandates for three new standing committees under the titles Education and Economic Growth; Health and Social Development; and Natural Resources and Environmental Sustainability. Previously, the mandated subject areas were spread over five committees. No changes were made to the mandates of the standing committees on Legislative Management; Public Accounts; or Rules, Regulations, Private Bills and Privileges.

The Rules committee also recommended rule changes to require that an equal number of members of each recognized political party in the House be appointed to each committee and that each recognized political party have two members on each committee, unless there are fewer than two members of a party. No change to the maximum membership of a committee (eight members) was recommended. Previously, membership of committees was allocated in generally the same proportion as that of the recognized political parties in the House itself, and only the Official Opposition had a minimum threshold of two members on each committee.

The committee's report was adopted, and membership of the standing committees was subsequently allocated upon recommendation of the Committee on Committees, at two members from the Government caucus, two from the Opposition caucus, and two from the Third Party caucus. Chairs for each committee were elected with Government, Opposition, and Third Party each chairing at least one committee (the Standing Committee on Legislative Management is chaired by the Speaker, as per the rules).

First Session, Sixty-sixth General Assembly

Having adjourned to the call of the Speaker on July 12, the First Session of the Sixty-Sixth General Assembly shall resume on November 12 in the Honourable George Coles Building.

House Business

In terms of business carried over from the last sitting, there remain two Government Bills, two Private Members' Bills, and 30 Motions available for debate.

New Member Sworn-In

On August 1, 2019, **Natalie Jameson** was sworn in as the Member of the Legislative Assembly representing District 9, Charlottetown-Hillsborough Park. She was the successful candidate in a July 15, 2019, deferred election necessitated by the death of a District 9 candidate in the lead-up to the April 23, 2019, general election. Ms. Jameson is a member of the Progressive Conservative Party.

Committee Business

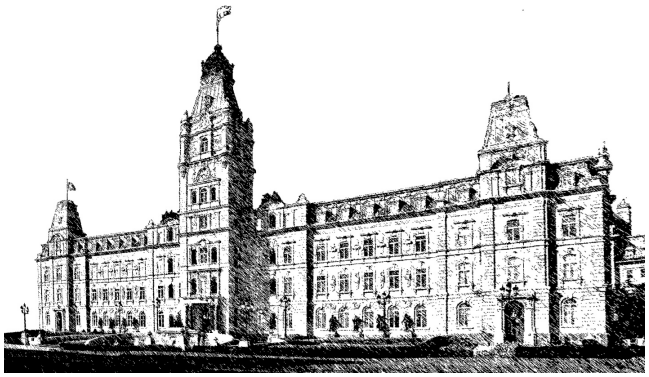
Following the July adjournment of the session, the newly appointed committees of the Legislative Assembly began their work in earnest. To date, the Standing Committee on Education and Economic Growth has received witness testimony on the shortage of skilled labour in PEI; the impact of

the current housing situation on post-secondary students, tourism and economic growth; and standardized assessment of Grade 3 students. The Standing Committee on Health and Social Development has received witness testimony on the PEI Human Rights Commission. The Standing Committee on Natural Resources and Environmental Sustainability is scheduled to receive testimony on the *Lands Protection Act* and solutions to electrical load growth. The Standing Committee on Public Accounts is reviewing the 2019 Report of the Auditor General to the Legislative Assembly. The Standing Committee on Rules, Regulations, Private Bills and Privileges is undertaking a review of the Rules of the Legislative Assembly.

Two special committees were established in the recent sitting of the Assembly, and both have begun their work. The Special Committee on Climate Change is directed to explore the options available to reduce greenhouse gas emissions, to make fully costed recommendations on how the province can best meet its emission reduction targets, and to engage with the public and government in its deliberations. The Special Committee on Poverty in PEI is directed to consult with members of the public and community groups across the province and to report to the Legislative Assembly within 12 months with recommendations regarding definitions and measures of poverty, a living wage for PEI, and a fully costed Basic Income Guarantee pilot project for PEI.

Ryan Reddin

Clerk Assistant – Research and Committees



Québec

National Assembly proceedings

Composition

On August 30, 2019, **Sébastien Proulx** announced his resignation as the Member for Jean-Talon. On September 5, 2019, the Leader of the Official Opposition appointed the Member for LaFontaine, **Marc Tanguay**, to succeed him as House Leader of their party. Following this resignation, the composition of the Assembly now stands as follows: Coalition Avenir Québec: 75 Members; Québec Liberal Party: 28 Members; Québec solidaire: 10 Members; Parti Québécois: 9 Members; and Independent Members: 2 Members. One seat is currently vacant.

Bills passed

Ever since proceedings resumed on September 17, 2019, three Government public bills and two Private Members' bills have been introduced in the National Assembly:

- Bill 35: *An Act to modernize certain rules relating to land registration and to facilitate the dissemination of geospatial information*;
- Bill 38: *An Act amending certain Acts establishing public sector pension plans*;
- Bill 39: *An Act to establish a new electoral system*;
- Bill 199: *An Act to amend the Environment Quality Act to establish a right of citizen initiative in environmental matters and reinforce the powers and independence of the Bureau d'audiences publiques sur l'environnement*; and
- Bill 490: *An Act to establish the gradual electrification of Québec's vehicle fleet*.

Other events

Appointment of an Acting Secretary General

On September 17, 2019, **François Arsenault**, Director General of Parliamentary Affairs, was appointed on the advice of the Premier as Acting Secretary General of the National Assembly of Québec until October 22, 2019. Mr. Arsenault is a lawyer by training and has been working for the National Assembly since 2002. He succeeds **Michel Bonsaint**, Secretary General from 2010 to 2019, who was appointed by Cabinet as the Québec representative in the Permanent Delegation of Canada to the United Nations Educational, Scientific and Cultural Organization in Paris.

Removal of the crucifix from the National Assembly Chamber

On July 9, 2019, the National Assembly removed the crucifix from the National Assembly Chamber in accordance with a motion unanimously adopted on March 28, 2019. The crucifix was installed in 1982 and replaced an earlier one hung in 1936.

Both crucifixes have since been placed in a museum display case in one of the alcoves near the entrance of the National Assembly Chamber to preserve them and highlight their importance to Québec's parliamentary heritage.

Committee proceedings

Here are some highlights of the various mandates carried out by the parliamentary committees between July and September 2019.

Bills

The Committee on Health and Social Services completed its clause-by-clause consideration of Bill 2, *An Act to tighten the regulation of cannabis*, which includes a provision to raise the legal age for cannabis use to 21. The *Cannabis Regulation Act*, passed in June 2018, had initially set the legal age at 18. In total, 18 sittings and 82 hours were needed to consider this bill.

General consultations

The *Standing Orders of the National Assembly* provide a number of consultation mechanisms. Special consultations are the most commonly used and involve inviting select individuals and groups to appear in public hearings. General consultations, on the other hand, call on civil society at large to submit briefs within a specific time frame. Parliamentarians then read the briefs and choose the witnesses they wish to hear.

Two general consultations were held in summer 2019: one by the Committee on Citizen Relations (CCR) as mandated by the National Assembly, and another by the Committee on Agriculture, Fisheries, Energy and Natural Resources (CAFENR) on its own motion under an order of initiative. On June 7, 2019, the CCR was mandated by the National Assembly to hold a general consultation on the consultation document entitled "Québec Immigration Planning for the 2020-2022 Period." Interested individuals and organizations had until July 22 to submit their briefs or requests to address the committee. As part of this mandate, public hearings were held between August 12 and 15, during which 40 briefs were received and 37 organizations and individuals were heard.

Individuals and organizations could also take part in an online consultation held between June 7 and August 15 by filling out a questionnaire on the National Assembly's website.

The CAFENR held a general consultation and public hearings on its order of initiative to examine the impact of pesticides on public health and the environment, as well as current and future innovative alternative practices in the agriculture and food sectors, with due regard for the competitiveness of Québec's agri-food sector. The Committee members received 76 briefs and invited 26 organizations and experts to public hearings held between September 23 and 26.

Select Committee on the Sexual Exploitation of Minors

The Select Committee on the Sexual Exploitation of Minors, established on June 14, 2019, began its work during the summer. The members of this select committee met for deliberative meetings from August 26 to 28 for various training sessions on the topic.

This was the first step for the Committee members, who will not only hold public hearings in Québec City, but will also travel across the province.

Orders of initiative

Since the beginning of the 42nd Legislature, the committees have adopted four orders of initiative. For these mandates to be carried out, they must be adopted

by a majority of the members of each parliamentary group in a given committee. Once a committee has adopted an order of initiative it see fit it organizes related proceedings, meaning that mandates can vary in length.

From August 26 to 30, the Committee on Culture and Education (CCE) held consultations and public hearings on its order of initiative on the future of information media in Québec. The CCE received 63 briefs, and called 36 individuals and organizations to testify at the public hearings.

On September 9, the CAFENR visited farms as part of its order of initiative on pesticides. Since the use of pesticides in agriculture is central to the Committee's mandate, CAFENR members went to get a firsthand look at the situation by visiting farms that have developed innovative ways to replace pesticides, including Québec's largest organic farm and a farm that uses integrated pest management practices. These visits were conducted prior to the hearings scheduled as part of the aforementioned general consultation.

From August 12 to 15, 2019, the Committee on Transportation and the Environment (CTE) held public hearings as part of its order of initiative on glass recycling. CTE members received 36 briefs and invited 30 individuals and organizations to appear. A report with nine recommendations was tabled in the National Assembly on September 19, 2019. It is available here:

http://www.assnat.qc.ca/en/travaux-parlementaires/commissions/cte/mandats/Mandat-41019/index.html

Elections of chairs and vice-chairs

On September 18, **Lise Thériault** (Anjou–Louis-Riel) and **Nancy Guillemette** (Roberval) were respectively elected chair and vice-chair of the CCE, and **Francine Charbonneau** (Mille-Îles) and **Simon Allaire** (Maskinongé) were respectively elected chair and vice-chair of the Committee on Planning and the Public Domain.

Catherine Durepos
General Directorate for Parliamentary Affairs
Sittings Service

Sabine Mekki
General Directorate for Parliamentary Affairs
Committees Service

An Incomplete List of the Ghosts of Queen's Park

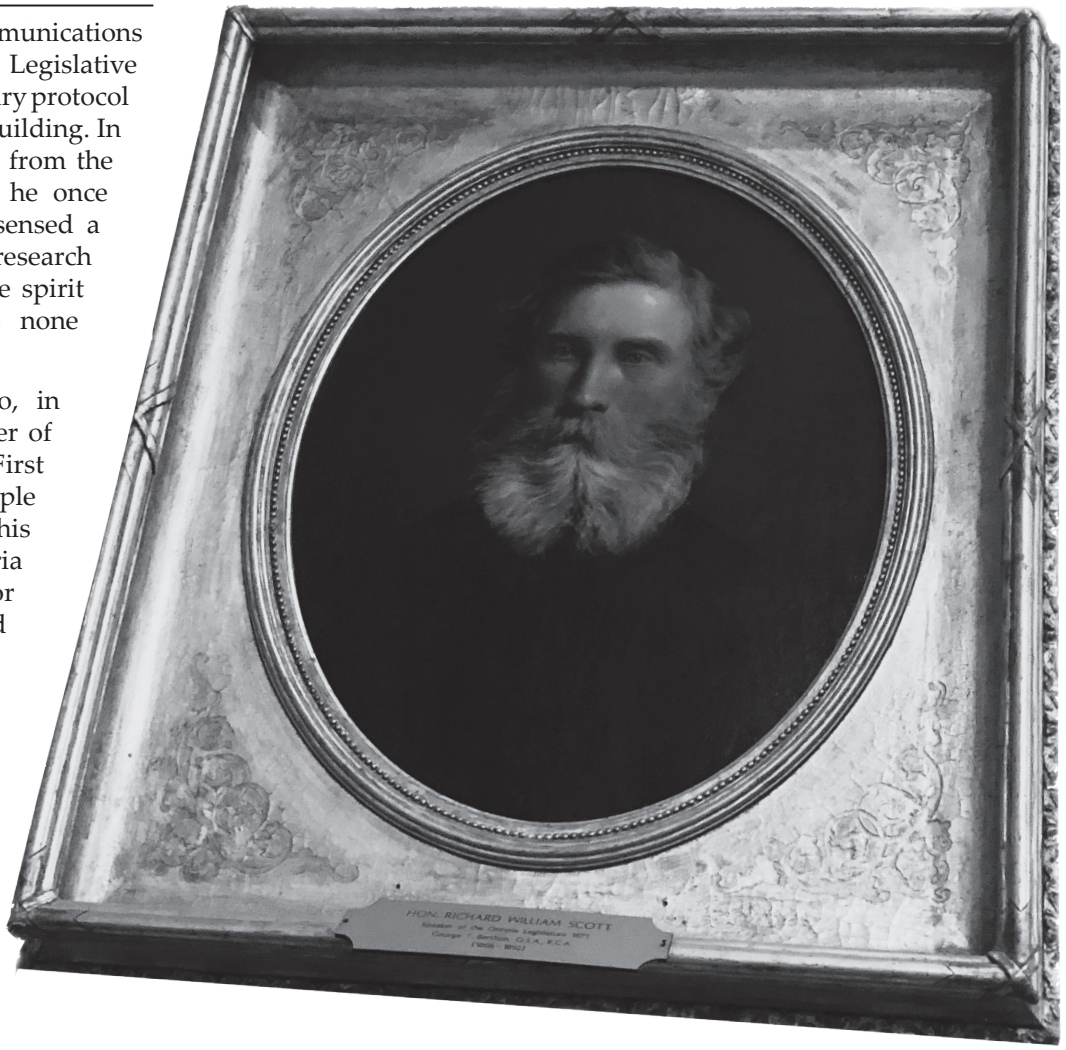
The Legislative Building at Queen's Park has been operating since 1860 and the grounds on which it sits have been in use since at least 1830. As one of the oldest urban parks in Canada, it's no surprise that the building is privy to a host of haunting figures; most of them harmless, some a little more volatile. The following article provides a brief review of some of the most reputable ghosts to have haunted Queen's Park in recent memory.

Elena Senechal-Becker

War Hero Charles Rutherford

David Bogart, a communications officer with the Legislative Assembly's parliamentary protocol office, often leads tours of the building. In a conversation with journalists from the *Toronto Star* he revealed that he once had a medium on tour who sensed a spirit named Charles. Further research led Bogart to conclude that the spirit haunting the legislature was none other than Charles Rutherford.

Born in Colbourne, Ontario, in 1892, Rutherford was a member of the 23rd Battalion during the First World War. He earned multiple military medals during his service, including the Victoria Cross for bravery. Known for sharp wit and ability to lead assault parties, he was also the last surviving Canadian soldier receive the medal of valour for the Great War. have qualified him as "regimental soldier," and as a scowling man in a red uniform. He is rumored to the main staircase.



Speaker Richard Scott

Elena Senechal-Becker was the Canadian Parliamentary Review's 2019 editorial intern.

An Unknown Number of Female Asylum Patients

Way back in 1849, King's College became the University of Toronto, and the building standing where the Legislature now sits was converted into a Lunatic Asylum for women called the Auxiliary Female Asylum. Even though the Asylum was completely razed to make way for the new building that would become the Legislative Assembly, some of the Asylum was used to construct the foundation of Queen's Park. Many visitors have reported sightings of ghostly female figures – sometimes alone and sometimes in small groups of up to four. One of them is known to be malevolent; residing in the fourth-floor attic, she has been described as "frenetic and disturbed," and those most in touch with their psychic tendencies have reportedly heard her screams.

Speaker Richard Scott

At the end of the first-floor east hallway, visitors might stumble upon the ghost of Richard Scott, an Assembly Speaker who died in 1913. His role as Speaker lasted only a few weeks in December of 1871, before he accepted another offer to be Commissioner of Crown Lands within the provincial cabinet. It is therefore unknown as to why he would haunt the Legislative Assembly buildings; but

These spirits in these sightings are just a few of many reported in the building's long history of hauntings. However, sightings appear to have decreased over the years and there have been very few recent sightings of ghosts on record. As time passes and these stories and the lives of the people thought to be involved are forgotten, memories of the Queen's Park ghosts may become as ephemeral as the catching a glimpse of something strange out of the corner of your eye.

Sources:

https://torontolife.com/food/urban-decoder-history-5/

https://qormuseum.org/soldiers-of-the-queens-own/rutherford-charles-smith/

http://www.thesearchergroup.ca/haunting-queens- park/

https://www.thestar.com/news/canada/2011/10/28/getting_to_know_the_ghosts_of_queens_park.html

Charles Rutherford